Federal Register
Vol. 57, No. 158
Friday, August 14, 1992

Presidential Documents

Title 3—

The President

Presidential Determination No. 92-37 of August 3, 1992

Determination Pursuant to Section 2(b)(2) of the Migration and Refugee Assistance Act of 1962, as Amended

Memorandum for the Secretary of State

Pursuant to section 2(b)(2) of the Migration and Refugee Assistance Act of 1962, as amended, 22 U.S.C. 2601(b)(2), I hereby designate Haitian refugee applicants as qualifying for assistance under section 2(b)(2) of that Act, and determine that such assistance will contribute to the foreign policy interests of the United States.

You are directed to inform the appropriate committees of the Congress of this determination and the obligation of funds under this authority, and to publish this determination in the **Federal Register**.

THE WHITE HOUSE,
Washington, August 3, 1992.

[FR Doc. 92-19546
Filed 8-12-92; 3:21 pm]
Billing code 3195-01-M

Rules and Regulations

Federal Register
Vol. 57, No. 158
Friday, August 14, 1992

DEPARTMENT OF AGRICULTURE

Farmers Home Administration

7 CFR Parts 1806, 1863, 1925, 1944, 1945, 1951, 1955, 1962, and 1965

Elimination of Loan Cost Payments Through the "MISPAY" Accounting System at the National Finance Center

AGENCY: Farmers Home Administration, USDA.

ACTION: Final rule.

SUMMARY: The Farmers Home Administration (FmHA) amends its regulations regarding the internal processing of loan cost items through the "MISPAY" accounting system at the National Finance Center. The intended outcome of this action is to reduce confusion in the field offices, by simplifying the process of paying administrative costs related to loans.

EFFECTIVE DATE: August 14, 1992.

FOR FURTHER INFORMATION CONTACT: Tony Bainbridge, Operating Accountant, Administrative and Program Control Section, FmHA, USDA, Finance Office, 1520 Market Street, St. Louis, Missouri 63103, telephone FTS 262–6349 or commercial (314) 539–6349.

SUPPLEMENTARY INFORMATION:

Classification

This action has been reviewed under USDA procedures established in Departmental Regulation 1512–1, which implements Executive Order 12291, and since this action has no impact on FmHA borrowers or other members of the public, it has been determined to be exempt from those requirements because it involves only internal Agency management. It is the policy of this Department to publish for comment rules relating to public property, loans, grants, benefits, or contracts, notwithstanding the exemption in 5 U.S.C. 553 with respect to such rules. This action, however, is not published for proposed rulemaking since it involves only internal Agency management and publication for comment is unnecessary.

Discussion

Specifically, the regulations are revised due to the fact that Form FmHA 2024–1, "Miscellaneous Payment System," will no longer be used. The Form AD–838, "Purchase Order," and Form FmHA 838–B, "Invoice-Receipt Certification," will be used in place of the Form FmHA 2024–1 for the purpose of paying administrative costs. Also, references to Standard Form (SF) 1034, "Public Voucher for Purchases and Services Other Than Personal," and SF 1143, "Advertising Order," are being removed since these documents are no longer required as supporting documentation.

Environmental Impact Statement

This document has been reviewed in accordance with 7 CFR 1940, subpart G, "Environmental Program." FmHA has determined that this action does not constitute a major Federal action significantly affecting the quality of the human environment and in accordance with the National Environmental Policy Act of 1969, Public Law 91–190, an environmental impact statement is not required.

Programs Affected

These programs/activities are listed in the Catalog of Federal Domestic Assistance under the following numbers:

10.404 Emergency Loans
10.407 Farm Ownership Loans
10.410 Low Income Housing Loans
10.415 Rural Rental Housing Loans
10.416 Soil and Water Loans
10.417 Very Low-Income Housing Repair Loans and Grants
10.418 Water and Waste Disposal Systems for Rural Communities
10.422 Business and Industrial Loans
10.423 Community Facilities Loans

Intergovernmental Consultation

For the reasons set forth in the final rule related to notice 7 CFR part 3015, subpart V, (48 FR 29115, June 24, 1983) this program/activity is excluded from the scope of Executive Order 12372 which requires intergovernmental consultation with State and local officials. This action does not directly affect any FmHA programs or projects which are subject to intergovernmental consultation.

