

117TH CONGRESS  
2D SESSION

# H. R. 8974

To amend the Expedited Funds Availability Act to require that funds deposited be available for withdrawal in real-time, and for other purposes.

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## IN THE HOUSE OF REPRESENTATIVES

SEPTEMBER 22, 2022

Ms. PRESSLEY (for herself and Mr. GARCÍA of Illinois) introduced the following bill; which was referred to the Committee on Financial Services

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## A BILL

To amend the Expedited Funds Availability Act to require that funds deposited be available for withdrawal in real-time, and for other purposes.

1       *Be it enacted by the Senate and House of Representa-*  
2       *tives of the United States of America in Congress assembled,*

3       **SECTION 1. SHORT TITLE.**

4       This Act may be cited as the “Payments Moderniza-  
5       tion Act of 2022”.

6       **SEC. 2. FINDINGS AND PURPOSES.**

7       (a) FINDINGS.—Congress finds the following:

8           (1) Families in the United States spend billions  
9           of dollars in overdraft fees in part because they are

1 waiting for checks to clear over a weekend or holi-  
2 day.

3 (2) The inefficient payment system in the  
4 United States drives families, especially those living  
5 paycheck to paycheck, to use high-cost financial  
6 services to access funds more rapidly.

7 (3) A faster payment system would provide peo-  
8 ple of the United States immediate access to funds  
9 and relief for those who overdraw their accounts be-  
10 cause their deposits are not available in real-time,  
11 helping families potentially save billions of dollars  
12 each year.

13 (4) The United States lags behind other coun-  
14 tries in the speed and efficiency of its payment sys-  
15 tem.

16 (5) Central banks around the world have al-  
17 ready implemented real-time payment systems, in-  
18 cluding in the United Kingdom, Australia, Mexico,  
19 Poland, Japan, and South Africa.

20 (6) The Federal Reserve System was created by  
21 Congress on December 24, 1913, in response to the  
22 financial panic of 1907.

23 (7) Since its beginning, the Federal Reserve  
24 System has played a crucial role in the payment sys-  
25 tem of the United States.

1                         (8) The role of the Federal Reserve System in  
2 providing payment services is—

3                                 (A) to promote the integrity and efficiency  
4 of the payment mechanism; and

5                                 (B) to ensure the provision of payment  
6 services to all depository institutions on an eq-  
7 uitable basis and in an atmosphere of competi-  
8 tive fairness.

9                         (9) The Monetary Control Act of 1980 (title I  
10 of Public Law 96–221; 94 Stat. 132) provided the  
11 Board of Governors of the Federal Reserve System  
12 with the authority to oversee the payment system in  
13 the United States.

14                         (10) The Expedited Funds Availability Act (12  
15 U.S.C. 4001 et seq.), enacted on August 10, 1987,  
16 provided the Board of Governors of the Federal Re-  
serve System with full authority to regulate all as-  
18 pects of the payment system, including the receipt,  
19 payment, collection, clearing of checks, and related  
20 functions of the payment system pertaining to  
21 checks.

22                         (11) In a July 2018 report on financial tech-  
23 nology, the Department of the Treasury acknowl-  
24 edged the important role of the Board of Governors  
25 of the Federal Reserve System in bringing real-time

1 payment settlement services to the United States  
2 when the Department recommended the Board of  
3 Governors work to facilitate a faster retail payment  
4 system, in particular, for smaller financial institu-  
5 tions such as community banks and credit unions,  
6 noting that such institutions should also have the  
7 ability to access the most innovative technologies  
8 and payment services.

9 (12) The authorities described in paragraphs  
10 (9) and (10) are more critical than ever given how  
11 the financial services sector has been defined as a  
12 vital component of critical infrastructure in the  
13 United States.

14 (13) The role of the Board of Governors of the  
15 Federal Reserve System in the financial services sec-  
16 tor will ensure the resiliency of the payment system  
17 in the United States.

18 (14) The Board of Governors of the Federal  
19 Reserve System should develop a real-time interbank  
20 payment system to ensure that—

21 (A) consumers are prioritized;

22 (B) consumers and small businesses are  
23 protected from fraud and errors, including with  
24 respect to a payment initiated by a consumer or  
25 small business;

1                             (C) the payment system is open to increased competition; and

3                             (D) outsized entities do not monopolize the financial infrastructure of the United States.

5                         (b) PURPOSES.—The purposes of this Act are—

6                             (1) to ensure that the United States has a safe, fast, efficient, equitable, and fair payment system;

8                             (2) to clarify that the Board of Governors of the Federal Reserve System has the existing authority to build a real-time payment system; and

11                             (3) to make certain that the Board of Governors of the Federal Reserve System follows through on implementing the system described in paragraph (2).

15 **SEC. 3. DEFINITION.**

16                         In this Act, the term “real-time” has the meaning given the term in section 602 of the Expedited Funds Availability Act (12 U.S.C. 4001), as amended by section 19 4(a) of this Act.

20 **SEC. 4. REQUIREMENT THAT FUNDS DEPOSITED BE AVAIL-**

21                         **ABLE FOR WITHDRAWAL IN REAL-TIME.**

22                         (a) DEFINITIONS.—

23                             (1) IN GENERAL.—Section 602 of the Expedited Funds Availability Act (12 U.S.C. 4001) is 24 amended—

1                             (A) by redesignating paragraphs (20)  
2                             through (25) as paragraphs (21) through (26),  
3                             respectively; and

4                             (B) by inserting after paragraph (19) the  
5                             following:

6                             “(20) REAL-TIME.—The term ‘real-time’—

7                                 “(A) means any time; and

8                                 “(B) includes a Saturday, Sunday, and a  
9                                 legal holiday.”.

