

a depository institution chartered by such State be made available for withdrawal in a shorter period of time than the period of time provided in this chapter or in regulations prescribed by the Board under this chapter (as in effect on September 1, 1989) shall—

- (1) supersede the provisions of this chapter and any regulations by the Board to the extent such provisions relate to the time by which funds deposited or received for deposit in an account shall be available for withdrawal; and
- (2) apply to all federally insured depository institutions located within such State.

(b) Override of certain State laws

Except as provided in subsection (a), this chapter and regulations prescribed under this chapter shall supersede any provision of the law of any State, including the Uniform Commercial Code as in effect in such State, which is inconsistent with this chapter or such regulations.

(Pub. L. 100-86, title VI, §608, Aug. 10, 1987, 101 Stat. 647.)

§ 4008. Regulations and reports by Board

(a) In general

After notice and opportunity to submit comment in accordance with section 553(c) of title 5, the Board, jointly with the Director of the Bureau of Consumer Financial Protection, shall prescribe regulations—

- (1) to carry out the provisions of this chapter;
- (2) to prevent the circumvention or evasion of such provisions; and
- (3) to facilitate compliance with such provisions.

(b) Regulations relating to improvement of check processing system

In order to improve the check processing system, the Board shall consider (among other proposals) requiring, by regulation, that—

- (1) depository institutions be charged based upon notification that a check or similar instrument will be presented for payment;
- (2) the Federal Reserve banks and depository institutions provide for check truncation;
- (3) depository institutions be provided incentives to return items promptly to the depository institution of first deposit;
- (4) the Federal Reserve banks and depository institutions take such actions as are necessary to automate the process of returning unpaid checks;
- (5) each depository institution and Federal Reserve bank—
 - (A) place its endorsement, and other notations specified in regulations of the Board, on checks in the positions specified in such regulations; and
 - (B) take such actions as are necessary to—
 - (i) automate the process of reading endorsements; and
 - (ii) eliminate unnecessary endorsements;
- (6) within one business day after an originating depository institution is presented a check (for more than such minimum amount as the Board may prescribe)—

(A) such originating depository institution determines whether it will pay such check; and

(B) if such originating depository institution determines that it will not pay such check, such originating depository institution directly notify the receiving depository institution of such determination;

(7) regardless of where a check is cleared initially, all returned checks be eligible to be returned through the Federal Reserve System;

(8) Federal Reserve banks and depository institutions participate in the development and implementation of an electronic clearinghouse process to the extent the Board determines, pursuant to the study under subsection (f), that such a process is feasible; and

(9) originating depository institutions be permitted to return unpaid checks directly to, and obtain reimbursement for such checks directly from, the receiving depository institution.

(c) Regulatory responsibility of Board for payment system

(1) Responsibility for payment system

In order to carry out the provisions of this chapter, the Board of Governors of the Federal Reserve System shall have the responsibility to regulate—

- (A) any aspect of the payment system, including the receipt, payment, collection, or clearing of checks; and
- (B) any related function of the payment system with respect to checks.

(2) Regulations

The Board shall prescribe such regulations as it may determine to be appropriate to carry out its responsibility under paragraph (1).

(d) Reports

(1) Implementation progress reports

(A) Required reports

The Board shall transmit a report to both Houses of the Congress not later than 18, 30, and 48 months after August 10, 1987.

(B) Contents of report

Each such report shall describe—

- (i) the actions taken and progress made by the Board to implement the schedules established in section 4002 of this title, and
- (ii) the impact of this chapter on consumers and depository institutions.

(2) Evaluation of temporary schedule report

(A) Report required

The Board shall transmit a report to both Houses of the Congress not later than 2 years after August 10, 1987, regarding the effects the temporary schedule established under section 4002(c) of this title have had on depository institutions and the public.

(B) Contents of report

Such report shall also assess the potential impact the implementation of the schedule established in section 4002(b) of this title will have on depository institutions and the public, including an estimate of the risks to

and losses of depository institutions and the benefits to consumers. Such report shall also contain such recommendations for legislative or administrative action as the Board may determine to be necessary.

(3) Comptroller General evaluation report

Not later than 6 months after September 1, 1988, the Comptroller General of the United States shall transmit a report to the Congress evaluating the implementation and administration of this chapter.

(e) Consultations

In prescribing regulations under subsections (a) and (b), the Board and the Director of the Bureau of Consumer Financial Protection, in the case of subsection (a), and the Board, in the case of subsection (b), shall consult with the Comptroller of the Currency, the Board of Directors of the Federal Deposit Insurance Corporation, and the National Credit Union Administration Board.

