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United States Government Accountability Office
Washington, DC 20548

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August 18, 2004

The Honorable Richard C. Shelby
Chairman
The Honorable Paul S. Sarbanes
Ranking Minority Member
Committee on Banking, Housing, and Urban Affairs
United States Senate

The Honorable Michael G. Oxley
Chairman
The Honorable Barney Frank
Ranking Minority Member
Committee on Financial Services
House of Representatives

Subject: *Federal Reserve System: Availability of Funds and Collection of Checks*

Pursuant to section 801(a)(2)(A) of title 5, United States Code, this is our report on a major rule promulgated by the Federal Reserve System, entitled "Availability of Funds and Collection of Checks" (Regulation CC; Docket No. R-1176). We received the rule on August 2, 2004. It was published in the Federal Register as a final rule on August 4, 2004. 69 Fed. Reg. 47290.

The final rule implements the Check Clearing for the 21st Century Act (Pub. L. 108-100, October 28, 2003). The rule sets forth the requirements of the Act that apply to banks, a model consumer awareness disclosure and other model notices, and indorsement and identification requirements for substitute checks.

Enclosed is our assessment of the Federal Reserve's compliance with the procedural steps required by section 801(a)(1)(B)(i) through (iv) of title 5 with respect to the rule. Our review indicates that the Federal Reserve complied with the applicable requirements.

If you have any questions about this report, please contact James W. Vickers, Assistant General Counsel, at (202) 512-8210. The official responsible for GAO evaluation work relating to the subject matter of the rule is Thomas McCool,

Managing Director, Financial Markets and Community Investment. Mr. McCool can be reached at (202) 512-8678.

signed

Kathleen E. Wannisky
Managing Associate General Counsel

Enclosure

cc: Winthrop P. Hambley
Assistant to the
Board of Governors of the
Federal Reserve System

ENCLOSURE

ANALYSIS UNDER 5 U.S.C. § 801(a)(1)(B)(i)-(iv) OF A MAJOR RULE
ISSUED BY THE
FEDERAL RESERVE SYSTEM
ENTITLED
"AVAILABILITY OF FUNDS AND COLLECTION OF CHECKS"
(REGULATION CC; DOCKET NO. R-1176)

(i) Cost-benefit analysis

The Board of Governors (Board) of the Federal Reserve System was not required to perform a cost-benefit analysis in connection with the issuance of the final rule.

(ii) Agency actions relevant to the Regulatory Flexibility Act, 5 U.S.C. §§ 603-605, 607, and 609

The Board prepared an Initial Regulatory Flexibility Analysis and a Final Regulatory Flexibility Analysis in connection with the proposed and final rule, respectively. The analyses comply with the informational requirements of the Act. The Board concludes that since the requirements are statutory, it has little flexibility to minimize the impact on small entities.

(iii) Agency actions relevant to sections 202-205 of the Unfunded Mandates Reform Act of 1995, 2 U.S.C. §§ 1532-1535

The final rule, promulgated by an independent regulatory agency, is not subject to title II of the Act.

(iv) Other relevant information or requirements under acts and executive orders

Administrative Procedure Act, 5 U.S.C. §§ 551 *et seq.*

The final rule was issued using the notice and comment procedures found at 5 U.S.C. 553. On January 8, 2004, the Board published a Notice of Proposed Rulemaking in the Federal Register. 69 Fed. Reg. 1470. In response, the Board received 168 comments, which are discussed in the preamble to the final rule.

Paperwork Reduction Act, 44 U.S.C. §§ 3501-3520

The final rule contains information collections that are subject to review by the Office of Management and Budget (OMB) under the Paperwork Reduction Act. The Board of Governors of the Federal Reserve System has approved the collections under its delegation of authority from OMB (5 C.F.R. 1320 Appendix A.1). The Board

estimates the collections will increase the total burden under Regulation CC by 293,400 hours.

Statutory authorization for the rule

The final rule is promulgated under the authority contained in the Expedited Funds Availability Act (12 U.S.C. 4001-4100) and the Check Clearing for the 21st Century Act (12 U.S.C. 5001-5018).

Executive Order No. 12866

The final rule was reviewed by OMB and found to be an “economically significant” regulatory action under the order.