

through (vi) of section 461(b)(1)(A) of this title. Such term also includes an office, branch, or agency of a foreign bank located in the United States.

(13) Local originating depository institution

The term “local originating depository institution” means any originating depository institution which is located in the same check processing region as the receiving depository institution.

(14) Noncash item

The term “noncash item” means—

(A) a check or other demand item to which a passbook, certificate, or other document is attached;

(B) a check or other demand item which is accompanied by special instructions, such as a request for special advise of payment or dishonor; or

(C) any similar item which is otherwise classified as a noncash item in regulations of the Board.

(15) Nonlocal originating depository institution

The term “nonlocal originating depository institution” means any originating depository institution which is not a local depository institution.

(16) Proprietary ATM

The term “proprietary ATM” means an automated teller machine which is—

(A) located—

(i) at or adjacent to a branch of the receiving depository institution; or

(ii) in close proximity, as defined by the Board, to a branch of the receiving depository institution; or

(B) owned by, operated exclusively for, or operated by the receiving depository institution.

(17) Originating depository institution

The term “originating depository institution” means the branch of a depository institution on which a check is drawn.

(18) Nonproprietary ATM

The term “nonproprietary ATM” means an automated teller machine which is not a proprietary ATM.

(19) Participant

The term “participant” means a depository institution which—

(A) is located in the same geographic area as that served by a check clearinghouse association; and

(B) exchanges checks through the check clearinghouse association, either directly or through an intermediary.

(20) Receiving depository institution

The term “receiving depository institution” means the branch of a depository institution or the proprietary ATM in which a check is first deposited.

(21) State

The term “State” means any State, the District of Columbia, the Commonwealth of Puerto Rico, or the Virgin Islands.

(22) Teller’s check

The term “teller’s check” means any check issued by a depository institution and drawn on another depository institution.

(23) United States

The term “United States” means the several States, the District of Columbia, the Commonwealth of Puerto Rico, and the Virgin Islands.

(24) Unit of general local government

The term “unit of general local government” means any city, county, town, township, parish, village, or other general purpose political subdivision of a State.

(25) Wire transfer

The term “wire transfer” has such meaning as the Board shall prescribe by regulations.

(Pub. L. 100-86, title VI, §602, Aug. 10, 1987, 101 Stat. 635.)

REFERENCES IN TEXT

This chapter, referred to in text, was in the original “this title”, meaning title VI of Pub. L. 100-86, Aug. 10, 1987, 101 Stat. 635, known as the Expedited Funds Availability Act, which enacted this chapter, amended section 248a of this title, and enacted provisions set out as notes under sections 248a and 4001 of this title. For complete classification of this Act to the Code, see Short Title note below and Tables.

EFFECTIVE DATE

Section 613 of title VI of Pub. L. 100-86 provided that:

“(a) DATE OF ENACTMENT.—Except as provided in subsection (b), this title [enacting this chapter, amending section 248a of this title, and enacting provisions set out as notes under sections 248a and 4001 of this title] shall take effect on the date of the enactment of this title [Aug. 10, 1987].

“(b) 1 YEAR AFTER DATE OF ENACTMENT.—Sections 603, 604, 605, 606, 610, and 611 [enacting sections 4002 to 4005, 4009, and 4010 of this title] shall take effect on September 1, 1988.”

SHORT TITLE

Section 601 of title VI of Pub. L. 100-86 provided that: “This title [enacting this chapter, amending section 248a of this title, and enacting provisions set out as notes under sections 248a and 4001 of this title] may be cited as the ‘Expedited Funds Availability Act.’”

SEPARABILITY

If any provision of Pub. L. 100-86 or the application thereof to any person or circumstances is held invalid, the remainder of Pub. L. 100-86 and the application of the provision to other persons not similarly situated or to other circumstances not to be affected thereby, see section 1205 of Pub. L. 100-86, set out as a note under section 226 of this title.

§ 4002. Expedited funds availability schedules

(a) Next business day availability for certain deposits

(1) Cash deposits; wire transfers

Except as provided in subsection (e) of this section and in section 4003 of this title, in any case in which—

(A) any cash is deposited in an account at a receiving depository institution staffed by individuals employed by such institution, or

(B) funds are received by a depository institution by wire transfer for deposit in an account at such institution,

such cash or funds shall be available for withdrawal not later than the business day after the business day on which such cash is deposited or such funds are received for deposit.

