

Unlocking Funds

Regulation CC: Check, ACH, Wire, and Cash

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12 Code of Federal Regulations Part 229 - Regulation CC

- ▶ Federal Reserve
- ▶ Expedited Funds Availability Act (EFAA) of 1987
- ▶ Check Clearing for the 21st Century Act (Check 21)



Regulation CC

Subpart A:

- Purpose, organization of subparts, definitions, administrative enforcement

Subpart B:

- Availability of Funds and Disclosures of Funds Availability Policies

Subpart C:

- Collection of Checks

Subpart D:

- Substitute Checks

Regulation CC: Subpart A

Outlines the authority and purpose

Includes definitions of terms used

Definitions

Account: Deposit accounts at a bank from which the account holder makes transfers or withdrawals by negotiable instrument or other similar means to make payments or transfers funds to third persons

Availability: Time period from the day of deposit until the funds are available to the account holder for withdrawal or other use

Available for Withdrawal: Funds deposited available for all uses generally permitted to customer under the bank's account agreement or policies



Definitions

Banking day: Business day on which office of bank is open to public for substantially all banking functions

Business day: Calendar day other than a Saturday or a Sunday, or Federal Reserve legal holidays

Definitions

▶ Check and Demand Draft

- ▶ Check definition covers several categories of instruments including:
 - ▶ Negotiable demand draft drawn on:
 - ▶ Or payable through or at, an office of a bank;
 - ▶ Federal Reserve Bank or FHLB;
 - ▶ US Treasury;
 - ▶ Demand draft drawn on:
 - ▶ State or unit of general local government not payable through or at a bank;
 - ▶ U.S. Postal Service money order;
 - ▶ Traveler's check;
 - ▶ An original check and a substitute check

▶ Cashier's check: Check that is—

- ▶ Drawn on a bank;
- ▶ Signed by an officer or employee of the bank on behalf of the bank as drawer;
- ▶ Direct obligation of the bank;
- ▶ Provided to a bank's customer or acquired from the bank for remittance purposes



Definitions

- ▶ Electronic check and electronic returned check
 - ▶ An electronic image of, and electronic information derived from a paper check or a paper returned check that
 - ▶ Is sent to receiving bank pursuant to an agreement between sender and receiving bank; and
 - ▶ Conforms with ANS X9.100-187
- ▶ Check image and information must be “derived” from a paper check
 - ▶ Use of derived meant to clarify that image must be created from a paper item
 - ▶ ECIs are not electronic checks

Definitions

Remotely Created Check (RCC)

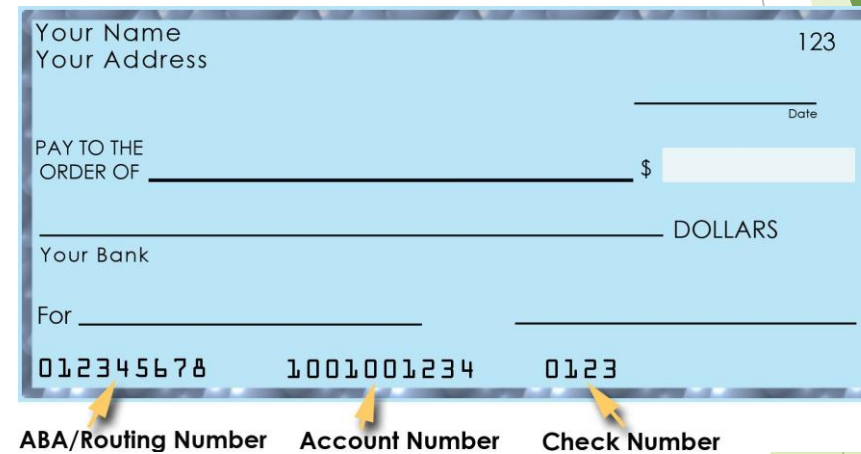
- Check not created by the paying bank
- Does not bear a signature applied, or purported to be applied, by person on whose account check is drawn
- May say “signature on file” or other similar language on the signature line
- May be referred to as an unsigned draft
- Valid RCC must have existed in paper (physical) form prior to imaging

Routing Number

- Number printed on the face of a check in fractional form or in nine-digit form;
- Number in a bank’s indorsement in fractional or nine-digit form; or
- Bank-identification number contained in an electronic check or electronic returned check, for purposes of subpart C and subpart D

Is Magnetic Ink Required?

