

Nantahala Bank & Trust

Expedited Funds Availability Act - Regulation CC

I. Purpose

The primary purpose of Regulation CC is to provide consumers an expeditious availability to funds deposited by check or other negotiable instrument. Initial disclosures describing the institution's specific availability policy must be provided to customers; and when funds availability is delayed, customers must be given a written "hold" notice providing certain information about the delayed availability.

Regulation CC also establishes procedural requirements concerning check endorsements and the return of check items. The responsibilities of the returning bank, paying bank, depository bank, etc. are set forth in Regulation CC.

II. Policy

It shall be the Bank's policy to comply with the regulatory requirements of Regulation CC. To ensure compliance with this policy, the following actions shall be taken:

- Post the Bank's funds availability policy at locations where deposits are taken:

The Bank's general policy is to make funds available on the same business day; but we reserve the right to place case-by-case and exception holds, and to extend hold periods for new accounts.

- Provide initial funds availability disclosures to customers
- Provide Hold Notice to customer when hold is placed:

In cases where the availability of deposited funds is delayed, the customer is provided a hold notice at the time the funds are deposited, or it is mailed no later than the business day following the banking day on which the funds were received if the decision to place the hold was made after the customer left the premises or the deposit was not made directly to bank personnel.

CASE BY CASE HOLD: The Bank may delay the availability of deposited funds items. Funds are available no later than the second day from deposit and funds. Whenever a case by case hold is placed, the first \$200 will be made available no later than the next business day.

The notice provided to the customer will indicate the "\$200 next-day availability" and the day on which the remaining funds will be available.

EXCEPTION HOLD: Regulation CC provides six (6) circumstances in which availability can be extended, and these are:

- * New Accounts
- * Large Deposit (Over \$5,000) Exception
- * Repeated Overdraft Exception
- * Redeposited Check Exception
- * Reasonable Cause to Doubt Collectability Exception

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* Emergency Condition Exception

If an exception hold is invoked, the availability of deposited funds may be extended to **nine (9) days for new account relationship holds** and (7) days for any of the other 5 exception hold reasons.

The Hold Notice must identify which exception is the reason for the extended hold.

If the Large Deposit Exception applies, the Bank will make the first \$5,000 of the deposit available in accordance with the case-by-case availability schedule (2nd day). The amount in excess of \$5,000 may be held for an extended period, i.e., seven (7) business days from the date of deposit.

If the Reasonable Cause to Doubt Collectability Exception applies, a brief statement of the reason giving rise to the exception should be documented and attached to the copy of the Hold Notice, i.e., "Missing Endorsement".

- **Payment of Interest** - For interest-bearing accounts, the Bank generally accrues interest from the date of deposit. However, when the availability of deposit funds is delayed, the Bank will begin to accrue interest no later than the date the Bank receives credit for the funds.
- **Comply with Endorsement Standards** - Regulation CC contains a uniform endorsement standard, which requires the depository bank (Nantahala Bank & Trust) to endorse in a specific area, include certain information, and use a specific ink color. In the event of non-payment, the paying bank should be able to clearly identify the depository bank.
- **Provide Notice of Non-Payment** - In the event the Bank deems it necessary to return an item of \$2,500 or more, we will provide notice of non-payment to the depository bank no later than 3:00 PM on the business day following the decision not to pay.
- **The Branch Manager or other designated supervisor will provide employees with comprehensive training regarding Regulation CC.** At least annual "refresher" training will be provided to those employees whose job responsibilities are affected by this policy and Regulation CC.
- **Documentation evidencing compliance with Regulation CC will be retained for at least two (2) years from the date disclosures are required to be made or action is required to be taken.**

III. Covered Transactions

Regulation CC applies to all consumer and non-consumer (commercial) transaction accounts, i.e., NOW accounts demand deposit accounts.

IV. Important Definitions

- **Account:** A consumer or commercial transaction account, which includes a demand deposit (checking) account, a NOW account or an automatic transfer account; but the term does not include a savings deposit or money market deposit account (MMDA).
- **Banking Day:** any business day, on which the offices of the bank are open to the public for carrying on substantially all business functions, including "back office" functions.
- **Business Day:** Means a calendar day **other than Saturday, Sunday** or a federal holiday.

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- **Check-Processing Region:** The geographic area served by an office of a Federal Reserve Bank for check-processing activities.
- **Consumer Account:** An account opened for personal, family or household purposes.
- **Large Deposit:** The aggregate amount of deposited items exceeds \$5,000.
- **Repeated Overdraft:** When one of two situations has occurred:
 - (1) The account has been in a negative balance six (6) days in the previous six (6) months; OR
 - (2) The account has been in a negative balance by \$5,000 or more for two (2) days in the previous six (6) months.
- **Transit Items:** Include non-Nantahala Bank checks, travelers' checks, U.S. Postal Service money orders, cashiers' checks, certified checks, teller checks and federal, state or local government checks.

V. Penalties

Civil Liability

If the Bank fails to comply with any provisions of the EFAA relating to availability schedules, hold notices or payment of interest, it may be liable to the consumer for any actual damages suffered, court costs and attorney's fees PLUS punitive damages:

- In Individual Actions - From \$100 to \$1,000
- In Class Actions – The lesser of \$500,000 or 1% of the Bank's Net Worth

VI. Required Disclosures

Funds Availability Policy Notice

A summary of the Bank's funds availability policy will be posted in a central location in each branch office near the area(s) where deposits are taken.

An abbreviated version of the notice must be posted at proprietary ATM locations; but it is not required to be posted at drive-up locations.

Initial Regulation CC Disclosures

Regulation CC requires initial disclosures be provided to customers at the time a transaction account is opened. The disclosures must include a statement of the Bank's funds availability policy, when holds may be placed, and a description of the Bank's banking days.

Bank Procedures

Generally, New Account personnel provide initial disclosures to customers; and occasionally, Tellers will also provide these disclosures. These disclosures are provided with the "Deposit Agreement and Disclosures", which are provided to anyone upon request.

VII. Compliance Review

At least semi-annually, a sample of hold notices will be reviewed to determine compliance with Regulation CC. In addition, required disclosures and notices will be reviewed to ensure they accurately reflect the Bank's funds availability policy.