(2) Government checks; certain other checks

Funds deposited in an account at a depository institution by check shall be available for withdrawal not later than the business day after the business day on which such funds are deposited in the case of—

(A) a check which—

(i) is drawn on the Treasury of the United States; and

(ii) is endorsed only by the person to whom it was issued;

(B) a check which—

(i) is drawn by a State;

(ii) is deposited in a receiving depository institution which is located in such State and is staffed by individuals employed by such institution;

(iii) is deposited with a special deposit slip which indicates it is a check drawn by a State; and

(iv) is endorsed only by the person to whom it was issued;

(C) a check which—

(i) is drawn by a unit of general local government;

(ii) is deposited in a receiving depository institution which is located in the same State as such unit of general local government and is staffed by individuals employed by such institution;

(iii) is deposited with a special deposit slip which indicates it is a check drawn by a unit of general local government; and

(iv) is endorsed only by the person to whom it was issued;

(D) the first \$100 deposited by check or checks on any one business day;

(E) a check deposited in a branch of a depository institution and drawn on the same or another branch of the same depository institution if both such branches are located in the same State or the same check processing region;

(F) a cashier's check, certified check, teller's check, or depository check which—

(i) is deposited in a receiving depository institution which is staffed by individuals employed by such institution;

(ii) is deposited with a special deposit slip which indicates it is a cashier's check, certified check, teller's check, or depository check, as the case may be; and

(iii) is endorsed only by the person to whom it was issued.

(b) Permanent schedule

(1) Availability of funds deposited by local checks

Subject to paragraph (3) of this subsection, subsections (a)(2), (d), and (e) of this section, and section 4003 of this title, not more than 1 business day shall intervene between the business day on which funds are deposited in an account at a depository institution by a check drawn on a local originating depository insti-

tion and the business day on which the funds involved are available for withdrawal.

(2) Availability of funds deposited by nonlocal checks

Subject to paragraph (3) of this subsection, subsections (a)(2), (d), and (e) of this section, and section 4003 of this title, not more than 4 business days shall intervene between the business day on which funds are deposited in an account at a depository institution by a check drawn on a nonlocal originating depository institution and the business day on which such funds are available for withdrawal.

(3) Time period adjustments for cash withdrawal of certain checks

(A) In general

Except as provided in subparagraph (B), funds deposited in an account in a depository institution by check (other than a check described in subsection (a)(2) of this section) shall be available for cash withdrawal not later than the business day after the business day on which such funds otherwise are available under paragraph (1) or (2).

(B) 5 p.m. cash availability

Not more than \$400 (or the maximum amount allowable in the case of a withdrawal from an automated teller machine but not more than \$400) of funds deposited by one or more checks to which this paragraph applies shall be available for cash withdrawal not later than 5 o'clock post meridian of the business day on which such funds are available under paragraph (1) or (2). If funds deposited by checks described in both paragraph (1) and paragraph (2) become available for cash withdrawal under this paragraph on the same business day, the limitation contained in this subparagraph shall apply to the aggregate amount of such funds.

(C) \$100 availability

Any amount available for withdrawal under this paragraph shall be in addition to the amount available under subsection (a)(2)(D) of this section.

(4) Applicability

This subsection shall apply with respect to funds deposited by check in an account at a depository institution on or after September 1, 1990, except that the Board may, by regulation, make this subsection or any part of this subsection applicable earlier than September 1, 1990.

(c) Temporary schedule

(1) Availability of local checks

(A) In general

Subject to subparagraph (B) of this paragraph, subsections (a)(2), (d), and (e) of this section, and section 4003 of this title, not more than 2 business days shall intervene between the business day on which funds are deposited in an account at a depository institution by a check drawn on a local originating depository institution and the business day on which such funds are available for withdrawal.

(B) Time period adjustment for cash withdrawal of certain checks**(i) In general**

Except as provided in clause (ii), funds deposited in an account in a depository institution by check drawn on a local depository institution that is not a participant in the same check clearinghouse association as the receiving depository institution (other than a check described in subsection (a)(2) of this section) shall be available for cash withdrawal not later than the business day after the business day on which such funds otherwise are available under subparagraph (A).

