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of the check in the amount stated on the check and to the payee stated on the check. For purposes of this paragraph (d)(1), ''account'' includes an account as defined in §229.2(a) as well as a credit or other arrangement that allows a person to draw checks that are payable by, through, or at a bank.

(2) If a paying bank asserts a claim for breach of warranty under paragraph (d)(1) of this section, the warranting bank may defend by proving that the customer of the paying bank is precluded under U.C.C. 4–406, as applicable, from asserting against the paying bank the unauthorized issuance of the check.

(e) *Damages.* Damages for breach of these warranties shall not exceed the consideration received by the bank that presents or transfers a check or returned check, plus interest compensation and expenses related to the check or returned check, if any.

(f) *Tender of defense.* If a bank is sued for breach of a warranty under this section, it may give a prior bank in the collection or return chain written notice of the litigation, and the bank notified may then give similar notice to any other prior bank. If the notice states that the bank notified may come in and defend and that failure to do so will bind the bank notified in an action later brought by the bank giving the notice as to any determination of fact common to the two litigations, the bank notified is so bound unless after seasonable receipt of the notice the bank notified does come in and defend.

(g) *Notice of claim.* Unless a claimant gives notice of a claim for breach of warranty under this section to the bank that made the warranty within 30 days after the claimant has reason to know of the breach and the identity of the warranting bank, the warranting bank is discharged to the extent of any loss caused by the delay in giving notice of the claim.

[53 FR 19433, May 27, 1988, as amended by Reg. CC, 54 FR 13850, Apr. 6, 1989; 57 FR 46972, Oct. 14, 1992; 62 FR 13810, Mar. 24, 1997; 69 FR 47311, Aug. 4, 2004; 70 FR 71225, Nov. 28, 2005]

§229.35 Indorsements.

(a) *Indorsement standards.* A bank (other than a paying bank) that handles a check during forward collection or a returned check shall indorse the check in a manner that permits a person to interpret the indorsement, in accordance with the indorsement standard set forth in appendix D of this part.

(b) *Liability of bank handling check.* A bank that handles a check for forward collection or return is liable to any bank that subsequently handles the check to the extent that the subsequent bank does not receive payment for the check because of suspension of payments by another bank or otherwise. This paragraph applies whether or not a bank has placed its indorsement on the check. This liability is not affected by the failure of any bank to exercise ordinary care, but any bank failing to do so remains liable. A bank seeking recovery against a prior bank shall send notice to that prior bank reasonably promptly after it learns the facts entitling it to recover. A bank may recover from the bank with which it settled for the check by revoking the settlement, charging back any credit given to an account, or obtaining a refund. A bank may have the rights of a holder with respect to each check it handles.

(c) *Indorsement by a bank.* After a check has been indorsed by a bank, only a bank may acquire the rights of a holder—

(1) Until the check has been returned to the person initiating collection; or

(2) Until the check has been specially indorsed by a bank to a person who is not a bank.

(d) *Indorsement for depositary bank.* A depositary bank may arrange with another bank to apply the other bank's indorsement as the depositary bank indorsement, provided that any indorsement of the depositary bank on the check avoids the area reserved for the depositary bank indorsement as specified in appendix D. The other bank indorsing as depositary bank is considered the depositary bank for purposes of subpart C of this part.

[53 FR 19433, May 27, 1988, as amended by Reg. CC, 55 FR 21855, May 30, 1990; 69 FR 47311, Aug. 4, 2004]

§229.36 Presentment and issuance of checks.

(a) *Payable through and payable at checks.* A check payable at or through a