



**National Association  
of Federal Credit Unions**  
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NAFCU | Your Direct Connection to Education, Advocacy & Advancement

June 3, 2011

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

RE: Docket No. R-1409 and RIN No. 7100-AD68

Dear Ms. Johnson:

On behalf of the National Association of Federal Credit Unions (NAFCU), the only trade association that exclusively represents the nation's federal credit unions, I am writing to provide NAFCU's comments on the Board's proposed changes regarding availability of funds and check collection. NAFCU is generally supportive of the changes; however, we have a few concerns, most notably concerning case-by-case holds, the proposed changes regarding notice in lieu of return, and same day settlement requirements.

First, NAFCU does not support eliminating the provisions regarding case-by-case holds. Several credit unions still employ case-by-case holds to help protect against the possibility of bounced checks. The Board is correct that the absence of nonlocal checks makes the extended hold period for case-by-case holds less useful. However, this is a case where credit unions would prefer an imperfect instrument for protection than no protection at all. While an institution may often times be required to make funds available before it learns of the check being returned unpaid, the case-by-case hold still offer some minimal protection. As such, the Board should not eliminate that section of the regulation.

NAFCU is concerned with the proposed changes regarding the notice in lieu of return. As a preliminary manner, NAFCU does not support eliminating entirely the notice in lieu of return. As the check processing system becomes more highly digitized, it is true that there will be fewer and fewer instances where a notice in lieu of return is necessary. Nevertheless, it is still possible that there will be times where a notice in lieu of return is the best method available to an institution returning a check. There seems little reason not to provide flexibility in this regard.

NAFCU does not support eliminating § 226.36(f)(1). This section permits a paying bank to require paper checks presented for same-day settlement be separated from other forward-collection checks or returned checks. Eliminating this provision seems counterintuitive to the expressed policy goals of the rule; namely to promote efficiency through increased use of electronic collection and return of checks. Permitting paper checks presented for same-day settlement to be grouped with all other paper checks obviously creates more burdens for the paying bank, while simplifying matters for the depository bank that is processing paper checks. Eliminating the provision, at the least, does not encourage electronic check collection and

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arguably may serve as an incentive as it would simplify the process for institutions that process paper checks at the expense of other institutions.

Closely related to the issue above, NAFCU does support requiring checks presented for same-day settlement to be presented electronically. Requiring electronic presentment in this instance is more efficient for each institution involved, and obviously helps expedite and simplify the check clearing process.

NAFCU appreciates the opportunity to share our thoughts on the proposal. If you have any questions or concerns, please feel free to contact me.

Sincerely,

A handwritten signature in black ink that reads "Dillon Shea". The signature is written in a cursive, slightly slanted style.

Dillon Shea  
Associate Director, Regulatory Affairs