**Summary of Content Changes
2018.1 Update – March, 2018**

**General Notes**

There are a few regulatory changes taking place that impacted policy revisions in this update. The first being the second set of the Mortgage Servicing rules that become effective on April 19, 2018. There were also changes related to the last phase of Same Day ACH that became effective on March 16, 2018.

However, one of the largest policy revisions has to do with the changes to Regulation CC, which becomes effective on July 1, 2018.

Credit unions should keep in mind that although CU PolicyPro tries to provide policy revisions related to regulatory changes ahead of the effective date in order to help credit unions prepare, those policies should NOT be adopted until the actual regulatory effective date.

**Policy Updates Summary**

**Policy 2110 – Bank Secrecy Act / Anti-Money Laundering Program**

**2018-1**

Although policy 2110 was already updated with the changes associated with [FinCEN’s Customer Due Diligence Requirements](https://www.gpo.gov/fdsys/pkg/FR-2016-05-11/pdf/2016-10567.pdf) we heard from a few credit unions who underwent recent examinations that more detail within the policy regarding the form being used by the Credit Union to identify beneficial owners and the process for ongoing monitoring was being suggested. We’ve added more detail regarding those two topics and clarified the provision in the new rule to require identification/verification of the beneficial owners of a legal entity at the time a “new account” (as opposed to membership) is opened. (Recommended)

**Policy 2300 – Share Draft Accounts**

**2018-1**

This policy is being revised to slightly amend the language associated with “excessive overdrafts.” According to industry guidance, credit unions are responsible for monitoring “excessive” usage for overdrafts. While there isn’t much guidance out there, we can find evidence that the financial industry considers a member who overdraws his/her account on more than six occasions where a fee is charged in a rolling twelve month period to be “excessive.” In looking further, an “occasion” is considered each time an overdraft transaction generates a fee, regardless if the overdrafts take place over multiple days. Therefore, the language indicates excessive overdrafts “on different days” is being removed as unnecessary.

(Recommended)

**Policy 2400 – Funds Availability**

**2018-1**

In addition to minor changes to allow for easier interpretation, Policy 2400 was updated to remove content associated with subparts C (Collection of Checks) and D (Substitute Checks) within Regulation CC. With this update, Policy 2400 will only include content related to subpart B (Availability of Funds and Disclosure of Funds Availability Policies), which was not impacted by the recent [amendments to Regulation CC](https://www.federalregister.gov/documents/2017/06/15/2017-11379/availability-of-funds-and-collection-of-checks) that become effective on July 1, 2018. As noted below, Policy 2401 was developed to include the revised content associated with the regulatory changes. (Recommended)

**New Policy\*\*Policy 2401 – Collection of Checks Procedure**

**2018-1**

The Federal Reserve Board published substantial [amendments to Regulation CC](https://www.federalregister.gov/documents/2017/06/15/2017-11379/availability-of-funds-and-collection-of-checks) that become effective on July 1, 2018. The amendments impacted subparts A (General), C (Collection of Checks) and D (Substitute Checks), essentially modifying current check collection and return requirements to reflect the electronic environment. These changes also apply to existing (and a few new) check warranties and indemnities to checks that are collected and returned electronically and to electronically-created items.

The new policy content of Policy 2401 was previously included in Policy 2400. However, we wanted to maintain only the Funds Availability provisions within Policy 2400. The intent in creating Policy 2401 was to provide credit unions either a resource to develop appropriate procedures or to adopt this new policy if they previously relied on the content within Policy 2400. These provisions do not become effective until July 1, 2018. (Optional)

**Policy 2610 – ACH Operations**

**2018-1**

On March 16, 2018, Phase 3 of the Same Day ACH changes became effective for credit unions. This final stage requires credit union Receiving Depositary Financial Institutions (RDFIs) to make funds available from ACH credits and process debits for their members by 5:00pm their local time. This required a policy change from the Phase 2 requirement, which only required same day ACH credits and debits to be processed by the end of their processing day. (Required)

**Policy 2611 – ACH Management**

**2018-1**

On March 16, 2018, Phase 3 of the Same Day ACH changes became effective for credit unions. This final stage requires credit union Receiving Depositary Financial Institutions (RDFIs) to make funds available from ACH credits and process debits for their members by 5:00pm their local time. This required a policy change from the Phase 2 requirement, which only required same day ACH credits and debits to be processed by the end of their processing day. (Required)

**Policy 2612 – ACH Audit**

**2018-1**

On March 16, 2018, Phase 3 of the Same Day ACH changes became effective for credit unions. This final stage requires credit union Receiving Depositary Financial Institutions (RDFIs) to make funds available from ACH credits and process debits for their members by 5:00pm their local time. This required a policy change from the Phase 2 requirement, which only required same day ACH credits and debits to be processed by the end of their processing day. (Required)

**Policy 2620 - Remote Deposit Capture**

**2018-1**

As noted under the revisions for Policy 2401, the Remote Deposit Capture policy has been updated to reflect the changes within Regulation CC that provide for indemnity protection in the case of restrictive indorsements and language in agreements that allocate liability back to the member when a check was deposited via RDC and losses are incurred as a result of subsequent deposits of the same check. (Recommended)

**Policy 7360 – Mortgage Servicing Rules**

**2018-1**

[Mortgage Servicing rules](https://www.consumerfinance.gov/policy-compliance/guidance/implementation-guidance/mortserv/), implemented by Regulation Z (TILA) and Regulation X (RESPA), were updated with changes effective on both October 19, 2017 and April 19, 2018. While the policy was previously updated to include the changes effective in October of last year, the changes to the policy in this update reflect the changes necessary for the April 19, 2018 effective date. (Required)

**Policy 7361 – Small Servicer Mortgage Servicing Rules**

**2018-1**

[Mortgage Servicing rules](https://www.consumerfinance.gov/policy-compliance/guidance/implementation-guidance/mortserv/), implemented by Regulation Z (TILA) and Regulation X (RESPA), were updated with changes effective on both October 19, 2017 and April 19, 2018. While the policy was previously updated to include the changes effective in October of last year, the changes to the policy in this update reflect the changes necessary for the April 19, 2018 effective date.

(Required)

**Policy 10011 – Member Account Records**

**2018-1**

The record retention policy is being updated based on a response from Kenmark Financial Services, who manages the Medallion Signature Guarantee program. They indicated that the Medallion Program does not set any guidelines for record retention. Instead, it is up the institution's own internal policies and procedures. A claim can be made up to six years AFTER the date of discovery. Therefore, as a conservative approach the record retention guidelines are being updated to reflect 6 years for retention. (Recommended)