

AMENDMENTS

2010—Subsec. (a). Pub. L. 111-203, § 1095(1)(A), inserted introductory provisions and added par. (1) and struck out former introductory provisions and par. (1) which read as follows: “Compliance with the requirements imposed under this chapter shall be enforced under—

“(1) section 8 of the Federal Deposit Insurance Act—

“(A) by the appropriate Federal banking agency (as defined in section 3(q) of the Federal Deposit Insurance Act) in the case of insured depository institutions (as defined in section 3(c)(2) of such Act);

“(B) by the Federal Deposit Insurance Corporation in the case of depository institutions described in clause (i), (ii), or (iii) of section 19(b)(1)(A) of the Federal Reserve Act that are not insured depository institutions (as defined in section 3(c)(2) of the Federal Deposit Insurance Act); and

“(C) by the Director of the Office of Thrift Supervision in the case of depository institutions described in clause (v) and or (vi) of section 19(b)(1)(A) of the Federal Reserve Act that are not insured depository institutions (as defined in section 3(c)(2) of the Federal Deposit Insurance Act);”.

Subsec. (a)(4). Pub. L. 111-203, § 1095(1)(B)–(D), added par. (4).

Subsec. (b)(2). Pub. L. 111-203, § 1095(2), inserted “, subject to subtitle B of the Consumer Financial Protection Act of 2010” before the period.

EFFECTIVE DATE OF 2010 AMENDMENT

Amendment by Pub. L. 111-203 effective on the designated transfer date, see section 1100H of Pub. L. 111-203, set out as a note under section 552a of Title 5, Government Organization and Employees.

§ 4910. Construction**(a) PMI not required**

Nothing in this chapter shall be construed to impose any requirement for private mortgage insurance in connection with a residential mortgage transaction.

(b) No preclusion of cancellation or termination agreements

Nothing in this chapter shall be construed to preclude cancellation or termination, by agreement between a mortgagor and the holder of the mortgage, of a requirement for private mortgage insurance in connection with a residential mortgage transaction before the cancellation or termination date established by this chapter for the mortgage.

(Pub. L. 105-216, § 11, July 29, 1998, 112 Stat. 908.)

CHAPTER 50—CHECK TRUNCATION

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§ 5001. Findings; purposes**(a) Findings**

The Congress finds as follows:

(1) In the Expedited Funds Availability Act [12 U.S.C. 4001 et seq.], enacted on August 10, 1987, the Congress directed the Board of Governors of the Federal Reserve System to consider establishing regulations requiring Federal reserve banks and depository institutions to provide for check truncation, in order to improve the check processing system.

(2) In that same Act, the Congress—

(A) provided the Board of Governors of the Federal Reserve System with full authority to regulate all aspects of the payment system, including the receipt, payment, collection, and clearing of checks, and related functions of the payment system pertaining to checks; and

(B) directed that the exercise of such authority by the Board superseded any State law, including the Uniform Commercial Code, as in effect in any State.

(3) Check truncation is no less desirable in 2003 for both financial service customers and the financial services industry, to reduce costs, improve efficiency in check collections, and expedite funds availability for customers than it was over 15 years ago when Congress first directed the Board to consider establishing such a process.

(b) Purposes

The purposes of this chapter are as follows:

(1) To facilitate check truncation by authorizing substitute checks.

(2) To foster innovation in the check collection system without mandating receipt of checks in electronic form.

(3) To improve the overall efficiency of the Nation’s payments system.

(Pub. L. 108-100, § 2, Oct. 28, 2003, 117 Stat. 1177.)

REFERENCES IN TEXT

The Expedited Funds Availability Act, referred to in subsec. (a)(1), (2), is title VI of Pub. L. 100-86, Aug. 10, 1987, 101 Stat. 635, as amended, which is classified principally to chapter 41 (§4001 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 4001 of this title and Tables.

This chapter, referred to in subsec. (b), was in the original “this Act”, meaning Pub. L. 108-100, Oct. 28, 2003, 117 Stat. 1177, which is classified generally to this chapter. For complete classification of this Act to the Code, see Short Title note set out below and Tables.

