

First National Bank

LOUISBURG • STILWELL, KANSAS

April 18, 2005

Jennifer J. Johnson, Secretary
Board of Governors, of the Federal Reserve System
20th Street and Constitution Avenue, NW
Washington, DC 20551

RE: Regulation J and CC; Docket No. R-1226

Dear Mrs. Johnson:

The purpose of the proposed amendment is to shift liability for unauthorized remotely created checks to the depository bank. We appreciate the opportunity to provide comment on the proposed amendments to Regulation CC that would define "remotely created checks" and create transfer and presentment warranties for such checks. Our comments to the Proposal are outlined below:

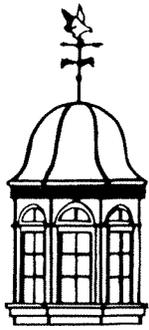
I. Proposed Definition. The proposal defines "remotely created check" as a check that is drawn on a customer account at a bank, is created by the payee, and does not bear a signature in the format agreed to by the paying bank and the customer. We disagree that the definition should include "created by the payee". We believe there are circumstances in which individuals, or illegitimate businesses or organizations could be working together, that that the check may not be necessarily created by the payee, but by an associate or accomplice made payable to another individual, business or organization. We suggest that the definition could include "created by any person(s) or entity(ies) other than the customer".

II. Proposed Transfer and Presentment Warranties. The Board proposes to create transfer and presentment warranties that would apply to remotely created checks that are transferred or presented by banks to other banks. We agree that any transferor bank, collecting bank, or presenting bank should warrant that the remotely created check that it is transferring or presenting is authorized according to all of its terms by the person on whose account the check is drawn. The depository bank is in the best position to identify a fraudulent remotely created check. Depository banks are required to know their depositors and should be able to quickly identify any deviation from normal depositing habits. At the depository

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bank, each check is normally handled at least once to balance or capture information.

III. Extension of the Midnight Deadline. In shifting liability from the paying bank to the depository bank, we feel it is essential to have the Midnight Deadline extended. There is no way to detect remotely created checks and separate them from other paper checks presented for payment. **Even if there was a way to separate remotely created checks from other paper checks, it would still be impossible to tell if the customer had actually authorized the payment.** Because of the lack of a personal signature, the bank has no reasonable way determine if the check was authorized. This makes it necessary for the deadline to be extended until the customer can reasonably receive a statement containing information in regard to the remotely created check. Extending the deadline to 60 days would accommodate that purpose, as it has for unauthorized ACH transactions, which also lack an actual customer signature.

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IV. Allow State Legislatures to Adopt the UCC Amendments. The UCC warranty should be uniform throughout the states. Allowing states to adopt variations thereof would be too confusing, and could drive illegal activities to "easier" states.

V. MICR Line Identifier. We believe that a MICR Line Identifier would be of little value. A person depositing an unauthorized remotely created check would be unlikely to use a unique identifier. And, as previously stated, identifying the remotely created check still does not allow the bank to detect an unauthorized remotely created check from an authorized remotely created check.

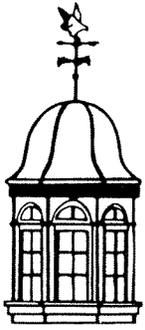
VI. Paperwork Reduction Act. At this time, there appears to be no valid reason to identify how many remotely created checks are presented. We believe this would be an unnecessary and meaningless requirement.

VII. Economic Impact of the Proposed Warranties on Small Institutions. We believe that shifting liability from the paying bank to the depository bank would actually have a positive impact on smaller banks that could inadvertently pay, and be

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responsible for, an unauthorized remotely created check. The tendency of small banks to perhaps know the habits of their customers better than a large institution would help in identifying unauthorized remotely created checks at the time of deposit with very few changes in procedure. Likewise, extending the midnight deadline would have little operational impact since it is similar to ACH rules already in effect. We do not believe changes necessary for a separate MICR line identifier would benefit a small bank, and would involve unnecessary time and expense.

Thank you again for the opportunity to comment on this proposal.

Sincerely,


Mary Schaumburg
Cashier

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