

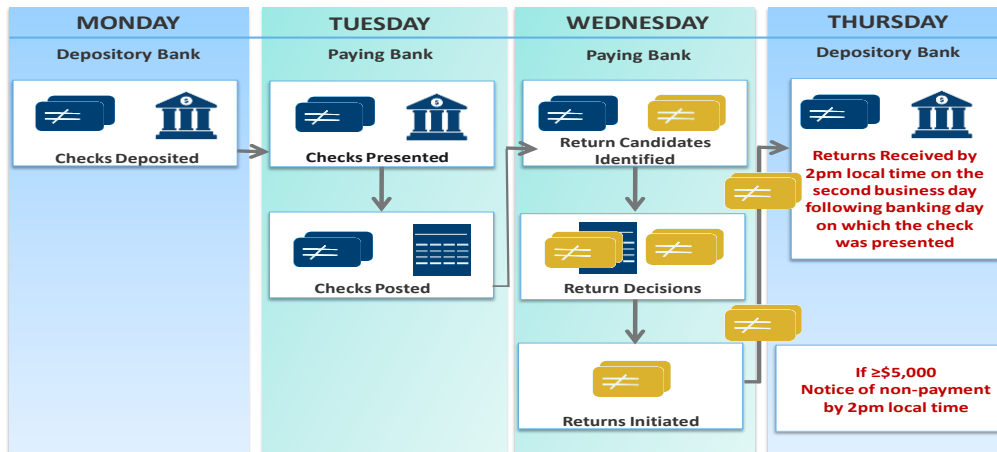
In 2018, Regulation CC modified check return requirements including: a new liability for not accepting Electronic Returned Checks, as well as changes to expeditious return deadlines, notice of non-payment & notice in lieu.

New Liability

Reg CC (229.33(a)): Depository banks that do not accept electronic returns by “commercially reasonable means” may not hold a paying/returning bank liable for failure to return a check expeditiously. This approach is intended to encourage all banks to accept electronic returns. The condition does not require a depository bank to have a direct return arrangement but does place the burden of establishing that the arrangement is commercially reasonable on the depository bank.

Reg CC (229.31(b)) moved the expeditious return deadline up two hours from 4pm to 2pm. This requires all checks to be returned such that they will “normally be received” by the depository bank no later than 2pm (depository bank local time) on the second business day following banking day on which the check was presented to the paying bank. Reg CC commentary states that the paying bank may rely on the returning bank’s return deadlines and availability schedules to determine the “normally” standard, unless the paying bank has reason to believe the schedule does not reflect actual return timeframes.

Return Deadlines



Note: UCC return deadline remains unchanged requiring the paying bank to make the determination to pay or return the item or send notice of dishonor by midnight of the day following the day of presentment (UCC 4-302).

NONP & NIL

Reg CC (229.31(c)) imposes 2pm deadline (depository bank local time) for notice of non-payment (NONP) – which syncs to the return deadline change.

NONP threshold increased to \$5,000 – increasing from previous threshold of \$2,500.

There are changes to the content requirements for the NONP and a new exception for the paying bank from the notice requirement if the depository bank is unidentifiable. The paying bank must provide the information contained in the MICR line in the NONP as well as certain other information (e.g., payee name) to the extent available to the paying bank. (See 229.31(c)(2)).

Reg CC (229.31(f)) if a check is unavailable for return, the paying bank may send in its place a copy of the front and back of the check, or, if no such copy is available, a written notice of nonpayment (NIL) containing information specified in 229.31(c).