EFFECTIVE DATE

Pub. L. 108-100, § 20, Oct. 28, 2003, 117 Stat. 1194, provided that: “This Act [enacting this chapter, amending section 412 of this title, and enacting provisions set out as notes under this section] shall take effect at the end of the 12-month period beginning on the date of the enactment of this Act [Oct. 28, 2003], except as otherwise specifically provided in this Act.”

SHORT TITLE

Pub. L. 108-100, § 1(a), Oct. 28, 2003, 117 Stat. 1177, provided that: “This Act [enacting this chapter, amending

section 412 of this title, and enacting provisions set out as notes under this section] may be cited as the ‘Check Clearing for the 21st Century Act’ or the ‘Check 21 Act.’”

§ 5002. Definitions

For purposes of this chapter, the following definitions shall apply:

(1) Account

The term “account” means a deposit account at a bank.

(2) Bank

The term “bank” means any person that is located in a State and engaged in the business of banking and includes—

- (A) any depository institution (as defined in section 461(b)(1)(A) of this title);
- (B) any Federal reserve bank;
- (C) any Federal home loan bank; or
- (D) to the extent it acts as a payor—
 - (i) the Treasury of the United States;
 - (ii) the United States Postal Service;
 - (iii) a State government; or
 - (iv) a unit of general local government (as defined in section 4001(24) of this title).

(3) Banking terms

(A) Collecting bank

The term “collecting bank” means any bank handling a check for collection except the paying bank.

(B) Depository bank

The term “depository bank” means—

- (i) the first bank to which a check is transferred, even if such bank is also the paying bank or the payee; or
- (ii) a bank to which a check is transferred for deposit in an account at such bank, even if the check is physically received and indorsed first by another bank.

(C) Paying bank

The term “paying bank” means—

- (i) the bank by which a check is payable, unless the check is payable at or through another bank and is sent to the other bank for payment or collection; or
- (ii) the bank at or through which a check is payable and to which the check is sent for payment or collection.

(D) Returning bank

(i) In general

The term “returning bank” means a bank (other than the paying or depository bank) handling a returned check or notice in lieu of return.

(ii) Treatment as collecting bank

No provision of this chapter shall be construed as affecting the treatment of a returning bank as a collecting bank for purposes of section 4–202(b) of the Uniform Commercial Code.

(4) Board

The term “Board” means the Board of Governors of the Federal Reserve System.

(5) Business day

The term “business day” has the same meaning as in section 4001(3) of this title.

(6) Check

The term “check”—

(A) means a draft, payable on demand and drawn on or payable through or at an office of a bank, whether or not negotiable, that is handled for forward collection or return, including a substitute check and a travelers check; and

(B) does not include a noncash item or an item payable in a medium other than United States dollars.

(7) Consumer

The term “consumer” means an individual who—

(A) with respect to a check handled for forward collection, draws the check on a consumer account; or

(B) with respect to a check handled for return, deposits the check into, or cashes the check against, a consumer account.

(8) Consumer account

The term “consumer account” has the same meaning as in section 4001(10) of this title.

(9) Customer

The term “customer” means a person having an account with a bank.

(10) Forward collection

The term “forward collection” means the transfer by a bank of a check to a collecting bank for settlement or the paying bank for payment.

(11) Indemnifying bank

The term “indemnifying bank” means a bank that is providing an indemnity under section 5005 of this title with respect to a substitute check.

(12) MICR line

The terms “MICR line” and “magnetic ink character recognition line” mean the numbers, which may include the bank routing number, account number, check number, check amount, and other information, that are printed near the bottom of a check in magnetic ink in accordance with generally applicable industry standards.

(13) Noncash item

The term “noncash item” has the same meaning as in section 4001(14) of this title.

(14) Person

The term “person” means a natural person, corporation, unincorporated company, partnership, government unit or instrumentality, trust, or any other entity or organization.

(15) Reverting bank

The term “reverting bank” means—

(A) the bank that creates a substitute check; or

(B) if a substitute check is created by a person other than a bank, the first bank that transfers or presents such substitute check.

(16) Substitute check

The term “substitute check” means a paper reproduction of the original check that—