



September 12, 2025

Missouri Bankers Association

Ms. Ann Misback
Secretary Board of Governors
Federal Reserve System
20th Street and Constitution Ave. NW
Washington, DC 20551

RE: *Potential Actions to Address Payments Fraud*
Federal Reserve Docket No. OP-1866
OCC Docket ID OCC-2025-0009
FDIC RIN 3064-ZA49

Submitted: www.regulations.gov and publiccomments@frb.gov
Proposal: Amendment to Regulation CC to Address Check Fraud

Copy Mailed: Ann Misback
Secretary Board of Governors
Federal Reserve System
20th Street and Constitution Ave. NW
Washington, DC 20551
And
Attention Acting Director Russ Vought
Consumer Financial Protection Bureau
1700 G. St. NW
Washington, DC 20552

Dear Ladies and Gentlemen:

The Missouri Bankers Association thanks the Board of Governors, the Comptroller of the Currency and the FDIC for opening this docket to address payments fraud. Criminals target our customers and our banks from numerous vectors. Our letter is addressed to the Board of Governors, focused on Regulation CC, and we request a commonsense amendment to address fraudulent checks.ⁱ

Check fraud has exploded in recent years and is documented in SAR filings and in the millions of dollars in losses incurred by banks, consumers, businesses and the federal government. Most recently, the President of the United States issued Executive Orders 14247 and 14249 to eliminate the deposit and issuance of paper checks to the fullest extent possible and transition the United States treasury operations to electronic payments by September 30, 2025.

Thousands of checks are stolen in mail thefts from the US Postal Service every year. The checks are washed, altered, forged and fraudulently deposited. In some cases, the check is not altered, but criminal gangs will incorporate a business in neighboring state with the same name and open an account. Criminal gangs also recruit individuals to use their accounts or open accounts to deposit fraudulent checks. Counterfeit checks are also created by simply duplicating bank stock and routing numbers and using stolen customer account numbers and names.

Criminals know and exploit the requirements of Regulation CC, the Uniform Commercial Code, and the Federal Expedited Funds Availability Act (EFAA) and bank customer identification program requirements and manipulate their activities to exploit every seam and vulnerability in the check payment system. It is far too easy for a criminal to open an account at a bank for the purpose of check fraud and far too easy for criminals to steal, forge, alter or create counterfeit checks and fake identities or recruit negligent or compromised individuals to assist in check deposit frauds.

Check fraud is plundering the wealth of the United States and our citizens to enrich organized criminal gangs, domestic and foreign. The losses are staggering and undermine our economy, deplete our wealth, erode trust in our banking and government institutions, and present national security concerns as a portion of our stolen wealth finances foreign states and organizations that seek the destruction of the United States.

The EFAA expressly states that the check clearing requirements “*shall not apply with respect to any check deposited in an account at a depository institution if the receiving depository institution has reasonable cause to believe that the check is uncollectible from the originating depository institution. For purposes of the preceding sentence, reasonable cause to believe requires the existence of facts which would cause a well-grounded belief in the mind of a reasonable person.*” 12 USC 4003(c)(1). Further the Federal Reserve Board of Governors has authority to implement the EFAA and “*supersede any provision of the law of any State, including the Uniform Commercial Code as in effect in such State, which is inconsistent with this chapter or such regulations.*” 12 USC 4007(b).

The MBA proposes an amendment to Regulation CC that will dramatically deter check fraud and protect banks, consumers, businesses and the wealth and security of the United States. The amendment will allow banks to apply the same modern fraud detection protocols (including AI systems that learn account usage and detect fraudulent patterns) as apply to electronic payment systems to identify suspected fraud, alert customers in real time, and that will slow the clearing of checks and funds availability where suspicious activity is presented to allow for customer verification. The changes will also shift

warranties and incentivize receiving banks to adhere diligently to and enhance know your customer protocols.

The Treasury Department and banks offer government, businesses and consumers electronic payment mechanisms that are multiple times more secure than checks and electronic payment systems are also faster and more efficient than the check clearing system. Because of the availability of faster and more secure payment systems, no government agency, business, or consumers will be detrimentally impacted when there is a need for a fast and secure payment. All banks, government agencies, businesses and consumers will benefit due to the reduction of and avoidance of check fraud losses. Lowering fraud losses reduces costs for banks, government, businesses and consumers.

