

## CARES Act Stimulus Check FAQs

### **Q1: Should banks be reopening closed accounts for stimulus deposits?**

A1: Look at your account agreements. Some account agreements will state that accounts can be reopened for x, y and z purposes. If it does and incoming deposits are included in these permissions, the bank is free to reopen a closed account. Otherwise, we would not generally recommend unilaterally reopening accounts without the customers consent as there could be a UDAAP issue with doing that.

### **Q2: Can funds from stimulus deposit be used for overdrafts, fees, garnishment, or setoff?**

A2: There is unfortunately not enough guidance to determine whether this is permissible or not. Banks need to consider reputational risks and the spirit and intent of the CARES Act which is to assist in this time of crisis. In regards to garnishment, Attorney Generals and Senators are petitioning for stimulus checks to be free from garnishment except for child support, like social security checks. The CARES Act already prohibits the checks from being garnished past due student loan payments.

For reference:

“(e) Suspending Involuntary Collection.—During the period in which the Secretary suspends payments on a loan under subsection (a), the Secretary shall suspend all involuntary collection related to the loan, including—

- (1) a wage garnishment authorized under section 488A of the Higher Education Act of 1965 ([20 U.S.C. 1095a](#)) or section 3720D of title 31, United States Code;
- (2) a reduction of tax refund by amount of debt authorized under section 3720A of title 31, United States Code, or [section 6402\(d\)](#) of the Internal Revenue Code of 1986;
- (3) a reduction of any other Federal benefit payment by administrative offset authorized under section 3716 of title 31, United States Code (including a benefit payment due to an individual under the Social Security Act or any other provision described in subsection (c)(3)(A)(i) of such section); and
- (4) any other involuntary collection activity by the Secretary.”

<https://www.congress.gov/bill/116th-congress/house-bill/748/text?q=%7B%22search%22%3A%5B%22Coronavirus+Aid%2C+Relief%2C+and+Economic+Security+Act%22%5D%7D&r=2&s=3#H68DBEB55B32A4B16B9DB8FA6AF5C5F23>

And

“(d) Exception From Reduction Or Offset.—Any credit or refund allowed or made to any individual by reason of [section 6428](#) of the Internal Revenue Code of 1986 (as added by this section) or by reason of subsection (c) of this section shall not be—

- (1) subject to reduction or offset pursuant to section 3716 or 3720A of title 31, United States Code,
- (2) subject to reduction or offset pursuant to subsection (d), (e), or (f) of [section 6402](#) of the Internal Revenue Code of 1986, or
- (3) reduced or offset by other assessed Federal taxes that would otherwise be subject to levy or collection.”



<https://www.congress.gov/bill/116th-congress/house-bill/748/text#H7721427F994C4134B0507478275D8886>

**Q3: Does that mean these are protected funds?**

A3: That information has not yet been released. If the AGs are successful in their request, then they would be protected from garnishment though, correct.

**Q4: What happens if a joint stimulus is deposited into a joint account and one of the owners is deceased? Or, if not joint, the recipient is deceased but there is an estate account?**

A4: Joint deposits (ACH and check) are to be deposited into the account. For single payees, there is no specific guidance to this particular stimulus, but it was somewhat addressed by the IRS in 2008. However, we would recommend in the event of a single payee that is deceased, those be returned to prevent the representative from having to return it later.

For reference, the 2008 FAQ Guidance:

"If an individual dies, what happens to his or her direct deposit or stimulus check?"

Stimulus payments will be issued in the name of the individual eligible for payment on a filed 2007 income tax return or to the account designated by the individual on that return. This includes situations where a person dies after filing a return or where the final 2007 income tax return was filed by a personal representative or surviving spouse. Any issues or concerns involving a decedent's filed return or the related stimulus payment should be addressed by the legal representative of the decedent's estate. See Publication 559 for more useful information for survivors and personal representatives. [Updated 3/17/08]."  
<https://www.irs.gov/newsroom/economic-stimulus-payment-qas-eligibility>

**Q5: What do we do if the stimulus check was meant to come to our bank based on the customer's 2019 tax return, but it was never received for some reason?**

A5: The CARES Act indicates that the Secretary will be issuing a notice within 15 days after distributing any payments with a phone number for the appropriate point of contact at the IRS where the customer can report any failure to receive such payment.

