



September 15, 2025

The Honorable Jonathan Gould
Comptroller
Office of the Comptroller of the Currency
400 7th Street, SW
Washington, D.C. 20219

The Honorable Jerome Powell
Chairman
Board of Governors of the Federal Reserve
System
20th Street and Constitution Ave., NW
Washington, D.C. 20551

The Honorable Travis Hill
Acting Chairman
Federal Deposit Insurance Corporation
550 17th Street, NW
Washington, D.C. 20429

Regarding: Request for Information and Comment on Potential Actions to Address
Payments Fraud – Docket ID OCC-2025-0009, RIN 3064-ZA49 and Docket No. OP1866

Dear Prudential Banking Regulators:

The Community Bankers Association of Illinois (“CBAI”) is proud to represent nearly 250 Illinois community banks. We sincerely appreciate the Office of the Comptroller of the Currency (“OCC”), Board of Governors of the Federal Reserve System (“Federal Reserve”), and the Federal Deposit Insurance Corporation (“FDIC”) (collectively “Regulators”) seeking public input and comments in a Request for Information (“RFI”) on actions that they could take

CBAI is dedicated to exclusively representing the interests of Illinois community banks and thrifts through effective advocacy, outstanding education and high-quality products. CBAI’s members hold more than \$80 billion in assets,

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operate 940 locations statewide, and lend to consumers, small businesses and agriculture. For more information, please visit www.cbai.com.

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collectively or independently to help consumers, businesses and financial institutions mitigate check, ACH, wire and instant payments fraud.

CBAI has been engaged with the Regulators for the past three years in highlighting the harm check fraud is inflicting on community banks and their customers and in undermining the integrity of the nation's payments and banking system. We truly hope that this RFI will be the precursor to meaningful regulatory changes that will not only reduce payments fraud but also appropriately assign responsibility and liability for check fraud and ensure prompt and reasonable reimbursements for fraudulently altered returned checks.

Executive Summary and Recommendations

Collaboration –

All interested stakeholders must be a part of the collaboration. The diverse interests of stakeholders will likely be an impediment to reaching a meaningful consensus and implementing a comprehensive solution to detect and deter payments/check fraud. Some stakeholders are part of the problem, which must be kept in mind during collaboration. Community banks have limited resources and will rely heavily on their community bank trade associations to be their strong advocates. CBAI recommends the Federal Reserve, with its broad reach and responsibility for examining for safety and soundness of both banks and holding companies, lead this important nationwide effort.

Education –

Consumers and small businesspersons need to be educated about payments/check fraud with thorough and well-coordinated efforts which are accurately targeted, forthright and persuasive. Unfortunately, education about fraud prevention/mitigation is widely available now but fraud remains a serious and growing problem. More needs to be done. The best defense against fraud is an informed consumer and their bank working closely together. Consumers must be aware of and be held to their responsibility to detect and deter fraud.

Regulation and Supervision –

Regulations must be revised to reflect the modern day reality of payments and the perpetration of fraud. Those revisions must address the challenges with fraud detection and deterrence and with

properly assigning responsibility and liability for payments/check fraud. The regulations include: the expeditious/24-hour check return rule (which must be extended to allow sufficient time to discover fraud); the UCC, Reg CC, Reg E (to strengthen enforcement for breach of presentment warranties; strike an appropriate balance between bank and customer responsibility for error resolution; provide banks with broad exemptions to extend deposit holds, freeze accounts or close accounts where there is suspected fraud; and provide broad exemptions in the privacy laws (along with an indemnification/hold harmless or safe harbor) for banks to effectively communicate with each other and with trusted individuals to deter payments/check fraud.

Existing regulations and supervisory guidance has had little impact on abating payments/check fraud. New regulations and joint supervisory guidance needs to be directed at a number of the largest banks and credit unions (“Largest Financial Institutions”) which are responsible for enabling check fraud in banking by allowing fraudulent accounts to be opened into which fraudulently altered checks are deposited which later clear back to community banks and their customers’ accounts and undermine the confidence in the nation’s payments and banking system. New regulations and joint supervisory guidance must be rigorously examined for compliance and enforced against these Largest Financial Institutions.

Community banks must be exempted from any new unnecessary and unduly burdensome fraud regulations or guidance because they already know their customers and their typical financial behavior. The single greatest assist the Regulators can provide community banks is to decrease the overall instances of payments/check fraud by directing new regulations and joint supervisory guidance, examination and enforcement actions against the Largest Financial Institutions for their apparent KYC/CDD/CIP compliance failures for not detecting and deterring fraud.

New regulations and joint supervisory guidance must also establish firm guidelines for a number of these Largest Financial Institutions to promptly communicate with community banks regarding fraudulent account activity. In addition, the new regulations and joint guidance must ensure the prompt and reasonable reimbursement of community banks for fraudulently altered returned checks.

For the past three years, CBAI surveyed its members about their experience with check fraud and not being reimbursed for fraud returns. The complete survey results for 2023, 2024 and 2025 can be found by following the links in Appendix A. A summary of the survey results are contained in the comment letter, and they contain a litany of many frustrations and how a number of the Largest Financial Institutions are not being held accountable for allowing fraudulent accounts and fraudulent checks to proliferate at the expense of community banks and their customers.

Data Collection and Information Sharing –

There should be a robust but targeted collection of accurate payments/check fraud data which should be gathered, curated and housed by the Federal Reserve and made available to all stakeholders at a reasonable cost. Based on CBAI member survey results, the Regulators need to collect data at the source of the problem of payments/check fraud and the check fraud reimbursements which is with a number of the Largest Financial Institutions that hold a large portion of the nation's banking assets. Community banks can logically only be a negligible part of this problem and should be exempted from any new unnecessary and overburdensome data collection and other regulatory requirements concerning payments/check fraud.

Information sharing between banks about payments/check fraud and reimbursements should be required and there should be meaningful repercussions for noncompliance. In addition, privacy laws should be revised together with an indemnification/hold harmless or safe harbor to permit these important communications between banks and with banks and trusted third parties to detect and deter fraud.

FRB's Operating Tools and Services –

A nationwide payments/check fraud directory should be developed and maintained by an impartial third party, the Federal Reserve, similar to the NACHA/ACH Contact Registry. All banks must contribute to this directory, it must be accurate and up-to-date, and the contacts provided must be responsive once they are made aware of the occurrence of a payments/check fraud. There must be meaningful regulatory repercussions for inaccurate contact information or noncompliance with the information sharing requests made through the Federal Reservesponsored contact registry.

CBAI's answers to the questions posed in the RFI

1. What actions could increase collaboration among stakeholders to address fraud?

Increased collaboration among all interested stakeholders is vitally important and must be accomplished through coordinated and effective communication.

Broad collaboration is important because each stakeholder is concerned with a different facet of this problem, and it will only be through collaboration among all stakeholders that a complete

understanding of the problem can be achieved and appropriate solutions can be constructed. Leaving out any legitimate stakeholders will result in partial and weaker solutions that are more vulnerable to failure.

Banks are a vitally important stakeholder group, but only one among many. Even within the banking industry, there are significant differences between how community banks view the payments/check fraud problem and their solutions than apparently do the Largest Financial Institutions.

2. What types of collaboration, including standard setting, could be most effective in addressing payments fraud? What are some of the biggest obstacles to these types of collaboration?

Collaboration among diverse stakeholders or even within common stakeholder groups could be accomplished through forums or working groups on both a local, regional, and national level. Participation in collaboration needs to be encouraged to the greatest extent possible; otherwise, the chances of agreement and the implementation of comprehensive solutions will be considerably diminished.

The collaborative effort need not be overly formal (at least in the beginning stages) to be effective, and the agenda needs to be focused but flexible to adapt to changing needs and circumstances. The forums or working groups would work under broadly agreed-upon strategic objectives to guide their efforts.

The stakeholders (in their entirety) are a sufficiently diverse group so that setting standards may be difficult and, depending on how the term is defined, may be so broad as to not be entirely useful. There is the possibility that standard setting within smaller groups of like stakeholders could be accomplished first, and then at a later date, another larger group would be responsible for combining/refining the standards into a more complete whole.

Self-interest will be the greatest obstacle to agreement and success of the collaborative effort. Agreement between groups of stakeholders may be as difficult as it will be among groups within a whole. For example, in the banking industry, community banks view their responsibility and liability for payments/check fraud very differently than apparently do the Largest Financial Institutions.

An obstacle to widespread collaboration among community banks is that they have limited resources to dedicate to other activities beyond their primary focus of serving their customers

and communities. To compensate for their not being able to individually contribute a great amount of time to a nationwide effort to address payments/check fraud, they will rely on their community bank state trade associations like CBAI and their national association, the Independent Community Bankers of America (“ICBA”), to effectively represent their interests. CBAI will continue to vigorously advocate for our Illinois community bank members that are suffering with the insidious and growing problem of payments/check fraud.

3. Which organizations outside of the payments or banking industry might provide additional insights related to payments fraud and be effective collaborators in detecting, preventing, and mitigating payments fraud?

There are many stakeholders within and outside of the banking and payments industry who have an interest in and responsibility for preventing payments/check fraud.

