



BEST IMAGE AVAILABLE

April 15, 2005

Ms. Jennifer J. Johnson, Secretary
Board of Governors of the Federal Reserve System
20th Street and Constitution Avenue, N.W.
Washington, D.C. 20551

Re: Regulation CC – Docket No. R-1226

Dear Ms. Johnson,

World Savings Bank appreciates the opportunity to provide the following comments regarding the proposed amendments to Regulation CC relating to "remotely created checks." World Savings Bank agrees with shifting the liability for unauthorized remotely created checks to the depositary bank with the following comments:

1. The Board requests comment on all aspects of the proposed definition of a remotely created check and how best to distinguish remotely created checks, to which the proposed warranty would apply, from other fraudulent checks, which would not be subject to the proposed warranty.

We advocate changing the definition of a remotely created check (RCC) to conform to the definition of such items as currently included in the Commercial Codes of California and Texas, among other states. Thus, a remotely created check would be defined as:

a writing not signed by a customer that is created by a third party under the purported authority of the customer for the purpose of charging the customer's account with a bank. A remotely created check shall contain the customer's account number and may contain any or all of the following:

- (1) The customer's printed or typewritten name.
- (2) A notation that the customer authorized the draft.
- (3) The statement "No Signature Required" or words to that effect.

- o We believe the primary distinctive feature of an RCC will be absence of a customer signature. Presented check items that contain signatures (whether handwritten or machine stamped) other than the customers' would fall under the traditional forgery definition. These items would not be RCCs and would not be subject to the proposed warranties.
 - o In addition, we request that the Commentary be clarified to indicate that the RCC warranty does not extend to situations of "buyer's remorse."
2. The Board requests comment on the scope of the proposed transfer and presentment warranty.

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- o We agree that the proposed warranties would apply to all transferring, collecting, and presenting banks, ultimately shifting liability to the depository bank. We believe the rule should give the bank of first deposit the right to recover from the drawer of the draft if the deposit agreement between the drawer and drawee bank provides the language.

The Board seeks comment on the prevalence and uses of remotely created checks generally.

- o Approximately 30% of our claims for unauthorized check items consist of RCCs.
 - o We have observed the primary uses of RCCs to be for recurring payments (auto loans, communication companies, etc.), by debt recovery companies, and by telemarketing companies.
3. The Board requests comment on the general characteristics of remotely created checks, including the manner by which such checks typically reflect the account-holder's authorization.
- o We have observed that the typical RCC is a business-size check with the statement "no signature required – authorized by customer" or similar phrasing at the standard location for a signature. It generally includes the customer name, with or without the address.
4. The Board invites comment on whether it is appropriate to cover all remotely created checks or to follow the UCC approach of covering only remotely-created consumer items.
- o We believe the warranty should cover all RCCs seeking to debit both consumer and non-consumer accounts.
5. The Board requests comment on alternatives:
- o Extension of midnight deadline: Commenters that favor the extension of the midnight deadline are encouraged to explain their preference for this approach, including how such an approach would be implemented under the current check collection process.
 - We are in favor of extending the UCC midnight deadline to 60 calendar days following the day of presentment similar to the ACH rules. This is due to the fact that our customer depositors do not normally identify unauthorized draft entries until after the receipt of their monthly statements – typically more than 30 days following presentment.
 - We would be agreeable to the proposal to extend the midnight deadline for remotely created checks under \$1,000, so that such checks could be returned "with entry" under a return cash letter to allow for expeditious handling.
 - We would be agreeable to the additional proposal to continue to support treatment of claims of remotely created checks over \$1,000 under the rules

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for breach of warranty. This would give a depository bank the opportunity to investigate the claim. However, we suggest a timeframe of 10 business days for the depository bank to conduct its investigation and provide documentation of customer authorization to the paying bank, in order, to prevent the debit to their master account. If a valid document of authorization cannot be provided within 10 business days, the ability to chargeback with entry is requested.

- o Allow the State Legislatures to adopt the UCC amendments:
 - We believe the banking system will benefit from having a unified national rule. Therefore we do not believe the Board should refrain or delay acting on the RCC issue while waiting for individual states to adopt the UCC amendments.
 - o MICR Line Identifier:
 - We do not support having a MICR line identifier to assist in identifying RCCs. Compliance throughout the industry would be difficult to achieve. In addition, there would be no incentive for a person depositing a fraudulently created RCC to comply.
6. The Board requests comment on whether banks should be required to ensure that a remotely created check includes identifying digits in the MICR line. The board invites comment on the paperwork burden associated with the MICR line requirement.
- o We do not agree with requiring banks to ensure an RCC includes a MICR line identifier. If a depository bank accepts an RCC without the MICR line identifier would there be a breach of warranty?

We thank the Board for the opportunity to comment. Should you have any questions regarding our position, please contact me at (210) 543-4492.

Sincerely,



Peter Cowger
Group Senior Vice President

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c: Payment Systems