



William J. Schoch  
President & CEO

May 5, 2014

Federal Reserve Board  
Secretary, Board of Governors  
20<sup>th</sup> Street and Constitution Avenue, NW  
Washington, DC 20551

**RE: Response to Regulation CC Request Proposal**

Dear Mr. deV.Frierson,

Western Payments Alliance (WesPay) appreciates the opportunity to provide comments to the Federal Reserve Board (the Board) on its proposed rule for Regulation CC, Collection of Checks (Reg. CC). We welcome the Board's efforts to facilitate the banking industry's transition to a full electronic check collection and return processing that reflects the evolution of the check collection system to one that is virtually all electronic.

Introduction

WesPay is a non-profit trade association with 1,200 members, including financial institutions, third-party payment providers and users of payments services in the Western U.S. We are dedicated to promoting the growth and best use of electronic payments through education, information exchange, and member advocacy.

Framework for Return Requirements

In preparing our response, WesPay surveyed our members and requested input on significant components of the proposal. Based on comments received, WesPay supports Alternative Two, which keeps the expeditious return timeframe and eliminates the notice of non-payment requirement. Our members agree that the expeditious return timeframe should remain in place to reduce the risk of items being returned later in the collection process. WesPay believes that by maintaining the expeditious return timeframe, we send a message to the industry that promotes electronic collections.

The majority of our members support elimination of the notice requirement, whereby the paying bank must give notice on item(s) over \$2,500. With all items now being local, most returns and notices are arriving at the Bank of First Deposit (BOFD) on the same day. Members have voiced concern that this may need to be revisited at a later time to make sure additional risk has not been incurred due to elimination of the notice.

### Indemnity for Duplicate Items

WesPay members sharing an opinion agree with the new indemnity being proposed for duplicate items presented in a remote deposit capture environment. Members stated this would have little to no impact on their business strategy. However, there are questions on the practical application, including the following:

- How would the BOFD that received the paper item know the remote capture BOFD?
- How would a BOFD go back to the other BOFD? Would there be a new adjustment process for this scenario?
- Would there be cases when the BOFD receiving the paper would not have a claim back to the RDC BOFD, as in the case of theft of the original check and the deposit by someone other than the maker?

### Settlement, Electronic Payment Orders and Return Codes

WesPay members agree that Reg. CC's current settlement rules for paper checks should remain unchanged. They agree that eliminating the endorsement requirement in Appendix D of the regulation would have little to no impact on the collection or return process. Under the proposal, electronic checks and electronic returned checks that financial institutions exchange by agreement would also be subject to the check collection and return provisions under Reg. CC, unless otherwise agreed by the sending and receiving institutions.

Although there were differing comments relating to electronic payments orders, the majority of the membership agreed these items should be cleared as checks and under the authority of Regulation CC. Members stated that this would eliminate the burden of having to print a piece of paper and then image it for clearing in order to be considered an eligible item. Members agreed having the image of the item provides more transaction detail and processing information than other types of electronic payments.

WesPay members agree that providing specific examples of when refer-to-maker may and may not be used will help address the concern of over-usage of this return code. Members commented that the industry should continue developing appropriate return reason codes that will, at some point, result in the elimination of refer-to-maker. All members agree that this return code requires further investigation to determine the appropriate reason as to why the item is being returned. Members feel that understanding the need to handle returns appropriately without assuming additional risk is an important first step, but it does not completely resolve the issue.

Conclusion

WesPay appreciates the opportunity to participate in the rule making process and is committed to working with the Federal Reserve Board to promote a clear, understandable regulation. Thank you for the opportunity to comment on this proposal and for considering our input.

Sincerely,

A handwritten signature in blue ink, appearing to read "WJ Schach".

cc: WesPay Board of Directors