(ii) 5 p.m. cash availability

Not more than \$400 (or the maximum amount allowable in the case of a withdrawal from an automated teller machine but not more than \$400) of funds deposited by one or more checks to which this subparagraph applies shall be available for cash withdrawal not later than 5 o'clock post meridian of the business day on which such funds are available under subparagraph (A).

(iii) \$100 availability

Any amount available for withdrawal under this subparagraph shall be in addition to the amount available under subsection (a)(2)(D) of this section.

(2) Availability of nonlocal checks

Subject to subsections (a)(2), (d), and (e) of this section and section 4003 of this title, not more than 6 business days shall intervene between the business day on which funds are deposited in an account at a depository institution by a check drawn on a nonlocal originating depository institution and the business day on which such funds are available for withdrawal.

(3) Applicability

This subsection shall apply with respect to funds deposited by check in an account at a depository institution after August 31, 1988, and before September 1, 1990, except as may be otherwise provided under subsection (b)(4) of this section.

(d) Time period adjustments**(1) Reduction generally**

Notwithstanding any other provision of law, the Board shall, by regulation, reduce the time periods established under subsections (b), (c), and (e) of this section to as short a time as possible and equal to the period of time achievable under the improved check clearing system for a receiving depository institution to reasonably expect to learn of the nonpayment of most items for each category of checks.

(2) Extension for certain deposits in noncontiguous States or territories

Notwithstanding any other provision of law, any time period established under subsection (b), (c), or (e) of this section shall be extended by 1 business day in the case of any deposit which is both—

(A) deposited in an account at a depository institution which is located in Alaska, Hawaii, Puerto Rico, or the Virgin Islands; and

(B) deposited by a check drawn on an originating depository institution which is not located in the same State, commonwealth, or territory as the receiving depository institution.

(e) Deposits at ATM**(1) Nonproprietary ATM****(A) In general**

Not more than 4 business days shall intervene between the business day a deposit described in subparagraph (B) is made at a nonproprietary automated teller machine (for deposit in an account at a depository institution) and the business day on which funds from such deposit are available for withdrawal.

(B) Deposits described in this paragraph¹

A deposit is described in this subparagraph if it is—

(i) a cash deposit;

(ii) a deposit made by a check described in subsection (a)(2) of this section;

(iii) a deposit made by a check drawn on a local originating depository institution (other than a check described in subsection (a)(2) of this section); or

(iv) a deposit made by a check drawn on a nonlocal originating depository institution (other than a check described in subsection (a)(2) of this section).

(2) Proprietary ATM—temporary and permanent schedules

The provisions of subsections (a), (b), and (c) of this section shall apply with respect to any funds deposited at a proprietary automated teller machine for deposit in an account at a depository institution.

(3) Study and report on ATM's

The Board shall, either directly or through the Consumer Advisory Council, establish and maintain a dialogue with depository institutions and their suppliers on the computer software and hardware available for use by automated teller machines, and shall, not later than September 1 of each of the first 3 calendar years beginning after August 10, 1987, report to the Congress regarding such software and hardware and regarding the potential for improving the processing of automated teller machine deposits.

(f) Check return; notice of nonpayment

No provision of this section shall be construed as requiring that, with respect to all checks deposited in a receiving depository institution—

(1) such checks be physically returned to such depository institution; or

(2) any notice of nonpayment of any such check be given to such depository institution within the times set forth in subsection (a), (b), (c), or (e) of this section or in the regulations issued under any such subsection.

(Pub. L. 100-86, title VI, §603, Aug. 10, 1987, 101 Stat. 637; Pub. L. 101-625, title X, §1001, Nov. 28,

¹ So in original. Probably should be "subparagraph".

1990, 104 Stat. 4424; Pub. L. 102-242, title II, § 227(a), (b)(1), Dec. 19, 1991, 105 Stat. 2307.)

AMENDMENTS

1991—Subsec. (e)(1). Pub. L. 102-242, § 227(b)(1)(A), struck out “—temporary schedule” after “ATM” in heading.

