



HOLDING COMPANY

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June 3, 2011

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

VIA ELECTRONIC SUBMISSION

Re: Regulation CC; Docket No. R-1409; March 25, 2011

Dear Ms. Johnson:

Thank you for giving us the opportunity to comment on the proposed changes to Regulation CC - Availability of Funds and Collection of Checks. We are supportive of the Board's initiative as it will modernize the regulation to reflect practices already occurring as a result of image exchange.

Our only concerns with the proposed rule relate to (1) requiring notification of exception holds to be delivered electronically, (2) eliminating refer to maker as an allowable return reason, and (3) modifying the exception hold notice for ease of customer understanding.

While the concept of electronic notification makes sense in theory, the practice requires significant computer programming efforts. It is not as simple as e-mailing a notification to a customer. Rather, there are security concerns, delivery options, and system designs that must be addressed.

Our general funds availability policy is to provide customers access to their funds the business day following the day of deposit. In our practice, exception holds are truly and exception. This practice is beneficial to both the customer and the bank. The customer receives timely credit for his or her deposit and the bank has sufficient time to verify the validity of any questionable deposited items. If we were required to provide an exception hold notice at the time of deposit, this process would be completely derailed. As a result, we would likely be forced to change our policy and routinely delay the availability of items not covered under section 229.10(c). This would greatly adversely affect the vast majority of our depositors who now enjoy our policy of providing next day availability.

Our goal is to create processes whereby all communication is delivered electronically to customers who have elected to enroll in the service. We have made considerable progress in accomplishing this goal, however, these processes take a significant amount of time to develop and implement, and must be balanced with other company priorities. As such, we do not believe it reasonable for the Board to dictate the speed with which these projects are completed. Rather, the rule should allow for electronic delivery of the notice, but not mandate it.

The Board specifically points out that non-electronic delivery of a case-by-case notice is effectively useless as the hold would be released prior to the notice being received by the customer. While we agree with this, we again point out that electronic delivery of the notice is not as simple as the Board's recommendation of simply e-mailing a notice to the customer. As part of the overall case-by-case hold discussion, the Board questions the continued usefulness of the hold. We are indifferent to keeping the case-by-case option in the regulation as we do not actively use this hold option.

With regard to eliminating the "refer to maker" return reason, we are opposed. While the Board is correct in its assessment that refer to maker is an instruction to the recipient, rather than a specific return reason, we contend that it has proven useful in directing the payee of an item to contact the maker regarding non-payment of the item. Much like the "Unauthorized" and "Authorization Revoked" return reasons through the Automated Clearing House, refer to maker removes items from the payment system where settlement is best resolved between maker and payee, not the banks upon which the items are deposited and drawn. Additionally, the Board does not administer other return reasons under Regulation CC, so it is incongruent that only refer to maker be under the authority of the regulation.

We would also like to point out a potential design flaw in Model C-9 - Exception or Reasonable Cause Hold Notice. The model notice requires us to state: "This notice is to inform you that we are placing a (number)-DAY HOLD on \$(deposit amount) recently deposited to your account." While we appreciate the Board's belief that customers will better track their deposits by the total amount of the deposit rather than the amount of the item being held, the notice is misleading. An example may help illustrate this point.

If a customer deposits a \$2,000 item and an \$8,000 item, of which the bank elects to place an exception hold on \$8,000 of the deposit, then the notice would read: "This notice is to inform you that we are placing a FOUR-DAY HOLD on \$10,000 recently deposited to your account." This, however, is not true. Rather, we are placing "a FOUR-DAY HOLD on \$8,000 recently deposited" to the account. Since the deposit amount will be clarified in the details of the notice, the model form should be revised to read: "This notice is to inform you that we are placing a (number)-DAY HOLD on \$(hold amount) recently deposited to your account."

Thank you for your consideration of my comments. If you have any questions or need clarification on any issue I have raised, please contact me at (303)235-1353.

Sincerely,



Jeff Asher, CRCM, CAMS
Senior Vice President