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

Comments:

Date: May 01, 2014

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

Document ID: R-1409

Revision: 2

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Re: Proposed Regulation CC Amendments Docket N. R-1409 and RIN No. 7100 AD 68

I am writing on behalf of Ingo Money, Inc., a nationwide provider of check risk management and guarantee services to financial institutions and other businesses that accept checks for payment or cashing. We appreciate this opportunity to offer the following comments to the Board of Governors of the Federal Reserve System (the "Board") concerning the proposed amendments to Regulation CC of the Expedited Funds Availability Act, and in particular those amendments relating to the indemnity for remote deposit capture services (the "Proposal").

The Board recognizes in its Proposal that remote deposit capture ("RDC"), carries the inherent risk of a multiple deposits. The Board proposes to allocate the multiple deposit risk presented by RDC to the institution that "introduced the risk of multiple deposits" by offering RDC. Although there is some fairness in this proposal, it threatens to undermine the growth and viability of RDC, an increasingly desirable and popular consumer service. Other than allocating the risk, the Proposal does not directly address or reduce the risk presented by multiple deposits.

The Board notes in the Proposal that RDC has become more prevalent in recent years, particularly for consumer accounts. The 2013 Federal Reserve Payment Study shows that the number of checks deposited as images at the bank of first deposit increased to 3.4 billion checks in 2012. 48% of checks deposited as images by consumers were deposited using a mobile device. The Board's recent publication, Consumers and Mobile Financial Services in 2014 published in March 2014, observes that 39% of mobile bankers have deposited a check using their mobile phone in the prior 12 months, up from 21% in 2012. This publication also notes that mobile phones are prevalent among unbanked and under banked consumers, with 39% of under banked consumers using mobile banking (in all forms) in the prior 12 months.

For these reasons, the question should be how the Board and the industry can support and this growth, helping the unbanked and under banked as well as other businesses and consumers, while reducing

the dual deposit risk and protecting institutions that cash checks or receive checks for deposit from the risks of multiple deposits. Our proposal to answer this question is described below.

In order to substantially reduce multiple deposit risk, we would propose a system whereby the first business or institution to accept a check for cash or deposit, whether in person or by RDC, and to register that check with a national database, would prevail over all subsequent recipients of the same instrument. The key to implementing this proposed solution would be a national registration database of paid check information. Much like the UCC lien filing system whereby a lien holder registers a lien against personal property, and prevails over all subsequent lien holders, all banks and other businesses receiving a check for deposit or to cash could register each check that it accepts as having been paid, or identifying it as already having been paid by someone else. Each subsequent person accepting an item would be able to check this registration database, and find and reject checks that have been previously paid. Any institution or business that accepts a check that has been registered by another without first clearing it through the database would accept the risk of loss. If a check is presented multiple times and is not registered in the system by any party, the party accepting the original paper check would prevail, per the Board's Proposal.

We believe that the only information required to be submitted to the database would be the information from the MICR line of the check. A business receiving the check through an RDC service would already have that MICR information in electronic form for immediate posting to the database. A business receiving the check in original, paper form would need to process the check to capture the MICR information electronically. In both cases, existing systems are easily adaptable to input this MICR information into and accept registration information from the database. Account holder names or other personal information would not be necessary for transmittal or storage in such system.

The key new system that would be needed would be the database itself. The database would be similar in concept to the lien recording system maintained by the various Secretaries of State for purposes of Article 9 of the Uniform Commercial Code, except on a fully electronic and national basis. We would expect that there are any number of companies that already have the essential capabilities to perform this function, whether they be large payments processors, credit bureaus, mortgage recording providers, the Federal Reserve System, or otherwise.

Such an approach would require a systems of regulations that establish the underlying risk allocation rules, but that should be directly within the Board's authority. We recognize that this proposal will require implementation and changes to systems. We are confident, however, that service providers will step into the breach as they always have to meet the systems needs we are suggesting. The Board has a significant opportunity here to move RDC into the future rather than chipping away at the edges and stifling growth, and to solve the multiple deposit problem for all. We hope that the Board will give our proposal serious consideration.