



February 6, 2019

Ann E. Misback
Secretary
Board of Governors of the Federal Reserve System
20th Street and Constitution Ave. NW
Washington, DC 20551

SUBMITTED VIA EMAIL: reg.comments@federalreserve.gov

RE: RIN 7100-AF 28 – Availability of Funds and Collection of Checks (Regulation CC)

Dear Ms. Misback,

Please accept this response regarding the above referenced matter. The Minnesota Credit Union Network (MnCUN) represents the interests of Minnesota's 107 credit unions and their more than 1.7 million members. Thank you for the opportunity to provide feedback on the proposed rule. Please consider the following comments:

2018 Proposal

Do you agree with the proposed calculation methodology for implementing the statutory dollar amount adjustments every five years?

Yes, the proposed methodology seems reasonable and appropriate. The five-year timeframe allows for dollar amount adjustments that are meaningful to consumers without creating significant compliance costs for financial institutions. A shorter timeframe would result in dollar amount adjustments that would be insignificant to consumers and, on balance, would not justify the associated compliance costs to financial institutions.

What measures would be necessary to implement the dollar amount adjustments every five years?

Controls in the core system would need to be updated to reflect the new dollar amounts. Any paper or electronic exception holds would need to be updated and funds availability

notices would require revision. Staff training would be necessary, and members would need to be notified.

Do the proposed effective dates provide sufficient time to make necessary disclosure and software changes?

Giving financial institutions approximately 12 months to implement the changes, provide staff training, and meet regulatory notice requirements seems sufficient and reasonable.

Do you agree with the Bureau's estimate that depository institutions will incur an average cost of approximately \$400 every five years in order to implement the dollar amount adjustments?

The estimated hourly rate of \$33.17 seems low, especially when you consider total compensation (salary and benefits). Additionally, there will be other staff involved beyond compliance. The Bureau's time estimate of 12 hours also seems low. We think the costs (excluding the costs for printing and mailing of the notices) will be closer to \$1,000-\$1,500; especially in the first year of implementation.

2011 Proposal

Does the funds-availability schedule's distinction between deposits to proprietary ATMs and deposits to nonproprietary ATMs continue to make sense? Is four business days sufficient time to learn of the nonpayment of a check deposited at a nonproprietary ATM?

The distinction makes sense and seems reasonable. The four-business day hold related to non-proprietary ATMs is likely sufficient. However, since the financial institution that owns the ATM ultimately dictates with their vendor the service schedule for their ATM (in cases where the ATM does not use image capture to process the deposit), the four-day limit potentially places added risk on a financial institution that has no control over the process. If the financial institutions of final deposit begin to experience losses as a result, they may opt to disallow deposits at non-proprietary ATMs for their members/customers.

Do you agree with the proposed clarification that the repeated overdraft exception does not include an attempted debit card transaction for which the depository bank declined the authorization request?

Yes, we agree with the proposed clarification. The transaction did not occur so there should not be a negative consequence against the member.

When an exception hold notice is not given at the time of the deposit, the proposed rule would require that, for members that have agreed to accept notices electronically, the credit union may email (or otherwise deliver) the notice to the member so that they receive it no later than the first business day following the day the deposit is made or the facts become known to the credit union, whichever is later. Is providing an exception hold notice in this manner operationally practical?

If the credit union currently has a system in place to send notices by email or other electronic delivery method, providing the exception hold notice in this manner, and within the given timeframes, is operationally practical.

Is a four-business day exception hold sufficient time to learn of the nonpayment of checks?

Yes, a four-business day exception hold is sufficient. The proliferation of Check 21 and image clearing has expedited the clearing and return process. Most check deposit returns occur within a five-day time frame, so the proposed exception hold time frame seems reasonable.

The proposed rule would require that the notice of an exception hold contain the total amount of the deposit, in addition to the amount being held, and specify the day funds will be made available rather than explain availability in reference to the number of business days after the day of deposit. Do you support these proposed changes to the hold notice?

Yes, we support these proposed changes to the notice. The proposed changes provide the member with all the information necessary to understand the availability of their deposit. Many core processors already provide the data fields noted above in their standard exception notices, which means changes may not be required for some institutions. For those financial institutions that do not currently have this information included on the notice, they will need to work with their core processor to update data fields and notices.

The proposed rule would amend the model exception hold notice, removing the checklist of reasons and requiring the credit union insert the one reason applicable to the member's situation. Do you agree with this amendment?

We agree with this amendment. For the most part exception holds fall under one or two applicable reasons. Not having the check list would simplify the notice and provide clarity to the member.

How much time is needed to implement the proposed changes to Subpart B before compliance would be mandatory and why?

Twelve months would be a reasonable lead time. That would give financial institutions sufficient time to update core systems, forms and notices. It would also provide sufficient time to train staff and meet the timeframes of any notification requirements.

Thank you for giving us an opportunity to comment, and for considering our comments, on this matter. Please contact me at (651) 288-5517 if you have any questions.

Sincerely,

A handwritten signature in blue ink that reads "Tim Tacheny". The signature is written in a cursive style with a large, sweeping "T" and a distinct "y" tail.

Tim Tacheny
General Counsel
Minnesota Credit Union Network