

Commercial Code, that is inconsistent with this chapter, but only to the extent of the inconsistency.

(Pub. L. 108–100, §13, Oct. 28, 2003, 117 Stat. 1190.)

#### REFERENCES IN TEXT

This chapter, referred to in text, 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 under section 5001 of this title and Tables.

#### EFFECTIVE DATE

Section effective at the end of the 12-month period beginning on Oct. 28, 2003, see section 20 of Pub. L. 108–100, set out as a note under section 5001 of this title.

### § 5013. Variation by agreement

#### (a) Section 5007

Any provision of section 5007 of this title may be varied by agreement of the banks involved.

#### (b) No other provisions may be varied

Except as provided in subsection (a), no provision of this chapter may be varied by agreement of any person or persons.

(Pub. L. 108–100, §14, Oct. 28, 2003, 117 Stat. 1190.)

#### REFERENCES IN TEXT

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 under section 5001 of this title and Tables.

#### EFFECTIVE DATE

Section effective at the end of the 12-month period beginning on Oct. 28, 2003, see section 20 of Pub. L. 108–100, set out as a note under section 5001 of this title.

### § 5014. Regulations

The Board may prescribe such regulations as the Board determines to be necessary to implement, prevent circumvention or evasion of, or facilitate compliance with the provisions of this chapter.

(Pub. L. 108–100, §15, Oct. 28, 2003, 117 Stat. 1190.)

#### REFERENCES IN TEXT

This chapter, referred to in text, 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 under section 5001 of this title and Tables.

#### EFFECTIVE DATE

Section effective at the end of the 12-month period beginning on Oct. 28, 2003, see section 20 of Pub. L. 108–100, set out as a note under section 5001 of this title.

### § 5015. Study and report on funds availability

#### (a) Study

In order to evaluate the implementation and the impact of this chapter, the Board shall conduct a study of—

- (1) the percentage of total checks cleared in which the paper check is not returned to the paying bank;

- (2) the extent to which banks make funds available to consumers for local and nonlocal checks prior to the expiration of maximum hold periods;

- (3) the length of time within which depository banks learn of the nonpayment of local and nonlocal checks;

- (4) the increase or decrease in check-related losses over the study period; and

- (5) the appropriateness of the time periods and amount limits applicable under sections 4002 and 4003 of this title, as in effect on October 28, 2003.

#### (b) Report to Congress

Before the end of the 30-month period beginning on the effective date of this chapter, the Board shall submit a report to the Congress containing the results of the study conducted under this section, together with recommendations for legislative action.

(Pub. L. 108–100, §16, Oct. 28, 2003, 117 Stat. 1190.)

#### REFERENCES IN TEXT

This chapter, referred to in subsec. (a), 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 under section 5001 of this title and Tables.

The effective date of this chapter, referred to in subsec. (b), is at the end of the 12-month period beginning on Oct. 28, 2003, except as otherwise specifically provided in this chapter, see section 20 of Pub. L. 108–100, set out as an Effective Date note under section 5001 of this title.

#### EFFECTIVE DATE

Section effective at the end of the 12-month period beginning on Oct. 28, 2003, see section 20 of Pub. L. 108–100, set out as a note under section 5001 of this title.

### § 5016. Statistical reporting of costs and revenues for transporting checks between reserve banks

In the annual report prepared by the Board for the first full calendar year after October 28, 2003, and in each of the 9 subsequent annual reports by the Board, the Board shall include the amount of operating costs attributable to, and an estimate of the Federal Reserve banks’ imputed revenues derived from, the transportation of commercial checks between Federal Reserve bank check processing centers.

(Pub. L. 108–100, §17, Oct. 28, 2003, 117 Stat. 1191.)

#### EFFECTIVE DATE

Section effective at the end of the 12-month period beginning on Oct. 28, 2003, see section 20 of Pub. L. 108–100, set out as a note under section 5001 of this title.