A list of **primary stakeholders** would include –

- Community banks and other financial institutions like the largest banks, credit unions and thrifts where accounts are opened and checks deposited;
- The United States Post Office, where mail containing checks is stolen;
- Federal prudential banking regulators (OCC, Federal Reserve and the FDIC), which are responsible for the regulation, supervision, examination and enforcement against banks to ensure compliance with laws, rules and regulations;
- Federal and state agencies, which are responsible for other financial service providers and for collecting and disseminating information about payments/check fraud;
- Federal and state government and legislatures, which must pass legislation/enact laws to make the punishment for financial crimes more severe; and
- Law enforcement and the judicial system, which must make investigations, arrests, prosecutions and harsh sentencing for financial fraud a much higher priority than it is right now.

Approximately 70% of Illinois banks are state chartered and are supervised and examined by the Division of Banking within the Illinois Department of Financial and Professional Regulation (IDFPR). Illinois’ IDFPR, like other state banking regulators, is a member of the Conference of State Bank Supervisors (CSBS). During collaboration among stakeholders, CSBS would be a valuable source of information about payments/check fraud and its impact on community financial institutions and their local communities.

Other important stakeholders would include –

- Associations which represent important stakeholders like community banks (ICBA, CBAI and other community bank trade/advocacy associations);
- Bank core processors (and payment processors) of all sizes from Fiserv, which is the largest, to SHAZAM, which is a member-owned financial services and payments provider;
- Communications companies (including social media, messaging platforms, telecoms, large tech companies and their ilk) where there is an appallingly abundant amount of information available and where active collaboration takes place among criminals about how to commit payments/check fraud (these sites and chats are inexplicably available for anyone to search, find and view and they must be taken down immediately);
- Associations and groups which represent victims of fraud (for example, AARP, which represents seniors);
- The Permanent Editorial Board (“PEB”) and the Uniform Law Commission (the Uniform Commercial Code (“UCC”), which sets standards/rules for responsibility and liability for negotiable instruments – including checks);
- Associations representing lawyers nationally and at the state level (they will need to be consulted about any proposed changes to the UCC, which require state ratification);
- Small business groups whose members are more likely to write checks and be harmed by check fraud than large corporations; and
- The various payments systems (NACHA/ACH and FedNow).

An inclusive group of stakeholders could include the International Association of Financial Crimes Investigators (“IAFCI”), which is a global organization dedicated to combatting financial fraud and cybercrime. Another to consider is the Financial Action Task Force (“FATF”), which is an intergovernmental body that sets international standards and promotes policies to combat money laundering.

In addition, financial technology companies (non-bank FinTechs), neo-banks (offering services online and mobile platforms), and any Special Purpose National Banks (“SPNBs”) chartered by the OCC should be included as stakeholders. The conundrum is that unlike community banks several of these recommended stakeholders, as well as the Largest Financial Institutions, are reportedly the root cause of much of the financial crime that occurs because of their apparent shortcomings in sufficiently knowing their customers at the inception of the relationship, and for not closely monitoring their customers’ typical financial behavior to be able to prevent much of this fraud from occurring. While their input is needed to detect, deter and mitigate fraud, their contributions to the problem of payments/check fraud must be kept in mind.

4. Could increased collaboration among Federal and State agencies help detect, prevent, and mitigate payments fraud? If so, how?

Yes.

Collaboration between federal and state agencies could help fight the battle against payments/check fraud. The obvious problem is that there are multiple federal agencies and 50 states, each with one or more agencies that may have some jurisdiction over or possible impact on fraud and the harm it causes consumers and small businesses. Finding an effective forum and then agreeing on a plan of action will be difficult. Effective leadership will be required in this effort and the broader effort to arrive at a meaningful consensus to solve the problem of payments/check fraud.

CBAI recommends that one of the trusted banking regulators take the lead in this nationwide effort. Among the three federal banking regulators, the FDIC – insures bank deposits, the OCC – is the prudential regulator for national banks, but the Federal Reserve has a broad reach as well as the responsibility for supervising and regulating both banks and holding companies, in addition to maintaining the stability of the financial system and promoting consumer protection. CBAI believes the Federal Reserve is the logical choice for the regulator that should lead this nationwide, collaborative effort. Hopefully, the Federal Reserve's acting as the leader will promote effective collaboration and will lead to a consensus among all stakeholders toward an effective and comprehensive solutions to the serious and growing problem of payments/check fraud.

5. In general, what types of payments fraud education are most effective and why? Would different audiences (for example, industry and consumers) benefit from different types of payments fraud education?

Payments/check fraud education must be an intensive, sustained and well-coordinated effort that is directed at a wide range of individuals and groups because literally everyone is a potential victim of financial fraud. A one-size-fits-all approach will be ineffective because of the widely different levels of knowledge about financial services in general, and experience with the different types of fraud in particular.

Payments/check fraud prevention information needs to be accurately targeted, forthright and persuasive. The information needs to be delivered by trusted sources (i.e., individuals and institutions). Most importantly, it needs to be repeatedly delivered to multiple audiences (i.e., school-aged children, young adults, small business owners, middle-aged individuals and seniors); and through multiple delivery channels (i.e., those which are most effective at reaching different audiences).

There is a time-honored advertising maxim which states that people do not remember seeing/hearing something until they have been exposed to it between five and seven times, not just once or twice. Factors that indicate a higher number of exposures are needed are when the information is more complicated, and when it is not something that will be thought of often or actively. Payments/check fraud would definitely qualify for more rather than fewer exposures.

Just when the originator of information is getting tired of seeing and hearing their message it is likely to just start registering with the recipient – and it will be even later for that information to effectively modify behavior. An unsustained, one-and-done, narrowly focused or ill coordinated effort is not going to have any meaningful impact on educating the broader range of individuals and groups about detecting and deterring fraud. The effort needs to be a sustained and well coordinated.

6. Would additional education informing consumers and businesses about safe payment practices be helpful to reduce payments fraud and promote access to safe, secure payment options?

Yes.

Please also see CBAI's answer to Question #5 above.

Information about safe payment practices would absolutely be helpful to reduce payments/check fraud. Information is power and, in this situation, it is the power to prevent fraud (through effective detection and prevention) from being perpetrated against individuals and small businesses and undermining confidence in the nation's payments and banking system. In addition, and not to be discounted, the enormous benefit of stopping fraud is that it keeps illgotten funds out of the hands of money launderers, tax evaders and potentially terrorists.

The goal of education about safe payment practices should not be to eradicate one form of payment (for example, checks) or favor another form of payment (for example, ACH or FedNow), but the goal should be to develop best practices about how to safely use all forms of payments. Obvious best practices about payments/check fraud prevention would include closely

monitoring payments – perhaps as they occur or on a daily basis; regularly reviewing and balancing bank accounts; notifying the bank when anything suspicious is discovered; safeguarding and periodically changing passwords; freezing accounts with the three credit bureaus; knowing and trusting to whom you are sending money; not releasing personal banking information like account or PIN numbers to an unknown caller, in a text or an email; and not sending money to an unknown person or in response to a purported urgent request. In other words, the best practice is to be suspicious and verify the legitimate need for what the consumer is being asked to do. Doing all of these things consistently will help prevent the consumer or small businessperson from becoming a victim of payments/check fraud.

The unfortunate reality is that education about fraud is already taking place, but it has been fragmented and thus far has been woefully insufficient to deter fraud, which is increasing at an alarming rate. CBAI member check fraud survey results indicate that year after year (for three consecutive years) more than 90% of Illinois community banks are experiencing check fraud and the amount of the checks involved in this type of fraud has been increasing. Stakeholders need not only to continue but also to step up their education efforts and be aware that consistent exposure at reasonable intervals, together with active engagement, will be most effective in instilling the necessary safe payments practices by consumers and small businesses that will minimize all forms of fraud, including payments/check fraud.

An integral part of this education process must include an honest discussion about the customers' responsibility and liability for not practicing safe payment practices. Regulations have placed significant liability on banks for reimbursing consumers even when consumers may not have taken their responsibility seriously enough to prevent fraud. Many consumers unfortunately believe that if they are a victim of fraud of any kind or cause, the bank will take care of it. Instilling this misguided message in the minds of consumers does not support safe payment practices or fraud detection and prevention. The best defense against payments/check fraud is a responsible and diligent consumer and their bank working together to detect and deter fraud. Both have a stake in the success of their combined efforts. Combined responsibility needs to be a central part of informing consumers and small businesses about safe payments practices and fraud detection and prevention.

7. Which approaches could make existing payments fraud education more effective? For example, would targeting outreach to particular audiences or conducting additional education in collaboration with other key stakeholders be effective?

Yes.

Please also see CBAI's answers to Questions #5 and #6 above and briefly summarized below.

Payments/check fraud information needs to be a well-coordinated effort that is accurately targeted, clear and concise. The information needs to be delivered by trusted individuals and institutions. Most importantly, it needs to be delivered often and by multiple sources and through multiple channels. Advertising research has proven that people do not remember seeing something (or it does not register) until they have seen it five to seven times. A one-and-done or an ill coordinated effort is not going to have a meaningful impact on detecting and deterring fraud.

