

**From:** [Sherry Darnell](#)  
**To:** [Comments](#)  
**Cc:** [Mandy Smart](#); [Jessica Chapman](#)  
**Subject:** [EXTERNAL MESSAGE] RIN 3064-ZA49  
**Date:** Tuesday, July 22, 2025 1:11:18 PM  
**Attachments:** [image001.png](#)  
[Fraud Comments - opinion for regulators.docx](#)

---

Please see the attached comments from Cross Keys Bank.

Thank you for the opportunity to address these issues.

Sherry Darnell, VP  
eBanking



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

A clear cut definition of the rules would help. Each bank would know exactly what is expected of them. Right now, the larger banks simply do to respond to inquiries. Knowing which bank is absolutely responsible would encourage more communication between banks.

**2. What types of collaboration, including standard setting, could be most effective in addressing payments fraud?** 314b information sharing could be effective in addressing payments fraud provided changes to the program.

**a. What are some of the biggest obstacles to these types of collaboration?**

314b sharing is burdensome and time consuming for community banks. Community Banks share the information with larger FI; however, when a community bank request information from a larger FI, the request is not handled timely and does not seem to be a priority. Consider a sharing program for community banks that is separate from the 314b information sharing program. This new information sharing platform could be specific to each state or restricted to participation based on the FI's asset size.

**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?** Local, State, and Federal agencies should be able to share local payment fraud trends with the banking industry and other industries impacted by this fraud. Sharing information and trends for specific areas with the banking industry might help prevent and detect activity within the FI faster.

**4. Could increased collaboration among Federal and State agencies help detect, prevent, and mitigate payments fraud? If so, how?** Yes, create a central database for participants to view current payment fraud trends and categorize the trend by State and Region.

**5. In general, what types of payments fraud education are most effective, and why?** In person, training is most effective for the engagement of the audience. This allows the audience to ask specific questions related to the fraud or concerns they find important. Fraud is not one size fits all.

a. **Would different audiences (for example, industry and consumers) benefit from different types of payments fraud education?** Yes, the depth of education should be specific to targeted audiences. Elderly consumers should be educated not only on the fraud that targets them specifically but also on how to prevent becoming a victim and the results of ignoring “Red Flags”. Early childhood education is important in the prevention of falling victim to scammers due to the lack of education on fraud topics. This education should relate the age of the audience and again provide real life examples with real life consequences.

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, for example commercials on radio, television, and social media platforms provide education while promoting a specific product. Safe Payment Practices could run ads or commercials much like product promoters with educational material.

7. **Which approaches could make existing payments fraud education more effective?** Commercials on radio, television, and social media platforms provide education while promoting a specific product. Safe Payment Practices could run ads or commercials much like product promoters with educational content and relevant fraud trends.

a. **For example, would targeting outreach to particular audiences or conducting additional education in collaboration with other key stakeholders be effective?**  
Yes

8. **Are current online resources effective in providing education on payments fraud?** No

**If not, how could they be improved?** Online ads for example use algorithms to target a specific age range. Fraud education should be specific to all ages and content may be customized base on the audience. Another example is cell phone ads, these ads could easily be customized to a specific age with information

**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?**

- A.** The UCC midnight return deadline (which Reg CC references) needs to be extended. Paying banks are required to return fraudulent items by midnight of the day following the day of presentment. The problem is that the discovery of an alteration or a counterfeit is not often discovered until the customer receives their bank statement which could be up to 30 days after it is presented for payment. Banks are then left to presentment warranties which are problematic for the paying bank if the item is counterfeit. If the item is an altered item, the paying bank can go through the presentment warranty process against the bank of first deposit which is often long and difficult. The bank of first deposit is in the best position to stop a fraudulent item at the point at which that item is entered into the payment stream. They have the physical item in hand (except in the case of a mobile deposit) and they are supposed to know their customer. Paying banks are losing a great deal of money because they are unable to return a fraudulent item after the midnight deadline.
- B. There needs to be loss allocation rules that address checks being deposited through a bank's mobile deposit platform.** UCC should specify greater liability for a bank of first deposit accepting items for deposit through their mobile deposit platform. The bank of first deposit in this case is not actually receiving an original item. The depositing customer retains that. There should, therefore, be greater scrutiny placed on the offering of that service. Community banks generally have a sensible threshold limit on the check amount that can be accepted through mobile deposit – generally \$2,500 to \$5,000. If an item comes in over the threshold amount, the system rejects the item until it can be further analyzed. Larger institutions are accepting checks through mobile deposit in much greater amounts - \$50,000 or even \$100,000 with no apparent restrictions. Much of the fraud loss volume taking place today involves this very situation. If any institution is going to accept a large check through mobile deposit, they should also accept full responsibility if the item is altered OR a counterfeit. Perhaps something could be included in the “exercise of ordinary due care” language.
- C. UCC should have more requirements for the return of funds to a paying bank that has suffered a loss if funds are present at the bank of first deposit.** Currently, some banks of first deposit are requiring Hold Harmless agreements in cases where funds are present in the depositor's account. There are even some that are requiring such in the case of an alteration when the bank of first deposit is actually responsible. Some banks however, refuse to return funds even if they are available and don't even offer a hold harmless agreement. There is too much variation from

