

02-029

CHAPTER 118

Regulation #18

FUNDS AVAILABILITY AND TRUTH-IN-SAVINGS

SUMMARY:

History

On July 1, 1981, the Bureau of Financial Institutions promulgated a regulation governing deposit account charges. The focus of the 1981 regulation, which became Regulation 18, was to advance disclosure of deposit and share account charges. In 1987, Regulation 18 was revised to incorporate state requirements for disclosing policies governing funds availability. Since then, Regulation 18 was amended again to recognize the changes that have occurred on the federal level with respect to funds availability and truth-in-savings, including the adoption of truth-in-savings regulations for credit unions (12 CFR Part 707).

In 2012, the Bureau again amended Regulation 18 so that it more closely conformed to federal regulations, specifically, by incorporating by reference Federal Regulation CC, Federal Regulation DD, and National Credit Union Administration Board provisions, including amendments made to these federal regulations up to January 1, 2012.

The 2012 amendments also repealed the funds availability requirements for non-transaction accounts, as well as the account disclosure requirements for non-consumer accounts, which requirements do not exist in federal law for those types of accounts.

This promulgation

Title X of the Dodd-Frank Wall Street Reform and Consumer Protection Act transferred rulemaking authority for a number of consumer financial protection laws, including the Truth in Savings Act, from the Board of Governors of the Federal Reserve System (the Board) to the Consumer Financial Protection Bureau (the CFPB). In December 2011, the CFPB published its own Regulation DD, 12 CFR Part 1030, to implement the Truth in Savings Act. The CFPB's Regulation DD substantially duplicates Regulation DD, 12 CFR Part 230, issued by the Board. In February 2014, the Board proposed rulemaking repealing Regulation DD, 12 CFR Part 230, in response to this transfer of authority from the Board to the CFPB.

The Bureau proposes to incorporate by reference the CFPB's Regulation DD, 12 CFR Part 1030 in this rulemaking, in place of the Board's Regulation DD, 12 CFR Part 230, which is being repealed.

Credit Unions are subject to neither 12 CFR Part 230 nor 12 CFR Part 1030, but rather to 12 CFR Part 707, issued by the National Credit Union Administration (NCUA). Since 2012, there have been several technical, non-substantive changes made by the NCUA to 12 CFR Part 707 and the Bureau proposes to incorporate by reference these changes in this promulgation.

The Bureau also proposes to incorporate by reference the Board's current Regulation CC, Availability of Funds and Collection of Checks, 12 CFR Part 229.^[1]

Nothing in this Regulation 18 shall be construed as curtailing the authority of federal regulators to administer Federal Regulation CC (12 CFR Part 229), Federal Regulation DD (12 CFR Part 1030) and National Credit Union Administration Board, Truth in Savings provisions (12 CFR Part 707).

I. AUTHORITY

Title 9-B MRS Section 241(1) gives the Superintendent the authority to promulgate rules defining, limiting, or proscribing acts and practices which are determined to be anti-competitive, unfair, deceptive or otherwise injurious to the public interest.

Title 9-B MRS Section 241(5) gives the Superintendent the authority to promulgate rules setting forth time limitations and disclosure requirements governing funds availability. That statute also requires that Maine's financial institutions make funds, represented by items deposited into an account, available for withdrawal within a reasonable time.

Title 9-B MRS Section 242(1) gives the Superintendent authority to adopt rules defining, limiting or proscribing advertising that is false, misleading or deceptive.

II. PURPOSE

This promulgation repeals and replaces Regulation 18. Its purpose is to conform Regulation 18 to up-to-date federal regulations, including

incorporating by reference the CFPB's 12 CFR Part 1030 which is supplanting the Board's 12 CFR Part 230.

III. PROVISIONS OF THE REGULATION

A. Definitions

1. "Business day" means a business day as defined by Title 9-B MRS § 145(1).
2. "Credit union" means a credit union authorized to do business as defined by Title 9-B MRS § 131(12-A).
3. "Financial institution" means a financial institution authorized to do business as defined in Title 9-B MRS Section 131(17-A).

B. Funds Availability

Financial institutions and credit unions shall comply with the applicable provisions of Federal Regulation CC (12 CFR, Part 229, January 1, 2014) and related appendices, which are incorporated herein by reference.