Specific approaches could include flyers, pamphlets/booklets, in-person presentations, webinars and YouTube videos. Unfortunately, all of these approaches are being employed now as part of an education process, but so far that effort has been insufficient to deter payments/check fraud, which is increasing at an alarming rate. The goal of reducing fraud, protecting customers and small businesses, and safeguarding the nation's payment and banking system needs to be a higher priority, increased in breath and depth, and more effectively coordinated between the various providers.

A specific recommendation may include asking "influencers" of different ages and backgrounds who have been victims of payments fraud to tell their stories and urge caution as a public service.

8. Are current online resources effective in providing education on payments fraud? If not, how could they be improved?

Yes, but with an important caveat.

The fact that resources are available online does not ensure that consumers and small businesses are aware of and utilizing them. Making something "available" must not be a box-checking exercise by the provider and then believing the overall objective has been accomplished. There needs to be continued engagement and effective follow-up. These resources need to be a part of a coordinated and multi-faceted approach to communicating with consumers of all ages and backgrounds and small businesses to be effective at preventing payments/check fraud.

9. What potential changes to regulations (apart from the Board's Regulation CC, discussed separately below) could address payments fraud and mitigate the harms from payments fraud to consumers, businesses, and supervised institutions?

The UCC establishes the standards/rules, responsibility and liability for negotiable instruments, including checks. The applicable Articles of the UCC that need to be revised include, but are not necessarily limited to, Article 3 and 4. Revisions are needed to reflect the modern day reality payments and the perpetration of fraud. A modernization of the UCC must place responsibility and liability for check frauds with the appropriate party (i.e., the bank of first deposit in at least the case of fraudulently altered checks). Specific provisions that need to be addressed in regulations and the UCC include the current requirements particularly for check return deadlines (i.e., the midnight deadline provision) and breach of warranty claims. There must be a more effective way for community banks to enforce the remedy for breach of presentment warranties, particularly against the Largest Financial Institutions short of expensive and time consuming litigation. References are made between Reg CC and the UCC and, as a result, there must be harmony between the two, to avoid any conflict and confusion.

Regulation E applies to a wide variety of electronic transfers of funds, including ATMs, debit cards, online and P2P transfers. Reg E concerns error resolution timeframes, providing provisional credit, establishing liability limits and disclosures about the terms and conditions and fees. CBAI recommends that Reg E be reviewed for consistency with changes that we have suggested with regard to the UCC and Reg CC to not only strike the appropriate and reasonable balance between liability and responsibility for both consumers and their banks, but also so that no additional regulatory burden or liability will be inflicted on community banks.

CBAI member survey results consistently revealed that community bankers are often stymied in deterring fraud by the current privacy regulations because they prevent conversations between banks and between the bank and trusted individuals and others who could intervene and stop fraud. Our member survey results of community bankers confirmed this by saying,

- Privacy policies have tied bankers' hands when trying to communicate with other banks about fraud.
- I contacted a large bank and made them aware that their customer was depositing fraudulent checks, and was told they could not speak with me because I was not their customer.
- Privacy laws have tied many banks ability to verify if a check is valid. We are not trying to gain personal information; we are only trying to protect our customers and their customers as well.

CBAI urges that there be an exception to the privacy laws (and an indemnification/hold harmless or safe harbor for the bank providing the information to another bank or individual) to allow reasonable discussions and exchanges of information to detect and deter payments/check fraud.

Unfortunately, there are situations where the community banker concludes that the best course of action to prevent fraud from occurring is to not discuss the matter with an individual(s) who may have authority on an account, because the bank reasonably believes that the authorized party is likely to be a party to the fraud. In these cases, the community banker must be shielded from liability (an indemnification/hold harmless or safe harbor) for not sharing information.

There must also be an indemnification/hold harmless or safe harbor for slowing or stopping a payment or transfer when the community banker reasonably believes their action or prevention of an action will prevent fraud from occurring.

Yet, in some instances and despite a community banker's best effort at convincing an individual or small businessperson not to transfer funds because of a suspected fraud or scam, the customer insists on doing so. In these situations, it must be firmly stated in regulations and rules that if a payment of any kind is authorized by an individual or small businessperson, then they (not their bank) are responsible for any loss they suffer from their authorization of that payment or transfer.

We have heard from several members that the quality of the check images the drawee bank receives from the bank of first deposit is insufficient to make the case that a check was altered in subtle ways. It is one thing for bank customers to incorporate sophisticated security features into their checks, but it is not helpful if those features are masked by a poor-quality image. This observation appears logical when one considers that the image quality standards were rooted in Check 21 technology which is now over 20 years old. CBAI urges that this issue be investigated so that poor image quality does not hamper the proper assignment of responsibility and liability for check fraud.

10. The Board, FDIC, and OCC have issued supervisory guidance on numerous topics that relate to payments fraud detection, prevention, and mitigation. Is existing supervisory guidance related to payments fraud sufficient and clear? If not, what new or revised supervisory guidance should the Board, FDIC, and OCC consider issuing on this topic within their respective authorities?

Given the alarmingly rapid and steady increases in payments/check fraud, either the existing regulations and guidance are insufficient (in which case new or additional regulations or

guidance is necessary), or are not being properly followed (in which case the Regulators need to address this situation through examination and enforcement). While CBAI believes that any new and additional regulations and guidance are unnecessary for community banks, based on our member check fraud survey results, we urge the regulators to focus on both new and additional regulations and guidance (as well as rigorous examination and enforcement for compliance) against the Largest Financial Institutions which must be held responsible for enabling check fraud in banking.

The OCC, Federal Reserve and the FDIC are the prudential Regulators for all the banks in the United States. The OCC is the regulator for the largest national banks, the FDIC is the insurer of deposits for all banks, and the Federal Reserve is the regulator for member banks and bank holding companies. As a result of overlapping responsibility, new regulations and supervisory guidance concerning payments/check fraud should be accomplished on a joint versus an individual basis.

Within the banking industry, there are vast differences between the largest banks with many hundreds of billions or trillions in assets versus community banks, which are typically under \$10 billion in assets and almost certainly under \$25 billion. All the Regulators are required to tailor regulations/guidance to the unique business models and risks of the institutions they regulate, which would logically suggest that community banks must be treated vastly differently than the Largest Financial Institutions.

CBAI has three consecutive years of community bank check fraud survey results. CBAI members consistently reported that they believe, based on their experience, that the underlying cause that enables the proliferation of check fraud in banking is the Largest Financial Institutions apparently do not know their customers sufficiently to prevent the opening of fraudulent accounts into which fraudulent checks are deposited which later clear back to community bank, harming their customers and undermining the integrity of the nation's payments and banking system. Based on these consistent community bank survey results, CBAI continues to recommend that the OCC, Federal Reserve and the FDIC issue new regulations and joint supervisory guidance specifically directed at these Largest Financial Institutions to require them to *step up* their ability to effectively know their customers and prevent fraudulent accounts from being opened and prevent fraudulently altered checks from being deposited.

Three years of CBAI member survey results have also consistently revealed a disturbing disregard by the Largest Financial Institutions in communicating with community banks regarding fraudulently altered checks once they have been returned without reimbursement from the banks of first deposit. CBAI urges that new regulations and joint supervisory guidance

establish firm guidelines for these Largest Financial Institutions to promptly respond and proactively communicate with community banks regarding fraudulently altered returned checks and any fraudulent activity in their accounts.

In addition, and again based on the consistent findings of three years of CBAI member survey results, our members believe that the Regulators, particularly the OCC as the regulator responsible for the Largest Financial Institutions, is not apparently ensuring that existing regulations and guidance are being followed sufficiently to prevent check fraud, and for not promptly and reasonably reimbursing community banks for fraud check returns. CBAI urges that examinations of these Largest Financial Institutions by the OCC be *stepped up* and that necessary enforcement actions be issued to address their apparent safety and soundness and compliance failures.

11. How might new or revised supervisory guidance assist small banks in detecting, preventing, and mitigating payments fraud?

Community banks have a close relationship with and thus know their customers. As a result, community banks believe they are less likely to open fraudulent accounts which (based on three years of our member check fraud survey results) enables the proliferation of check fraud in banking and, together with accepting fraudulent checks for deposit, results in losses for community banks and their customers and undermines the integrity of the nation's payments and banking system.

New regulations and joint supervisory guidance about knowing the customer and their typical patterns of banking, which is directed at the Largest Financial Institutions, combined with effective examination and enforcement, will decrease the instances of check fraud and ensure prompt and reasonable reimbursement for fraudulently altered return checks. This overall decrease in fraud and problems with reimbursements will be the greatest contributor to assisting small banks in detecting, preventing and particularly mitigating fraud.