"(6) NOTICE TO TAXPAYER.—Not later than 15 days after the date on which the Secretary distributed any payment to an eligible taxpayer pursuant to this subsection, notice shall be sent by mail to such taxpayer's last known address. Such notice shall indicate the method by which such payment was made, the amount of such payment, and a phone number for the appropriate point of contact at the Internal Revenue Service to report any failure to receive such payment."

<https://www.congress.gov/bill/116th-congress/house-bill/748/text?q=%7B%22search%22%3A%5B%22Coronavirus+Aid%2C+Relief%2C+and+Economic+Security+Act%22%5D%7D&r=2&s=3#H652D1B571F8B4563935EF23172EB443D>



**Q6: Our check cashing policy states that we will not cash checks for non-customers. Are we required to cash the stimulus checks that will be coming out for non-customers?**

A6: This has not been a specific requirement in the laws or guidance related to stimulus checks up until now. So while it has not been explicitly required, this is something the bank should assess, be clear in whether it will do so as a matter of policy, and make sure that its policies are applied consistently across the bank.

**Q7: Has there been any guidance issued with regard to the cashing of the stimulus checks once they start being mailed out? Our bank's normal policy is to assess a 5% fee to cash a check for a non-customer. Under the circumstances for which these checks are being issued, are banks prohibited or expected to waive any check cashing fees?**

A7: This has not been specifically addressed regarding stimulus checks. The conservative approach would be to treat these the same as the bank would IRS tax refund checks. There is not a prohibition in charging a fee to non-customers or customers for cashing a check, whether it is a government check or otherwise. The bank would want to be sure that the fee is disclosed before the transaction and that the bank is applying the policy consistently in order to avoid any potential UDAAP issues.

**Q8: For the stimulus checks, will we be required to match the name from the direct deposit to the account?**

A8: This has not been specifically addressed in the CARES Act or relevant guidance specifically related to stimulus checks. However, the treasury has stated for regular tax refund ACHs that the bank is not required to match the name on the ACH to the account. Though, it may be required under the bank's internal policy or the account agreement. Additionally, this could pose issue for the bank if the names do not match and the intended stimulus check recipient alleges that they did not receive the check. The Bank may consider discussing any potential legal implications with the bank's legal counsel.

For reference:

"Yes, an RDFI may post IRS tax refunds received through the Automated Clearing House (ACH) network using the account number only.

Title 31 of the Code of Federal Regulations, Part 210 (31 CFR Part 210) requires federal payments be sent to a deposit account at a financial institution in the name of the recipient.

However, the RDFI is not obligated to ensure that IRS originates refunds in compliance with this requirement. Some smaller RDFIs may perform a match between the name on the payment and the name on the account; but, 31 CFR 210 makes it clear that an RDFI is not required to perform a match."

<https://fiscal.treasury.gov/eft/faq-tax-refund.html>

**Q9: If we have a stimulus ACH coming in and the account names match but the account number does not, can we deposit it into that account even though the account number does not match?**



A9: This has not been specifically addressed in the CARES Act or other guidance, but it would generally not be best practice to reroute the ACH to a different account number that does not match the ACH, even if the names match. It may also be expressly prohibited under the bank's internal policy, the account agreements, and the bank's agreement with any payment processors. It would be best practice to return the ACH, unfortunately.

**Q10: Are there any issues with the bank allowing customers to deposit stimulus checks via mobile deposit?**

A10: Although this has not been specifically addressed for the stimulus checks, there is no general prohibition in allowing government checks to be deposited via mobile deposit. Please note, that while mobile deposits are not subject to Subpart C (Funds Availability) of Reg CC, they are subject to the warranties and indemnities in Reg CC, so the bank, as a best practice, would want to be sure to require that customers use a restrictive endorsement such as "For mobile deposit at Bank A only."

For reference:

"b. The facts are the same as above with respect to Depository Bank A and B; however, the original check deposited in Depository Bank B bears a restrictive indorsement "for mobile deposit at Depository Bank A only" and the customer's account number at Depository Bank A. Depository Bank B may not make an indemnity claim against Depository Bank A because Depository Bank B accepted the original check bearing a restrictive indorsement inconsistent with the means of deposit."