Subsec. (e)(1)(C). Pub. L. 102-242, § 227(a), struck out subpar. (C) which read as follows: “This paragraph shall apply with respect to funds deposited at a nonproprietary automated teller machine after August 31, 1988, and prior to the expiration of the 2-year period beginning on November 28, 1990.”

Subsec. (e)(2) to (4). Pub. L. 102-242, § 227(a), (b)(1)(B), redesignated pars. (3) and (4) as (2) and (3), respectively, and struck out former par. (2) which related to permanent schedule for funds deposited at nonproprietary automated teller machines.

1990—Subsec. (e)(1)(A). Pub. L. 101-625, § 1001(1), substituted “4” for “6”.

Subsec. (e)(1)(C). Pub. L. 101-625, § 1001(2), substituted “prior to the expiration of the 2-year period beginning on November 28, 1990” for “before September 1, 1990”.

Subsec. (e)(2)(D). Pub. L. 101-625, § 1001(3), substituted “the expiration of the 2-year period beginning on November 28, 1990” for “September 1, 1990”.

EFFECTIVE DATE

Section effective Sept. 1, 1988, see section 613(b) of Pub. L. 100-86, set out as a note under section 4001 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 4003, 4006, 4008 of this title.

§ 4003. Safeguard exceptions

(a) New accounts

Notwithstanding section 4002 of this title, in the case of any account established at a depository institution by a new depositor, the following provisions shall apply with respect to any deposit in such account during the 30-day period (or such shorter period as the Board may establish) beginning on the date such account is established—

(1) Next business day availability of cash and certain items

Except as provided in paragraph (3), in the case of—

- (A) any cash deposited in such account;
- (B) any funds received by such depository institution by wire transfer for deposit in such account;
- (C) any funds deposited in such account by cashier’s check, certified check, teller’s check, depository check, or traveler’s check; and
- (D) any funds deposited by a government check which is described in subparagraph (A), (B), or (C) of section 4002(a)(2) of this title,

such cash or funds shall be available for withdrawal on the business day after the business day on which such cash or funds are deposited or, in the case of a wire transfer, on the business day after the business day on which such funds are received for deposit.

(2) Availability of other items

In the case of any funds deposited in such account by a check (other than a check described in subparagraph (C) or (D) of para-

graph (1)), the availability for withdrawal of such funds shall not be subject to the provisions of section 4002(b), 4002(c), or paragraphs¹ (1) of section 4002(e) of this title.

(3) Limitation relating to certain checks in excess of \$5,000

In the case of funds deposited in such account during such period by checks described in subparagraph (C) or (D) of paragraph (1) the aggregate amount of which exceeds \$5,000—

(A) paragraph (1) shall apply only with respect to the first \$5,000 of such aggregate amount; and

(B) not more than 8 business days shall intervene between the business day on which any such funds are deposited and the business day on which such excess amount shall be available for withdrawal.

(b) Large or redeposited checks; repeated overdrafts

The Board may, by regulation, establish reasonable exceptions to any time limitation established under subsection (a)(2), (b), (c), or (e) of section 4002 of this title for—

(1) the amount of deposits by one or more checks that exceeds the amount of \$5,000 in any one day;

(2) checks that have been returned unpaid and redeposited; and

(3) deposit accounts which have been overdrawn repeatedly.

(c) Reasonable cause exception

(1) In general

In accordance with regulations which the Board shall prescribe, subsections (a)(2), (b), (c), and (e) of section 4002 of this title shall not apply with respect to any check deposited in an account at a depository institution if the receiving depository institution has reasonable cause to believe that the check is uncollectible from the originating depository institution. For purposes of the preceding sentence, reasonable cause to believe requires the existence of facts which would cause a well-grounded belief in the mind of a reasonable person. Such reasons shall be included in the notice required under subsection (f) of this section.

(2) Basis for determination

No determination under this subsection may be based on any class of checks or persons.

(3) Overdraft fees

If the receiving depository institution determines that a check deposited in an account is a check described in paragraph (1), the receiving depository institution shall not assess any fee for any subsequent overdraft with respect to such account, if—

(A) the depositor was not provided with the written notice required under subsection (f) of this section (with respect to such determination) at the time the deposit was made;

(B) the overdraft would not have occurred but for the fact that the funds so deposited are not available; and

¹ So in original. Probably should be “paragraph”.