Community banks are effective communicators; they have qualified employees who are available and can be contacted, and their employees will be interested in and responsive to inquiries about suspected fraud. Based on three consecutive years of our community bank check fraud survey results, that is not the case with the Largest Financial Institutions. The USA Patriot Act (Section 314(b) permits financial institutions to share information to help detect and deter fraud. The effectiveness of that ability to share and act on information logically presupposes the possibility of contacting and actually talking to someone, sharing information with them, having them share

information back, and that individual having the ability/authority to take effective action. Our members report that typically does not happen in their interactions with the Largest Financial Institutions. CBAI urges the regulators to require these Largest Financial Institutions to provide a consistently reliable and effective way of contacting them to help prevent and mitigate the damage caused by payments/check fraud. In addition, any impediments in the rules that were promulgated to implement Section 314(b) (and elsewhere) that are preventing the authorized and effective communications between financial institutions to help detect, prevent, and mitigate fraud should be removed.

12. What is the experience of consumers and businesses when supervised institutions place holds on depositors' funds because of suspected payments fraud? (Regulation CC's "reasonable cause to doubt collectability" exception is discussed separately below.)

CBAI's 2025 member check fraud survey asked if banks should be allowed to place temporary holds on accounts or items while potential fraud is being investigated.

- The response was unanimous – 100% – Yes.

It is not a regular occurrence for community banks to place holds on deposited funds, and consumers routinely expect deposited items to be accepted and move without delay through the payments system. However, there are situations when holds on deposited items are necessary, and they must be permitted at the banks' reasonable discretion.

Unfortunately, consumers may not have a sufficient understanding of the reason behind extended holds, which is to ensure good funds and to identify suspected fraudulent items. They also may not have a sufficient understanding of the timing difference between when a check is deposited and the ultimate collectability of those funds (i.e., availability versus collectability). This lack of understanding must be addressed with additional customer education. There must also be clear and understandable account documents and disclosures that explain this timing difference, which supports the reasonable and acceptable need for potential extended holds. In addition, there must be support from policymakers, including the Regulators, for more restrictive funds availability regulations when holds are placed on deposited items for suspected fraud or for other completely valid reasons like a new account deposit or deposit activity outside of what is typical for that customer, without fear of regulatory criticism or violations of laws, rules or regulations.

a) For instance, how frequently are consumers and businesses affected by holds, delays, or account freezes, and how responsive are supervised institutions to inquiries from consumers and businesses regarding these issues?

Consumers would prefer faster funds availability rather than having any delay in accessing their funds, and they do not want their accounts frozen. In the overwhelming majority of situations, those are completely reasonable expectations because the overwhelming number of accounts are in good standing and the overwhelming number of deposited items are good funds, which will clear quickly and without incident back to the drawee banks and the customers' accounts.

Rarely, although increasingly because of fraud, there is a need to hold or delay funds, or freeze accounts. In spite of the dramatic and sustained increase in fraud, the need for these measures still occurs infrequently at community banks because they are less likely to open fraudulent accounts, they are more proactive in reviewing deposited items, including remotely deposited items, and they are more familiar with their depositors' typical banking activity.

Community banks have a close relationship with their customers. They are readily accessible and highly responsive to their customers' inquiries regarding fraud in payments and will be proactive in discussing fraud detection and prevention with their individual and small business customers. If a customer is the unfortunate victim of fraud, community banks will work with them to address the issue and ensure to the greatest extent possible that the customer is not harmed and will also work with them in preventing a similar fraud from reoccurring.

b) Do current disclosure requirements effectively address consumer and business concerns when supervised institutions hold funds due to suspected fraud? For example, should changes be considered with respect to permissible customer communications under SAR confidentiality rules?

Consumers oppose fraud, and we believe they will support reasonable fraud prevention measures. If consumers were more knowledgeable about the reason for placing reasonable holds on accounts, then they would more likely accept them in the infrequent instances where they are necessary. The clear message needs to be delivered by banks and supported by the Regulators that it is in the customers' best interests for the checks they have deposited to be good funds, because their accounts will be less likely to experience chargebacks. Chargebacks can seriously disrupt a customer's cash flow and possibly overdraw their account, resulting in other negative consequences.

An additional benefit to effective fraud prevention messaging is that customers will be more willing to receive payments where there is a greater assurance that they are good funds. They will be more suspicious of any questionable source of funds and less likely to fall victim to

payments fraud. The messaging must be accomplished without mandating or favoring one payment method over another, which would be inappropriate.

CBAI supports changes to privacy regulations, strengthening information sharing between institutions, and narrowly focused exceptions for permissible communications under SAR confidentiality rules to more effectively combat payments/check fraud. In addition, banks need to be given wide latitude in regulations to deter payments/check fraud and a indemnification/hold harmless/safe harbor for communicating with trusted individuals or not communicating with suspicious authorized individuals on an account, for holding funds they reasonably suspect may be fraudulent, for refusing to accept suspicious checks for deposit, for freezing accounts when they feel it is reasonably necessary, and for closing accounts when the account holders are noncompliant with reasonable requests by the bank in the face of a reasonable suspicion of fraud or are fraudsters.

13. The Board, FDIC, and OCC have received complaints from supervised institutions regarding challenges in resolving disputes about liability for allegedly fraudulent checks. What is the experience of supervised institutions when trying to resolve these types of interbank disputes regarding allegedly fraudulent checks? Do these types of interbank disputes arise more frequently in connection with certain types of checks or parties? What actions should the

Board, FDIC, and OCC consider, including potential amendments by the Board to Regulation CC, that could improve supervised institutions' ability to resolve interbank disputes over alleged liability for allegedly fraudulent checks?

In early 2023, 2024 and 2025, CBAI surveyed its community bank members about their check fraud experience, including being reimbursed for fraudulently altered check returns. A summary of the survey findings is provided below. Links to the complete results of the three CBAI member check fraud surveys are attached to this comment letter as Appendix A.

The CBAI member survey results revealed the following in early 2025:

- Over ninety percent (90%) experienced the problem of fraudulent check returns.
- Sixty-five percent (65%) had difficulty being reimbursed for fraudulent returns by the Largest Financial Institutions.
- The Largest Financial Institutions that were the most difficult to work with for reimbursements were similar to the previous year.
- Fifty percent (50%) of the time, there was no response from the Largest Financial Institutions to requests for reimbursement for the fraud returns, the same as the previous year.
- Forty-six percent (46%) saw an increase in the dollar amount of each fraud return item, while 15% said it stayed the same.
- The average time to resolve check fraud disputes (when they were able to be resolved) was approximately three months, with slightly less than half responding four, five, six months, or longer.
- When the amount of check fraud losses was combined with the operating expense of detecting, investigating and deterring fraud, the average total was almost \$100,000!
 - If that amount is extrapolated for the approximately 4,500 community banks in the nation, then the total community bank earnings (for just that one year) needed to address check fraud, but could have been used far more productively serving community bank customers and their communities, was \$450,000,000.00!

CBAI member survey results revealed the following in early 2024:

- Ninety percent (90%) experienced the problem of fraudulent check returns.
- Seventy-two percent (72%) had difficulty being reimbursed by the Largest Financial Institutions (up from 60% the previous year).

- The Largest Financial Institutions that were the most difficult to work with for reimbursements were similar to the previous year.
- Fifty percent (50%) of the time, there was no response from the Largest Financial Institutions to requests for reimbursement for the fraud returns.
- Forty-five percent (45%) saw an increase in the dollar amount of each fraud return item, while 15% said it stayed the same.
- The average time to resolve check fraud disputes (when they were able to be resolved) was approximately three months, with more than half responding four, five, or six months.
- The average total fraud losses [alone] was \$47,000 (up from \$30,000 the previous year).

The member survey results revealed the following in early 2023:

- In response to the question asking if Fraud Returns have impacted them, 60% indicated in the affirmative.
- The Largest Financial Institutions were the most difficult to work with for reimbursements.
- Sixty-five percent (65%) of the time, there was no response from the Largest Financial Institutions to requests for reimbursement for the fraud returns.
- The response time for reimbursements was an average of five months, with some responding as high as 18 months, and some said there was never closure and they just had to sustain the loss.
- The average loss per bank was \$30,000.

Here are several responses for each year to open-ended questions about the community bankers' experience with check fraud and trying to resolve fraudulently altered check returns.

From early 2025's survey results:

- So many fraudulent accounts are opened online.
- They don't monitor mobile deposits, nor do they seem to do their due diligence with online account openings.
- The basic problem is that you never get a live person to talk to, and they never return messages.
- The bank tries to find a way of refusing the item, so they won't take a loss.
- The typical response is – Don't follow up with us, we will contact you when we are ready.
- The attitude is – This happens all the time – get in line.

From the previous year's survey results:

- The biggest problem is that apparently no one looks at the checks for deposit. In most cases they are clearly altered.
- The big banks are obviously not doing a good enough job at new customer due diligence.
- Most of these banks don't even communicate or care that they have fraudulent customers who are doing business through their institution and are unwilling to assist in these cases.
- We got passed around to seven (7) different departments and at the end of the day, we got absolutely nowhere.
- There was no urgency on their part at all.
- Their attitude is, it's not their problem – it's ours.

From the results from the year before that:

- The big banks' communication and response are nothing if not negligible.
- They never call you back.
- Trying to locate the 'right' person or department is nearly impossible.
- Every incident is extremely frustrating and time consuming.
- There is no sense of urgency to resolve the case.
- No response to several written requests over the past 90 days.
- The attitude is – They don't care!