bank to bank in how this is handled. UCC should specify what the requirements are for the return of funds if funds are available.

- D. The UCC should impose on a bank of first deposit a duty of good faith participation in loss recovery.** Regardless of whether a check is altered or counterfeit, the UCC should require that a bank of first deposit cooperate in recovering funds, including prompt response to written demands, disclosure of account activity (to the extent that allows funds to be traced). Further, there should be a requirement to freeze funds promptly upon written notice of fraud for a minimum amount of time to allow an investigation. The UCC should mandate a uniform timeline to respond to claims (e.g., within 15 business days) or the claim is presumed to be valid, with exceptions for good cause.

- 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 the respective authorities?** No, The definitions of an alteration and counterfeit needs to be expanded. Currently, the definition of an alteration is limited to a physical item being changed in some way on the actual face of the item such as the payee, the amount, etc. This altered item is then negotiated. There are cases, however, when one physical item is used to produce one duplicate item through the use of technology and certain details are changed. This new item is then the one that is negotiated and the original item is destroyed. This is, at its core, more of an alteration than a counterfeit.

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

Having one data base overseen by one entity available to all banks would help community banks. Banks would know if the customer has perpetrated fraud at another FI and not do business with them.

**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.)

- 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?** Institutions educate the customer about the timeline in which the funds will be held. Institutions also explain to the customer that due to recent fraud trends in most cases the hold will protect not only the bank from a financial loss but the consumer.
- b) **Do current disclosure requirements effectively address consumer and business concerns when supervised institutions hold customer funds due to suspected payments fraud? For example, should changes be considered with respect to permissible customer communications under SAR confidentiality rules?** No

**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?** There is a presumption of alteration as per Reg CC is not being adhered to. It seems as though in most cases, a dispute settles between the bank of first deposit and the paying bank as to whether an item is a counterfeit or an altered item. Reg CC clarified this in 2019 to say that if there is a dispute as to whether the item is counterfeit or altered, the presumption is that the check is altered. Banks of first deposit will usually want to always argue that the item is counterfeit to shift liability to the paying bank. And the opposite is true. Paying banks will usually want to argue alteration to shift the liability to banks of first deposit. It seems as though that most of the cases community banks are dealing with currently involve larger institutions as bank of first deposit and community banks as paying bank. When we make demand for the bank of first deposit to produce the original item for inspection as per Reg CC, they refuse to do so. Codifying a presumption of alteration in the UCC could help strengthen the rule and give it procedural "teeth."

**The liability for altered cashier's checks needs to be re-evaluated.** When a cashier's check is altered, current law states that the paying bank is liable, not the bank of first deposit, which is different than what is the case for regular checks. Oftentimes, however, a bank will use a cashier check processor such as a Moneygram who receives check info from the issuer that only includes check number, date, and amount, but NOT the payee information. Again, checks clear electronically and the issuing bank does not receive information from its processor as to the payee listed on the checks that are presented. UCC should specify that a bank of first deposit is responsible for alterations on all forms of checks, including cashier's checks.

14. **Do these types of interbank disputes arise more frequently in connection with certain types of checks or parties? What actions could 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 liability for allegedly fraudulent checks? Reg CC holds for cashier's checks needs to be re-evaluated.** Banks are required to give next day availability on the first \$6,725.00 of a deposited cashier's check. Counterfeit cashier's checks are increasing at an alarming rate. There is no good reason to afford cashier's checks quicker availability given that fact. Criminals know that banks are precluded from placing a hold on the first \$6,725, which is why they will often type "cashier's check" on a counterfeit check. Banks are either risking a Reg CC violation for placing a hold, or risking a financial loss by making the funds available next day. Cashier's checks should be treated the same as any other check.

