MISSOURI CREDIT UNION ASSOCIATION

May 2, 2014

Robert deV. Frierson
Secretary
Board of Governors of the Federal Reserve System
20th Street and Constitution Avenue NW
Washington, DC 20551
regs.comments@federalreserve.gov

Re: Availability of Funds and Collection of Checks
[Regulation CC; Docket No. R–1409, RIN 7100–AD68]

Dear Mr. deV. Frierson:

On behalf of the 1.3 million credit union members, the Missouri Credit Union Association (MCUA) appreciates the opportunity to comment regarding the Federal Reserve Board's (FRB's) proposed changes to Regulation CC on the availability of funds and collection of checks.

Remote Deposit Capture

Regarding the FRB's proposal intended to address some duplicate presentments involving Remote Deposit Capture (RDCs), credit unions have concerns that the proposed changes would increase risks for institutions offering RDC.Financial institutions offering RDC have generally taken steps to reduce the risk of duplicate presentments and the likelihood that other institutions will deposit the paper check again after they have honored it. As an example, financial institutions often have policies and agreements that require members or customers to restrictively endorse the original paper checks before accepting the RDC (e.g., marking the check with the words, "For deposit only / account number / financial institution name / signature"). In light of that, the FRB should consider whether the proposed indemnity could be applied only to paper checks that have not been restrictively endorsed.

Return Requirements

Our members appreciate that there are benefits and negative factors associated with each proposed alternative approach. We request that the FRB further assess and research the likely operational impacts from the proposed alternative approaches, and that it limit changes to Reg CC that would maintain an expedited check-return process.

Almost all returns in the check system are currently electronic. The Federal Reserve Banks have estimated that paying institutions initiated electronic returns 99% of the time at the end of 2013. While a fully electronic check system has many benefits, we are concerned the proposed changes would penalize some smaller institutions that currently rely on paper returns. Smaller institutions that currently rely on paper returns would incur costs to shift to electronic returns and generally have fewer resources to manage the increased risk and exposure from potentially slower paper returns. Based on the FRB's December 2012 data, which is the latest available, approximately 31% of smaller institutions with assets of $500 million or less had not made arrangements to receive electronic returns. Additional institutions have continued to transition to electronic returns.

Same Day Settlement

The proposal would also retain, without change, Reg CC's current same-day settlement rule for paper checks, which requires a paying institution to provide same-day settlement for checks presented in accordance with reasonable delivery requirements established by the paying institution and presented at a designated location. Credit unions generally support retaining the current same day settlement rule for paper checks, while also permitting financial institutions that use electronic check presentment to determine the terms of presentment by agreement.

Electronic Checks and Returns

As proposed, electronic checks and electronic returned checks that financial institutions exchange by agreement would be subject to the check collection and return provisions under Reg CC, unless otherwise agreed by the sending and receiving institutions. The proposal would apply Check-21-like warranties to electronic images and electronic information. Credit unions have some concerns that the proposed changes to cover electronic checks and returns under Reg CC could potentially result in some increased risks to financial institutions, because electronic checks and returns are currently governed by agreements between financial institutions. The FRB should address and limit any increased risks to financial institutions.

Electronically-Created Items

Regarding electronically-created items (or "electronic payment orders" or "EPOs"), the FRB should clarify the indemnities and warranties in Reg CC that should apply to electronically-created items. However, electronically-created items are fairly recent developments and the FRB should provide appropriate flexibility for financial institutions to vary certain terms by agreement, and also address risk management regarding the unique attributes and risks associated with electronically-created items.

Delayed Effective Date

The FRB should provide a delayed effective date of at least one year from the issuance of a final rule to provide adequate time for credit unions and others to implement any Reg CC changes. The proposed changes regarding paper returns will disproportionately impact smaller institutions, including some credit unions that currently rely on paper returns.

As always, we appreciate the opportunity to respond to this issue. We will be happy to respond to any questions regarding these comments.

Sincerely,

Don Cohenour
President

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