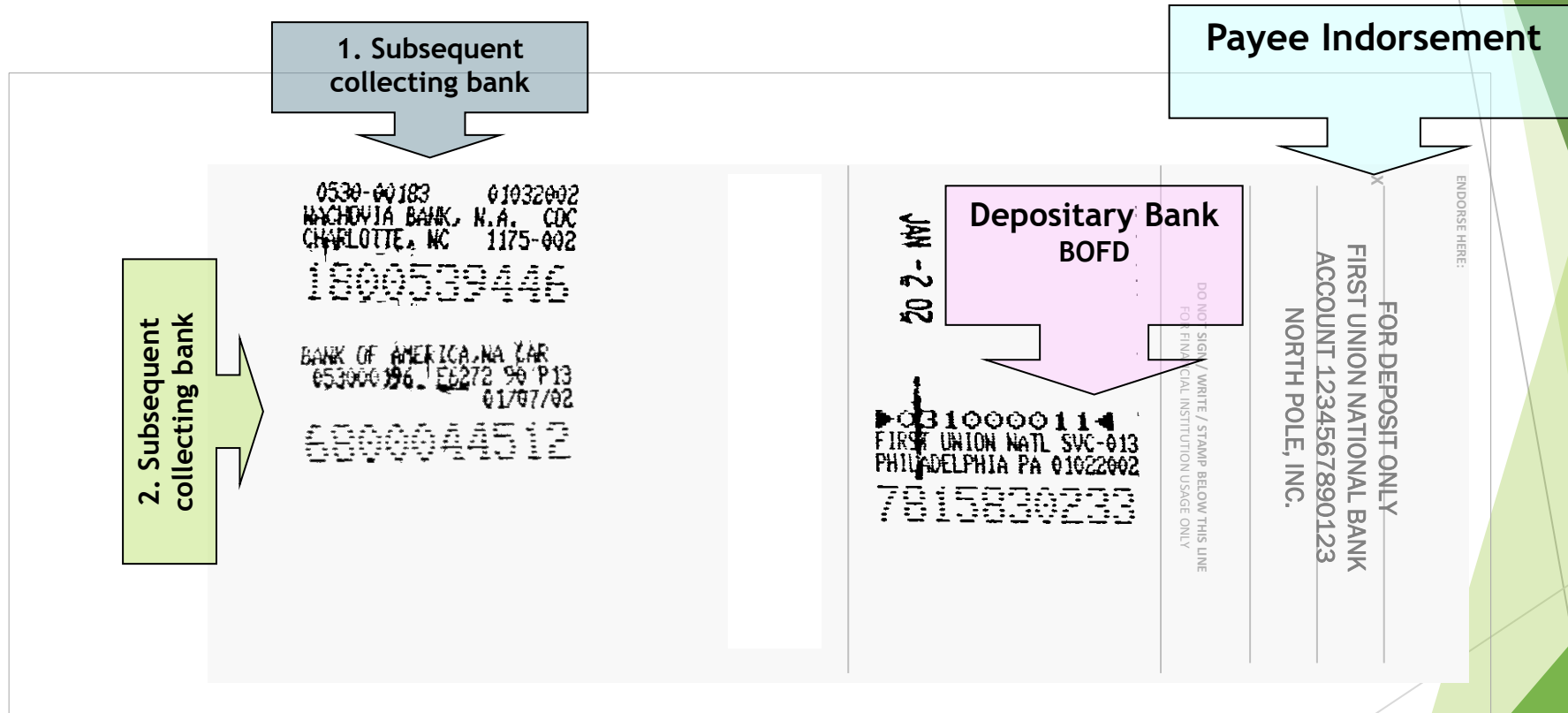
- ▶ Reg CC requirement - All checks (including substitute check) must have **routing number of the Paying Bank** preprinted or post-encoded in magnetic ink
- ▶ However, not required if IRD created for a **paid item** returned to the issuing FI's customer as a properly paid item
 - ▶ MICR characters (E-13B font) **may be printed in non-magnetic ink** (see X9.100-140 section 6.1)
 - ▶ Substitute check must conform to all other requirements of X9.100-140 standard



Indorsements

- ▶ BOFD Indorsement must include:
 - ▶ ABA routing number offset by inward pointing arrows at each end (>012345678<)
 - ▶ Bank's name and location
 - ▶ Indorsement date
- ▶ Subsequent collecting bank(s) indorsements
 - ▶ Must include ABA routing number without arrows
 - ▶ May include trace/sequence number

Physical Indorsements - Back Paper Check



Regulation CC: Subpart B - Availability of Funds

Next-Day Availability (229.10)

For certain check deposits, depository bank makes funds available next business day after the banking day on which the funds are deposited for:

Check drawn on the Treasury of the United States

US Postal Service money order

Check drawn on Federal Reserve Bank or Federal Home Loan Bank

Check drawn by a state or local government

Cashier's, certified, or teller's check

Checks not listed above, next day amount available is lesser of:

\$225
or

Aggregate amount deposited by check on any 1 banking day to all accounts of the customer

Availability of Funds

Availability schedule (229.12)

- Two-Day Availability: Depository bank shall make funds available for withdrawal no later than ***second business day*** after the banking day on which checks were deposited in person

Extension of Schedule

- Applies to certain deposits in Alaska, Hawaii, Puerto Rico, and the U.S. Virgin Islands
 - Depository Bank may ***add one business day for deposits that are:***
 - ✓ Deposited in an account at a branch of a depository bank if the branch is located in Alaska, Hawaii, Puerto Rico, or the U.S. Virgin Islands; and
 - ✓ Deposited by a check drawn on a paying bank not located in the same state as the depository bank

Nonproprietary ATMs

- Deposits at nonproprietary ATMs, depository bank must make funds available no later than ***fifth business day*** after the banking day on which check was deposited
 - Example: Deposit is made at a nonproprietary ATM on a Monday, including any deposit by cash or checks otherwise be subject to next-day (or 2nd-day) availability;
 - Funds must be made available for withdrawal not later than Monday of the following week

