

[REDACTED]

From: Brett deMilliano <[REDACTED]>
Sent: Wednesday, August 27, 2025 10:42 AM
To: Comments
Subject: [EXTERNAL MESSAGE] June 20, 2025-Request for Information On Potential Actions To Address Payments Fraud; Comment Request (RIN 3064-ZA49)

[REDACTED]

Ms. Jennifer M. Jones
Deputy Executive Secretary
Attention: Comments—RIN 3064-ZA49
Federal Deposit Insurance Corporation
550 17th Street NW
Washington, DC 20429

Dear Ms. Jones:

I am the Executive Vice President and Chief Financial Officer of First American Bank, a \$1.8 billion dollar community bank located in New Mexico and West Texas. I am writing to respond to the Office of the Comptroller of the Currency (OCC)'s, Board of Governors of the Federal Reserve System (Board)'s, and Federal Deposit Insurance Corporation (FDIC)'s request for information (RFI) on payments fraud.

Our bank was chartered in New Mexico in 1903. We have grown to serve the majority of North Central, Southern, Southwestern and Southeastern counties and communities in New Mexico including El Paso Texas. We are the largest independent bank headquartered in New Mexico.

I applaud the agencies for issuing this RFI and seeking input on ways that the OCC, the Federal Reserve System (FRS), and the FDIC could take actions to help consumers, businesses, and financial institutions mitigate payments fraud. Community banks continue to be challenged by a rise in fraud and scams across payment types, so agency action is much needed.

Specifically, the Bank has been affected by payments fraud in the following ways:

Our bank has been and is experiencing higher than normal check and electronic payments fraud including hard dollar financial losses in 2023, 2024 and YTD in 2025.

Our customers continue to experience financial losses from check and electronic payments fraud where they have born the transaction losses in 2023, 2024 and YTD in 2025.

External Collaboration

The Bank supports collaborative stakeholder efforts to address payments fraud. Fraud and scams persist across state borders, so national stakeholder collaboration is necessary to effectively combat the problem. However, national efforts must recognize the resource constraints individual community banks face when deciding whether to participate. Local and regional collaboration across community banks, federal and state regulators, law enforcement, community organizations, and other stakeholders can be an effective way to build connections and share information at the community level.

Consumer, Business, and Industry Education

Community banks thrive, in part, because of their close customer relationships, so face-to-face engagement is one of the most effective tools to reach community bank customers. In-branch material and messaging is especially valuable for community banks. Community banks serve elderly customers, as well as consumers and small businesses in rural and agricultural areas, so educational materials tailored to these groups would be valuable. Some community banks are in areas that do not have widespread, reliable Internet access, so web-based resources are not always accessible to customers.

Regulation and Supervision

Broadly speaking, payments fraud regulations and examiner expectations need to be appropriately tailored to community banks with tiered compliance requirements and deadlines. There are opportunities to enhance supervisory guidance around appropriate controls, suitable technology, reporting, and incident response, but it is important to avoid imposing new burdens on community banks.

Check fraud, in particular, remains a significant issue. Community banks are concerned that some large financial institutions are not exercising sufficient CIP/KYC processes and opening accounts that are being leveraged by fraudsters. Similarly, community banks have had significant difficulty resolving interbank disputes regarding fraudulent checks. We continually attempt to resolve fraud claims with larger financial institutions with little to no response. A significant portion of our bank and customer financial losses due to check fraud occur due to bad actors opening deposit accounts with mid-west and eastern money center banks that propagate check fraud nationwide.

Changes to Regulation CC could help community banks prevent and mitigate fraud. For example, the return deadline related to fraud could be extended, the “reasonable cause to doubt collectability” exception could be clarified, and relevant definitions could be revised (e.g., “altered” and “alteration”). However, hold times should not be shortened; they are an essential tool for banks to detect and prevent check fraud. Financial institutions should have flexibility to extend hold times under appropriate circumstances.

Payments Fraud Data Collection and Information Sharing

While centralized data reporting would be valuable for the ecosystem, agencies should avoid imposing additional data collection requirements on community banks. Appropriate safe harbors would improve banks’ ability and willingness to share fraud data. Community banks would benefit from automated data collection, analysis, and reporting tools that are integrated with services they already use and do not come with additional costs.

Reserve Banks' Operator Tools and Services

Community banks would benefit from tools and services that integrate with third-party services they already use and pricing that is appropriate for their size and complexity. There are a variety of specific products and services that could benefit community banks, including, for example, a fraud contact directory, a fraud information sharing repository, an interbank check fraud breach of warranty claim mechanism, a check image analysis and verification tool, an atypical payment monitoring service, and confirmation of payee service.

General Questions\Comments

Our bank and our customers experience aggressive email and cell phone phishing compromise campaigns daily. Aggressive, organized crime tactics are targeting check theft from the post-office, post-office boxes, mail distribution centers, etc. Check washing occurs; fraudulent checks are created. Much of our fraud instances occur from mobile deposited items or remotely deposited items. We have also experienced fraudulent duplicate checks presented to our bank and charged to our customer accounts.

Our bank has had to add additional processes and procedures, add extensive fraud training for our staff and customers. Our costs associated with fraud detection and prevention are rising quickly on top of the financial losses incurred. We are working with our online banking vendors, our fraud advisors, ICBA and ICBA state associations, and our attorneys to attempt to mitigate fraud.

Thank you for the opportunity to provide comments on this RFI. The Bank looks forward to continuing to work with the OCC, FRS, and FDIC, and other stakeholders to protect our customers and communities from the growing threat of payments fraud.

Sincerely,

Brett deMilliano
EVP\CFO
First American Bank