The following provisions of Federal Regulation CC are not adopted:

1. The definition of "business day" in 12 CFR 229.2(g) to the extent that it differs from the definition of "business days" in Section 145 of Title 9-B MRS.
2. The enforcement and liability provisions found in 12 CFR 229.3 to the extent that Chapters 22, 23 and 24 of Title 9-B MRS provide for enforcement authority to administer, and liability under, this Regulation 18.

C. Truth in Savings

Financial institutions and credit unions shall comply with the provisions of Federal Regulation DD (12 CFR, Part 1030 (January 1, 2014) and National Credit Union Administration Board, Truth in Savings provisions (12 CFR Part 707 (January 1, 2014)) including all their appendices which are incorporated herein by reference.

The following provisions of Federal Regulation DD and 12 CFR Part 707 are not adopted:

1. The definition of "business day" in 12 CFR 1030.2(g) to the extent that it differs from the definition of "business days" in Section 145 of Title 9-B MRS.
2. The enforcement and liability provisions found in 12 CFR 1030.9 and 12 CFR 707.9 to the extent that Chapters 22, 23 and 24 of Title 9-B MRS provide for enforcement authority to administer, and liability under, this Regulation 18.

D. Complaint Resolution Procedure

The schedule of account charges^[2] or other literature that is used to convey information on fees assessed in conjunction with the operation of an account shall contain a notice to account holders regarding the procedure to be followed in resolving disputes. The following notice contains model language that may be used:

"If you have a dispute with your financial institution or credit union regarding your account, you may contact the financial institution or credit union and attempt to resolve the problem directly. If the financial institution or credit union fails to resolve the problem, communicate the problem and the resolution you are seeking to:

Maine Bureau of Financial Institutions
36 State House Station
Augusta, Maine 04333-0036

To file a complaint electronically, you may contact the Maine Bureau of Financial Institutions at the following Internet address:

<http://www.maine.gov/pfr/financialinstitutions/complaint.htm>

When your complaint involves a federally-chartered financial institution or credit union, the Maine Bureau of Financial Institutions will refer it to the appropriate federal supervisory agency."

Financial institutions that post the model complaint resolution language on their web sites are encouraged to establish a link to the referenced URL on the Bureau's web site.

EFFECTIVE DATE: September 1, 2014

Primary Sources of information relied upon by the Bureau in adopting the rule: 12 CFR Part 229 (January 1, 2014), 12 CFR Part 1030 (January 1,

2014) and 12 CFR Part 707 January 1, 2014), and related appendices to these federal regulations.

BASIS STATEMENT

The purpose of this rulemaking is to conform Regulation 18 to current federal regulations, specifically, by incorporating by reference Federal Regulation CC (12 CFR Part 229, January 1, 2014), Federal Regulation DD (12 CFR Part 1030, January 1, 2014), and National Credit Union Administration Board provisions (12 CFR Part 707, January 1, 2014). This rulemaking replaces references to 12 CFR Part 230 that were in the previous rule with references to 12 CFR Part 1030 because administration of this federal regulation has been transferred from the Federal Reserve Board to the Consumer Financial Protection Bureau (CFPB) and re-codified accordingly.

Comments and Responses to comments: The Bureau received no comments to this proposed rulemaking. Accordingly, there were no amendments made to the adopted rule following the comment period, except that an effective date has been included.

[1] Copies of 12 CFR Part 229 may be obtained from the Federal Reserve Bank of Boston, 600 Atlantic Avenue, Boston, MA 02106 or at federalreserve.gov. Copies of 12 CFR Part 1030 may be obtained from the Consumer Financial Protection Bureau at 1700 G Street, NW, Washington, D.C. 20552, or at consumerfinance.gov. Copies of 12 CFR Part 707 may be obtained at the National Credit Union Administration, Region 1, 9 Washington Square, Washington Avenue Extension, Albany, NY 12208, or at www.ncua.gov.

[2] For the purposes of Subpart IV(C) of this regulation, "schedule of account charges" means a listing of fees and charges relating to the maintenance and operation of an account which may be imposed by the financial institution or credit union on its account holder for using an account of a financial institution or credit union. It does not include a listing of fees for ancillary services such as safe deposit boxes, traveler's checks, night deposit bags, check printing, fax fees, photocopies or similar charges not directly related to the maintenance or operation of an account.