

## **Part 4 Payment**

### **70A-4a-401 Payment date.**

"Payment date" of a payment order means the day on which the amount of the order is payable to the beneficiary by the beneficiary's bank. The payment date may be determined by instruction of the sender but cannot be earlier than the day the order is received by the beneficiary's bank and, unless otherwise determined, is the day the order is received by the beneficiary's bank.

Amended by Chapter 237, 1993 General Session

### **70A-4a-402 Obligation of sender to pay receiving bank.**

- (1) This section is subject to Section 70A-4a-205.
- (2) With respect to a payment order issued to the beneficiary's bank, acceptance of the order by the bank obliges the sender to pay the bank the amount of the order, but payment is not due until the payment date of the order.
- (3) This subsection is subject to Subsection (5) and to Section 70A-4a-303. With respect to a payment order issued to a receiving bank other than the beneficiary's bank, acceptance of the order by the receiving bank obliges the sender to pay the bank the amount of the sender's order. Payment by the sender is not due until the execution date of the sender's order. The obligation of that sender to pay its payment order is excused if the funds transfer is not completed by acceptance by the beneficiary's bank of a payment order instructing payment to the beneficiary of the sender's payment order.
- (4) If the sender of a payment order pays the order and was not obliged to pay all or part of the amount paid, the bank receiving payment is obliged to refund payment to the extent the sender was not obliged to pay. Except as provided in Sections 70A-4a-204 and 70A-4a-304, interest is payable on the refundable amount from the date of payment.
- (5) If a funds transfer is not completed as stated in Subsection (3) and an intermediary bank is obliged to refund payment as stated in Subsection (4), but is unable to do so because not permitted by applicable law or because the bank suspends payments, a sender in the funds transfer that executed a payment order in compliance with an instruction, as stated in Subsection 70A-4a-302(1)(a), to route the funds transfer through that intermediary bank is entitled to receive or retain payment from the sender of the payment order that it accepted. The first sender in the funds transfer that issued an instruction requiring routing through that intermediary bank is subrogated to the right of the bank that paid the intermediary bank to refund as stated in Subsection (4).
- (6) The right of the sender of a payment order to be excused from the obligation to pay the order as stated in Subsection (3) or to receive refund under Subsection (4) may not be varied by agreement.

Amended by Chapter 237, 1993 General Session

### **70A-4a-403 Payment by sender to receiving bank.**

- (1) Payment of the sender's obligation under Section 70A-4a-402 to pay the receiving bank occurs as follows:
  - (a) If the sender is a bank, payment occurs when the receiving bank receives final settlement of the obligation through a Federal Reserve Bank or through a funds transfer system.

- (b) If the sender is a bank and the sender:
  - (i) credited an account of the receiving bank with the sender; or
  - (ii) caused an account of the receiving bank in another bank to be credited, payment occurs when the credit is withdrawn or, if not withdrawn, at midnight of the day on which the credit is withdrawable and the receiving bank learns of that fact.
- (c) If the receiving bank debits an account of the sender with the receiving bank, payment occurs when the debit is made to the extent the debit is covered by a withdrawable credit balance in the account.
- (2) If the sender and receiving bank are members of a funds transfer system that nets obligations multilaterally among participants, the receiving bank receives final settlement when settlement is complete in accordance with the rules of the system. The obligation of the sender to pay the amount of a payment order transmitted through the funds transfer system may be satisfied, to the extent permitted by the rules of the system, by setting off and applying against the sender's obligation the right of the sender to receive payment from the receiving bank of the amount of any other payment order transmitted to the sender by the receiving bank through the funds transfer system. The aggregate balance of obligations owed by each sender to each receiving bank in the funds transfer system may be satisfied, to the extent permitted by the rules of the system, by setting off and applying against that balance the aggregate balance of obligations owed to the sender by other members of the system. The aggregate balance is determined after the right of setoff stated in the second sentence of this subsection has been exercised.
- (3) If two banks transmit payment orders to each other under an agreement that settlement of the obligations of each bank to the other under Section 70A-4a-402 will be made at the end of the day or other period, the total amount owed with respect to all orders transmitted by one bank shall be set off against the total amount owed with respect to all orders transmitted by the other bank. To the extent of the setoff each bank has made payment to the other.
- (4) In any case not covered by Subsection (1), the time when payment of the sender's obligation under Subsection 70A-4a-402(2) or (3) occurs is governed by applicable principles of law that determine when an obligation is satisfied.

Enacted by Chapter 294, 1990 General Session

**70A-4a-404 Obligation of beneficiary's bank to pay and give notice to beneficiary.**

- (1) Subject to Subsection 70A-4a-211(5) and Subsections 70A-4a-405(4) and (5), if a beneficiary's bank accepts a payment order, the bank is obliged to pay the amount of the order to the beneficiary of the order. Payment is due on the payment date of the order, but if acceptance occurs on the payment date after the close of the funds transfer business day of the bank, payment is due on the next funds transfer business day. If the bank refuses to pay after demand by the beneficiary and receipt of notice of particular circumstances that will give rise to consequential damages as a result of nonpayment, the beneficiary may recover damages resulting from the refusal to pay to the extent the bank had notice of the damages, unless the bank proves that it did not pay because of a reasonable doubt concerning the right of the beneficiary to payment.
- (2) If a payment order accepted by the beneficiary's bank instructs payment to an account of the beneficiary, the bank is obliged to give notice to the beneficiary of receipt of the order before midnight of the next funds transfer business day following the payment date. If the payment order does not instruct payment to an account of the beneficiary, the bank is required to notify the beneficiary only if notice is required by the order. Notice may be given by first class mail or any other means reasonable in the circumstances. If the bank fails to give the required

notice as required by this subsection, the bank is obliged to pay interest to the beneficiary on the amount of the payment order from the day notice should have been given until the day the beneficiary learned of receipt of the payment order by the bank. No other damages are recoverable. Reasonable attorneys' fees are also recoverable if demand for interest is made and refused before an action is brought on the claim.

