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INSIGHT

Congressional Considerations for Financial Institution Transaction Holds

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Reported losses associated with financial fraud and scams have been increasing, garnering attention from law enforcement, private industry, policymakers, and the general public. According to the Federal Trade Commission (FTC), total losses from fraud were an estimated $262 billion in 2025. Such scams are often initiated through technology, including through social media or telecommunications, but finalized through financial institutions, including banks. These frauds and scams can deprive victims of their savings, deteriorate their overall financial health, and undermine public confidence in the financial system.

One way financial institutions can potentially counter such scams is by holding or postponing transactions or disbursements when they suspect fraud. This friction enables financial institutions to undertake more internal investigations, consult with the consumer or trusted contact to confirm the legitimacy of the transaction, and report such transactions to regulators or law enforcement. However, such holds can add additional time into the payments process and may introduce liability for financial institutions. In certain cases, banks are mandated to provide such funds under strict timelines, constraining the current fraud investigation and hold process. Policymakers have considered safe harbors limiting civil and administrative liability for such holds. The framework for state and federal transaction hold laws is fragmented by type and geography, described below.

State Context

Certain states have laws that allow or (in certain limited cases when mandated by law enforcement) require "financial institutions to hold transactions if they suspect (or are told) that financial exploitation might be occurring." According to an October 2024 FTC resource, roughly half of states have laws that apply to depository institutions, while additional states have more limited laws applying to broker-dealers or investment advisers. These state laws offer hold procedures for elder or disabled individuals, who policymakers might be particularly concerned about regarding their susceptibility to scams. Some financial institutions have suggested that they use such state hold laws to delay disbursements or hold transactions suspected of fraud. Researchers from Minnesota found that a fourth of cases voluntarily reported to the Minnesota Department of Commerce for suspicion of fraud featured a temporary hold and showed that the raw numbers of temporary holds have increased over time.

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Federal Context

The federal context for such laws is complex. Section 229.54(d) of Regulation CC does have a federal safeguard exception to hold a transaction for checks when "the bank has reasonable cause to believe that the claim is fraudulent." Analogous provisions do not generally exist for electronic transfers; however, financial institutions may sometimes hold such transactions under suspicion of fraud. Authority for such holds may rely on bank's terms of service (see one example from Bank of America). Interagency guidance issued in 2024 by the federal banking regulators states that transaction holds or disbursement delays "should be used appropriately and in compliance with applicable laws and regulations." For other financial transactions, FINRA's Rule 2165 "permits a member to place a temporary hold on a securities transaction or disbursement of funds or securities from the account of a Specified Adult customer when the firm reasonably believes that financial exploitation of that adult has occurred, is occurring, has been attempted or will be attempted."

Congressional Considerations

Certain legislation has been introduced and seen action in the 119th Congress pertinent to this policy issue. H.R. 2478/S. 2840 passed the House. H.R. 9331 was ordered to be reported out of the House Committee on Financial Services. Section 305 of H.R. 3633 (as reported to the Senate) contemplates temporary holds associated with certain forms of digital assets. Other bills have been introduced with relevant legislative language but have not yet received any action in Congress, including H.R. 9668, H.R. 10350, and H.R. 10495. These bills would contend with various policy questions, described below.

Certain general considerations for Congress include the following:

- Are transaction holds an effective way to reduce the amount of fraud and scams present in the United States?
- Is federal legislation needed, or is the current set of federal regulations and guidance with the state-by-state structure of transaction holds sufficient?
- How should Congress weigh adding such frictions on certain transactions with a desire for a more frictionless payment system?

If federal legislation is desirable, certain additional questions arise on the specific construction:

- What types of financial institutions and transactions should be covered by such language?
  - Certain bills have been tailored to a particular group of transactions. H.R. 2478 would apply to open-end investment companies and transfer agents redeeming mutual funds or certain other securities, and H.R. 9331 would generally apply to checks and wires. Other bills have been broader in covering a range of financial institutions, including H.R. 9668 and H.R. 10350.
- What individuals should be covered by such provisions? Should coverage be fairly broad or targeted at elders and disabled individuals, similar to state laws? Should eligibility be determined in a different way, such as by transaction amount?
  - H.R. 9331 and Section 305 of H.R. 3633 would apply universally among the product types covered. More in line with certain other bills and state laws, H.R. 2478 would apply to everybody 65 or older and individuals 18 or older "[who] such company reasonably believes has a mental or physical impairment that renders the individual unable to protect the individual's own interests."
- Should such holds be mandatory or voluntary on the part of financial institutions?

    - H.R. 10350 would require financial institutions that suspect exploitation of a senior citizen to place holds on proposed transactions. H.R. 3633 would require certain holds in compliance with temporary lawful orders by courts. Other bills contemplate voluntary holds, including other portions of H.R. 3633, H.R. 9668, H.R. 9331, and H.R. 2478.
- How should such provisions relate to existing state laws?
    - Different policy options include broad federal preemption of such provisions, non-preemption, deferring to state law when they provide additional protections, or remaining silent, which may result in certain questions over the relationship between federal and state laws.

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