These CBAI member check fraud survey results are ample reasons for our community bank members to justifiably complain about the Largest Financial Institutions' role in enabling check fraud in banking by opening fraudulent deposit accounts and accepting fraudulently altered checks for deposit into those fraudulent accounts. Then, once those checks clear and are later returned to the Largest Financial Institutions (the banks of first deposit) for reimbursement, community banks are not promptly and reasonably reimbursed, and trying to resolve those disputes is incredibly time consuming, frustrating and ultimately may not be successful.

These reimbursement denials are reportedly routine despite the fact that the UCC, in Articles 3417(a)(2) and 4-208(a)(2), states that the bank of first deposit makes a presentment warranty that a check has not been altered. Unfortunately, the final recourse for a community bank in the face of reimbursement denials for altered checks is to commence litigation, which in many cases is not financially feasible. As a result, the Largest Financial Institutions (typically regulated by the OCC) are apparently not honoring the UCC's presentment warranties, are harming

community banks, and these banks are apparently not suffering any financial and regulatory examination consequences for their actions. CBAI urges the Regulators to address this continuing injustice.

CBAI appreciates that each of the Regulators has established a mailbox to receive interbank complaints about challenges in resolving reimbursement disputes. CBAI urges the Regulators to maintain these mailboxes, which our members are reportedly using, as they have been successful in elevating their complaints. CBAI urges the Regulators, particularly the OCC, to carefully review these complaints, which will provide clear direction about how to best target their examination and enforcement efforts to get at the root cause of the check fraud problem.

- We highlight the positive experience of one of our community bank members who used a regulator mailbox to escalate their complaint after six (6) attempts to resolve the breach of warranty claim. They reported that they received a check for the full recovery, [but] it was nearly 18 months after they made their original claim.

A bank's ability to reasonably suspect fraud presupposes that the bank has designed and implemented reasonable policies and procedures, is sufficiently staffed, and is following the necessary procedures to detect that fraud is occurring and rapidly respond once fraud has been detected. CBAI urges the Regulators to provide new regulations and joint supervisory guidance to require the Largest Financial Institutions that they are responsible for regulating to delve deeply enough into knowing their customer to reasonably suspect that fraudulent accounts are being opened and examining deposited items closely enough (particularly those deposited by remote deposit capture) to ensure they are not altered or otherwise fraudulent. Then, once check fraud has been discovered and fraudulently altered checks are returned to these Largest Financial Institutions for reimbursement, the Regulators must robustly supervise, examine and enforce against them for their apparent lapses in promptly and reasonably reimbursing community banks for these fraudulently altered checks.

The OCC must be particularly focused on the Largest Financial Institutions' online and mobile account opening procedures, verification of the information the account applicants provide to definitively confirm their identity, be concerned with their waiving any exceptions to customer identity information, confirm they are reviewing items deposited by remote deposit capture to ensure that checks are not altered and the amounts are consistent with the customers' profile, and that the deposited item or payment transaction is not otherwise suspected of being fraudulent.

CBAI members have examples of obvious alterations on checks that were remotely deposited and apparently never reviewed. Had these Largest Financial Institutions examined the imaged

items, they would have had ample evidence to know that these checks had obviously been altered. In those cases, even categorizing those funds as uncollected until they cleared the account at the drawee's bank would not stop the fraud. In obvious fraud situations, the deposited checks need to be stopped before they enter the check clearing system and promptly reimbursed if it is processed and later returned to the banks of first deposit.

- One member community banker commented – Really, it doesn't take four months to determine if a check that was made payable to ABC or XYZ, LLC was deposited erroneously to John Doe's account.

Based on CBAI members' observations and published articles, there is an apparent rush by the Largest Financial Institutions to open accounts as quickly as possible (online and with mobile devices) and to process payments as quickly and as effortlessly as possible (via remote deposit capture) (a/k/a a frictionless experience) without apparently appreciating that speed often enables fraud to occur. The process of account opening and depositing checks needs to be slowed down to enable a reasonable amount of time for effective fraud detection and deterrence.

Community bankers have embraced the benefits of technology and innovation. In their adoption of new and modern ways of banking, community banks are trying to prevent fraud which harms consumers and small businesses and undermines confidence in the nation's payments and banking system, without creating an unreasonable burden on them or their customers.

- One of our members opined on this subject and cautioned by saying, I believe there is a lack of understanding and appreciation [by the regulators] for what community banks spend on serving and protecting their customers. Increased human resources are required and while new technologies are being put into place to address fraud – it's expensive. Most small community banks cannot continue to bear all these additional costs.

Specific recommendations to help resolve interbank disputes include, but are not limited to, the Regulators requiring the Largest Financial Institutions to provide a central point of contact (mailing address, fax number and phone number). They must promptly acknowledge receipt (within two business days) of a check fraud reimbursement request and simultaneously provide further contact information for the individual who is responsible for handling the specific check fraud dispute. Requests for any additional information must be made promptly, and be reasonable and legally justified.

Several members responded as follows about requests for additional information during the reimbursement process.

- They require a lot of documentation, which is fine, but they ask for it one piece at a time to draw out the process.
- They keep giving you the runaround and ask for more information, and then act like they never received that information, and keep dodging the issue.
- One bank was running us in circles for “additional information” that is not required by regulation. We were asked for a copy of a police report, a letter of circumstance, an account agreement, and a positive pay confirmation for them to process the claim.

The Largest Financial Institutions must be required to resolve check fraud reimbursement disputes in a reasonable amount of time (less than 30 days in all but rare situations.) The disputes must be resolved reasonably, and there must be repercussions for noncompliance with this reasonable requirement.

- One member very recently reported receiving correspondence from a large bank stating, “Claims such as these can take up to 180 business days to resolve.”

It is absolutely inconceivable to believe that if a bank is dedicating sufficient resources to successfully managing check fraud reimbursement requests that it would take anywhere near 180 business days to resolve them (which equates to 36 weeks or approximately nine months.) The Regulators need to ensure that the Largest Financial Institutions are dedicating the necessary human resources to promptly and reasonably address check fraud reimbursement requests.

The continued existence of the Regulators’ mailboxes to receive complaints from community banks, and those boxes actively being monitored, will be important and serve as a necessary avenue of communication for community banks to alert the appropriate regulator about any Large Financial Institution not in compliance with these reasonable requirements.

CBAI believes actions that we recommend be taken by the Regulators, particularly the OCC concerning the Largest Financial Institutions, are wholly within and consistent with their ability and responsibility. There are apparent failures by the Largest Financial Institutions in managing the entire check fraud detection, deterrence, mitigation and reimbursement process, the “M” in CAMELS, which is part of the framework of analysis the Regulators use to ensure the safe and sound operation and compliance of the banks they regulate. The apparent failure of the Largest Financial Institutions concerning fraudulent account openings and allowing fraud checks to enter the clearing system harms community bank earnings, the “E” in CAMELS, reduces the capital of community banks, the “C” in CAMELS, and wastes the limited resources of community bank management, the “M” in CAMELS.

CBAI urges the Regulators, particularly the OCC, to embrace their responsibility to hold the Largest Financial Institutions accountable for their apparent failures to detect, deter and mitigate

fraud, which harms community banks and their individual and small business customers, and which undermines the integrity of the nation's payments and banking system.

14. Regulation CC seeks to balance prompt funds availability with the risk of checks being returned unpaid for reasons that include fraud. What potential amendments to Regulation CC would support timely access to funds from check deposits while providing depository institutions with sufficient time to identify suspected payments fraud?

Just to be clear on the terminology, shortening funds availability increases the amount of funds available or makes the funds available more quickly and lengthening funds availability decreases the amount of funds available or delays the funds being made available.

CBAI understands the need and purpose of the funds availability rules outlined in Reg CC. However, from a practical standpoint and to be realistic, there is an irreconcilable difference between (and a problem) with a customer receiving prompt access to their funds (which is a regulatory requirement) and the ultimate determination if a deposited check will be returned unpaid and charged back to an account for fraud (or any other reason.) The timing difference between "availability" and ultimate "collectability" is known and exploited by fraudsters, which results in losses to banks and their customers and must be addressed in regulation and guidance to help deter payments/check fraud. Inevitably, this must be accomplished by limiting funds available to customers at least where there is any reasonable doubt about the good standing of an account or the ultimate collectability of a deposited item.

The current funds availability requirements permit an unreasonable amount of funds to be made available to consumers in advance of their bank knowing that an item that was deposited will be returned to their bank unpaid (i.e., availability versus collectability). Lengthening the maximum permissible hold times for legitimate customers with positive account history and with legitimate items for deposit should not be necessary and would only occasionally, if ever, be to their detriment, and only in a case where they believed the deposited funds were good, but when they later experience a chargeback.

Lengthening the permissible hold times in the case of fraudulently opened accounts into which fraudulently altered items were deposited would prevent criminals from having faster access to their ill-gotten gains and would likely result in the bank or legitimate and unsuspecting customers whose checks were altered taking less or no loss when the item is charged back against an account that had been emptied of funds.

