

REGULATION CC FUNDS AVAILABILITY INFLATION ADJUSTMENT

The Consumer Financial Protection Bureau (CFPB) and the Federal Reserve Board (FRB) recently published amendments to Regulation CC that implement a statutory requirement to adjust for inflation the amount of funds depository institutions must make available to their customers. The amendments apply in circumstances ranging from next business day withdrawal of certain check deposits to setting the threshold amount for determining whether an account has been repeatedly overdrawn. Regulation CC implements the Expedited Funds Availability Act of 1987 (EFA Act). The Dodd Frank Wall Street Reform and Consumer Protection Act requires that the EFA Act's dollar amounts be inflation adjusted every five years by the annual percentage increase in the Consumer Price Index for Urban Wage Earners and Clerical Workers (CPI-W).

The most recent set of adjustments are detailed at <https://www.consumerfinance.gov/rules-policy/final-rules/availability-funds-and-collection-checks-regulation-cc-threshold-adjustments/>, as follows:

- The \$225 next business day availability for non-next day checks will increase to \$275;
- The \$450 adjustment for withdrawal by cash or similar means will increase to \$550;
- The \$5,525 threshold for exception holds for new accounts and large deposits will increase to \$6,725;
- The \$5,525 threshold for determining whether an account has been repeatedly overdrawn will increase to \$6,725; and
- The \$100 (minimum); \$1,100 (maximum); and \$552,500 (class actions) amounts for civil liability for failing to comply with Regulation CC will increase to \$125 (minimum); \$1,350 (maximum); and \$672,950 (class actions), respectively.

To help ensure that institutions have sufficient time to implement the adjustments, the compliance date for the adjusted amounts is July 1, 2025. Future changes will occur every five years and amounts will be adjusted by the annual percentage increase in the CPI-W, as published by the Bureau of Labor Statistics, rounded to the nearest multiple of \$25. The third and final set of adjustments will be effective July 1, 2030, and will be based on underlying inflation from July 2023 through July 2028.

In anticipation of the adjusted amounts taking effect on July 1, 2025, institutions should update the software that determines availability; update your Funds Availability Disclosures to reflect the adjusted dollar amounts and at least 30 days prior to the effective date (July 1, 2025), send a written notice to your consumer account holders notifying them of the changes to your funds availability policy. The notice requirements can be satisfied electronically, if you have complied with E-Sign or sent on or with the customer's monthly account statement. The written notice may only contain the

changes relating to adjusted amounts or can include a complete Funds Availability Notice, however, if a completely new funds availability schedule is provided, customers must be directed to the changed terms in the disclosure by use of a letter or insert, or by highlighting the changed terms.

The foregoing Compliance Update is for informational purposes only, and does not constitute legal advice. As a reminder, the NBA general counsel is the attorney for the Nebraska Bankers Association, not its member banks. The general counsel is available to assist members with finding resources to help answer their questions. However, for specific legal advice about specific situations, members must consult and retain their own attorney.