List of Subjects

7 CFR Part 1806

Insurance, Loan programs—Agriculture, Real property insurance, Rural areas.

7 CFR Part 1925

Real property taxes, Taxes.

7 CFR Part 1944

Administrative practice and procedure, Aged, Handicapped, Loan programs—Housing and community development, Low and moderate income housing—Rental, Mortgages, Nonprofit organizations, Rent subsidies, Rural housing.

7 CFR Part 1945

Agriculture, Disaster assistance, Intergovernmental relations, Livestock, Loan programs—Agriculture.

7 CFR Part 1951

Accounting servicing, Credit, Debt restructuring, Grant program—Housing and community development, Loan programs—Agriculture, Loan programs—Housing and community development, Low and moderate income housing loans—Servicing, Reporting requirements, Rural areas.

7 CFR Part 1955

Government acquired property, Government property management, Sale of Government acquired property, Surplus Government property.

7 CFR Part 1962

Crops, Government property, Livestock, Loan programs—Agriculture, Rural areas.

7 CFR Part 1965

Administrative practice and procedure, Foreclosure, Loan programs—Agriculture, Loan programs—Housing and community development, Low and moderate income housing—Rental, Mortgages, Rural areas.

Accordingly, chapter XVIII, title 7, Code of Federal Regulations is amended as follows:

PARTS 1944, 1951, 1955, 1965—[AMENDED]

1. The authority citations for the following parts are revised to read as follows:

Part 1944—Authority: 7 U.S.C. 1989; 42 U.S.C. 1480; 5 U.S.C. 301; 7 CFR 2.23; 7 CFR 2.70.

Part 1951—Authority: 7 U.S.C. 1989; 42 U.S.C. 1480; 5 U.S.C. 301; 7 CFR 2.23; 7 CFR 2.70.

2. The authority citations for the following parts continue to read as follows:

Part 1955—Authority: 7 U.S.C. 1989; 42 U.S.C. 1480; 5 U.S.C. 301; 7 CFR 2.23; 7 CFR 2.70.

Part 1965—Authority: 7 U.S.C. 1989; 42 U.S.C. 1480; 5 U.S.C. 301; 7 CFR 2.23; 7 CFR 2.70.

CHAPTER XVIII—[AMENDED]

3. 7 CFR Chapter XVIII is amended by changing the reference from "FmHA Instruction 2024–P" to "FmHA Instruction 2024–A" in the following places:

(a) Part 1944, subpart E, § 1944.235(f)(1).

(b) Part 1951, subpart E, § 1951.230(d)(l)(i).

(c) Part 1955, subpart A, § 1955.5(d).

PART 1806—[AMENDED]

4. The authority citation for part 1806 continues to read as follows:

Authority: 7 U.S.C. 1989; 42 U.S.C. 1480; 5 U.S.C. 301; 7 CFR 2.23; 7 CFR 2.70.

Subpart A—Real Property Insurance

5. Section 1806.4 is amended by revising the last two sentences in paragraph (b)(l) to read as follows:

§ 1806.4 Examining and general servicing of insurance.

* * * * *

(b) * * *

(1) * * * In any case where there is an additional premium due because of vacancy, unoccupancy, tenant occupancy, or other increased hazard, and upon demand to FmHA from the company or agent because the borrower cannot, or will not, pay the additional premium, it may be paid in accordance with FmHA Instruction 2024–A, to the company or agent. For FP and section 502 RH borrowers, property insurance will not be obtained except in cases where an unusual and severe hazard exists and insurance is necessary to protect the interests of the Government.

* * * * *

6. Section 1806.6 is amended by revising the first sentence in paragraph (a)(1)(v) and the second sentence in paragraph (c)(2) to read as follows:

§ 1806.6 Failure of borrower to provide insurance.