The Federal Reserve's Reg CC Expedited Return Requirement states that a check that has cleared a customer's account must be returned to the bank of first deposit no later than 24 hours after presentation. That is a completely impractical and unrealistic requirement; it is far too short a period of time and must be significantly lengthened in the case of check fraud. A fraudulent item will likely go undetected by the typical accountholder unless the check overdraws their account or the customer reviews the check clearings on a daily basis. Even that level of review may not reveal a fraudulent item if the amount of the check was not altered, just the payee. The period between the time the check clears to when fraud check is discovered depends on when the customer's statement cycles during the month and the receipt and balancing of their statement, could be as little as several days to well over 30+ days.

CBAI recommends that Reg CC needs to be amended to extend the 24-hour return requirement, at least for check fraud to a minimum of 45 days, and that other rules (i.e., the UCC and Reg E) be consistent with those changes.

a. Have technological advancements in check processing reduced the time it takes for depository institutions to learn of nonpayment or fraud such that funds availability requirements for local checks and nonproprietary ATMs should be shortened?

The significant rise in check fraud has spawned technological solutions, some delivered through core processors and others through third-party vendors, to protect banks and their customers from check fraud losses. These technological solutions are useful, but they are expensive to implement, and community banks should not be required to adopt them through regulation/guidance or by their Regulators determining them to be "best practices." It should be the community bank's choice.

These new technologies are no replacement for an experienced community banker reviewing an account application and supporting documentation for suspicious information, inconsistencies and other potential red flags that would indicate fraud, or reviewing a check for alterations or inconsistencies with the accountholder's financial profile. No technology can completely replace the trained eye and a deep level of experience in banking and payments processing when it comes to preventing fraud.

Given the expense of implementing new technology and their trained and experienced staff, community bankers are successfully relying on a blend of staff together with assistance from technology to combat check fraud. Additional assistance can be provided by the Regulators with new regulations and joint supervisory guidance directed at the Largest Financial Institutions to

ensure that the banking system, including community banks, will be subjected to less fraud and community banks will be promptly and reasonably reimbursed for fraudulently altered returned checks.

Among promising technological advances in check processing are those that identify and prevent a fraudulent item from entering into the payments system to begin with (i.e., reviewing counterwork) and also those that identify and prevent a fraudulent item from being posted to an account after it has been processed through the payments system (i.e., reviewing inclearings).

In the first instance (reviewing counterwork), there will be no impact on funds availability because a fraudulent check will not be posted to the account. In the second instance (reviewing inclearings), technology may shorten the time between the posting of an item and it being discovered as fraudulent days or weeks after posting. However, there still remains the irreconcilable difference between when funds are made available under current regulations and when the drawee bank receives the fraudulent item to be charged back against its customer's account and its later discovery by the accountholder and then later returned (successfully or unsuccessfully) to the bank of first deposit. Current advances in payment technology will not solve this problem.

The timeframe for funds to be made available should absolutely not be shortened because of technology now and looking into the reasonable future, because it does not solve the problem caused by the difference between availability and collectability. CBAI urges policymakers, including regulators, to address this problem by lengthening the Reg CC timeframes to make funds available to customers (in reasonably suspected fraud situations and in other instances where the community banker has a reasonable suspicion about a deposited item).

b. What effects would shortening funds availability requirements have on payments fraud, consumers who rely on timely access to funds, and depository institutions?

Any shortening of funds availability timeframes will have an impact on the consumer and small business account holder because their funds will be made available more quickly. Whether or not doing this is advisable is the question. Consumers already benefit from a portion of funds that are automatically available or quickly thereafter, but certainly not as long as it takes to determine if a deposited item is ultimately collectable.

Shortening funds' availability will absolutely increase fraud losses to banks because it will widen the gap period between when funds are required by regulation to be made available to be

withdrawn by a customer and what remains in the account (if anything) when a fraudulent item is returned and charged back to the account.

On the one hand, shortening the funds availability may initially benefit customers but may ultimately harm them because customers are responsible for fraud losses that are not properly reported. This is as it should be and must be clearly stated in law and regulations. This liability is reflected in the account documentation, which the consumer has accepted and signed. Therefore, an unsuspecting consumer should be willing to wait for the very occasional check to clear, if it is either suspicious or outside of their typical account activity, to be assured of good funds rather than withdrawing and spending those funds only to later learn that they must cover an overdraft from a returned check. On the other hand, the fraudsters will be frustrated and upset by lengthening the funds availability because it is obviously in their best interests to empty the fraudulent account containing the proceeds of the fraudulent checks as quickly as possible.

CBAI urges the regulators not to shorten Reg CC funds availability and lengthen funds available to customers when the bank places reasonable holds on a deposited items. This is addressed in greater detail below.

c. Are there any changes the Board should consider to the expeditious return requirement to better balance providing expeditious notice to the receiving depository institution with ensuring time for the paying depository institution to investigate fraudulent checks?

Extended holds need not be placed on the overwhelming majority of deposited checks, assuming there is nothing suspicious about the transaction or it being outside of the customers' normal pattern of activity. Holds need to be seriously considered for new account deposits, remote deposit capture deposits, deposits from sources or in amounts or numbers of deposits that are inconsistent with the customer profile, or the existence of other reasons to suspect an item or situation. As a result, the overall effects of lengthening the funds availability (which are already more than reasonable) on the overwhelming number of deposits will not broadly impact consumers or their banks in a negative way.

In those cases where a lengthier hold is reasonably determined to be required, that hold should be at least the time it takes for the check to clear back to the bank on which it is drawn, plus the time it takes for the customer on which the check is drawn to determine and notify the bank if the check is fraudulently altered or counterfeit, plus the time it takes for the check to be returned to the bank of first deposit. CBAI recommended earlier in this RFI that this timeframe be set at a minimum of 45 days. CBAI further recommends that a bank that accepts a check for deposit

should have the discretion to waive the 45-day timeframe but only if it is willing to accept the responsibility and liability if the check is later returned as fraudulently altered or counterfeit.

Based on consistent community bank survey results, they have identified checks deposited through remote deposit capture as those they believe have the most problems with being fraudulently altered or counterfeit. The obvious advantage of remote deposit capture for a bank and its customers is that it is a convenient and efficient way to deposit checks. The obvious benefit to the fraudsters is that pictures of checks are less likely to be examined and discovered (particularly at the Largest Financial Institutions) as being altered or counterfeit, and criminals do not want to personally visit bank locations to make deposits (or withdrawals) for fear of being seen or caught committing their crimes.

CBAI acknowledges and understands the reasons to maximize ease and convenience in banking, and our members are not anti-innovation or trying to return to manually processing checks, but speed is the enemy of fraud detection and deterrence, and a reasonable balance must be struck between customer convenience and fraud prevention. CBAI recommends that if a remotely deposited check is later returned as fraudulent or counterfeit to the bank of first deposit within 60 to 90 days of the item being deposited with remote deposit capture (which gives the check time to clear and for the customer to receive and balance their statement and notify their bank about the fraudulent item) then that bank will be responsible reimbursing the drawee bank and their customer regardless of any other requirements for a speedier notification in the return of the item.

15. Regulation CC provides six exceptions that allow a depository institution to extend deposit hold periods for certain types of deposits, including deposits for which the depository institution has reasonable cause to doubt the collectability

of a check. Is this exception effective in allowing depository institutions to mitigate check fraud while also allowing timely access to funds? Would depository institutions benefit from further clarification on when it may be appropriate to invoke this exception in order to delay the availability of depositors' funds?

CBAI believes there may be a disconnect at some banks between “allowing” a bank or being able to extend hold periods under Reg CC and a bank “actually implementing” appropriate extended holds. The latter presumes a bank is doing sufficient due diligence in account openings to stop fraudulent accounts from being opened and in reviewing deposited items to prevent fraudulent checks from entering into the payments system. Our community bank members believe that they are diligent in both cases, but our consistent member survey results indicate that it may not be the case at the Largest Financial Institutions.

Banks are responsible for developing policies and procedures to comply with a myriad of regulations, including Reg CC, KYC, BSA, AML, CTRs, CDD, CIP, SARs. The Regulators are responsible for reviewing banks' policies and procedures for sufficiency. The Regulators should also be examining a bank's implementation, training and compliance with the policies and procedures, and should be enforcing against those that are not in compliance.

The success of complying with laws, rules and regulations is measured by its effectiveness in not only reasonably making funds available to consumers but also in stopping fraudulent accounts from being opened, preventing fraudulent items from being deposited, and promptly and reasonably reimbursing community banks for fraudulent returns. Our member survey results clearly indicate that the Largest Financial Institutions may not have sufficient policies and procedures and/or may not follow them diligently enough to prevent fraud from occurring. These Largest Financial Institutions must be held accountable by their regulators, particularly the OCC, for their apparent compliance lapses. Unfortunately, that has not happened to the extent necessary to successfully address the serious and growing problem of check fraud.

CBAI supports clarifying any of the six permitted exceptions that have proven to be difficult to work with in practical terms or adding any new exceptions to better enhance banks' ability to detect and deter fraud. CBAI also supports the Regulators in their examinations for compliance, giving banks very broad leeway in reasonably extending holds, especially under the current circumstances where there is a proliferation of payments/check fraud, and particularly regarding exception #5, which concerns Reasonable Cause to Doubt Collectability.