10                             (2) TECHNICAL AND CONFORMING AMEND-  
11                             MENT.—Section 3 of the Check Clearing for the  
12                             21st Century Act (12 U.S.C. 5002(2)(D)(iv)) is  
13                             amended by striking “section 602(24)” and insert-  
14                             ing “section 602(25)”.

15                             (b) EXPEDITED FUNDS AVAILABILITY SCHED-  
16                             ULES.—Section 603 of the Expedited Funds Availability  
17                             Act (12 U.S.C. 4002) is amended—

18                                 (1) in subsection (a)—

19                                 (A) in the subsection heading, by striking  
20                                 “NEXT BUSINESS DAY” and inserting “REAL-  
21                                 TIME”;

22                                 (B) in paragraph (1)—

23                                 (i) by striking “Except as provided in  
24                                 subsection (e) and in section 604, in” and  
25                                 inserting “In”; and

1                         (ii) in the matter following subparagraph  
2                         (B) by striking “not later than the  
3                         business day after the business day on  
4                         which” and inserting “in real-time when”;  
5                         and

6                         (C) in paragraph (2), in the matter preceding subparagraph (A), by striking “not later than the business day after the business day on which” and inserting “in real-time after”;

10                         (2) by striking subsection (b) and inserting the  
11                         following:

12                         “(b) PERMANENT SCHEDULE.—Funds deposited in  
13                         an account at a depository institution by a check drawn  
14                         on a local or nonlocal originating depository institution  
15                         shall be available for withdrawal in real-time.”;

16                         (3) by striking subsection (c);

17                         (4) by striking subsection (d);

18                         (5) by redesignating subsections (e) and (f) as  
19                         subsections (c) and (d), respectively;

20                         (6) in subsection (c), as redesignated by para-  
21                         graph (5)—

22                         (A) in paragraph (1)—

23                         (i) in subparagraph (A)—

24                         (I) by striking “Not more than 4  
25                         business days shall intervene between

1                   the business day a” and inserting  
2                   “A”;  
3                   (II) by inserting a comma after  
4                   “subparagraph (B)”;  
5                   (III) by striking “is”; and  
6                   (IV) by striking “and the busi-  
7                   ness day on which funds from such  
8                   deposit are available for withdrawal”  
9                   and inserting “shall be available for  
10                  withdrawal in real-time”; and  
11                  (ii) in subparagraph (B), in the sub-  
12                  paragraph heading, by striking “PARA-  
13                  GRAPH” and inserting “SUBPARAGRAPH”;  
14                  and  
15                  (B) in paragraph (2)—  
16                  (i) by striking “, (b), and (c)” and in-  
17                  serting “and (b)”;  
18                  (ii) in the paragraph heading, by  
19                  striking “TEMPORARY AND PERMANENT  
20                  SCHEDULES” and inserting “PERMANENT  
21                  SCHEDULE”; and  
22                  (7) in subsection (d)(2), as redesignated by  
23                  paragraph (5), by striking “(c), or (e)” and insert-  
24                  ing “or (c)”.

1       (c) SAFEGUARD EXCEPTIONS.—Section 604 of the  
2 Expedited Funds Availability Act (12 U.S.C. 4003) is  
3 amended—

4              (1) in subsection (a)—

5                  (A) in paragraph (1)—

6                      (i) in the paragraph heading by strik-  
7 ing “NEXT BUSINESS DAY” and inserting  
8 “REAL-TIME”; and

9                      (ii) in the matter following subpara-  
10 graph (D) by striking “on the business day  
11 after the business day on which such cash  
12 or funds are deposited or, in the case of a  
13 wire transfer, on the business day after the  
14 business day on which” and inserting “in  
15 real-time after such cash or funds are de-  
16 posited or, in the case of a wire transfer,  
17 in real-time after”;

18                  (B) in paragraph (2)—

19                      (i) by striking “, 603(c), or para-  
20 graphs” and inserting “paragraph”; and

21                      (ii) by striking “603(e)” and inserting  
22 “603(c)”; and

23                  (C) by striking paragraph (3)(B) and in-  
24 serting the following:

1               “(B) any such funds deposited in excess of  
2               such amount shall be available for withdrawal  
3               in real-time.”;

4               (2) in subsection (b), in the matter preceding  
5               paragraph (1), by striking “(c), or (e)” and insert-  
6               ing “or (c)”;

7               (3) in subsection (c)(1), by striking “(c), and  
8               (e)” and inserting “and (c)”; and

9               (4) in subsection (d), by striking “(c), and (e)”  
10              and inserting “and (c)”.

11              (d) MISCELLANEOUS PROVISIONS.—Section 607 of  
12              the Expedited Funds Availability Act (12 U.S.C. 4006)  
13              is amended—

14              (1) by striking subsections (a) and (b); and

15              (2) by redesignating subsections (c) through (f)  
16              as subsections (a) through (d), respectively.

17              (e) REGULATIONS AND REPORTS BY BOARD.—Sec-  
18              tion 609 of the Expedited Funds Availability Act (12  
19              U.S.C. 4008) is amended—

20              (1) by striking subsections (d) and (f); and

21              (2) by redesignating subsection (e) as sub-  
22              section (d).

