

(2) *The liability of a bank for action or non-action with respect to any item handled by it for purposes of presentment, payment or collection is governed by the law of the place where the bank is located. In the case of action or non-action by or at a branch or separate office of a bank, its liability is governed by the law of the place where the branch or separate office is located.*

**4—103. Variation by Agreement; Measure of Damages; Certain Action Constituting Ordinary Care.**

(1) *The effect of the provisions of this Sub-title may be varied by agreement except that no agreement can disclaim a bank's responsibility for its own lack of good faith or failure to exercise ordinary care or can limit the measure of damages for such lack or failure; but the parties may by agreement determine the standards by which such responsibility is to be measured if such standards are not manifestly unreasonable.*

(2) *Federal Reserve regulations and operating letters, clearing house rules, and the like, have the effect of agreements under subsection (1), whether or not specifically assented to by all parties interested in items handled.*

(3) *Action or non-action approved by this Sub-title or pursuant to Federal Reserve regulations or operating letters constitutes the exercise of ordinary care and, in the absence of special instructions, action or non-action consistent with clearing house rules and the like or with a general banking usage not disapproved by this Sub-title, prima facie constitutes the exercise of ordinary care.*

(4) *The specification or approval of certain procedures by this Sub-title does not constitute disapproval of other procedures which may be reasonable under the circumstances.*

(5) *The measure of damages for failure to exercise ordinary care in handling an item is the amount of the item reduced by an amount which could not have been realized by the use of ordinary care, and where there is bad faith it includes other damages, if any, suffered by the party as a proximate consequence.*

**4—104. Definitions and Index of Definitions.**

(1) *In this Sub-title unless the context otherwise requires*

(a) *"Account" means any account with a bank and includes a checking, time, interest or savings account;*

(b) *"Afternoon" means the period of a day between noon and midnight;*

(c) *"Banking day" means that part of any day on which a bank is open to the public for carrying on substantially all of its banking functions;*

(d) *"Clearing house" means any association of banks or other payors regularly clearing items;*

(e) *"Customer" means any person having an account with a bank or for whom a bank has agreed to collect items and includes a bank carrying an account with another bank;*

(f) *"Documentary draft" means any negotiable or non-negotiable*