16. Broadly, how could payments fraud data collection and information sharing be improved?

CBAI urges the Regulators to consider the following as a preface to our answers to Questions #16, #17, #18, #19, and #20, which will put in proper perspective the community banks' position concerning payments fraud data collection and requirements versus perhaps others in the banking industry.

We will discuss two different aspects of data collection and information sharing in the following questions. The first aspect is regarding the collection and sharing of information specifically about payments/check fraud and reimbursements, while the second aspect is information sharing regarding accounts and payments/check fraud between banks.

Data collection about fraudulent accounts and payments/check fraud and the problems with being reimbursed for fraudulent check returns concern undeniable problems that are growing in severity. When solving any problem, there must be accurate current data to determine its source and severity and the continuing collection of data to gauge how effective remediation methods are at solving the problem.

The consistent results of our three years of member check fraud surveys clearly reveal that the source of the check fraud in banking is with the Largest Financial Institutions and not community banks. The logical conclusion to draw from these survey results is that these Largest Financial Institutions, not community banks, need to provide data to the Regulators about account and payments/check fraud, as well as reimbursements, which should be shared with all banks because all banks are highly interested stakeholders. Community banks should not be burdened with any new fraud data collection requirements because, individually or collectively, they are not the source of the problem, and they do not have the data that reflects the full extent of the problem or how best to monitor the impact solutions are having on solving the problem.

Community banks tragically comprise only approximately 15% of the nation's banking assets while the 10 largest banks have captured approximately 70% (the top five control about 40%) with other large and mid-sized banks controlling the remainder. So, everything else being equal, community banks can only be less than 15% of the check fraud problem.

However, everything else is not equal in terms of knowing the customer, which besides being an inescapable regulatory requirement, is the single most important element in preventing the opening of fraud accounts and deterring payments/check fraud. Community banks excel at knowing their customers because they have a close relationship with them.

While bank lobby traffic in general has decreased, community bank customers may be more likely to visit and transact their banking business at a bank or branch location. The Largest Financial Institutions emphasize opening accounts remotely, which is recognized as the fraudsters' preferred method of opening accounts. These Largest Financial Institutions receive fraudulent check deposits by remote deposit capture because it increases the speed of processing, but it also allows the fraudsters to maintain a low profile by not visiting the bank in person.

Given community banks' superior ability to know their customers, collectively they cannot even remotely be 15% of the check fraud problem, and they are likely a negligible part of the problem. Therefore, the Regulators should require payments/check fraud and reimbursement data from those that represent the overwhelming majority of the banking assets and those at the root of the fraud and reimbursement problems, which are the Largest Financial Institutions, and appropriately tailor the data collection and ongoing monitoring requirement by exempting all community banks.

At the present time, fraud data collection and dissemination are highly fragmented and collected by entities to address their specific concerns or meet their specific objectives. CBAI's three years of check fraud survey results are examples of our collecting information about Illinois community banks' experience with check fraud and reimbursements for fraudulently altered returned checks. This information was communicated to the federal regulators in hopes of encouraging their greater engagement to help stop check fraud and improve check fraud reimbursements. While CBAI remains disappointed at the lack of impact this valuable information has had on addressing these problems to date, we are greatly encouraged that this RFI is signaling a positive change and that payments/check fraud will receive the priority of attention by the Regulators that it truly deserves.

While macro fraud data is necessary and useful in determining the overall severity, trends or improvement of existing fraud and the emergence of new fraud, this information may not be particularly useful on a micro level in detecting, deterring and mitigating the fraud that is happening at banks right now. We are all well aware of the fraudulent activity that is occurring

and completely aware of what is needed - but has not been done - to address and solve the problem.

On a micro level and concerning information sharing between banks, when fraud is detected and a bank must deal with the fraudulent check, they need immediate access to the source of the fraud in banking, which our members report is typically the Largest Financial Institutions, which are the banks of first deposit. It was explained earlier in this comment letter and in much greater detail by following the links found in Appendix A that community bankers have experienced incredible frustration contacting individuals at the Largest Financial Institutions, getting their cooperation, sharing information to successfully return the item for reimbursement, and hopefully stopping any more fraud from occurring. The comments by our members in response to our check fraud surveys have been consistent over the past three years when they said there appears to be no urgency on the part of these Largest Financial Institutions, [just] get in line, or, it's as if they don't even care.

In addition to holding the Largest Financial Institutions responsible to address the problem of fraudulent account openings, depositing fraudulent checks into these accounts, and for missteps in fraudulently altered check reimbursements, CBAI urges the Regulators to ensure that these Largest Financial Institutions provide prompt and reasonable access to their account information and check verification to enable community bankers to detect and deter payments/check fraud in real time as they or their customers discover or suspect fraud.

17. What barriers limit the collection and sharing of payments and fraud data between industry stakeholders, and how could these barriers be alleviated? For example, have specific barriers limited development of solutions or participation in bilateral or multilateral fraud data collection and information sharing? What changes would address these barriers?

Please refer to the preface in Question #16.

Banks must not only be permitted to share information with each other, and encouraged to do so, but there must also be a willingness to share, a reasonable way to share that information, and meaningful penalties for not providing prompt and reasonable access to information that could identify and prevent payments/check fraud activity and fraud losses. There must be consequences for not complying with reasonable steps to detect, deter and mitigate fraud.

Our members' consistent experience, revealed in the results of three years of check fraud surveys, is that there is little sharing of information by the Largest Financial Institutions and there are apparently no repercussions for not sharing information to minimize financial loss to the community bank and its customers and in undermining confidence in the nations payments and banking system. This is apparently the case despite the ability to share this information as provided in 314 (b) of the USA Patriot Act. CBAI urges the Regulators, particularly the OCC, to increase supervision, regulation, examination and enforcement against the Largest Financial Institutions that it regulates for safety and soundness to ensure compliance with permissible fraud information sharing, including but not limited under Section 314 (b) of the U.S. Patriot Act.

18. What role should the FRS, FDIC, or OCC take in supporting further standardization of payment fraud data? For instance, can the FRS better leverage or improve FraudClassifier and ScamClassifier models?

19. What types of payments fraud data, if available, would have the largest impact on addressing payments fraud? If these data are not currently being collected or shared, what entities are best positioned to collect and share such data?

20. Is there a need for a centralized database or repositories for the sharing of payments fraud data across entities? What legal, privacy, or practical risks and challenges could such a centralized database or repository pose? Which entities are best positioned to develop and participate in a centralized database or repository?

Please refer to the preface in Question #16

Earlier in this response to the RFI, CBAI stated that there already exists an abundance of information about payments fraud, including check fraud, from a variety of sources in both the public and private sectors and that it is being used for various purposes by the entities that generate that data. None of those current efforts should be discouraged, and there should be encouragement where additional or different information is needed.

For example, IntraFi routinely conducts a Bank Executive Business Outlook Survey, which contains valuable information about liability in bank fraud cases and challenges when seeking reimbursements. CBAI has conducted surveys of its members asking about their experience with check fraud and reimbursement for fraudulently altered return checks. The results of those

surveys can be found by following the links in Appendix A. Others have conducted surveys on fraud for their own purposes and collectively they tell a compelling story about this problem and point the way towards solutions.

What is lacking and where the Federal Reserve could be extremely useful is in soliciting, receiving, organizing and presenting that information and making it available to all interested stakeholders. We will occasionally discover a new source of valuable payments/check fraud data which we were not previously aware of, and likely no one has a good grasp of all of the available information. The Federal Reserve could ensure that the available information is located on one searchable database that is updated periodically by contributors. CBAI recommends the Federal Reserve consider assuming this important responsibility.

21. How can the Reserve Banks enhance their existing risk management tools and services, operating rules, or procedures to better meet the needs of participating financial institutions in addressing payments fraud? For example, should the Reserve Banks consider requiring fraud reporting for payment rails (as they do already for the FedNow Service) or adopting any particular payments fraud standards?

The banks supervised by the Federal Reserve are likely not the largest ones that our members report are enabling check fraud in the banking industry. They report fraudulent account openings and allowing fraudulent items to be deposited are problems that are being caused by the Largest Financial Institutions, whose regulator is the OCC. However, the Federal Reserve regulates the holding companies that own the Largest Financial Institutions and should hopefully have a positive impact by requiring them to insist that their subsidiary banks address payments/check fraud more effectively. In addition, CBAI recommends that the Federal Reserve impress upon the OCC the need to more effectively supervise, regulate, examine and enforce against these Largest Financial Institutions, to address fraudulent account openings, the deposit of fraudulent checks and fraudulently altered return checks more effectively. These would be a welcome and meaningful contributions, which are needed to address this insidious problem.

22. Are there risk management tools or services that the Reserve Banks should consider offering or expanding, such as a) developing a payments fraud contact directory for financial institutions, b) offering tools that can provide

notification of atypical payment activity, or c) introducing confirmation of payee services to help mitigate fraudulent payment origination?