Regulation CC: Subpart B

Exceptions Eligible for extended holds (\$229.13)

New Accounts	Deposits into new accounts; Open less than 30 days	
Large deposits (greater than \$5,525)	First \$5,525 covered under normal “availability” requirements	Remainder of deposit may be held for the extended period
Re-deposited checks	May be held unless the check was returned because of missing indorsement or postdating	
Deposits to accounts that are repeatedly overdrawn	If during the previous 6 months, account was negative:	Six or more banking days Two or more banking days in the amount of \$5,525 or more
Reasonable cause to doubt the collectability of a check	Must have legitimate reasons	
Checks deposited during emergency conditions	Beyond the control of the financial institution	Ex: Natural disasters or communications malfunctions

Exceptions - Funds Availability

- ▶ Extending or delaying funds availability on deposited checks
 - ▶ Reg CC permits financial institutions to delay availability of funds on certain deposits for a reasonable period of time
 - ▶ Timing of reasonable period beyond the 2-day availability generally will be:
 - ▶ One (1) additional business day for on-us checks
 - ▶ 3 days total
 - ▶ Up to five (5) additional business days for non-on-us checks
 - ▶ 7 days total

Availability Examples

Example #1:	Next Day and Two-Day Availability				
Mon Oct 19	Tues Oct 20	Wed Oct 21	Thur Oct 22	Fri Oct 23	
Checks Deposited	Next Day Funds Available	Two-Day Funds Available			
Example #2:					
Funds Availability: New Account and Large Dollar					
Mon Oct 19	Tues Oct 20	Wed Oct 21	Thur Oct 22	Fri Oct 23	
\$6,575 U.S. Treasury Check Deposited	\$5,525 Next Day Funds Available			\$1,050 Extended Funds Availability	
<p>229.13 (a) and (b): New Accounts and Large Dollar Deposits</p> <ul style="list-style-type: none"> - U.S. Treasury check in the amount of \$6,575 used to open a new account - First \$5,525 of large dollar deposit available next-day - Remaining amount may be subject to an extended hold 					

Inflation-Adjusted Amounts

Availability amounts are:

Minimum
amount = \$225

Cash
withdrawal
amount = \$450

New-account
amount =
\$5,525

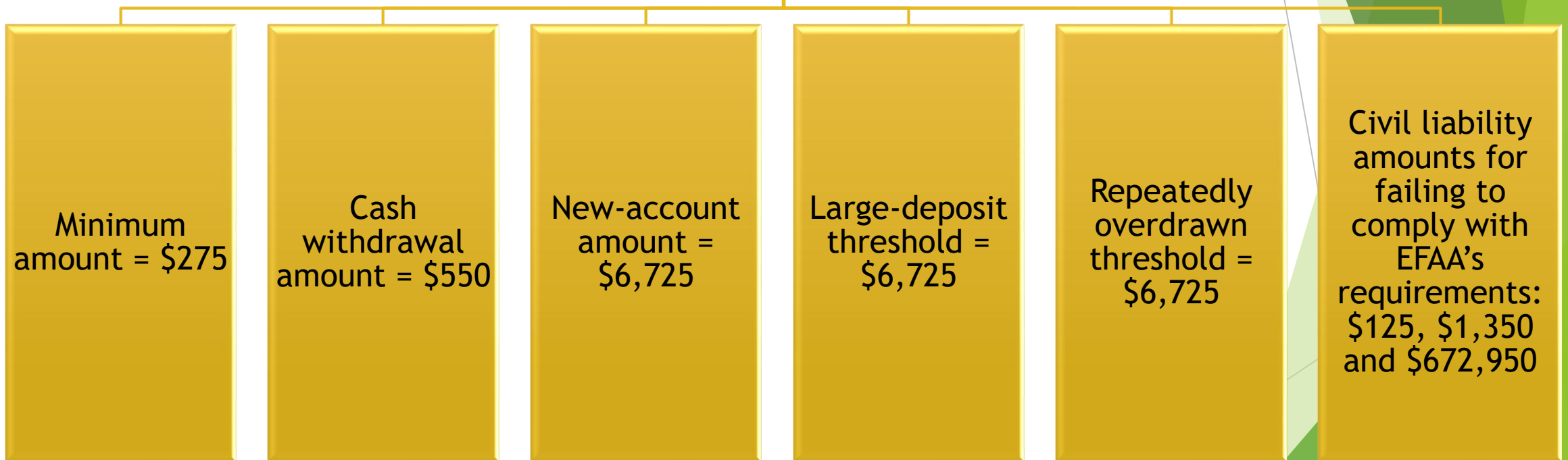
Large-deposit
threshold =
\$5,525

Repeatedly
overdrawn
threshold =
\$5,525

Civil liability
amounts for
failing to
comply with
EFAA's
requirements:
\$100, \$1,100
and \$552,500

Inflation-Adjusted Amounts - **As of July 1, 2025

Availability amounts are:



Regulation CC: Subpart B

Disclosures
must be:

- Clear, conspicuous, and in writing
- In a form that the customer may keep; other than those posted:
 - At locations where employees accept consumer deposits
 - At ATMs
 - On preprinted deposit slips
- Grouped together and not contain any information not related to disclosures required by regulation

Notices to Consumer Customers

- ▶ Depositing Financial Institutions (DFI) required to send written notice to consumer account holders at least **30 days before implementing changes** to their funds availability policy (see Reg CC 229.18(e))
 - ▶ Changes to the availability dollar amounts in Reg CC would trigger this notice requirement
- ▶ Agencies will provide one-year timeframe for DFIs to plan/send their change in terms notices
 - ▶ May provide notices electronically or send notice with the monthly account statement

Not included in Reg CC Funds Availability

- ▶ Deposits made by customers via RDC
 - ▶ RDC deposits are governed under customer/account/RDC agreements with Depository Institution
 - ▶ Does bank need extra time to process and/or learn of nonpayment of RDC items compared to other items?

ACH Funds Availability

- For credits, the Nacha Operating Rules require that funds be made available for withdrawal or cash withdrawal on the Settlement Date
 - If the entry is made available to an RDFI by its ACH Operator no later than 5:00 p.m. RDFI local time on the banking day prior to the Settlement Date, the funds must be made available for withdrawal or cash withdrawal for any standard processing credit entry no later than 9 a.m. RDFI local time on Settlement Date
- This rule applies to all credit entries that meet the timing requirement, regardless of Standard Entry Class Code

An hourglass with white sand is positioned on the left side of the slide. In the background, a calendar is visible with dates 19, 20, 21, and 29. The slide features a green geometric design on the right side.

ACH Funds Availability

- ▶ Same Day ACH credits are delivered on the Settlement Date
 1. For a same-day credit entry received in the first same-day processing window, the Rules require RDFIs to make the amount available for withdrawal no later than 1:30 p.m. RDFI local time on Settlement Date
 2. For a same-day credit entry received in the second same-day processing window, the RDFI must make funds available for withdrawal no later than 5:00 p.m. RDFI local time on Settlement Date
 3. A same-day credit entry in the third same-day processing window is required to make the amount of the credit Entry available in the Receiver's account no later than the completion of the RDFI's processing for that Settlement Date
 - RDFI is not be required to make such funds available for withdrawal on the Settlement Date

Voluntary Exception Rule

- ▶ RDFIs can take advantage of a voluntary exception from the existing funds availability requirements prescribed in the Rules when it reasonably suspects that an ACH credit is not authorized, including those that the RDFI suspects are originated under False Pretenses
- ▶ Allows an RDFI additional time to investigate a suspicious credit prior to making funds available to the Receiver
- ▶ Additional time increases likelihood that unauthorized credit entries could be identified, and the associated funds could be recovered before they are withdrawn
- ▶ ODFIs and RDFIs can work together, on a voluntary basis, to investigate a possible case of an unauthorized credit transaction
- ▶ NOTE - RDFIs must still comply with Regulation CC availability requirements

Incoming Wire Transfers

- ▶ Upon receipt of an incoming wire transfer, funds are credited in accordance with the instructions of the payment order and funds availability schedule after:
 - ▶ The passing of the OFAC scan
 - ▶ Verification of the name on the account
- ▶ Funds availability is governed by Regulation CC
 - ▶ No later than 9:00 a.m. local time on the business day following receipt of the wire transfer, with proper account information

Regulation CC: Subpart C

Collection and Return Requirements

- Paying Bank Responsibility
- Returning Bank Responsibility
- Depository Bank Responsibility

