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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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AltaOne Federal Credit Union appreciates the opportunity to comment on the proposed amendment to check collection and return rules to reflect the evolution of the nation's check collection system from one that is largely paper-based to one that is virtually all electronic.

We agree with the equal application of the check collection and return provisions in Regulation CC to electronic checks and electronic returned checks that banks exchange by agreement except that we would prefer specifications on the provisions that the sending and receiving banks would be able to agree on to avert confusion.

Further, given the high incidence of fraud associated with checks, particularly in smaller geographically dispersed financial institutions such as ours, we would only recommend acceptance of electronic returns when all financial institutions consistently require endorsements on remotely captured checks that indicate, at a minimum, the check was electronically deposited, on what date, and to what financial institution the deposit was made. We would further recommend statutory provisions to guarantee that electronic check returns meeting these minimum specifications could not later be the basis for consumers seeking redress from either the sending or receiving institution. In addition, as a risk mitigation measure, we would recommend setting a ceiling on the dollar amount of checks that could be electronically returned so that all parties know the level of risk they would be assuming by accepting not only remote check capture but also electronic check returns.

Given the risks inherent in electronic items that did not originate as paper checks, and the disparity in the financial resources between financial institutions catering to rural populations and larger institutions in metropolitan areas, we disagree with the need for a new indemnity for these electronic items. Financial institutions with a substantial volume of these transactions can adequately mitigate the inherent risk without mandating requirements for other institutions that are not similarly situated that can better individually determine how to mitigate their associated risk without additional indemnification.