* * * * *

(a) * * *

(1) * * *

(v) If the borrower refuses to pay the insurance premium with his own funds or arrange with the agent for subsequent payment by premium not or otherwise, the County Supervisor will pay the amount of the insurance premium in accordance with FmHA Instruction 2024–A. * * *

* * * * *

(c) * * *

(2) * * * The County Supervisor will, in accordance with FmHA Instruction 2024–A, pay the amount of the premium for a period of one year. * * *

* * * * *

PART 1863—REAL ESTATE TAX SERVICING [REMOVED]

7. Part 1863 is removed and reserved.

PART 1925—[ADDED]

8. Part 1925 is added to read as follows:

PART 1925—TAXES

Subpart A—Real Estate Tax Servicing

Authority: 7 U.S.C. 1989; 42 U.S.C. 1480; 5 U.S.C. 301; 7 CFR 2.23; 7 CFR 2.70.

Subpart A—Real Estate Tax Servicing

§ 1925.1 General.

This Instruction applies to borrowers with a Farm Ownership (FO), Operating Loan (OL), Soil and Water (SW), Recreation Loan (RL), Emergency (EM), Economic Opportunity (EO), Rural Rental Housing (RRH), Rural Cooperative Housing (RCH), Labor Housing (LH), Softwood Timber (ST), and Non-Program (NP) loans secured by real estate. It also applies to section 502 and section 504 Rural Housing borrowers (Single Family Housing (SFH)) who also have a Farmer Program loan. It does not apply to borrowers who have a SFH loan only; those will be serviced under § 1965.105 of Subpart C of Part 1965 of this chapter. Borrowers are responsible for paying taxes on the real estate security to the proper taxing authorities before taxes become delinquent. This obligation is set forth in the security instrument securing the loan.

§ 1925.2 Definition of tax.

For the purpose of this instruction, the word "tax" means all taxes, assessments, levies, irrigation and water charges or other similar obligations which are or will, on nonpayment, become a lien upon the real estate prior to the mortgage securing the Farmers Home Administration (FmHA) loan.

§ 1925.3 Servicing taxes.

(a) The County Supervisor will be responsible for ascertaining that all mortgaged real estate is listed properly for tax purposes.

(b) The County Supervisor will be responsible for taking all actions in connection with taxes as may be necessary to protect the Government's security interests. Any unusual situations that may arise with respect to tax servicing should be referred to the State Office for consideration.

(c) The County Supervisor will encourage each borrower to pay taxes promptly in order to avoid any penalties. Normally, this can be accomplished through routine servicing of loans by emphasizing the advantages of setting aside sufficient income to meet tax obligations when they become due. Taxes will be adequately budgeted for those borrowers with whom Form FmHA 431–2, "Farm and Home Plan," is developed. Each borrower will be encouraged to notify the County Supervisor when he has paid his taxes. After the delinquent date, it will be necessary for the County Supervisor to determine the borrowers whose taxes are delinquent. Forms FmHA 1905–1, "Management System Card-Individual," FmHA 1905–5, "Management System Card- Individual (Rural Housing Only)," and FmHA 1905–10, "Management System Card-Association," will be used in posting servicing action on delinquent taxes.

§ 1925.4 Servicing delinquent taxes.

(a) The County Supervisor will contact each borrower with a delinquent tax and make every practical effort to have him pay the tax with his own funds. He will use the Management System Card for follow-up of delinquent taxes. If the delinquent tax is not paid and the borrower comes to the office with proceeds for application on the FmHA account secured by the real estate, the County Office personnel will endeavor to get the borrower to use the proceeds to pay the delinquent tax. If the amount of the delinquent tax is less than the amount of the proposed payment, the difference will be applied on the FmHA account in accordance with the policy outlined in FmHA Instructions 1951-A and 1951-G.

(b) Prior (usually about 90 days) to the time it is legally possible for action to be taken that will cause the borrower to lose title or right of possessions of the security property or the use of essential water, the County Supervisor will contact the borrower and definitely determine if he will pay the delinquent tax immediately. If the borrower is unable or unwilling to pay the delinquent tax with his own funds after every appropriate effort has been made to have him do so, the County Supervisor will refer to FmHA Instruction 2024-A and utilize the Type 60 Purchase Order System to pay the amount of the delinquent taxes plus the amount of any accrued penalty to bring taxes current.