Warranties & Indemnities

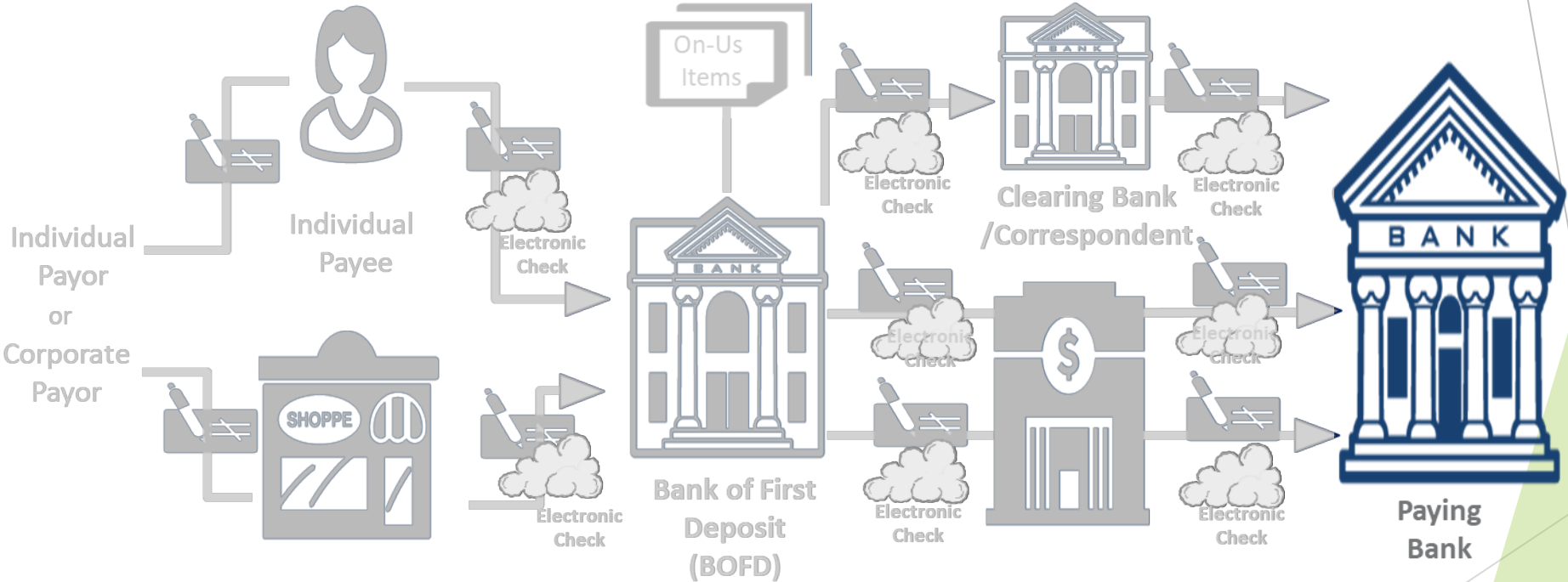
Expeditious Return



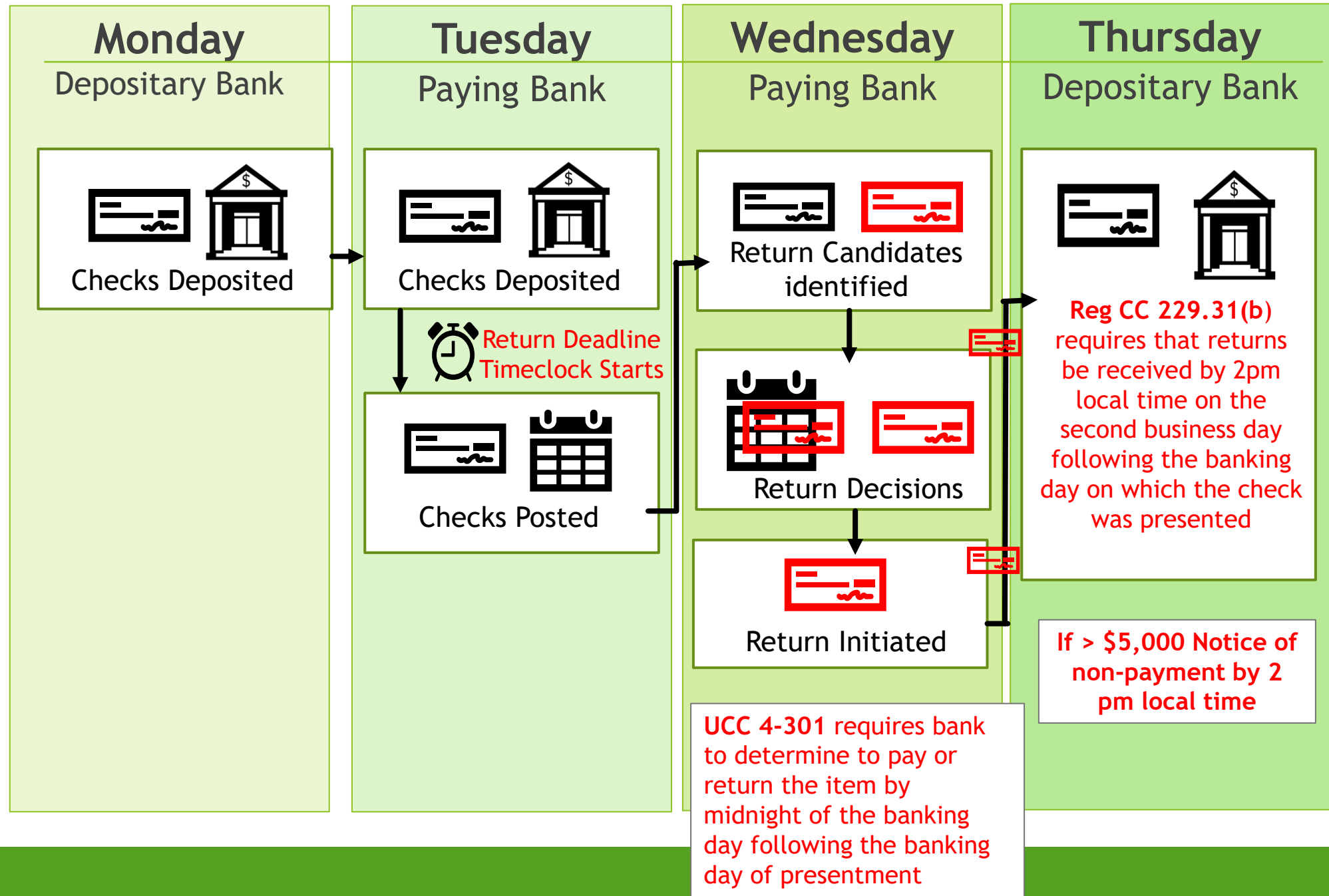
A Paying Bank returns a check in an expeditious manner if it:

- Returns check such that check would normally be received by the Depository Bank:
 - Not later than 2:00 pm (local time of Depository Bank);
 - Second business day following banking day when check was presented to Paying Bank

Regulation CC: Subpart C

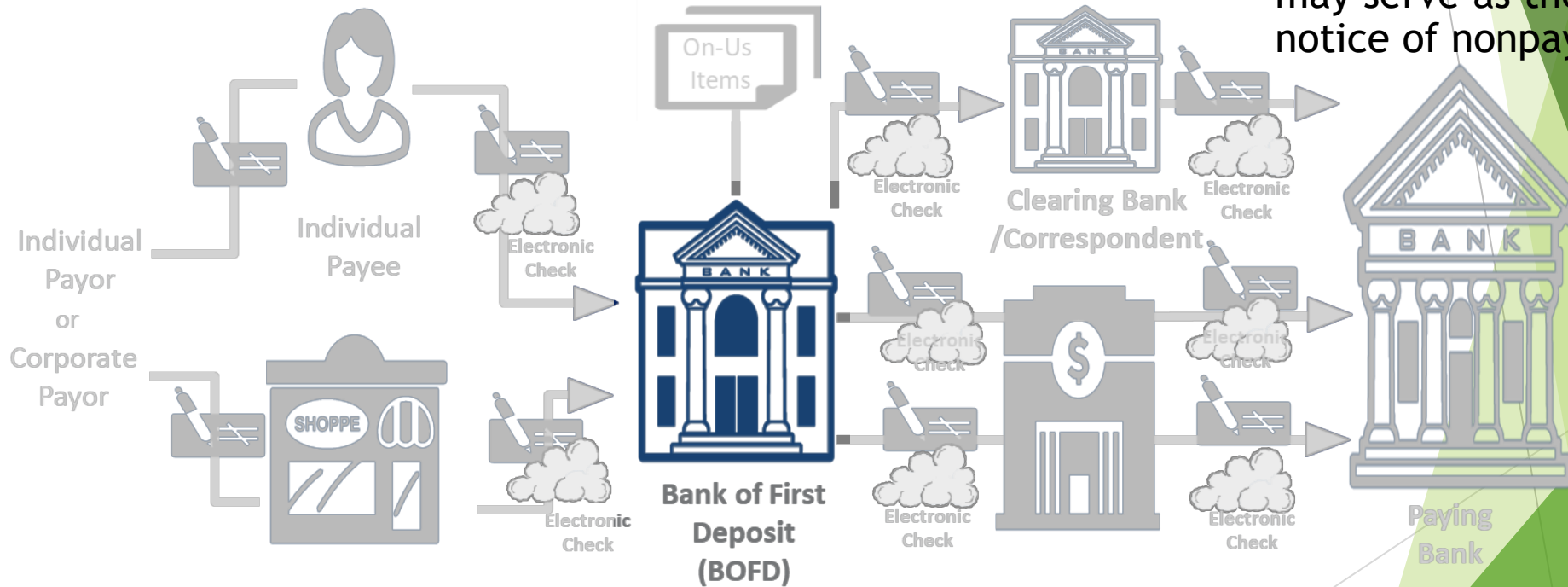


Return Deadlines



Regulation CC: Subpart C

- Depository Bank's Responsibility
 - Required to notify its customer of nonpayment upon receipt of a returned check or notice of nonpayment (regardless of the amount of the check or notice)
 - Return of the check itself may serve as the required notice of nonpayment



Notice of Non-Payment

Payee Bank sends notice to depository bank if returning a check that:

\$5,000 or more

Due to depository bank by 2pm local time on the second business day following presentment

Warranties and Indemnities

- ▶ **Warranty:** Assurance about a certain condition or fact
 - ▶ Think of warranty as assurance that certain condition will be met
 - ▶ Ex: BOFD A provides a warranty to the Paying Bank that it will not be asked to pay the same item again (no double debit warranty)

- ▶ **Indemnity:** Promise to reimburse a person for loss they suffer
 - ▶ Think of indemnity as a promise of protection
 - ▶ Ex: ECI indemnity states a bank that transfers an ECI *indemnifies each transferee bank from losses* arising from fact that:
 - ▶ Electronic image/electronic information not derived from paper check, or was not authorized by the person on whose account ECI is drawn, or person is charged for ECI that has already been paid (no duplicates)

Warranties

▶ Warranties - Returns

▶ Each paying bank or returning bank warrants:

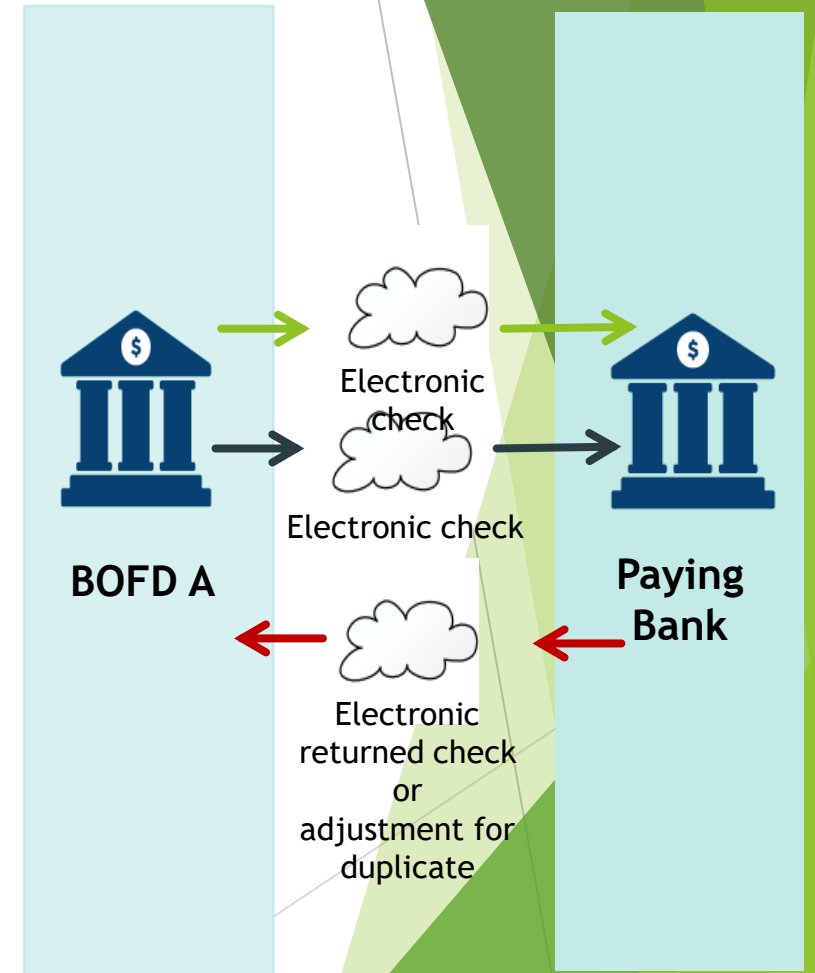
- ▶ Returned within UCC midnight deadline
- ▶ Authorized to return check
- ▶ Check not materially altered
- ▶ For notice in lieu of return, original check has not and will not be returned

Warranties

- ▶ Warranties - settlement amount, encoding, and offset
 - ▶ Each bank warrants
 - ▶ Total amount of checks presented is equal to total amount of settlement demanded
 - ▶ Accompanying information accurately indicates total amount of settlement demanded
 - ▶ Information encoded after issue in magnetic ink is correct
 - ▶ Includes any info placed in the MICR line of substitute check
 - ▶ Banks that:
 - ▶ Settle amounts exceeding total amount of checks, the settling bank may offset excess settlement amount against subsequent settlements

Warranty and Breach of Warranty

- ▶ BOFD A sends an image to Paying Bank and provides a **warranty** stating Paying Bank will not be asked to make payment on that item again (no double debit 229.34(a)(1)(ii))
- ▶ BOFD A then sends a duplicate of that item in error
- ▶ Paying Bank pays both items
It may adjust the 2nd item **or bring a breach of warranty claim** through other means



RDC Indemnity

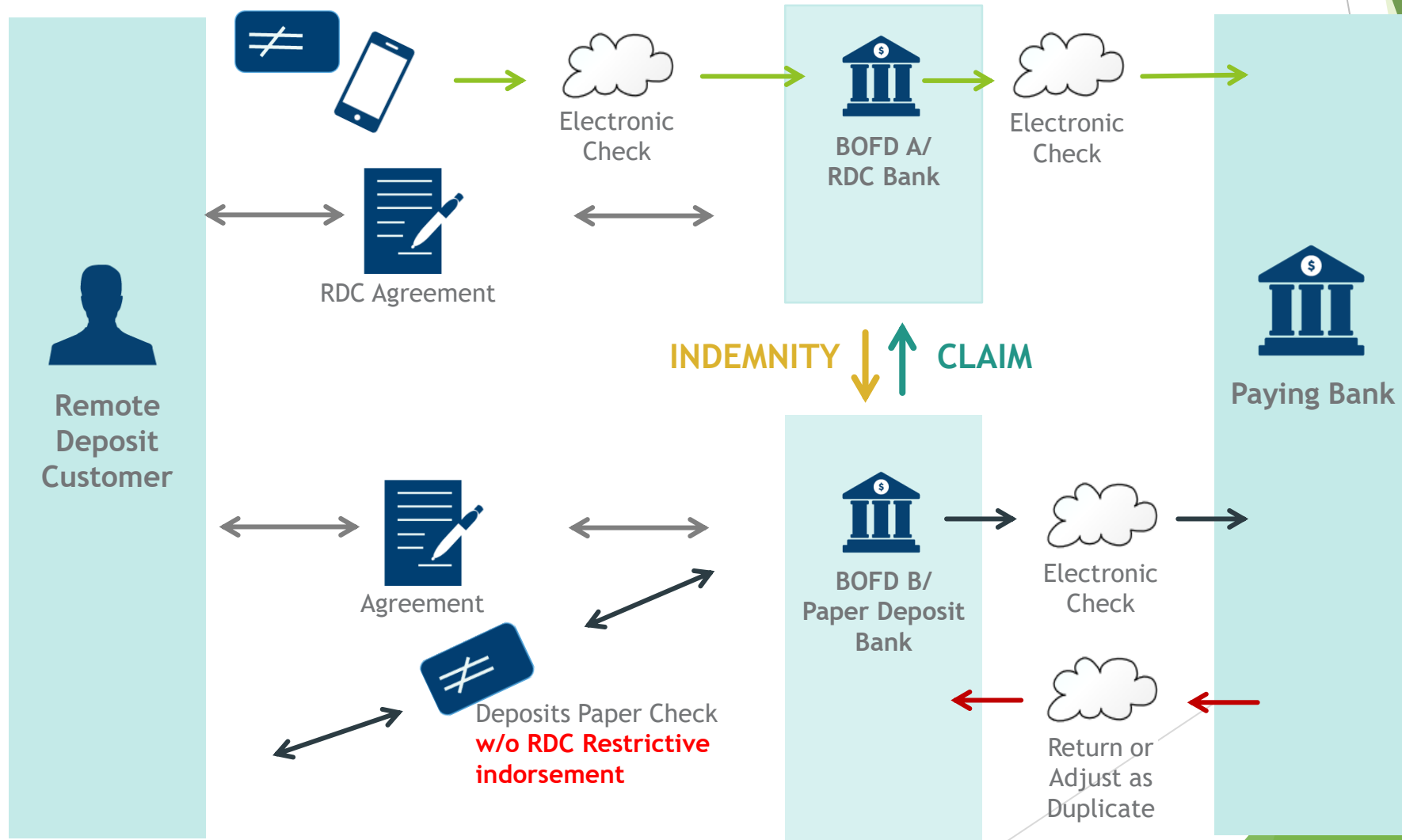
Provides some level of protection to 2nd Depository Bank that:

- Received deposit of paper check that was returned unpaid
 - Because check was previously deposited with other Depository Bank via RDC; and
- Suffered a loss

RDC Bank's potential liability arises when it permits customer to truncate check and ***deposit image*** of that check

- Customer retains original check and
 - May intentionally or mistakenly deposit same paper check in another bank

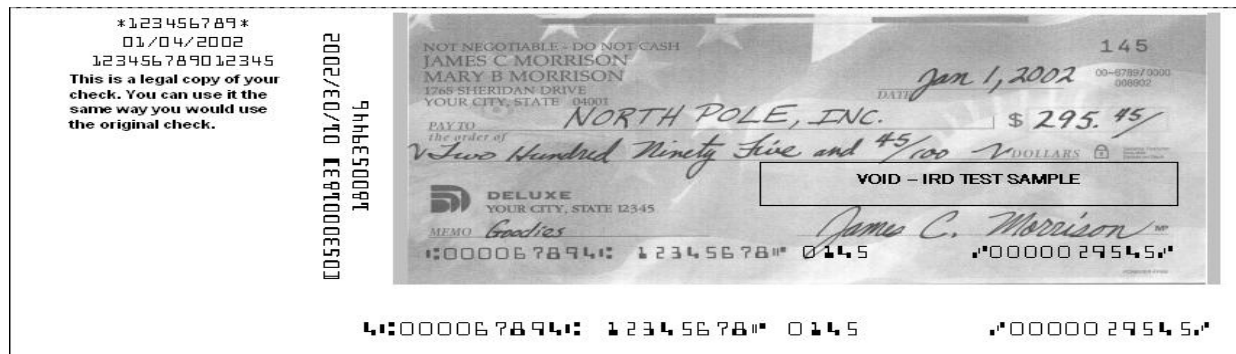
Regulation CC Remote Deposit Capture Indemnity



Regulation CC: Subpart D

Check Clearing for the 21st Century Act AKA Check 21

Substitute check is legal equivalent of original paper check



Substitute Check

Substitute check is legal equivalent of original check for all purposes, if:

Contains image of front and back of check

Conforms to industry standards

Suitable for automated processing

Must accurately represent all information on original check

Bears legend

Includes all indorsements

Includes identification of party creating it

Consumer Awareness: Disclosures

- ▶ Describe substitute check is legal equivalent of original check and recredit rights/how they apply if consumer believes substitute check not properly charged to account
- ▶ Disclosure required to consumers who:
 - ▶ Receive paid checks with periodic statements or on occasional basis
 - ▶ Provide disclosure to consumer customer who requests original or copy, or receives a substitute check at the time of request
 - ▶ Example: FI returns a substitute check to depositing customer (return item for NSF item)

Statute of Limitations

- ▶ Designed to prevent fraudulent / stale claims from arising after all evidence lost or after facts have become obscure through passage of time
 - ▶ Defense ordinarily asserted by defendant to defeat an action brought after appropriate time has elapsed
 - ▶ Enacted by the legislature, which may either extend or reduce time limits, subject to certain restrictions
- ▶ Statute of Limitations:
 - ▶ Under Reg CC = 1 year



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Unlocking Funds

Regulation CC: Check, ACH, Wire, and Cash

April 22, 2025

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