MBA proposes that the Board of Governors add one new second level paragraph to Regulation CC Title 12 CFR part 229.13(e) at **(3) (emphasis supplied):**

(3) Fraudulent Checks and Accounts – Enhanced Check and Account Security Program

(i) Notwithstanding any state law or provision of the Uniform Commercial Code, depository institutions may implement the following enhanced check and account security program under the reasonable cause exception pursuant to Title 12 USC section 4003(c).

(A) Enhanced account security program - funds availability - receiving depository institution.

(1) For any check a receiving depository institution may place a nine day hold on availability if:

(i) The customer account has been open for less than one year;

(ii) The check or account presents indicia of fraud or potential fraud;

(iii) The check presents activity, an amount, or drawer inconsistent with prior account history or expected account use;

(iv) The receiving depository institution's customer is uncooperative, evasive, or non-responsive if questioned about the check; or,

(v) Such other relevant factors that the receiving depository institution deems appropriate to protect the institution or its customers from check fraud.

(vi) And the receiving depository institution provides notice of the nine-day hold to its customer and to the originating depository institution, or in the

case of a check issued by the United States Treasury Department, to the Treasury Department's Bureau of Fiscal Services.

(B) Any check subject to nine-day hold by a receiving depository institution shall be a covered check under this section.

(i) The receiving depository institution implementing an enhanced account security program shall establish an account option for consumer accounts to provide a no interest advance to a consumer for personal and household expenses not exceeding the amount of the covered check but not exceeding \$5,000, provided the receiving depository institution may undertake due diligence prior to making an advance and may decline to extend an advance or to limit the amount of an advance based upon reasonable underwriting standards for credit risk.

(ii) Any hold placed under this section where the end date falls on a non-banking day shall be extended to the next banking day.

(iii) Account security – warranty - A receiving depository institution and its customer warrants that the customer is acting with reasonable diligence and in good faith and that a check deposited for collection is not a stolen, forged, altered or counterfeit check. Any loss related to a breach of this warranty shall be the responsibility of the receiving depository institution and its customer. However, this warranty shall not apply to a covered check subject to a nine-day hold, in which case other relevant state and federal law shall apply with respect to check warranties.

(iv) For any check presented to an originating depository institution or the United States Treasury Department, with notice of a nine-day security hold, the originating depository institution or the Treasury Department's Bureau of Fiscal Services may place a nine-day hold to run from the end date of the hold placed by the receiving depository institution, for purposes of allowing the originating depository institution or the Treasury Department to confirm the validity of the check.

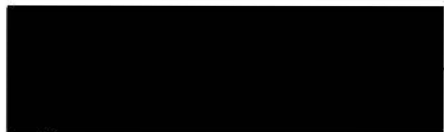
(C) Enhanced account security program – funds availability – originating depository institution.

(1) For any check presented to an originating depository institution for collection the originating depository institution may place a nine day hold on availability if:

- (i) The customer account has been open for less than one year;
 - (ii) The check or account presents indicia of fraud or potential fraud;
 - (iii) The check presents activity, an amount, or drawee inconsistent with prior account history or expected account use;
 - (iv) The originating depository institution's customer is uncooperative, evasive, or non-responsive if questioned about the check;
 - (v) The originating depository institution provides notice of the nine-day hold to its customer and to the receiving depository institution; or,
 - (vi) Such other relevant factors that the originating depository institution deems appropriate to protect the institution or its customers from check fraud.
 - (vii) Provided the originating bank identifies indicia of fraud or potential fraud, the originating bank may place a nine-day hold on cashiers or certified checks to allow the bank time to investigate the circumstances related to the issuance of the check.
- (D) No bank shall face any regulatory or civil liability for implementing and following an enhanced check and account security program pursuant to this rule.

The Missouri Bankers Association sincerely appreciated the opportunity to present our proposal to the Board of Governors of the Federal Reserve System. We also appreciate the collective knowledge of all the bank supervisory agencies, federal law enforcement agencies, the U.S. Postal Service, the Department of Treasury, and the Consumer Protection Agency, regarding the harm check fraud presents to our banks, businesses, consumers and to the United States of America.

Sincerely,



Jackson Hataway
President and CEO

¹ The MBA is also providing a courtesy copy of this comment letter to the Consumer Financial Protection Bureau which, as part of its charge to protect consumers, has been provided co-jurisdiction for the EFA Act and Regulation CC.