(1) In an exceptional case where reasons for delinquent taxes have been removed and planned income during the next year covers payment of current obligations plus delinquent taxes not vouchered, only the delinquent taxes will be paid that could cause the borrower to lose title or right of possession of security property.

(2) If the Government is holding a mortgage other than a first mortgage on the property, do not initiate payment request until the County Supervisor has determined that (i) the prior lien holder will not pay the delinquent tax, (ii) the Government's security will be jeopardized if the delinquent tax is not paid, and (iii) the value of the security is sufficient to justify the advance.

§§ 1925.5-1925.50 [Reserved]

PART 1945—EMERGENCY

9. The authority citation for part 1945 is revised to read as follows:

Authority: 7 U.S.C. 1989; 42 U.S.C. 1480; 5 U.S.C. 301; 7 CFR 2.23; 7 CFR 2.70.

Subpart C—Economic Emergency Loans

10. Section 1945.135 is revised to read as follows:

§ 1945.135 Loan Servicing.

Loans will be serviced under part 1806 (FmHA Instruction 426.1), and Subpart A of parts 1925, 1962 and 1965 of this chapter.

PART 1951—[AMENDED]

Subpart E—Servicing of Community and Insured Business Programs Loans and Grants

11. Section 1951.220 is amended by revising paragraph (d) to read as follows:

§ 1951.220 General servicing actions.

* * * * *

(d) *Property taxes.* Real property taxes are serviced according to Subpart A of part 1925 of this chapter. If State statutes permit a personal property tax lien to have priority over FmHA's lien, such taxes are serviced according to §§ 1925.3 and 1925.4 of subpart A of part 1925 of this chapter.

* * * * *

§ 1951.227 [Amended]

12. Section 1951.227 (c) is amended by changing the reference from "FmHA Instruction 2024-A and 2024-P" to "FmHA Instruction 2024-A".

Subpart K—Predetermined Amortization Schedule System (PASS) Account Servicing

§ 1951.514 [Amended]

13. Section 1951.514 is amended by changing the reference from "Subpart P of Part 2024" to "FmHA Instruction 2024-A".

Subpart S—Farmer Programs Account Servicing Policies

§ 1951.911 [Amended]

14. Section 1951.911(b)(6)(ii) is amended in the second sentence by changing the reference from "§ 2024.753(c) of FmHA Instruction 2024-P" to "FmHA Instruction 2024-A".

15. Exhibit H of subpart S is amended by revising the last sentence in paragraphs (VII)(C) and (VII)(H) to read as follows:

Exhibit H of Subpart S—Primary Loan Service Programs (Farm Debt Restructure and Conservation Easements)

* * * * *

(VII) * * *

(C) * * * Title opinion costs will be considered nonrecoverable costs and will be paid in accordance with FmHA Instruction 2024-A (Instructions and forms are available in any FmHA Office).

* * * * *

(H) * * * Cost of recording the easement will be considered a nonrecoverable cost and will be paid by FmHA in accordance with FmHA Instruction 2024-A (Instructions and forms are available in any FmHA Office).

* * * * *

PART 1955—[AMENDED]

16. The authority citation for part 1955 continues to read as follows:

Authority: 7 U.S.C. 1989; 42 U.S.C. 1480; 5 U.S.C. 301; 7 CFR 2.23; 7 CFR 2.70.

Subpart B—Management of Property

17. Section 1955.55 is amended by revising the last sentence in paragraph (e) to read as follows:

§ 1955.55 Taking abandoned real or chattel property into custody and related actions.

* * * * *

(e) * * * Costs will be paid in accordance with FmHA Instruction 2024-A (available in any FmHA office).

* * * * *

§ 1955.55 [Amended]

18. In § 1955.55, paragraph (f)(1)(ii) is amended by changing the word "not" to "no".

19. In § 1955.65, paragraph (c)(1) is amended in the last sentence by removing the words "Exhibit J, paragraph II C, 'Procurement Preference Program,' of" and by changing the reference from "FmHA Instruction 2024-A" to "FmHA Instruction 2024-Q"; and paragraph (c)(4) is revised to read as follows:

§ 1955.65 Management of inventory and/or custodial real property.