CBAI urges that the guiding principles of any tools or services offered by the Federal Reserve to address and mitigate fraud be appropriately scaled for and able to be utilized by community banks at little or no cost. Guidelines should also not provide any additional regulatory burden on community banks, especially those that are cost prohibitive. Community banks are already successfully beyond what others are apparently doing to combat payments/check fraud. These efforts should be recognized by the Regulators, and every effort should be made to use that effort and expense as a significant or total offset to the cost of any new tools or services offered by the Federal Reserve to detect and deter fraud.

A payments/check fraud contact directory should be published and kept up to date by the Federal Reserve, similar to the NACHA/ACH Contact Registry. This resource would greatly assist community banks in being able to write, fax and call the appropriate person concerning a fraudulent account, payments/check fraud or fraudulently altered check returns. All financial institutions must participate in creating this resource. The contact information must be accurate and kept up to date, the individuals must be available to accept calls, faxes and emails and promptly respond. There must be a clear process to lodge complaints against nonresponsive banks, along with meaningful repercussions for being nonresponsive or providing inaccurate or outdated information.

A simple yet historically effective way to prevent suspected items from entering into the payments system in the past was for one bank to be able to call another and ask if there are sufficient funds in an account to clear a particular check or ask if there are any issues or problems with the account. This would be an effective additional resource that could be facilitated by the Regulators. Banks need the ability to freely share this information without being cited by Regulators or by customers for violations of privacy (i.e., an indemnification/hold harmless or safe harbor). CBAI encourages the Federal Reserve to require and facilitate such information sharing.

23. What types of payment fraud have most impacted your organization and its stakeholders? What tactics have criminals employed when penetrating these types of payments fraud?

In early 2025, CBAI surveyed its members, asking them to rank the following frauds that are the ones they believe to be the most costly and harmful to their bank.

The bankers responded by listing these frauds in the following order of importance –

1. Check fraud – including fraudulently altered checks and counterfeit checks

2. ACH fraud
3. ATM fraud
4. Wire transfer fraud
5. Credit card fraud
6. Home Equity Loan fraud
7. Cryptocurrency fraud
8. Land title fraud

We asked if we were missing any type of fraud, and the bankers responded – debit card fraud.

The majority of fraudulent activity and losses involve accounts that were fraudulently opened and then used to perpetrate fraud. This would suggest that the Largest Financial Institutions and the Regulators, particularly the OCC, needs to focus on this aspect of their supervision, regulation, examination and enforcement activities to ensure compliance at the banks they regulate for safety and soundness.

Criminals communicate effectively on social media, and use chats to learn about how to perpetrate fraud, adapt their tactics to stay ahead of fraud detection and prevention efforts, and to brag about their successes. Fraudsters realize there is little risk in getting caught by law enforcement or prosecuted for their crimes. In some cases, they have accomplices to help steal mail containing checks, which are later “washed” or “cooked” by others, deposited into fraudulently opened accounts, and later emptied before the check is charged back to the customer’s account.

CBAI recommends that the way to effectively combat check fraud is for all of the stakeholders, including the Regulators, the USPS, banks, law enforcement, the judiciary and others, to work together prevent these criminals from preying on individuals and small businesses and community banks. Additionally, internet and social media providers need to promptly shut down sites/chats that share information and success stories and in any way educate fraudsters about how to commit these crimes.

24. What measures, including technological solutions or services, have been most effective in identifying, preventing, and mitigating payments fraud at your institution? Are there actions that consumers can take to help institutions? For example, do financial institutions find it helpful when consumers alert the

institution in advance when making large purchases, transferring large amounts of money or traveling abroad?

The most effective way to prevent payments fraud is to not allow fraudsters to open accounts and not allow them to deposit fraudulently altered checks. That has been the consistent observation of Illinois community banks based on three years of CBAI member survey results.

Community banks have a close relationship with their customers, which means they are less likely to open a fraudulent account. They are also more likely to know their customers' financial condition and pattern of financial behavior to be able to identify anomalies. The consistent results of CBAI's member check fraud surveys reveal this is not the case with respect to the Largest Financial Institutions. Addressing the apparent compliance and management shortfalls at these banks will be most effective in mitigating payment/check fraud. CBAI urges the Regulators, particularly the OCC, which regulates the Largest Financial Institutions, to embrace rigorous supervision, examination, and enforcement efforts to ensure their absolute and consistent compliance with Reg CC, KYC, BSA, AML, CIP, CDD, CTRs and SARs to address the insidious problem of payments/check fraud.

In addition to that effort, the most effective way to prevent payments fraud, including check fraud, and mitigate its damage through early detection, is educating account holders and instilling in them the importance of being aware of their account activity and reporting anything suspicious. Banks offer valuable and effective solutions and services to inform consumers and small businesses about their account activity in almost real time and in sufficient detail to prevent fraud. Customers can monitor their account activity as often as they want by phone, online via their laptop, and on their smartphone.

Banks would prefer consumers pay closer attention to their account activity and balance their accounts promptly upon receipt or delivery of their statement. While the responsibility for reimbursing customers for fraudulent activity has shifted more heavily to banks, consumers and small businesspersons are the ones that are in the best position to ensure the security of personal financial information, monitor accounts for suspicious activity, and alert their bank to any suspected fraud.

Consumers need to know about and be held responsible to be more engaged partners with their banks to help detect and deter fraud, and be responsible for any losses resulting from their actions or inaction leading to losses. This will be a challenging but necessary change in attitude and policy, but it must be supported by the Regulators and implemented in a timely manner.

25. To what extent not already addressed here, are there other actions that would support stakeholders identifying, preventing, and mitigating payments fraud?

The following may be an extension of the answer to Question # 14.

A technological solution that has been helpful in detecting and deterring check fraud has been the imaging of customers' checks to create a template of a typical check drawn on that account against which inclearings are compared to help identify those that do not match and require further investigation by a person experienced in bank operations and check processing. The challenge here is for bankers to establish limits of deviation from the norm as to not create an operational headache with numerous false positives while still flagging fraudulent items.

A helpful expansion of this detection process extends beyond the examination of checks from daily inclearings to include counter work. The database to accomplish this expanded universe of possible checks nationwide is significantly larger and takes more time to build, but the added value of examining and pulling suspicious items from counterwork intercepts potential fraud checks before they enter the clearing system. This expanded exception identification method can also be realistically used to justify extended holds on those items until they are either approved for processing or rejected.

Financial services vendors offer services used primarily by businesses to match the inclearings check number and amount with that of the customers records. This service has been enhanced to include matching the payee to detect checks where the amount has not been altered – just the payee. The Federal Reserve now offers a service called the FedPayments Reporter, where banks receive a preview of inclearings to get an earlier start on a review, which is incorporated into their other review processes they have in place to detect fraudulent items. The United States Treasury has a service called the Treasury Check Verification System, which allows banks to verify if a Treasury Check is valid. All these methods to detect and deter fraud have developed in reaction to the increase in fraud. New and more effective fraud prevention services are being developed and implemented. CBAI urges the Regulators to support the development and adoption of these third-party solutions by community banks, but not present any unreasonable third-party risk management hurdles which would impede these effective risk management solutions, or propose mandates which would increase the regulatory burden already experienced by community banks.

CBAI urges the Regulators to consider CRA credits for community banks' efforts at fraud prevention, detection and deterrence. These efforts serve the interests of all consumers and small businesses. While it is not directly related to meeting the credit needs of individuals and small

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businesspersons, our survey results indicate that community banks dedicate approximately \$100,000.00 per year to fraud prevention and losses. If you multiply \$100K times approximately 4,500 community banks, it equals \$450 million dollars which could be better used to support lending in the community and in other ways serve community bank customers and communities.

26. Are there specific actions that commenters believe could encourage the use of payment methods with strong security features?

Caution must be exercised when encouraging the use of a particular method of payment to not dissuade consumers from using other forms of payment. There are a wide variety of payment methods going back to bartering, currency/coin, checks, on to ACH and faster/near instant payments. Each can be used safely, and particularly modern methods can be enabled with strong security features. Consumers and small businesspersons should be made aware of these features and be willing to use them to detect and deter fraud or be responsible for loss for not using them. We believe community banks do an excellent job of making their customers aware of those security features and should not be required to assume any additional regulatory burden or liability.

Conclusion

Thank you for the opportunity to provide our observations and recommendations in response to this joint Request for Information concerning Information on Potential Actions to Address Payments Fraud, including check fraud. CBAI looks forward to continuing to work with all the Regulators to address this serious and growing problem, which harms community banks, their individual and small business customers, and undermines the integrity of the nation's payments and banking system. Please contact me if you have any questions or need any additional information.

Sincerely.

/s/

David G. Schroeder
Senior Vice President
Federal Governmental Relations

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Appendix “A”

CBAI’s 2025 Member Check Fraud Survey Results

<https://www.cbaionline.com/gr/CheckFraud2025membersurvey-RFI-September2025.pdf>

CBAI’s 2024 Member Check Fraud Survey Results

<https://www.cbaionline.com/gr/CheckFraud2024membersurvey-RFI-September2025.pdf>

CBAI’s 2023 Member Check Fraud Survey Results

<https://www.cbaionline.com/gr/CheckFraud2023membersurvey-RFI-September2025.pdf>