

From: Dupaco Community Credit Union, Todd J. Link
Proposal: 1409 ver. 2 (RIN 7100-AD68) - Reg CC - Availability of Funds and Collection of Checks
Subject: Regulation CC

Comments:

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Proposal: Regulation CC: Availability of Funds and Collection of Checks [R-1409]

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RE: 1409 ver.2 (RIN 7100-AD68)-Reg CC-Availability of Funds and Collection of Checks

Thank you for the opportunity to extend my comments regarding potential changes to Reg CC as it pertains to shifting liability to financial institutions accepting remotely deposited items and indemnifying institutions that could later accept the original paper item.

I fully appreciate the concern about dual presentment of a remotely and physically deposited item but this proposed action is counterproductive to the long-term desire by the payment industry to move toward more expansive electronic banking and is against consumers who seek to actively use remote deposit capture. A change in the liability of electronically submitted items will have an immediate and permanent impact on the future growth potential of this product. I know of few small to mid-sized financial institutions that will absorb this added liability put forth in the Reg CC change. As proposed, it will be easier to discontinue offering the product than it would be to mitigate the inherent risks associated with the product as these proposed changes would require.

Simple, cost effective options exist today that can achieve the desired results and protections FI's seek from accepting a paper item that was previously remotely deposited. To mitigate the risk of dual presentment, there are much more effective methods at our disposal that will actually increase the use of the technology and not harm the immense transition to electronic deposits. Items accepted for electronic deposit can mandate very restrictive endorsements (account number, bank name) and must clearly and visibly have in clear bold handwriting stating the item is "FOR MOBILE DEPOSIT ONLY at XYZ FI, date, and account number." This can be included on either the front or the back of the item.

Financial institutions who seek to accept items electronically without the required wording would take on the liability should the item get presented physically at a second location (since they failed to follow mobile capture rules). Should the original item clearly note it was electronically deposited elsewhere and a second FI accepts the physical item (with the wording clearly present) that institution would then be liable for the deposited item since they failed to properly inspect the item. This methodology places less emphasis on how the item was submitted and rather holds FI's to a common clearing procedure

and the notations contained on the item. This is much more consistent with past item exchange governance. Financial institutions which accept electronic deposits that opt out of adhering to these rules are then left to absorb all liability from a dual presentment.

Existing CAR/LAR technology may or may not be effectively set up to read "FOR MOBILE DEPOSIT" presently. However, it is my understanding from recent discussions with technology vendors that this programming challenge can be overcome and would be preferred to a massive industry liability shift that has the potential to virtually shut down electronic deposits for most small to mid-sized FI's in the US.

Should there be additional opportunity to speak on this matter, please do not hesitate to reach out to me.

Best regards,
Todd J Link, VP of Remote Services
Dupaco Community Credit Union