E&A Credit Union
Your bridge to financial freedom

Port Huron Marysville Fort Gratiot

June 3, 2011

Jennifer J. Johnson, Secretary
Board of Governors of the Federal Reserve System
20th Street and Constitution Avenue, N.W.
Washington, D.C. 20551

RE: Federal Reserve Board Proposal – Regulation CC (Availability of Funds and Collection of Checks)

Dear Ms. Johnson:

E&A Credit Union appreciates the opportunity to comment on the proposed rule. By way of background, E&A Credit Union is a state-chartered, federally insured credit union which serves members in the state of Michigan primarily in the counties of St. Clair, Sanilac, Lapeer, and Macomb counties.

There are some items found in the proposal that warrant change. For instance, it is understood that the provision to change the next day availability amount from $100 to $200 is due to requirements found in the Dodd-Frank Act. Since this provision will go into effect on July 21st regardless if the FRB has finalized the amendments to Regulation CC, it seems warranted and necessary to make this change. Additionally, it seems necessary to make the long awaited changes to update Regulation CC to reflect the elimination of non-local checks and the creation of a single check processing region.

However, there appears to be many provisions of the proposed rule that will place a great deal of regulatory burden on financial institutions. This will be especially true of smaller institutions that may not have technological resources to implement an electronic method to collect and return checks. In particular under the proposal, if a depository bank has not agreed to accept electronic returns from a paying bank, it loses its rights to an expeditious return. This of course will expose the institution to greater risk of loss (to be discussed further below). However, an institution may not be capable of implementing electronic presentment/return points as defined in the proposal. The institution may not have the funds, the technology, or internal resources to comply with these new requirements.

It is not believe that Regulation CC was originally developed to promote an electronic check collection and return system. The regulation should presume that financial institutions handle checks in paper form. However, by taking away some protections when not using an electronic method, the FRB is using Regulation CC to force institutions to implement an electronic check processing system or run the risk of increased of losses.

Not only will institutions have increased risks because returns may not be returned in an expedited manner, institutions will also be exposed to greater risks presented by the proposed changes to the availability schedule. This includes deposits made at nonproprietary ATMs. It is believed that it is not reasonable to expect that a check that is deposited at a nonproprietary ATM will make a "roundtrip" in the check processing system within a three day period. It is not believed that all institutions will implement an electronic check processing system which will place additional return times on check processing. Also, some institutions may not balance their machines each day (possibly only two or three times a week). This could lengthen the amount of time a check deposited at a nonproprietary ATM would be processed and subsquently returned.

In addition to the change to the availability of funds deposited at nonproprietary ATMs, the proposal is also calling for changes to be made to exception hold time frames for all other checks. This essentially would reduce the exception hold time for all other checks from seven business days to four business days. This further poses a greater risk to financial institutions in taking losses from returned check deposits. Again, it should not be presumed that a check will be returned within three business days. This may be true if checks are processed and returned electronically. But, not all financial institutions will be utilizing electronic methods. Further, Regulation CC and its provisions should not be used to incent financial institutions to use an electronic check processing infrastructure.

Also, it should be noted that periodic adjustments to dollar amounts contained in the availability schedule to reflect inflation changes will place a great deal of burden on financial institutions. While it is agreed that the regulation can be written ambiguously to reflect the need for future amendments, the FBR should acknowledge that when these changes are made there will be a significant amount of time, resources, and money exhausted by financial institutions to comply. This includes updating core processing systems to reflect updated availability amounts, training of the staff members, and providing required notice to account holders. When these changes are being made, financial institutions should be granted at least a 180 day notice of the changes in order to comply or there should be some type of specified grace period to implement said updates.

This proposal was over 500 pages. It seemed a bit excessive. To read through the entire proposal to completely understand all of the items would be extremely challenging. It would be helpful for FRB to understand this with future regulatory changes. Many institutions are having a hard time keeping up with all of these compliance changes. And, many of the changes in this proposal seem to adversely affect financial institutions. The purpose of holding funds from deposited checks is simply to not allow account holders access to their funds. It is to protect consumers. I understand that Regulation CC, much like all of today's regulatory changes, is meant to protect the consumer. However, as counterfeit checks and various scams are running rampantly, financial institutions need to be able protect its members. Taking away resources from financial institutions by forcing them to make changes to comply with all of the regulatory changes causes less resources to be spent in employee and account holder education to help stop losses caused by bad check deposits.

E&A Credit Union
Your bridge to financial freedom

Port Huron Marysville Fort Gratiot

Sincerely,

Jeremy Maurer
Manager of Compliance & Security
E&A Credit Union

P.O. Box 610908, Port Huron, MI 48061-0908 • (810) 966-4600 • 1-800-356-EACU • (810) 989-2464 fax • www.eacu.org