



# COMPLIANCE UPDATE

## Shortening the Securities Settlement Cycle

OCC Bulletin 2017-22 highlights actions that banks should take to prepare for the change in the regular securities settlement cycle for most U.S. securities transactions. Effective September 5, 2017, the regular industry settlement cycle for many U.S. securities including equities, corporate and municipal bonds, and unit investment trusts—and financial instruments composed of these products—will be shortened from the third business day after the trade date (T+3) to the second business day after the trade date (T+2). Amendments to U.S. Securities and Exchange Commission (SEC) and Municipal Securities Rulemaking Board (MSRB) rules reflect this change.

Banks should prepare to meet the applicable time frames for the T+2 settlement cycle for trades related to banks' securities activities. These activities include banks' investment and trading portfolios and securities settlement and servicing provided to banks' custody and fiduciary accounts.

Banks that offer retail nondeposit investment products through a broker-dealer should assess the broker-dealer's preparedness for the new settlement time frames.

## FDIC Adopts Guidance on Model Risk Management

In FIL-22-2017, the FDIC adopted the Supervisory Guidance on Model Risk Management previously issued

by the Federal Reserve Board and the Office of the Comptroller of the Currency, with technical conforming changes, thereby making the guidance applicable to certain FDIC-supervised institutions. The guidance addresses supervisory expectations for model risk management, including: model development, implementation, and use; model validation; and governance, policies, and controls. The FDIC is adopting this guidance to facilitate consistent model risk-management expectations across the banking agencies and industry.

## Final Regulation CC Rule and New Proposal Issued

The Federal Reserve Board issued a final rule to amend the check collection and return provisions in subparts C and D of the regulation, but left unchanged, for now, subpart B, which covers the funds availability and funds availability disclosure requirements. Rulemaking on subpart B must be done in partnership with the CFPB.

In the final rule, the Federal Reserve Board has modified the current check collection and return requirements to reflect the virtually all-electronic check collection and return environment and to encourage all depository banks to receive, and paying banks to send, returned checks electronically. The Federal Reserve Board has retained, without change, the current same-day settlement rule for paper checks. The Federal Reserve Board is also applying Regulation CC's existing check warranties under subpart C to checks that are collected

electronically, and in addition, has adopted new warranties and indemnities related to checks collected and returned electronically (including those deposited via remote deposit capture and mobile remote deposit capture) and to electronically created items. The final rule will be effective July 1, 2018.

The Federal Reserve Board has also released for comment a proposed amendment to the regulation's existing liability provisions to address situations when it's unknown whether a substitute or electronic check was altered or forged in certain cases. Comments on the proposal will be accepted for 60 days following *Federal Register* publication.

### **Advisory on Appraiser Availability**

Responding to concerns over the limited availability of state-certified and -licensed appraisers, particularly in rural areas, bank regulatory agencies issued an advisory that highlights two options to help insured depository institutions and bank holding companies facilitate the timely consideration of loan applications.

Financial industry representatives, during the Economic Growth and Regulatory Paperwork Reduction Act (EGRPRA) review process, raised concerns regarding the timeliness of appraisals, which they attributed to shortfalls in the availability of state-certified and -licensed appraisers, particularly in rural areas.

- The first option highlighted in the advisory, temporary practice permits, allows appraisers credentialed in one state to provide their services on a temporary basis in another state experiencing a shortage of appraisers, subject to state law. The advisory also discusses reciprocity, in which one state allows appraisers who are certified or licensed in another state to obtain certification or licensing without having to meet all of the state's certification or licensing standards.

- The second option, temporary waivers, sets aside requirements relating to the certification or licensing of individuals to perform appraisals under Title XI of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 (FIRREA) in states or geographic political subdivisions where certain conditions are met. Temporary waivers may be granted when it is determined that there is a scarcity of state-certified or -licensed appraisers leading to significant delays in obtaining an appraisal.

### **Prepaid Debit Card Accounts**

The CFPB issued a final rule to delay the October 1, 2017, effective date of the rule governing prepaid accounts under the Electronic Funds Transfer Act (Regulation E) and the Truth-in-Lending Act (Regulation Z) (the Prepaid Accounts Final Rule) by six months, to April 1, 2018.

### **Same-Day Automated Clearing House (ACH) Costs**

Phase 2 implementation of Same-Day ACH will mean that debit entries received before the same-day submittal deadlines with an invalid, stale, or current date in the effective entry date field will settle as same-day transactions, provided that other requirements are also met.

It has been recognized that the number of potential unintended same-day debit originations may lead to negative consequences (e.g., customer service issues, higher rates of NSF). A report is being made available to assist FedACH Services customers in their efforts to identify which of their forward debit batches could potentially qualify as same-day after Phase 2 implementation. The report will analyze previous month forward debit batches and will list originator information, pertinent same-day qualification data, entry counts and dollar totals. This report, available at no cost, will be available from July (June data) through September (August data) and will be provided

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to any FedACH Services customer who chooses to subscribe.

Please visit the following to view the full announcement and instructions for obtaining the report:

<https://www.frbservices.org/files/communications/pdf/fedach/060717-same-day-ach-debit-reporting.pdf>

## QUESTIONS?

If you wish to discuss these matters in detail, please contact Steve Zanardelli, Tim Schofer, or Frank Antiga at (724) 934-0344 or (800) 580-7738, or email

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