

EGRPRAFrom: Cheryl Nakashige [cnakashige@candcbank.com]
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To: regs.comments@federalreserve.gov; comments@fdic.gov;
regs.comments@occ.treas.gov; Comments, Regs
Subject: EGRPRA

Thank you for the opportunity to submit comments on reducing regulatory burden. My comments are addressed specifically for Regulation CC.

Section 229.10(c)(1) requires next day availability for cashiers, certified, or teller's checks, U.S. Treasury checks, on-us checks, U.S Postal Service money orders, FRB/FHLB checks, and state or local government checks. For a "new account" in which either a U.S. Treasury, U.S. Postal Money Order, cashiers, certified, tellers, traveler's, FRB, FHLB, and state and local government check is deposited is deposited in an amount over \$5,000, the first \$5,000 must be made available the next business day (amount over \$5,000 available not later than the 9th business day).

Anyone in the operations of a bank can tell you stories about all the fraudulent checks and losses banks have had to deal with over the years. When this regulation was written, cashiers checks and the like were thought of as being good as cash; however, that is not the case these days. In reviewing the listing of counterfeit cashiers checks that is shown on www.bankersonline.com for January 2004 - October 2005, I counted over 200 banks that had contacted their regulatory agency regarding counterfeit cashiers checks. This, of course, is probably a drop in the bucket compared to all the other financial institutions that never contacted the FDIC or their regulatory agency when they have encountered fraudulent checks of this type. I can't validate how many of the reported counterfeit cashiers checks were to "new customers," but I would gather to say a good proportion were. Suffice it to say, probably 99%+ of cashiers checks are legitimate.

I believe by making the first \$5,000 of cashiers, certified, and tellers checks available the next business day to "new customers," this opens a loophole for any con artists to take advantage of financial institutions in presenting bogus checks of this type for under \$5,000 and walking off with the cash the next day. The financial institution generally would not learn about the returned item for another five business days, and in the meantime, the bank suffers a loss if the customer disappears. Many financial institutions (especially the larger banks) will no longer verify the check due to the Privacy regulation (are permitted to by the regulation but choose not to do so). We have the choice not to accept the check or send it for collection, but it is often difficult to detect a counterfeit checks these days with the technology that produces a real-looking check and the collection process is expensive for the bank and customer.

For a customer who is no longer a new customer, the regulation states that a bank can hold a local cashiers, certified, or tellers check for 7 business days and a non-local cashiers, certified, or tellers check for 11 business days. The first \$5,000 must be made available the next business day. The regulation seems contradictory in that a bank can hold an amount above \$5,000 for a non-local cashiers check for 9 business days for a new customer, but for an existing customer the maximum number of days is 11. Where is the logic there?

My recommendation would be to hold the "entire amount of these types of checks" for the maximum number of days allowed rather than just the amount above \$5,000 for both new accounts and existing accounts. In most cases where banks can validate the check, they will likely provide next day availability for the

entire amount. But in those cases where the funds cannot be verified, banks should have the option of holding all the funds for the maximum number of days in order to limit counterfeit check losses. There may be other alternatives that the Federal Reserve can propose, but something needs to be done to minimize losses to banks with counterfeit cashiers checks and the like.

I also recommend that Section 229.18(e) be addressed for changes in policy. Specifically, the regulation requires that we notify customers of changes that "expedite" the availability of funds not later than 30 days after implementation. Under the TISA a notice of changes is only required within 30 calendar days if it will adversely affect the customer. I would recommend that Regulation CC be revised with the same principal in mind. If a change would positively affect a customer under Regulation CC, why should a bank have to notify the customer? My recommendation is to eliminate the notification within 30 days of implementation if the customer is not adversely affected.

Thank you for your consideration in addressing this important area.

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