(f) Electronic clearinghouse study

(1) Study required

The Board shall study the feasibility of modernizing and accelerating the check payment system through the development of an electronic clearinghouse process utilizing existing telecommunications technology to avoid the necessity of actual presentment of the paper instrument to a payor institution before such institution is charged for the item.

(2) Consultation; factors to be studied

In connection with the study required under paragraph (1), the Board shall—

- (A) consult with appropriate experts in telecommunications technology; and
- (B) consider all practical and legal impediments to the development of an electronic clearinghouse process.

(3) Report required

The Board shall report its conclusions to the Congress within 9 months of August 10, 1987.

(Pub. L. 100-86, title VI, § 609, Aug. 10, 1987, 101 Stat. 647; Pub. L. 111-203, title X, § 1086(d), July 21, 2010, 124 Stat. 2086.)

CODIFICATION

In subsec. (d)(3), “September 1, 1988” substituted for “section 603(b) takes effect” on authority of section 613(b) of Pub. L. 100-86, set out as an Effective Date note under section 4001 of this title.

AMENDMENTS

2010—Subsec. (a). Pub. L. 111-203, § 1086(d)(1), inserted “, jointly with the Director of the Bureau of Consumer Financial Protection,” after “Board” in introductory provisions.

Subsec. (e). Pub. L. 111-203, § 1086(d)(2), added subsec. (e) and struck out former subsec. (e). Prior to amendment, text read as follows: “In prescribing regulations under subsections (a) and (b) of this section, the Board shall consult with the Comptroller of the Currency, the Board of Directors of the Federal Deposit Insurance Corporation, the Federal Home Loan Bank Board, and the National Credit Union Administration Board.”

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.

EXCEPTIONS IN AREAS WHERE MAJOR DISASTER EXISTS

Pub. L. 105-18, title V, § 50002, June 12, 1997, 111 Stat. 211, provided that:

“(a) TRUTH IN LENDING ACT.—During the 240-day period beginning on the date of enactment of this Act [June 12, 1997], the Board of Governors of the Federal Reserve System may make exceptions to the Truth in Lending Act [15 U.S.C. 1601 et seq.] for transactions within an area in which the President, pursuant to section 401 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act [42 U.S.C. 5170], has determined, on or after February 28, 1997, that a major disaster exists, or within an area determined to be eligible for disaster relief under other Federal law by reason of damage related to the 1997 flooding of the Red River of the North, the Minnesota River, and the tributaries of such rivers, if the Board determines that the exception can reasonably be expected to alleviate hardships to the public resulting from such disaster that outweigh possible adverse effects.

“(b) EXPEDITED FUNDS AVAILABILITY ACT.—During the 240-day period beginning on the date of enactment of this Act [June 12, 1997], the Board of Governors of the Federal Reserve System may make exceptions to the Expedited Funds Availability Act [12 U.S.C. 4001 et seq.] for depository institution offices located within any area referred to in subsection (a) of this section if the Board determines that the exception can reasonably be expected to alleviate hardships to the public resulting from such disaster that outweigh possible adverse effects.

“(c) TIME LIMIT ON EXCEPTIONS.—Any exception made under this section shall expire not later than September 1, 1998.

“(d) PUBLICATION REQUIRED.—The Board of Governors of the Federal Reserve System shall publish in the Federal Register a statement that—

“(1) describes any exception made under this section; and

“(2) explains how the exception can reasonably be expected to produce benefits to the public that outweigh possible adverse effects.”

Similar provisions were contained in the following prior acts:

Pub. L. 103-76, § 2, Aug. 12, 1993, 107 Stat. 752.

Pub. L. 102-485, § 3, Oct. 23, 1992, 106 Stat. 2772.

§ 4009. Administrative enforcement

(a) Administrative enforcement

Compliance with the requirements imposed under this chapter, including regulations prescribed by and orders issued by the Board of Governors of the Federal Reserve System under this chapter, shall be enforced under—

(1) section 8 of the Federal Deposit Insurance Act [12 U.S.C. 1818] in the case of—

(A) national banks, and Federal branches and Federal agencies of foreign banks, by the Office of the Comptroller of the Currency;

(B) member banks of the Federal Reserve System (other than national banks), and offices, branches, and agencies of foreign banks located in the United States (other than Federal branches, Federal agencies, and insured State branches of foreign banks), by the Board of Governors of the Federal Reserve System; and

(C) banks insured by the Federal Deposit Insurance Corporation (other than members of the Federal Reserve System) and insured State branches of foreign banks, by the Board of Directors of the Federal Deposit Insurance Corporation;