



MISSOURI CREDIT UNION ASSOCIATION

June 3, 2011

Ms. Jennifer Johnson  
Secretary  
Board of Governors of the Federal Reserve System  
20<sup>th</sup> Street and Constitution Avenue, NW.  
Washington, DC 20551  
[regs.comments@federalreserve.gov](mailto:regs.comments@federalreserve.gov)

**RE: Regulation CC Docket No. R-1409, RIN No. 7100 AD 68  
Availability of Funds and Collection of Checks**

Dear Ms. Johnson:

On behalf of Missouri's 139 credit unions, the Missouri Credit Union Association would like to comment on the Federal Reserve's proposed amendments to Regulation CC, Availability of Funds and Collection of Checks. We recommend the hold periods for ATMs and certain exceptions remain at levels that mitigate fraud among the credit unions. Additionally, we oppose the deletion of the case-by-case hold and the electronic notice transmittal mandate.

Deposits at ATMs (Proposed § 229.12(d))

**ATM holds** - The reduction of the maximum hold period for nonproprietary ATM deposits from 5 to 4 days places credit unions whose ATMs do not have image capture capabilities at risk for fraud. Currently, these credit unions must manually retrieve and review the composition of a deposit. At best, the cost and burden of upgrading ATM networks should be delayed or phased in over time to allow ATM upgrade.

**ATM versus in-person deposits** – We support the current distinction between the funds availability at ATMs versus availability of in-person should remain in place. ATM deposits are not verifiable at the time of deposit unlike in-person deposits creating a much higher risk of fraud.

Notice of exception (Proposed § 229.13(g))

Notice at time of case-by-case delay (Proposed § 229.16(c)(2)(ii))

**Electronic notices** – Mandating electronic transmission of notices creates the burden of integrating vendor platform systems which may or may not be feasible. If software systems cannot be connected, the proposal burdens the credit union with a timely manual resolution.

As stated, the mandate is based on the consumer having an electronic communication agreement with the credit union on any one product. Such an agreement (e.g. a loan) should not be broadly interpreted such as to mandate an electronic notice on other products (e.g. deposit). We strongly recommend that, in the spirit of other regulations, transmitting notices electronically be *optional*.

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Availability of deposits subject to exceptions (Proposed § 229.13(h))

**Reasonable hold extension** - The reduction of the safe harbor for the reasonable hold extension for other checks from 5 to 2 business days presents significant risk to credit unions. During the past five years, Missouri credit unions have experienced an increasing number of counterfeit checks. Specifically, fraud involving invalid routing numbers which delays the presenting and returning of these counterfeit checks. While the proposed changes to expeditious returns will potentially reduce the return time, such a dramatic drop in the reasonable hold extension days creates too dramatic a reduction in too short of an implementation period of time.

We believe this proposal should be deferred at least 12 months until the system has adapted to the majority of other changes proposed. At that time, a study should be conducted to determine the effectiveness of the new regulations and allow for adjustments accordingly. If the study determines that checks are being expeditiously returned, reduce the safe harbor time period by one day each year, over a three year period.

Specific availability policy disclosure (Proposed § 229.16)

**Case-by-case holds** – The Board requested comment on the usefulness of case-by-case holds and whether this provision should be deleted altogether. Using the case-by-case hold allows the credit union to research the probability that the check will be paid or returned prior to making the funds available to the consumer. With the omission of nonlocal checks, eliminating the case-by-case hold may adversely decrease availability of funds for non-next day items. For example, in order to compensate, credit unions that allow next day availability on non-next day items may change policy to require maximum hold limits. We recommend that the case-by-case hold remain in place as protection for the consumer and the credit union.

Exceptions to expeditious return of checks (Proposed § 229.30(b))

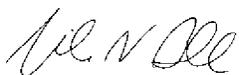
**Expeditious returns** – The proposed regulation forces credit unions to return checks electronically to qualify for expeditious returns. We strongly recommend delaying this proposal at least 12 months in order to allow smaller credit unions to adapt to the new culture. We feel that forcing a credit union to incorporate additional electronic systems and modify procedures to qualify for expeditious returns too quickly is unreasonable and costly.

Notice of nonpayment (Proposed § 229.33)

**Notice of nonpayment** - The proposed regulation would eliminate the requirement that the paying bank provide notice of nonpayment when a check for \$2,500.00 or more is being returned. The removal of this requirement in conjunction with the other proposed regulation will result in a state of confusion for a period of time unnecessarily exposing credit unions to fraud. We suggest that deletion of this requirement be delayed for 12 months after the implementation of Subpart C. We also recommend that it be applied to all institutions at the same time as opposed to allowing a grace period. A delay will allow time for alternate systems and procedures to be put in place to safeguard the credit unions.

In summary, given the numerous changes proposed, we recommend that specific hold periods remain unchanged at this time. Phasing in particular sections of the proposal would create a more stable environment and reduce the risk of fraud among smaller credit unions allowing for analysis and reflection as changes are implemented. If we can provide additional explanation or information, please contact me. Thank you for the opportunity to comment.

Sincerely,



Michael V. Beall, Esq.  
President/CEO