



March 5, 2004

Jennifer J. Johnson, Secretary  
Board of Governors of the Federal Reserve System  
20<sup>th</sup> Street and Constitution Avenue, N.W.  
Washington, D.C. 20551

Subject: Docket No. R-1176

Dear Ms. Johnson:

Boeing Employees' Credit Union (BECU) appreciates the opportunity to comment on the proposed amendments to Regulation CC. BECU is a state-chartered federally insured credit union with assets of \$4.7 billion and a membership base of over 350,000.

We support the Board's proposal to incorporate the term "banking day" as it has for other parts of the regulation as standard language. This provides consistency throughout the regulation.

In our opinion, given that Check 21 requires notification to the consumer, the Board should provide sample notices that could be used, within the appendix. We agree that the notices should be for notifying the consumers in the following situations: 1) their claim is valid, 2) their claim is not valid, 3) their account has been re-credited, 4) and their re-credit has been reversed. If a financial institution provides the Board's sample notice to the consumer, safe harbor should apply to the financial institution.

When a consumer requests a copy of an original check and receives a substitute check from the institution, the onus to provide disclosures is on the institution and as a result there should not be a distinction between the two alternatives stated in the proposal. The institution should have the latitude to provide disclosures at either interval.

We agree that the consumer awareness notice should clearly and conspicuously disclose that substitute checks are the legal equivalent of an original check for legal purposes if it accurately represents the information on the front and back of the original. In our opinion, institutions should provide this notice in their account agreement booklet at the time the account is opened and each time a substitute check is requested. Financial institutions should be presumed compliant with the Act if they use the model form that accurately describes the institution's policies and practices.

We did not read where the statute specifically addressed the re-credit issue. We feel the Board should provide specific language outlining the liability associated with the timing of re-crediting. It would be helpful if additional commentary was provided.

We feel Check 21 should adopt the warranty language consistent with the ACH Check Truncation rules. It is critical that these warranties are looked at in parallel as the payment industry converges into similar mediums. If an item fails to meet any of the other substitute check requirements it should be treated under specifically limited circumstances as a valid substitute with the same warranties.

We agree with the proposed indorsement and identification standards on the technical constraints outlined and the subsequent specification for location of endorsement. We also support the Board's proposal to amend Appendix D to allow for endorsements on the front of the checks as long as there are location specifics for these endorsements.

We feel that after providing a re-credit, it is determined that the consumer's claim is not valid, the proposal to allow the institution to reverse both the amount it previously re-credited plus any interest that it has paid on that amount is an appropriate approach. We feel this should be addressed in the commentary of the regulation.

We agree with the following provisions of the miscellaneous section of the proposal:

- Clarification of the definition of local paying bank on how to determine whether deposits mailed to a central check processing facility are local or non-local;
- Clarification that a special deposit slip notice need not be posted at each teller window, but must be posted where consumers are likely to see it before making a deposit;
- Providing exception hold notices via electronically must comply with the requirements of the E-Sign Act;
- The extension of time to 45 days, however, in our opinion, the regulation should exclude the waiver overdraft or other subsequent fees associated with the delay based on the criteria outlined in the proposal;
- The timeframe for providing a notice of non-payment is appropriate as outlined;
- Additional commentary should be provided that includes the interaction of Check 21 and ACH check truncation.
- We also agree with the revision to incorporate remotely created consumer items while warranting the depository bank will assist in controlling the type of fraud identified more effectively.
- Board proposes including only a general reference to generally applicable industry standards in the rule text. We agree with if only one industry standard applies, the proposed commentary would identify that standard. We would prefer that the Board identify specific industry standards within the text of the rule.

Thank you for the opportunity to respond to the proposal. We look forward to the final outcome.

Sincerely,

BOEING EMPLOYEES' CREDIT UNION



Gary J. Oakland  
President and CEO



Grace Semingsen  
Vice President of Member Services