

From: Beverley Rutherford <beverley.rutherford@vacu.org> on 03/12/2004 04:50:38 PM
Subject: Availability of Funds and Collection of Checks

We appreciate the opportunity to comment on the Federal Reserve Board's (FRB) proposal to amend Regulation CC and add Subpart D to implement provisions of the "Check 21" Act. Overall, we support the Act and its intent to allow truncation of paper items during the collection process. We offer the following comments and/or suggestions.

Section 229.2(zz)

We recognize the potential for various standards to develop regarding substitute checks and request that the final regulation include reference to a general industry standard from which substitute checks must conform. In addition, we believe to ensure uniformity a specific list of standards could be outlined in the Commentary. Whichever standards are named, we believe they should include specifications regarding allowable image shrinkage on a substitute check. We also support the concept of all substitute checks being the legal equivalent of the original check, even if they have an error in the MICR line.

Section 229.51(c)

Based on the comment in 229.2 (zz) above, we believe this section should be deleted (or amended) as we support substitute checks being the legal equivalent of the original check, even if there is an error in the MICR line.

Section 229.52(a)(2)

On the request for comment on duplicate debits resulting from ACH or other electronic fund transfer, we believe that separate ACH rules and consumer protections apply to electronic fund transfers and thus we feel a reconverting bank should not be in breach of the warranty under Section 229.52(a)(2) in the event an ACH or other electronic fund transfer is subsequently initiated from an original or substitute check.

Section 229.57(b)

In the proposal, the FRB requested comment on two alternatives for a financial institution to use regarding the delivery of the consumer education notice when a financial institution delivers a substitute check to a consumer when they request a copy of the check. We support the second alternative proposed, which is to send the notice at the time the financial institution provides the substitute check. We believe this alternative is a much more efficient way to deliver the notice, as well as more meaningful to the consumer when they receive the actual copy.

Appendix C - Model Disclosures

The model disclosure to consumers appears to contain complex and lengthy details of the regulation than what is required by the "Check 21" Act. We respectfully request that the FRB consider shortening the model disclosure to contain those elements that would be meaningful to the consumer, including a brief explanation of the substitute check and the consumer's rights under the Check 21 Act for expedited recredit.

General

We support the use of "banking" day as opposed to "business" day in this proposal for recrediting purposes. We believe this definition is consistent with other consumer regulations, specifically other parts of Regulation CC and Regulation E.

Thank you for your consideration of these comments.

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