### § 5017. Evaluation and report by the Comptroller General

#### (a) Study

During the 5-year period beginning on October 28, 2003, the Comptroller General of the United States shall evaluate the implementation and administration of this chapter, including—

- (1) an estimate of the gains in economic efficiency made possible from check truncation;
- (2) an evaluation of the benefits accruing to consumers and financial institutions from re-

duced transportation costs, longer hours for accepting deposits for credit within 1 business day, the impact of fraud losses, and an estimate of consumers' share of the total benefits derived from this chapter; and

(3) an assessment of consumer acceptance of the check truncation process resulting from this chapter, as well as any new costs incurred by consumers who had their original checks returned with their regular monthly statements prior to October 28, 2003.

**(b) Report to Congress**

Before the end of the 5-year period referred to in subsection (a), the Comptroller General shall submit a report to the Congress containing the findings and conclusions of the Comptroller General in connection with the evaluation conducted pursuant to subsection (a), together with such recommendations for legislative and administrative action as the Comptroller General may determine to be appropriate.

(Pub. L. 108-100, §18, Oct. 28, 2003, 117 Stat. 1191.)

REFERENCES IN TEXT

This chapter, referred to in subsec. (a), 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 under section 5001 of this title and Tables.

EFFECTIVE DATE

Section effective at the end of the 12-month period beginning on Oct. 28, 2003, see section 20 of Pub. L. 108-100, set out as a note under section 5001 of this title.

**§ 5018. Depository services efficiency and cost reduction**

**(a) Findings**

The Congress finds as follows:

(1) The Secretary of the Treasury has long compensated financial institutions for various critical depository and financial agency services provided for or on behalf of the United States by—

(A) placing large balances, commonly referred to as "compensating balances", on deposit at such institutions; and

(B) using imputed interest on such funds to offset charges for the various depository and financial agency services provided to or on behalf of the Government.

(2) As a result of sharp declines in interest rates over the last few years to record low levels, or the public debt outstanding reaching the statutory debt limit, the Department of the Treasury often has had to dramatically increase or decrease the size of the compensating balances on deposit at these financial institutions.

(3) The fluctuation of the compensating balances, and the necessary pledging of collateral by financial institutions to secure the value of compensating balances placed with those institutions, have created unintended financial uncertainty for the Secretary of the Treasury and for the management by financial institutions of their cash and securities.

(4) It is imperative that the process for providing financial services to the Government be

transparent, and provide the information necessary for the Congress to effectively exercise its appropriation and oversight responsibilities.

(5) The use of direct payment for services rendered would strengthen cash and debt management responsibilities of the Secretary of the Treasury because the Secretary would no longer need to dramatically increase or decrease the level of such balances when interest rates fluctuate sharply or when the public debt outstanding reaches the statutory debt limit.

(6) An alternative to the use of compensating balances, such as direct payments to financial institutions, would ensure that payments to financial institutions for the services they provide would be made in a more predictable manner and could result in cost savings.

(7) Limiting the use of compensating balances could result in a more direct and cost-efficient method of obtaining those services currently provided under compensating balance arrangements.

(8) A transition from the use of compensating balances to another compensation method must be carefully managed to prevent higher-than-necessary transitional costs and enable participating financial institutions to modify their planned investment of cash and securities.

**(b) Authorization of appropriations for services rendered by depositories and financial agencies of the United States**

There are authorized to be appropriated for fiscal years beginning after fiscal year 2003 to the Secretary of the Treasury such sums as may be necessary for reimbursing financial institutions in their capacity as depositories and financial agents of the United States for all services required or directed by the Secretary of the Treasury, or a designee of the Secretary, to be performed by such financial institutions on behalf of the Secretary of the Treasury or another Federal agency, including services rendered before fiscal year 2004.

**(c) Orderly transition**

**(1) In general**

As appropriations authorized in subsection (b) become available, the Secretary of the Treasury shall promptly begin the process of phasing in the use of the appropriations to pay financial institutions serving as depositories and financial agents of the United States, and transitioning from the use of compensating balances to fund these services.

**(2) Post-transition use limited to extraordinary circumstances**

**(A) In general**

Following the transition to the use of the appropriations authorized in subsection (b), the Secretary of the Treasury may use the compensating balances to pay financial institutions serving as depositories and financial agents of the United States only in extraordinary situations where the Secretary determines that they are needed to ensure the fiscal operations of the Government con-