

COMPLIANCE MAILBOX ONLINE EDITION 2

Answering questions about: usage of security camera photos; check holds and the Fed's district consolidation; reporting short sales to credit bureaus; and wire-transfer limits under Regulation D.

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Disclaimer: Our answers do not provide, nor are they intended to substitute for, professional legal advice. The answers in this column were current as of the date of publication of this blog.

What the security camera saw... **Q.** Can we share photos from our security cameras with a customer? We have a check fraud situation in which a commercial customer had some checks stolen that were cashed at one of our branch locations.

A. This is a matter of bank protection and information security policy. While there is no direct regulatory requirement, your approach could set a precedent for your own bank. Consider having whoever actually took the loss file their own police report, and state in the report that the bank has video footage of the possible perpetrator. (Note: If the customer took the loss, the customer would file the police report; if the bank made the customer whole, then the bank took the loss, and the bank should file the police report.) Once the police are notified, they will probably ask to view the footage, which you can allow. This will establish a more manageable and secure means of access.

Fed district consolidation doesn't affect new account holds

Q. Does the consolidation of the Federal Reserve check processing districts and the elimination of non-local checks affect new account holds?

A. No. New account holds are not based on the location of the paying bank; they are based on the type of item deposited. Thus, new account hold periods are not changing with the consolidation of the Federal Reserve Districts. Regulation CC states that when you invoke a new account hold for a next-day item, such as a cashier's check, you must allow \$5,000 of the total deposit to be made available on the next business day; and the remaining amount of the item may be held for up to nine business days. This nine-day rule does not apply to other types of checks; they may be held for a longer period-11 days is the industry standard.

How do you report short sales to credit bureaus?

Q. My bank has decided to accept a short sale as payment in full on a loan, as we feel this would be less expensive in the long run than foreclosing and subsequently trying to sell the property. However, how should this transaction be reported to the credit bureau in order to be fair to both the consumer and to any potential creditor?

A. The Fair Credit Reporting Act requires accuracy for any information reported to a credit reporting agency. There are specific "METRO 2 Codes" that may be used to facilitate accurate reporting in this situation. The Metro 2 Format Guidelines-special comment codes-Exhibit 7 contains a code: "AU" "Account paid in full for less than the full balance."

This code appears to be fair, and an accurate reflection of your circumstances. Banks have access to Metro 2 codes, which offer other, similar codes created to address mortgage market issues and reporting.

Wire transfer limits for MMDAs under Reg D hinge on access method

Q. Are wire transfers from a savings or money-market account limited transactions under Regulation D? **A.** The Board's criteria for making such distinction is based on the ease with which the depositor may make withdrawals or transfers from the account. Accordingly, Regulation D limits the number of certain "convenient" kinds of transfers or withdrawals that an account holder may make in a single month from a "savings deposit" and includes preauthorized or automatic transfers. This includes wire transfers made by telephonic transfers when such transfers are made by the depositor telephoning or sending a fax or online wire instructions to the bank.

However, according to a Federal Reserve attorney, when a customer conducts a wire transfer in-person at a branch, the transaction is considered the same as an in-person cash withdrawal, which is an unlimited transaction under Regulation D. However, let's say you allow a customer to phone in wire instructions, or allow them to initiate a wire transfer using an electronic system. Such wires are limited under provisions of Regulation D, which limit preauthorized transfers from non-transactional accounts to six transfers per month or statement cycle.

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