Regulation CC Final Rule – Inflationary Adjustments and Extension of Coverage

Regulation CC implements the Expedited Funds Availability Act (EFAA). The regulation contains a variety of provisions that relate to timeframes within which an institution must make funds available for withdrawal. On July 3, 2019, the Federal Reserve (Board) and the Bureau of Consumer Financial Protection (Bureau) published a final rule amending Reg. CC.

Alert Date:	Updated September 20, 2019
Status:	Effective September 3, 2019, with a Compliance Date for Adjusted Amounts for Inflation of July 1, 2020
Links:	Final Rule - 7/3/19 Final Rule; Correction - 8/29/19

The Board and Bureau have issued a final rule amending Regulation CC. A major focal point of this new rule is to implement a statutory requirement to adjust for inflation the amount of funds institutions must make available to their customers. In conjunction with the Reg. CC amendments, other changes to Reg. DD and its Appendix A are described as technical, non-substantive amendments. On August 29, 2019, a final rule correction was published to address errors in the amendatory instructions.

Why And How Are Inflationary Adjustments Occurring, Effective July 1, 2020?

As required by the Dodd-Frank Act, EFAA dollar amounts are required to be adjusted for inflation every five years based on the annual percentage increase in the Consumer Price Index for Urban Wage Earners and Clerical Workers. To support this, the Agencies are adding a new section, 229.11, to document the methodology that will be used for this purpose.

The first set of adjustments is effective on July 1, 2020, and includes the following:

Section Reference	Amount Prior to July 1, 2020	Amount Effective July 1, 2020
229.10(c)(1)(vii) – Next Day Availability & references in 229.12, 229.13	$100 (amended to $200 in 2011)	$225
229.12(d) - Availability Schedule	$400	$450
229.13(a), (b), and (d) - Exceptions	$5,000	$5,525
229.21(a) - Civil Liability	$100, $1,000, $500,000	$225, $1,100, $552,500

As the Reg. CC amendments state, the methodology will be used on an ongoing basis to measure for inflation every 5 years. For example, for any adjustments that become effective on July 1, 2025, that measurement period will begin in July 2018 and end in July 2023.

How Does This Impact Policy Or Disclosure Requirements?

The final rule should be reviewed and compared to the institution's board-approved policy for any necessary revisions. The institution's funds availability disclosure, as well as any posted notices, should also be reviewed for any necessary revisions.

With regard to any change-in terms notices, the preamble to the final rule contained information on comments that suggested no change-in-terms notice be required for inflationary-related adjustments. However, the Agencies declined to make any exception for such adjustments. As noted therein, *"The Agencies believe that this one-year timeframe provides institutions with a sufficient interim in which to plan to send their change-in- terms notices in a way that minimizes the burden associated with doing so. In light of all of these factors, and given that the inflation adjustments are statutorily required and will occur only once every five years, the Agencies do not believe that the burden concerns raised warrant any modification to the requirement to send change-in-terms notices."*

The Agencies noted several ways in which an institution could lower their cost in providing a change-in-terms notice, for example by sending it electronically (subject to compliance with E-SIGN), or sending the notice on or with an account statement. If an institution opts to send a complete new availability disclosure, the institution must direct the customer to the changed terms by use of a letter or insert, or by highlighting the changed terms in the disclosure.

With regard to changes in policy, current provisions require that an institution shall send a notice to holders of consumer accounts at least 30 days before implementing a change, except that a change that expedites the availability of funds may be disclosed not later than 30 days after implementation.

What Else Should We Know About This Rule?

There are some provisions that are effective on September 3, 2019. Regulation CC is adjusting some of its definitions and extension of schedule for certain deposits as follows:

- The definition of “automated teller machine or ATM” is being adjusted to refer to devices located in the United States. (229.2)
- The definition of “state” and the definition of “United States” is being expanded to include American Samoa, the Commonwealth of the Northern Mariana Islands, and Guam. (229.2)
- The extension of schedule for certain deposits (which currently includes, among other places, the U.S. Virgin Islands), is being expanded to include American Samoa, the Commonwealth of the Northern Mariana Islands, and Guam. (229.12)
- Reg. CC section 229.43 is removed and reserved.

What Amendments Are Being Made To Reg. DD?

This final rule includes some technical, non-substantive amendments to Reg. DD, 12 CFR 1030, that implements the Truth in Savings Act. These changes are effective September 3, 2019, and include:

- New verbiage that cross references the Bureau’s joint authority with the Board to issue regulations under certain provisions of the EFFA;
- An adjustment was made to 1030.7 related to the date interest begins to accrue and includes a reference to Reg. CC; and
- Technical errors were corrected in Appendix A.

It’s important to note that these changes do not impact the NCUA’s Truth in Savings regulation, 12 CFR 707.

Recommendations for Next Steps

By July 1, 2020:

1. Read the final rule and make any necessary adjustments to the Board’s Funds Availability Policy.
2. Review Funds Availability disclosures and postings for any necessary adjustments.
3. Review any Funds Availability hold notice templates for any necessary adjustments.
4. Ensure any Funds Availability change-in-terms disclosures are provided in a timely manner as required.
5. Update any Funds Availability procedures and distribute them to impacted staff. Train staff on the new procedures.
6. As needed, ensure any systemic support that is impacted by these adjustments is updated as needed.