



First National Bank

October 23, 2003

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Director, Risk Management Division, Financial Management Service
U.S. Department of Treasury, Room 423
401 14th Street, SW
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Submitted by:
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Subject: Comments on Proposed Rules to Amend CFR 31, Part 21: Circumstances in which checks presented or delivered to agencies may be converted to ACH debit entries.

First National Bank of Omaha offers the following comments and has generated the following questions regarding the proposed changes.

1. Shorten the disclosure required for ARC entries as the usage of these transactions becomes more common.

We agree with shortening the disclosure and that such a change will facilitate notice to customers.

2. Broaden the settings in which checks can be accepted for conversion to POP or ARC transactions.

Additional uses for consumer electronic payments initiatives should be encouraged wherever they can be used efficiently, so changing the rules is a positive change. Current rules specify that only checks received via mail or drop-box are eligible for ARC. It is our opinion that this is overly restrictive and will, if kept in place, prohibit this new business from realizing significant volume. POP and ARC have large potential for changing the financial transaction landscape, but until the settings are broadened, the cost-savings by businesses and financial institutions will not be experienced.

While we are in strong support of consumer check conversion, we are not strongly supporting business check conversion to POP or ARC entries until system issues are worked out on existing fraud and risk systems. Today most banks do not process ACH files through their positive pay systems because they do not have the check number. Although POP and ARC would have the check number, it would require banks to modify their Positive Pay processing. Our institution would need to modify our ARP processing to allow ACH files to be processed. Also, because Payee Name Verification is becoming part of the Positive Pay verification, it would be prudent if the ACH item also had the payee name.

3. Eliminate the restrictions on the kinds of source documents that can be converted to originate POP and ARC transactions, including money orders, travelers checks, cashiers checks and credit card checks.

This is a much needed change to the rules that will eliminate many of the problems that are encountered by financial institutions interested in providing conversion services. The list of convertible source documents is short as there are more types of documents that cannot be converted than those that can. Most of the coding that vendors have undertaken revolve around trying to separate the acceptable from the non-acceptable ARC items. The process needs to be simplified and eliminating these restrictions is the best place to start.

4. **Allow for the collection of returned check fees without written authorization, provided that notice has been given to the consumer.**

Our institution agrees with this change if the customer is given notice in advance. The original rule requiring merchants to obtain a written authorization from the consumer before collecting a returned check fee presents challenge. Theoretically, consumer adoption would be low because consumers would not willing agree to allow a merchant or financial institution to debit their account if they can say "no" if their check is returned.

General Questions

The following are general questions found by our institution in examining these issues.

- Will the current requirement to image both sides of the source document remain in place?
- Will the current dollar limit restriction remain in place?
- What cannot be converted now?
- Will there be any change on the dollar limit amount of what can not be converted?

Cc:
Russ Oatman