

From: "Randal Kinder" <RandyK@sunflowerbank.com> on 03/12/2004 02:31:04 PM
Subject: Availability of Funds and Collection of Checks

Docket Number R-1176

Sunflower Bank Comments on Proposed
Changes to Regulation CC

Question: The board request comments on what benefits, if any, there would be in providing returning banks with the flexibility to indorse on the front of the checks and to include additional information in their indorsements.

Sunflower Bank response: They are currently on the back of the checks with no apparent difficulties with present system. Indorsements on the front of the item could cause confusion in the banking industry. We do not see any benefit with allowing indorsements on the front of the check.

Question: The board requests comment on whether an item that fails to meet any of the other substitute check requirements in 229.2 (zz) also should be treated as though it were a substitute check for limited purposes.

Sunflower Bank response: We believe recipients of such items should have warranty and indemnity rights and where applicable, re-credit and consumer awareness disclosure rights under subpart D as though the items were a substitute check.

Question: The board specifically requests comment on whether using information from a check to create an ACH debit entry should be a payment request covered by this warranty.

Sunflower Bank response: We believe that Regulation E and the National ACH Association should cover situations where a paper check is converted to an ACH item.

Question: The board request comments on both adjustments relating to time period calculations.

Sunflower Bank response: For those financial institutions who offer "substitute checks" in statements we believe the 40-day deadline is acceptable. We also believe that "business days" as defined in Regulation CC are acceptable. We also agree that interest adjustments are acceptable.

Question: The board requests comment on whether interest credit should be reversed as statute does not specifically provide and whether or not its proposed reorganization of the statutory provisions regarding action on claims is an improvement over the statutory organization and encourages commenters to provide specific organizational suggestions.

Sunflower Bank response: If the bank determines the claim is not valid, it should have the right to reverse the interest and the amount that was credited if bank determine's that the substitute check was properly charged. A notice

would be appropriate to the customer of the reversal.

Question: The board proposes two alternatives rule provisions regarding when a bank must provide the disclosure to a consumer who requests a copy of a check. One alternative tracks the statute and requires a bank to provide the disclosure at the time of the request, but the other alternative requires provision of the disclosure at the time the bank provides the substitute check to the consumer. The board specifically requests comments on which of these alternatives is preferable.

Sunflower Bank response: Sunflower Bank does not have a preference because we will be providing imaged statements.

Question: The board requests comment on whether it would be appropriate to incorporate the UCC revisions related to remotely-created demand drafts.

Sunflower Bank response: Sunflower Bank agrees that the person who transfers a remotely created consumer item to warrant that the person on whose account the item is drawn authorized the issuance of the item in the amount for which the item is drawn.

Sunflower Bank Question: If a customer requests needs a check for legal purposes, will their image suffice or will we be required to print in the format of the substitute document?

Response: Please respond to Sunflower Bank in care of randyk@sunflowerbank.com

Sincerely,

Randy Kinder
Vice President