



Submitted via email: [regs.comments@federalreserve.gov](mailto:regs.comments@federalreserve.gov)

May 2, 2014

Robert deV. Frierson  
Secretary  
Board of Governors of the Federal Reserve System  
20th Street and Constitution Avenue NW  
Washington, DC 20551

Re: Availability of Funds and Collection of Checks  
[Regulation CC; Docket No. R-1409, RIN 7100-AD68]

Dear Mr. deV. Frierson:

This comment letter represents the views of the Cornerstone Credit Union League regarding the Federal Reserve Board's (Board's) proposed changes to Regulation CC on the availability of funds and collection of checks. By way of background, Cornerstone is the official trade association serving 559 federal and state credit unions in Arkansas, Oklahoma, and Texas combined, and more than 8.5 million credit union members. Cornerstone appreciates the opportunity to comment on this very important issue.

Cornerstone generally supports efforts to improve the check clearing process. However, we have concerns with the proposed changes relating to remote deposit capture (RDC). Our members feel the changes would increase risks for all financial institutions that offer RDC, and we ask the Board to consider appropriate, alternative approaches. In addition, we are concerned about the impact the proposal will have on small credit unions if all credit unions are required to use electronic returns. Finally, we request an extension of the effective date to at least one year after the final rule is issued, to provide adequate time for credit unions to implement any changes.

#### *Remote Deposit Capture*

Our member credit unions have concerns that the proposed changes would increase risks for institutions offering RDC. Credit unions and other financial institutions offering RDC have generally taken steps such as requiring restrictive endorsements in an effort to reduce the risk of duplicate presentments and the likelihood that other institutions will deposit the paper check again after they have honored it. Therefore, we request that the proposed indemnity be applied only to paper checks that have not been restrictively endorsed.

We fear unintended consequences such as potential reductions in RDC services for consumers and businesses. These proposed changes would increase risks and liability to all financial institutions offering RDC, and the risk management effects and adjustments may be more significant for smaller institutions that handle a smaller volume of transactions.

#### *Return Requirements*

Cornerstone is concerned the proposed changes would penalize some smaller institutions that currently rely on paper returns. Smaller institutions that currently rely on paper returns would incur costs to shift to electronic returns. Based on the Board's December 2012 data, which is the latest available, approximately 31% of smaller institutions with assets of \$500 million or less had not made

arrangements to receive electronic returns. We have many member credit unions below this threshold that could be severely impacted.

#### *Same Day Settlement*

The proposal would also retain, without change, Reg CC's current same-day settlement rule for paper checks, which requires a paying institution to provide same-day settlement for checks presented in accordance with reasonable delivery requirements established by the paying institution and presented at a designated location.

Credit unions generally support retaining the current same day settlement rule for paper checks, while also permitting financial institutions that use electronic check presentment to determine the terms of presentment by agreement.

#### *Electronic Checks and Returns*

Credit unions have some concerns that the proposed changes to cover electronic checks and returns under Reg CC could potentially result in some increased risks to financial institutions because electronic checks and returns are currently governed by agreements between financial institutions. The Board should address and limit any increased risks to financial institutions.

#### *Electronically-Created Items*

The Board should clarify the indemnities and warranties in Reg CC that should apply to electronically-created items. However, electronically-created items are fairly recent developments and the Board should provide appropriate flexibility for financial institutions to vary certain terms by agreement, and also address risk management regarding the unique attributes and risks associated with electronically-created items.

#### *Delayed Effective Date*

The Board should provide a delayed effective date of at least one year from the issuance of a final rule to provide adequate time for credit unions and others to implement any Reg CC changes. Credit unions are under a barrage of new regulatory burdens issued from various regulators. Changes in this area add to the burden.

The proposed changes regarding paper returns will disproportionately impact smaller institutions, including some credit unions, which currently rely on paper returns. Also, all financial institutions offering RDC will need time to make risk management and other changes to comply with the proposed RDC changes. In general, financial institutions will need time to make training; processing; disclosure and agreement updates; and other necessary changes internally and through their payment processors.

Thank you for the opportunity to comment on this proposal. If you have any questions concerning our letter, please feel free to contact me at [syashewski@cornerstoneleague.coop](mailto:syashewski@cornerstoneleague.coop) or (512) 853-8516.

Sincerely,



Suzanne Yashewski  
SVP Regulatory Compliance Counsel  
Cornerstone Credit Union League