<https://www.ecfr.gov/cgi-bin/text-idx?SID=2dfd98e41beb783a617bcb9495b34789&mc=true&node=pt12.3.229&rgn=div5>

**Q11: Based on people supposedly getting stimulus checks sometime soon – do you see any concerns if we want to suspend our overdraft write off and closing of these accounts at 60 days to see if these customers might receive these checks and thus deposit (or ACH) into our bank?**

A11: This has not been specifically addressed in any of the guidance related to COVID. Although the regulators are encouraging banks to work with customers, they did stress that this should still be done with safety and soundness in mind. Because the guidance stating that banks should charge off accounts that have been overdrawn for 60 days is related to safety and soundness we would not generally recommend discontinuing the bank's charge off process for those accounts.

For general reference:

Overdraft: <https://www.federalreserve.gov/boarddocs/SRLETTERS/2005/SR0503a1.pdf>

Interagency statement: <https://www.fdic.gov/news/news/press/2020/pr20025.html>

**Q12: My Bank has temporarily increased our customers ATM withdrawal limits to benefit our customers with stimulus checks coming in. My question is, if we advertise to our customers this increase, would we need to redisclose to customers when we drop the limits back down?**

A13: It would be most conservative to do so, yes, under both Reg DD and Reg E.



For reference:

Reg DD:

“(1) Advance notice required. A depository institution shall give advance notice to affected consumers of any change in a term required to be disclosed under § 1030.4(b) of this part if the change may reduce the annual percentage yield or adversely affect the consumer. The notice shall include the effective date of the change. The notice shall be mailed or delivered at least 30 calendar days before the effective date of the change.”

<https://www.consumerfinance.gov/policy-compliance/rulemaking/regulations/1030/5/#a>

And Reg E:

“(1) Prior notice required. A financial institution shall mail or deliver a written notice to the consumer, at least 21 days before the effective date, of any change in a term or condition required to be disclosed under § 1005.7(b) of this part if the change would result in:

- (i) Increased fees for the consumer;
- (ii) Increased liability for the consumer;
- (iii) Fewer types of available electronic fund transfers; or
- (iv) Stricter limitations on the frequency or dollar amount of transfers.”

<https://www.consumerfinance.gov/policy-compliance/rulemaking/regulations/1005/8/>

### **Q13: How much should we be expecting that customers receive for stimulus checks.**

A14: Generally it is \$1200 for an individual or \$2400 for a married couple that filed their taxes jointly, plus \$500 per qualifying child. However, there are some stipulations. The full discussion in the CARES Act can be found here:

<https://www.congress.gov/bill/116th-congress/house-bill/748/text#H812CBD5D00164385940468EB6220045E>

### **Q14: Does CA have any additional information on stimulus checks?**

A: We do have this newsletter article on the topic:

[https://compliancealliance.com/news-events/april-2020-newsletters?utm\\_source=Member+Subscribers&utm\\_campaign=2607b5e1ef-EMAIL\\_CAMPAIGN\\_2020\\_02\\_20\\_02\\_21\\_COPY\\_01&utm\\_medium=email&utm\\_term=0\\_c08d3e3879-2607b5e1ef-78226833#CARES](https://compliancealliance.com/news-events/april-2020-newsletters?utm_source=Member+Subscribers&utm_campaign=2607b5e1ef-EMAIL_CAMPAIGN_2020_02_20_02_21_COPY_01&utm_medium=email&utm_term=0_c08d3e3879-2607b5e1ef-78226833#CARES)

Also check back on our pandemic resources page as this is updated regularly with links to new guidance as it is released and our full pandemic toolkit:

<https://compliancealliance.com/about-us/pandemic-planning-for-banks>

### **Q15: Does CA have any additional webinars on deposit related topics and protocols?**

A: The bank may find our last two B2B webinars helpful; Into to Deposits and Teller Basics:

<https://compliancealliance.com/news-events/back2basics-intro-to-deposits-2020>



<https://compliancealliance.com/news-events/back2basics-teller-basics-2020>