**Although the Board is not proposing any changes to Regulation CC at this time, the Board seeks comment on the following questions:**

15. **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?**

The regulations are outdated. Check clearing has changed dramatically over the past several decades. In years past, we would receive the actual physical item. Checks were manually filed and signatures were compared with the signature card. It was easier to detect forged signatures or counterfeit checks in general by this process. That is no longer the way checks clear. It is an automated process with little or no human intervention. The bank of first deposit is oftentimes the only institution in the clearing process that has the opportunity to physically examine the actual check. They obviously

would not have reason to suspect a forged signature, but they should know who they are banking and what their customers are depositing

- 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? No**
- b) **What effects would shortening funds availability requirements have on payments fraud, consumers who rely on timely access to funds, and depository institutions?** Banks would be forced to release holds earlier and the fraudsters would have access to the money before banks could discover the fraud. More losses for the banks.
- 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 adequate time for the paying depository institution to investigate potentially fraudulent checks?**

Not at this time.

- 16. Regulation CC provides six exceptions that allow depository institutions 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? What are the experiences of businesses and consumers when depository institutions invoke this exception in order to delay the availability of depositors' funds?**

Reg CC holds for cashier's checks needs to be re-evaluated. Banks are required to give next day availability on the first \$6,725.00 of a deposited cashier's check. Counterfeit cashier's checks are increasing at an alarming rate. There is no good reason to afford cashier's checks quicker availability given that fact. Criminals know that banks are precluded from placing a hold on the first \$6,725 which is why they will often type "cashier's check" on a counterfeit check. Banks are either risking a Reg CC violation for placing a hold, or risking a financial loss by making the funds available next day. Cashier's checks should be treated the same as any other check.



**To assist in potentially promoting improved payments fraud data collection and information sharing, commenters are invited to respond to the following questions:**

**17. Broadly, how could payments fraud data collection and information sharing be improved?** One example of fraud data collection and information sharing that would be beneficial- If a person or business is ban from using one P2P (peer to peer or person to person) platform due to fraud or participating in a scam, the person/business should be blocked from all other platforms. This would prevent one platform shutting down the activity but another platform allowing the victim or fraudster to join another platform and resume the activity. It could work similar placing an identity theft or an alert on your credit report. If one credit reporting agency is notified subsequently the other two reporting agencies are notified and place the same alerts.

**18. What barriers limit the collection and sharing of payments 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 payments fraud data collection and information sharing? What changes would address these barriers?** P2P platforms also known as Peer-to-Peer or Person-to-Person platforms should be required to provide more information in the description of the transactions over a specific dollar amount. This could enhance the banking industry's ability to gain a clearer picture about the nature of the transaction and purpose.

**19. What role should the FRS, FDIC, or OCC take in supporting further standardization of payments fraud data? For instance, can the FRS better leverage or improve the FraudClassifierSM and ScamClassifierSM models?** Fraud models should be updated often to keep up with the fraudsters.

**20. 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?**

A database in one place for all FIs to utilize. This way banks know the players and can better protect themselves.

- 21. Is there a need for centralized databases 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?** Yes, a centralized database for sharing of payments fraud data across entities would be amazing. FinCEN or another government agency is best positioned to develop and participate in this database and its privacy risks.
- 22. How can the Reserve Banks enhance their existing risk management tools and services, operations, 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 already do for the FedNow® Service) or adopting any particular payments fraud standards?** Yes
- 23. 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?** Yes, this should be a service provided to the impacted industries and participation should be voluntary not required.

### **General Questions**

**In addition to the more specific questions above, commenters are invited to respond to the following general questions related to payments fraud:**

- 24. What types of payments fraud have most impacted your organization and its stakeholders? What tactics have criminals employed when perpetrating these types of payments fraud?** Check fraud and Peer to Peer platform fraud

**25. 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 that help institutions?**

SQN is helping mitigate check fraud, along with positive pay for business customers. Consumers should be held accountable for reviewing their accounts timely. This is the digital age and everyone has a phone or online banking, as we move forward in technology consumers should accept some of the responsibility when it comes to reviewing their accounts and participation in suspicious activity.

**For example, do financial institutions find it helpful when consumers alert the institution in advance when making large purchases, transferring large amounts of money, and traveling abroad?** Yes, this information is beneficial in the fraud detection process as it relates to the customers purchases and location.

**26. To the extent not already addressed here, are there other actions that would support stakeholders in identifying, preventing, and mitigating payments fraud?**

Fraud detection and reporting will need to be evaluated and revised often. The fraudsters seem to always be one step ahead of the FIs and they know the rules better than we do in some cases.

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

We have yet to see a security feature that cannot be copied by fraudsters.