



OFFICE OF ADVOCACY *FACTSHEET*

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Advocacy Pushes for Better Analysis of Small Business Impact of Banking Regulations

On March 12, 2004, the U.S. Small Business Administration's Office of Advocacy (Advocacy) filed comments with the Board of Governors of the Federal Reserve System (Board) on proposed regulations to implement the Check Clearing for the 21st Century Act. Advocacy's comments can be found at www.sba.gov/advo/laws/comments.

- The proposal implements the Check Clearing for the 21st Century Act, which facilitates the broader use of electronic check processing by authorizing the use of a new negotiable instrument called a substitute check. Although the act does not mandate that any bank change its current collection practices, all banks are required to educate their customers about electronic check clearing. The proposed rule: 1) sets forth the requirements of the Act that apply to banks; 2) provides a model disclosure and model notices relating to substitute checks; and 3) sets forth indorsement requirements for substitute checks.
- Small banks are concerned about the costs associated with the mandatory disclosures, consumer education, and training employees about the requirements of the rule. They are also concerned that the provisions pertaining to the magnetic ink character recognition line would make processing substitute checks less efficient than processing paper checks and that the provisions pertaining to automated clearing house transactions and breaches of the Uniform Commercial Code warranties may be outside of the scope of the Act.
- Advocacy encouraged the Board to provide a more thorough analysis of the proposed rule's impacts on small entities in its initial regulatory flexibility analysis (IRFA). For example, the Board's analysis lacked information about the description and estimated number of small entities to which the proposed rule would apply; an estimate of the cost for implementing the proposal; and alternatives that the Board considered to minimize the economic impact on small entities. Advocacy asked the Board to give full consideration to small bank alternatives to minimize the impact on small banks, including more concise model disclosure language and a consumer information campaign instituted by the Board.
- Advocacy recommended that the Board prepare a supplemental IRFA with information about the potential economic impacts. Advocacy encouraged the Board to give full consideration to the comments and suggested industry alternatives to ensure that small banks are able to process substitute checks with as much ease as they currently process paper checks.

For more information, visit Advocacy's webpage at www.sba.gov/advo or contact Jennifer Smith at 202-205-6943.