- (3) The right of a beneficiary to receive payment and damages as stated in Subsection (1) may not be varied by agreement or a funds transfer system rule. The right of a beneficiary to be notified as stated in Subsection (2) may be varied by agreement of the beneficiary or by a funds transfer system rule if the beneficiary is given notice of the rule before initiation of the funds transfer.

Amended by Chapter 237, 1993 General Session

**70A-4a-405 Payment by beneficiary's bank to beneficiary.**

- (1) If a beneficiary's bank credits an account of the beneficiary of a payment order, payment of the bank's obligation under Subsection 70A-4a-404(1) occurs when and to the extent:
- (a) the beneficiary is notified of the right to withdraw the credit;
  - (b) the bank lawfully applies the credit to a debt of the beneficiary; or
  - (c) funds with respect to the order are otherwise made available to the beneficiary by the bank.
- (2) If the beneficiary's bank does not credit an account of the beneficiary of a payment order, the time when payment of the bank's obligation under Subsection 70A-4a-404(1) is governed by applicable principles of law that determine when an obligation is satisfied.
- (3) Except as stated in Subsections (4) and (5), if the beneficiary's bank pays the beneficiary of a payment order under a condition to payment or agreement of the beneficiary giving the bank the right to recover payment from the beneficiary if the bank does not receive payment of the order, the condition to payment or agreement is not enforceable.
- (4)
- (a) A funds transfer system rule may provide that payments made to beneficiaries of funds transfers made through the system are provisional until receipt of payment by the beneficiary's bank of the payment order it accepted. A beneficiary's bank that makes a payment that is provisional under the rule is entitled to refund from the beneficiary if:
    - (i) the rule requires that both the beneficiary and the originator be given notice of the provisional nature of the payment before the funds transfer is initiated;
    - (ii) the beneficiary, the beneficiary's bank, and the originator's bank agreed to be bound by the rule; and
    - (iii) the beneficiary's bank did not receive payment of the payment order that it accepted.
  - (b) If the beneficiary is obliged to refund payment to the beneficiary's bank, acceptance of the payment order by the beneficiary's bank is nullified and no payment by the originator of the funds transfer to the beneficiary occurs under Section 70A-4a-406.
- (5)
- (a) This subsection applies to a funds transfer that includes a payment order transmitted over a funds transfer system that:
    - (i) nets obligations multilaterally among participants; and
    - (ii) has in effect a loss-sharing agreement among participants for the purpose of providing funds necessary to complete settlement of the obligations of one or more participants that do not meet their settlement obligations.

- (b) If the beneficiary's bank in the funds transfer accepts a payment order and the system fails to complete settlement pursuant to its rules with respect to any payment order in the funds transfer:
  - (i) the acceptance by the beneficiary's bank is nullified and no person has any right or obligation based on the acceptance;
  - (ii) the beneficiary's bank is entitled to recover payment from the beneficiary;
  - (iii) no payment by the originator to the beneficiary occurs under Section 70A-4a-406; and
  - (iv) subject to Subsection 70A-4a-402(5), each sender in the funds transfer is excused from its obligation to pay its payment order under Subsection 70A-4a-402(3) because the funds transfer has not been completed.

Amended by Chapter 237, 1993 General Session

**70A-4a-406 Payment by originator to beneficiary -- Discharge of underlying obligation.**

- (1) Subject to Subsection 70A-4a-211(5) and Subsections 70A-4a-405(4) and (5), the originator of a funds transfer pays the beneficiary of the originator's payment order:
  - (a) at the time a payment order for the benefit of the beneficiary is accepted by the beneficiary's bank in the funds transfer; and
  - (b) in an amount equal to the amount of the order accepted by the beneficiary's bank, but not more than the amount of the originator's order.
- (2)
  - (a) If payment under Subsection (1) is made to satisfy an obligation, the obligation is discharged to the same extent discharge would result from payment to the beneficiary of the same amount in money, unless:
    - (i) the payment under Subsection (1) was made by a means prohibited by the contract of the beneficiary with respect to the obligation;
    - (ii) the beneficiary, within a reasonable time after receiving notice of receipt of the order by the beneficiary's bank, notified the originator of the beneficiary's refusal of the payment;
    - (iii) funds with respect to the order were not withdrawn by the beneficiary or applied to a debt of the beneficiary; and
    - (iv) the beneficiary would suffer a loss that could reasonably have been avoided if payment had been made by a means complying with the contract.
  - (b) If payment by the originator does not result in discharge under this section, the originator is subrogated to the rights of the beneficiary to receive payment from the beneficiary's bank under Subsection 70A-4a-404(1).
- (3) For the purpose of determining whether discharge of an obligation occurs under Subsection (2), if the beneficiary's bank accepts a payment order in an amount equal to the amount of the originator's payment order less charges of one or more receiving banks in the funds transfer, payment to the beneficiary is deemed to be in the amount of the originator's order unless upon demand by the beneficiary the originator does not pay the beneficiary the amount of the deducted charges.
- (4) Rights of the originator or of the beneficiary of a funds transfer under this section may be varied only by agreement of the originator and the beneficiary.

Amended by Chapter 237, 1993 General Session