



Filed via regs.comments@federalreserve.gov

February 8, 2019

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

Re: Availability of Funds and Collection of Checks (Regulation CC)
Docket No. R-1637; RIN 7100 AF-28

Dear Ms. Misback

The Illinois Credit Union League (“ICUL”) is the primary trade association for over 260 state and federally chartered credit unions doing business in the State of Illinois, who in turn serve over 3.5 million consumers. We thank the Federal Reserve System (Board) and Bureau of Consumer Financial Protection (Bureau) for the opportunity to comment on the proposed rule to amend Regulation CC, which implements the Expedited Funds Availability Act (EFA Act).

2018 Proposal

Proposed Methodology for Adjustments and Effective Dates

We support the Board and Bureau’s (Agencies) proposed rule to use the aggregate percentage change in the Consumer Price Index for Urban Wage Earners and Clerical Workers (CPI-W), published by the Bureau of Labor Statistics in August, from July 2011 to July 2018 as the initial inflation measurement period for first set of adjustments. This method will provide clear instruction to credit unions regarding how to determine the amount of the adjustment, if any, necessary to comply with the rule. We also agree with the purposed timing dates including a final rule publish date in the first quarter of 2019 and an effective date of April 1, 2020, provided the effective date is adjusted to accommodate any delays in publishing the final rule.



Bureau's Compliance Cost Estimate

The cost estimate provided by the bureau does not include the printing and distribution cost each credit union will incur to comply with the funds availability disclosure requirements of the rule. The estimation of hours needed to make the adjustments may be accurate, but the majority of the impact will come from the expense of printing and distribution of new disclosures after the five year review and adjustments are made to the credit union's funds availability policy.

Economic Growth, Regulatory Relief, and Consumer Protection Act (EGRRCPA) Amendments

We support the proposal to amend Regulation CC by implementing amendments included in the EGRRCPA to make technical adjustments and to extend coverage to American Samoa, the Commonwealth of the Northern Mariana Islands, and Guam.

2011 Proposal

ICUL believes the data used to create the 2011 proposal should be updated due to changes in technology, payment trends, and availability of mobile deposits. Changes the Agencies acknowledge will have an impact on the applicability of the original 2011 proposal. Further research should be conducted to determine how changes in these areas along with consumer preferences have impacted the relevance of the 2011 proposed changes. ICUL encourages the Agencies to reissue an amended proposal reflecting these changes. The following information provides our thoughts on some areas of concern regarding the original 2011 proposal.

Deposits at Nonproprietary ATMs

We do not support the proposed decrease in the maximum hold time allowed for checks deposited at a nonproprietary ATM from five business days to four business days as this will increase the risk of loss for credit unions due to fraud. Processing deposits from nonproprietary ATMs is challenging for credit unions because of the frequent inability to verify the deposits and the often remote location of the ATMs. Therefore, the additional hold times remain necessary.

Repeated Overdrafts

Although we understand the logic behind not including debit card transactions when the authorization was declined, the credit union should still be able to consider this information when making a determination whether or not an exception hold is appropriate. The consumer attempted a transaction that would have, if authorized, caused the account to become overdrawn.



Exception Hold Notice

We support the desire to ensure consumers are informed of exception holds as soon as possible but a requirement to notify consumers who have enrolled in electronic communications within one day of the deposit or when the credit union becomes aware of the hold may be burdensome to credit unions with limited staff and resources. Considering consumers who have not elected electronic communication will need to allow time for the notice to be mailed, we recommend allowing a two or three business day time period for notices to be submitted electronically and those that must be mailed.

We support the proposal to simplify the notice communication style by providing consumers with the total dollar amount of the hold and the day funds will be made available rather than providing this information based on a number of business days after the day of deposit. This method will provide specific information to the consumer regarding when the funds will be available for withdrawal.

We support the proposal to create a clear and concise model exception notice. However, credit unions should have the option to list multiple reasons or a brief explanation if doing so provides greater clarity regarding the exception hold.

Exception Holds

We generally support efforts to speed the check collection process and improve efficiencies but additional factors, such as Section §3-416 of the Uniform Commercial Code which creates financial institution liability during the check collection process, should be considered. As a result, we do not support decreasing the length of time for an exception hold. Decreasing exception hold times can increase the risk of loss for credit unions as a result of disputes arising after the hold period expires and funds have been withdrawn from the account. We encourage the Agencies to collect current check fraud loss data from credit unions and other institutions to determine if a reduction in exception hold times will ultimately increase the risk of fraud losses for financial institutions before any changes are implemented.

If the Agencies find it necessary to reduce the exception hold times it should be done gradually and allow financial institutions to provide data regarding the impact reduced exception hold times are having on the organization. The information gathered should be used to determine if further adjustments to the exception hold times must be made.



Conclusion

ICUL generally supports the 2018 proposal to implement the Dodd-Frank Wall Street Reform and Consumer Protection Act threshold adjustments and the Economic Growth, Regulatory Relief, and Consumer Protection Act by amending Regulation CC. However, ICUL encourages the Agencies to conduct updated research regarding the 2011 proposal and reissue an amended proposal based on the research results.

We thank you for your time and consideration.

Sincerely,

A handwritten signature in black ink that reads "Shannon Basile". The signature is fluid and cursive, with a large initial 'S'.

ILLINOIS CREDIT UNION LEAGUE

By: Shannon Basile
Compliance Analyst