



Consumer Financial
Protection Bureau

1700 G Street NW, Washington, D.C. 20552

January 8, 2025

Aaron D. Klein
The Brookings Institution
1775 Massachusetts Ave NW
Washington, DC 20036

Dear Mr. Klein,

After considering your petition for rulemaking and the comments received in response to the petition, the Director of the Consumer Financial Protection Bureau has agreed to participate in a rulemaking proceeding to update Regulation CC, which would carry out Congress' mandate that Americans have access to their own money deposited in their bank accounts in "as short a time as possible."¹

The Expedited Funds Availability Act was signed into law by President Reagan in 1987.² It responded to a widespread problem of demonstrably excessive holds being placed on consumers' and small businesses' deposits, as well as the ineffectiveness of previous private and government efforts to remedy this problem.³

Section 603(d)(1) of the Act requires the CFPB Director and Federal Reserve Board to jointly "reduce" the time periods for holds on most checks and ATM deposits to "as short a time as possible," based on a specific standard set out in the Act.⁴ Congress expected regulators to "use this authority on a continuing basis to reduce hold periods to the shortest times possible given evolving technology and improved processing methods."⁵

¹ 12 U.S.C. § 4002(d)(1). The petition is available at <https://www.regulations.gov/docket/CFPB-2024-0051/document>.

² Pub. L. No. 100-86, title VI, 101 Stat. 635 (1987) (codified at 12 U.S.C. ch. 41).

³ See, e.g., H.R. Rep. No. 99-404 (1985).

⁴ 12 U.S.C. § 4002(d)(1).

⁵ H.R. Conf. Rep. No. 100-261, 179 (1987).

However, no regulations have been issued in the past 37 years to modify the original statutory hold times for most checks and ATM deposits. After the Check 21 Act of 2003, the Federal Reserve System did take the important step of combining its check processing regions, which had the practical effect of decreasing hold times for checks sent over longer distances.⁶ But in recent years there have been significant technological changes in the check processing system and the payments system generally.

All of the comments received in response to the petition supported a rulemaking under the Act. Most comments supported examining a reduction of hold times. One comment opposed reducing hold times but advocated other changes to the Act's implementing regulations in Regulation CC.

The CFPB Director agrees with the petition that the time has come to carry out the specific analysis that section 603(d)(1) of the Act requires, by gathering appropriate data and obtaining public input through a rulemaking process. As you know, the CFPB Director and the Board would need to act jointly to initiate a rulemaking under the Act.

The analysis required by the statute takes due account of the interest of depository institutions in receiving payment. The Director recognizes that there can be complex issues related to check fraud to consider. If the analysis shows that the hold times for checks and ATM deposits can be reduced under the applicable standard, then by statute, they must be. Checks and ATM deposits continue to be relied upon by millions of consumers and small businesses, and it is essential to carry out Congress' mandate to keep hold times up to date.

While the petition's request focuses on section 603(d)(1) of the Act, the topics raised in the petition potentially implicate, among other things, other joint authorities of the Federal Reserve Board and the CFPB Director. In the context of a rulemaking, the Director would expect to consider whether other steps are appropriate to modernize the regulations implementing the Act. This includes any steps that would complement the other important work the Federal Reserve System has been engaged in regarding faster, safer, and more efficient payments.

⁶ Pub. L. No. 108-100, 117 Stat. 1177 (2003).

Sincerely,

Seth Frotman

Seth Frotman
General Counsel
Consumer Financial Protection Bureau