§ 229.39 Insolvency of bank.

(a) Duty of receiver. A check or returned check in, or coming into, the possession of a paying, collecting, depositary, or returning bank that suspends payment, and which is not paid, shall be returned by the receiver, trustee, or agent in charge of the closed bank to the bank or customer that transferred the check to the closed bank.

(b) Preference against paying or depositary bank. If a paying bank finally pays a check, or if a depositary bank becomes obligated to pay a returned check, and suspends payment without making a settlement for the check or returned check with the prior bank that is or becomes final, the prior bank has a preferred claim against the paying bank or the depositary bank.

(c) Preference against collecting, paying, or returning bank. If a collecting, paying, or returning bank receives settlement from a subsequent bank for a check or returned check, which settlement is or becomes final, and suspends payments without making a settlement for the check with the prior bank, which is or becomes final, the prior bank has a preferred claim against the collecting or returning bank.

(d) Preference against presenting bank. If a paying bank settles with a presenting bank for one or more checks, and if the presenting bank breaches a warranty specified in §229.34(c) (1) or (3) with respect to those checks and suspends payments before satisfying the paying bank’s warranty claim, the paying bank has a preferred claim against the presenting bank for the amount of the warranty claim.

Finality of settlement. If a paying or depositary bank gives, or a collecting, paying, or returning bank gives or receives, a settlement for a check or returned check and thereafter suspends payment, the suspension does not prevent or interfere with the settlement becoming final if such finality occurs automatically upon the lapse of a certain time or the happening of certain events.


§ 229.40 Effect of merger transaction.

(a) In general. For purposes of this subpart, two or more banks that have engaged in a merger transaction may be considered to be separate banks for a period of one year following the consummation of the merger transaction.
(b) Merger transactions on or after July 1, 1998, and before March 1, 2000. If banks have consummated a merger transaction on or after July 1, 1998, and before March 1, 2000, the merged banks may be considered separate banks until March 1, 2001.

[Reg. CC; 53 FR 14433, May 27, 1988, as amended at 64 FR 14577, Mar. 26, 1999]

§ 229.41 Relation to State law.
The provisions of this subpart supersede any inconsistent provisions of the Uniform Commercial Code as adopted in any state, or of any other state law, but only to the extent of the inconsistency.

§ 229.42 Exclusions.
The expeditious-return (§§ 229.30(a) and 229.31(a)), notice-of-nonpayment (§ 229.33), and same-day settlement (§ 229.36(f)) requirements of this subpart do not apply to a check drawn upon the United States Treasury, to a U.S. Postal Service money order, or to a check drawn on a state or a unit of general local government that is not payable through or at a bank.


§ 229.43 Checks payable in Guam, American Samoa, and the Northern Mariana Islands.

(a) Definitions. The definitions in § 229.2 apply to this section, unless otherwise noted. In addition, for the purposes of this section—

(1) Pacific island bank means an office of an institution that would be a bank as defined in § 229.2(e) but for the fact that the office is located in Guam, American Samoa, or the Northern Mariana Islands;

(2) Pacific island check means a demand draft drawn on or payable through or at a Pacific island bank, which is not a check as defined in § 229.2(k).

(b) Rules applicable to Pacific island checks. To the extent a bank handles a Pacific island check as if it were a check defined in § 229.2(k), the bank is subject to the following requirements of this part (and the word “check” in each such section is construed to include a Pacific island check)—

(1) § 229.31, except that the returning bank is not subject to the requirement to return a Pacific island check in an expeditious manner;

(2) § 229.32;

(3) § 229.34(c)(2), (c)(3), (d), (e), and (f);

(4) § 229.35; for purposes of § 229.35(c), the Pacific island bank is deemed to be a bank;

(5) § 229.36(d);

(6) § 229.37;

(7) § 229.38(a) and (c) through (h);

(8) §§ 229.39(a), (b), (c) and (e); and

(9) §§ 229.40 through 229.42.


Subpart D—Substitute Checks


SOURCE: 69 FR 47311, Aug. 4, 2004, unless otherwise noted.

§ 229.51 General provisions governing substitute checks.

(a) Legal equivalence. A substitute check for which a bank has provided the warranties described in § 229.52 is the legal equivalent of an original check for all persons and all purposes, including any provision of federal or state law, if the substitute check—

(1) Accurately represents all of the information on the front and back of the original check as of the time the original check was truncated; and

(2) Bears the legend, “This is a legal copy of your check. You can use it the same way you would use the original check.”

(b) Re converting bank duties. A bank shall ensure that a substitute check for which it is the reconverting bank—

(1) Bear s all indorsements applied by parties that previously handled the check in any form (including the original check, a substitute check, or another paper or electronic representation of such original check or substitute check) for forward collection or return;

(2) Identifies the reconverting bank in a manner that preserves any previous reconverting bank identifications, in accordance with ANS X9.100-140 and appendix D of this part; and

(3) Identifies the bank that truncated the original check, in accordance with ANS X9.100-140 and appendix D of this part.