* * * * *

(c) * * *

(4) *Costs.* Costs incurred with the management of property will be paid according to FmHA Instruction 2024-A (available in any FmHA office). For management of custodial property, costs will be charged to the borrower's account as recoverable; and for management of inventory property as nonrecoverable. Except for management fees, costs of managing MFH inventory property when tenants are still in residence will be paid to the extent possible with rental income. Management fees will be paid to the manager in accordance with FmHA Instruction 2024-A (available in any FmHA Office).

* * * * *

20. Section 1955.67 is amended by revising the second sentence in the introductory text of paragraph (a) and the last sentence in paragraph (b) to read as follows:

§ 1955.67 Payment of liens.

(a) * * * Payment will be made according to FmHA Instruction 2024–A (available in any FmHA office). * * *

* * * * *

(b) * * * The County Supervisor or District Director will obtain from the lienholder a statement of the amount owed and request payment to the lienholder in accordance with FmHA Instruction 2024–A, (available in any FmHA Office) which will be charged to the inventory account as a nonrecoverable cost.

21. Section 1955.68 is amended by revising the first sentence in paragraph (a) to read as follows:

§ 1955.68 Payment of taxes.

* * * * *

(a) *Suitable or program property.* When property is suited for program purposes, the payment of taxes will be paid in accordance with FmHA Instruction 2024–A, (available in any FmHA Office) charging them as nonrecoverable costs to the inventory account. * * *

* * * * *

22. Section 1955.69 is amended by revising the last sentence in paragraph (a) as follows:

§ 1955.69 Insurance.

* * * * *

(a) * * * Premiums will be paid in accordance with FmHA Instruction 2024–A, (available in any FmHA Office) and charged to the inventory account as a nonrecoverable cost.

* * * * *

Subpart C—Disposal of Inventory Property

23. Section 1955.108 is amended by revising paragraph (d)(3) to read as follows:

§ 1955.108 Sale of surplus property (CONACT).

* * * * *

(d) * * *

(3) Advertising will be ordered in accordance with FmHA Instruction 2024–A (available in any FmHA Office).

* * * * *

§ 1955.139 [Amended]

24. Section 1955.139 (c)(2)(v) is amended by changing the reference from "§ 1955.137 (e)" to "§ 1955.137(a)".

25. Section 1955.141 is amended by revising the last sentence in paragraph (a) to read as follows:

§ 1955.141 Transferring title.

(a) * * * Any FmHA expenses involved will be paid in accordance with FmHA Instruction 2024–A (available in any FmHA Office).

* * * * *

PART 1962—[AMENDED]

26. The authority citation for part 1962 is revised to read as follows:

Authority: 7 U.S.C. 1989; 42 U.S.C. 1480; 5 U.S.C. 301; 7 CFR 2.23; 7 CFR 2.70.

Subpart A—Servicing and Liquidation of Chattel Security

27. In § 1962.29, paragraph (a)(1) is amended by removing the words "and 2075–A" and by revising the introductory text of paragraph (b) to read as follows:

§ 1962.29 Payment of fees and insurance premiums.

* * * * *

(b) *Insurance premiums.* County Supervisors are authorized to voucher for the payment of bills for insurance premiums on chattel security, in accordance with FmHA Instruction 2024–A (available in any FmHA Office). Bills may be paid when:

* * * * *

28. Section 1962.40 is amended by revising paragraph (e)(4) to read as follows:

§ 1962.40 Liquidation.

* * * * *

(e) * * *

(4) Costs incurred by FmHA in protecting its interest in security or EO property may be paid in accordance with FmHA Instruction 2024–A, (available in any FmHA Office) and may be charged to the borrower's loan account, or paid from proceeds of the sale of security or EO property.

* * * * *

29. In § 1962.42, paragraph (b)(1) is amended by changing the references from "FmHA Instruction 1955–D" to "FmHA Instruction 1955–B" and "Form FmHA 120–10, 'Solicitation, Quotation, Purchase Order, Inspection and Invoice' " to "Form AD–838, 'Purchase Order' ", by changing the reference from "Form FmHA 120–10" to "Form AD–838" in paragraphs (b)(2) and (b)(3), and by revising the last sentence in paragraph (a)(1)(v) and the first sentence in paragraph (c)(7) to read as follows:

§ 1962.42 Repossession, care, and sale of chattel security or EO property by the County Supervisor.

