

Selected Subjects

Guru Chatter* on Reg CC



Case-By-Case Holds on Credit Card Checks

Question: Holds on Credit Card Checks: I know we cannot just hold all credit card checks for reasonable cause to doubt collectibility for a class of checks; however, could we hold for a case by case basis 2/5 days?

Answer by John Burnett:

The "class of checks" prohibition extends only to exception holds. You are free to place case-by-case holds on credit card checks for the normal 2 or 5 business days.

Local and Non Local Checks Under Reg. CC

Question: I have a Reg CC question on local and nonlocal checks for financial institutions with multiple branches that cross Federal Reserve Check Processing Region boundaries. All but one of the institution's branches fall under the jurisdiction of the Chicago Federal Reserve office. The other office falls under the jurisdiction of the St. Louis Federal Reserve office. The Chicago branches ship the cash letters to the Chicago Federal Reserve office while the other office ships its cash letter to the St. Louis Federal Reserve office. The first four digits of the routing number on checks issued to all account holders have a Chicago routing number.

Should the branch under the jurisdiction of the St. Louis Federal Reserve office consider checks with St. Louis routing numbers to be local or nonlocal? Would the answer be different if this branch shipped its cash letter to the Chicago Federal Reserve office?

Answer by John Burnett:

The framers of the Expedited Funds Availability Act wanted consumers to be able to base their understanding of "local" on the location of the branch into which they make a deposit. As an extreme example, it would not make sense for a customer making a deposit in a BofA branch in Encino, California, to consider a bank in Charlotte, NC, local, even if the customer's own checks show a NC routing number.

Whether a deposited check is "local" for the purposes of Regulation CC has nothing to do with where the check is processed by the depository bank. It's based on the location of the branch where the check is deposited, and which

check processing region that branch is covered by.

The branch that's in the St. Louis region should consider local any check with routing numbers listed under the Saint Louis Fed branch in Appendix A to Regulation CC, regardless of how checks deposited at that branch are processed (of course they may not even get routed through the Fed at all!), and regardless of what routing number appears on its own customers' checks.

Reg CC - Customer Notification of Returned Check

Question: Under Regulation CC, is it true that we have to notify our customers of a returned check even though we redeposit it a second time? We do not place a hold on the redeposit check. In other words, do we have to notify the customer the first time the check comes back to us?

Answer by John Burnett:

There are two separate rules that require you to notify your customer. The first is UCC section 3-503. The requirement you've referred to is in Regulation CC at section 229.33(d), and it applies regardless of the amount of the check. It is triggered when your bank receives notice of a check that is being returned (typically, large items), or a returned check itself.

Customers, particularly business depositors, may waive the UCC and Regulation CC notices in the deposit contract. However, particularly for large items (over \$2,500), which are supposed to result in your receipt of a notice of dishonor before you get the check back, your business customers may want to have notice to help them deal with whoever gave them the bad check.

Answer by Ken Gollhofer:

John has answered your question correctly, but I want to add that banks should not automatically reclear returned items unless they have a written agreement to do so. It's that written agreement where you might include the waiver of the UCC's [and Regulation CC] notice requirements John mentions.

Require Deposit of Credit Card Check in Savings

Question: Customer wants to deposit a credit card check for \$11,000.00 into his checking account. The only applicable hold we can use is large deposit exception for this instance. Since the check is non-local, \$4900.00 will be released on the 5th business day and the remainder on the 11th. Our bank auto-reclears everything so our concern is that we would have released at least \$4900.00 before we know the item is good. We have tried sending these items for collection but generally our attempts fail - credit card companies are not banks and when we try to find out where to even send these checks you would think we are speaking German.... so we have ruled out that option. Customers want to use the paper to take advantage of special interest rates....so cash advance is not an

option. My question is...if the customer has a savings account can we tell the customer that we will accept the check for deposit into the savings account? Reason being....savings are not governed by Reg CC and we can place a longer hold on the entire amount?

Answer by Ken Gollhofer:

Yes. Refusing to accept an item for deposit to a transaction account, but allowing it to be deposited to a savings account is a relatively common practice.

Obviously, you may place a hold for the length of time and the amount you wish if the item is deposited to a savings account. (State law may limit this right.)

Providing the customer with a written notice of the hold falls under the heading of a desirable courtesy.

Posing the cash advance option is a sensible alternative when the customer "needs" the money right away. It may be less desirable because interest begins to accrue right away and, perhaps, at a higher rate. Or it may just be undesirable because the customer already knows the card is maxed out.

Reg CC: Payable Through Items

Question: In determining applicability with "payable through items" to Reg CC, do we still have to watch these items for the setting out in the title line the 4 digit routing number to use to determine whether or not these items are to be considered a local check? There doesn't seem to be much information concerning these types of items and how you would want to address them in your bank's Reg CC procedures.

Answer by John Burnett:

If the "payable through" legend on a check is accompanied by a four-digit number, you have to look to that number combination to determine local or non local status for the check. That's obviously a problem if it's not caught by a teller.

Depending on where the check is deposited and the relative locations of the payable through and drawee financial institutions, the use of these legends can either help or hinder the payee's availability.