(a) * * *

(1) * * *

(v) * * * When prior liens are paid, the payment will be made in accordance with FmHA Instruction 2024–A (available in any FmHA Office) and charged to the borrower's account.

* * * * *

(c) * * *

(7) If expenses must be paid before the sale or if cash proceeds are not available from the sale of the property to pay costs referred to in § 1962.44(b) of this subpart or to pay lienholders, such costs or prior liens will be paid in accordance with FmHA Instruction 2024–A (available in any FmHA office). * * *

* * * * *

PART 1965—[AMENDED]

Subpart A—Servicing of Real Estate Security for Farmer Program Loans and Certain Note-Only Cases

§ 1965.3 [Amended]

30. Section 1965.3 is amended by changing the reference from "Part 1863 of this chapter (FmHA Instruction 425.1)" to "Subpart A of Part 1925 of this chapter".

31. Section 1965.11 is amended by revising the second sentence in the introductory text of paragraph (b) and paragraph (b)(3) to read as follows:

§ 1965.11 Preservation of security and protection of liens.

* * * * *

(b) * * * Any advances made for the following purposes will be considered protective advances and will be paid in accordance with FmHA Instruction 2024–A (available in any FmHA office). * * *

* * * * *

(3) *Taxes and assessments.* Real estate taxes and assessments will be handled in accordance with Subpart A of Part 1925 of this chapter.

* * * * *

Subpart B—Security Servicing for Multiple Housing Loans

32. Section 1965.75 is amended by revising the last sentence in paragraph (c)(2) to read as follows:

§ 1965.75 Abandonment.

* * * * *

(c) * * *

(2) * * * The fees will be paid on a monthly basis in accordance with FmHA Instruction 2024–A (available in any FmHA office).

* * * * *

Subpart C—Security Servicing for Single Family Rural Housing Loans

33. Section 1965.104 is amended by revising the last sentence in the

introductory text of paragraph (b) to read as follows:

§ 1965.104 Preservation of security and protection of liens.

* * * * *

(b) * * * FmHA Instruction 2024–A must be followed for payment to be charged to the borrower's account as recoverable costs. Advances are authorized for:

* * * * *

(c) * * *

(1) * * *

(ii) * * * If payment by voucher is not acceptable, the procedures outlined in FmHA Instruction 2024–A (available in any FmHA Office) must be followed and the applicable forms prepared and submitted in time to receive a check before the sale date.

* * * * *

Dated: July 8, 1992.

La Verne Ausman,

Administrator, Farmers Home Administration.

[FR Doc. 92–19250 Filed 8–13–92; 8:45 am]

BILLING CODE 3410-07-M

FEDERAL RESERVE SYSTEM

12 CFR Part 229

[Docket No. R–0744; Regulation CC]

Availability of Funds and Collection of Checks

AGENCY: Board of Governors of the Federal Reserve System.

ACTION: Final rule.

SUMMARY: The Board is adopting in final form, with minor modifications, its interim rule amending Regulation CC to conform to recent amendments to the Expedited Funds Availability Act. The amendments allow banks to extend holds, on an exception basis, to "next-day" and "second-day" availability checks and allow one-time notices of exception holds in certain cases. The amendments should benefit and reduce costs for all banks that choose to take advantage of the rule changes.

EFFECTIVE DATE: September 14, 1992.

FOR FURTHER INFORMATION CONTACT: Oliver Ireland, Associate General Counsel (202/452–3625), or Stephanie Martin, Senior Attorney (202/452–3198), Legal Division, Board of Governors of the Federal Reserve System. For information regarding modifications to Model Forms or appendix C, contact Jane E. Ahrens, Staff Attorney (202/452–3667), or Dale I. Nishimura, Staff Attorney (202/452–2412), Division of Consumer and Community Affairs, Board of Governors of the Federal Reserve System. For the hearing impaired only: Telecommunications Device for the Deaf, Dorothea Thompson (202/452–3544), Board of Governors of the Federal Reserve System, 20th and C Streets, NW., Washington, DC 20551.

SUPPLEMENTARY INFORMATION: The Federal Deposit Insurance Corporation Improvement Act of 1991 (FDICIA, Pub. L. 102–242, section 225, 105 stat. 2236 (1991)) amended the provisions in section 604 of the Expedited Funds Availability Act (Act) (12 U.S.C. 4003) regarding safeguard exceptions to the availability schedules, effective December 19, 1991. The Board adopted interim amendments to Regulation CC (12 CFR part 229), effective January 15, 1992, to conform the regulation to the amendments to the Act (57 FR 3277, January 29, 1992). The Board has adopted the interim amendments, with technical and clarifying modifications, in final form.[1]

Background

Regulation CC implements the Act and was effective September 1, 1988. Among other things, the regulation establishes availability schedules to limit the holds banks[2] can place on deposits in transaction accounts and requires banks to disclose their funds availability policies to their customers.

As a general matter, the availability of a deposit is linked to the degree of risk associated with the deposit and the amount of time necessary for a bank to learn whether a deposited check will be returned unpaid. Accordingly, nonlocal[3] checks generally must be made available for withdrawal on the fifth business day after deposit, local checks on the second business day, and certain "low-risk" checks, such as government, cashier's, certified, and teller's checks, on the next business day. (Most "next-day" checks, if not deposited in person at a staffed teller facility, must be made available for withdrawal on the second business day after deposit.)

The Act (section 604) and the regulation (§ 229.13) provide for certain safeguard exceptions to the availability schedules. Under these exceptions, the depositary bank may extend the hold on a deposit for a reasonable period of time. The exception holds apply to deposits to new accounts, daily aggregate check deposits in excess of $5,000, checks that have returned unpaid and redeposited, checks deposited into an account that has been repeatedly overdrawn, checks the depositary bank may reasonably expect to be uncollectible, and checks deposited during emergency conditions, such as a computer failure, natural disaster, or other emergency beyond the bank's control.

Applicability of Exception Holds to "Next-Day" and "Second-Day" Checks

Prior to the enactment of the FDICIA, most of the exception holds did not apply to checks that must be accorded next-day or second-day availability under section 603(a)(2) of the Act and § 229.10(c) of the regulation, such as government, cashier's, certified, and teller's checks. In three reports to Congress on the implementation of the Act, the Board expressed concern that the inapplicability of the exception holds to next-day and second-day checks exposed depositary banks to substantial risk that such checks would be returned after the proceeds had been made available for withdrawal.[4] The Board noted that fraud loss reduction would benefit banks as well as their customers, who otherwise may face increased service fees or decreased service levels.

Section 225 of the FDICIA amended section 604 of the Act to authorize the Board to prescribe regulations to apply most of the safeguard exception holds to checks that otherwise would receive next-day or second-day availability. The Board's interim rule allowed banks to apply the exceptions for large deposits (§ 229.13(b)), redeposited checks (§ 229.13(c)), accounts with repeated overdrafts (§ 229.13(d)), and emergency conditions (§ 229.13(f)) to checks otherwise covered by § 229.10(c). In addition, the interim rule made the reasonable cause exception (§ 229.13(e)), which previously had applied to local and nonlocal checks

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[1] Section 227 of the FDICIA amends section 603(e) of the Act to eliminate the shorter availability schedules for deposits at nonproprietary ATMs that were to become effective November 28, 1992. Section 212(h) of the FDICIA amends the administrative enforcement provisions in section 610(a) of the Act. The Board proposed amendments to Regulation CC regarding these provisions separately from the interim rule (57 FR 3365, January 29, 1992). The Board has adopted final amendments to Regulation CC to implement these changes (see Docket No. R–0745, elsewhere in today's **Federal Register**).

[2] For purposes of Regulation CC, the term "bank" includes commercial banks, savings institutions, and credit unions.

[3] A check generally is "local" if the bank by which it is payable and to which it is sent for collection ("paying bank") is in the same Federal Reserve check processing region as the bank that receives the check for deposit ("depositary bank").

[4] See, Board of Governors of the Federal Reserve System, Report to Congress Under the Expedited Funds Availability Act, September 1991, March 1990, and June 1989.