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A Member of the Credit Union System

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July 11, 2005

Board of Governors of the Federal Reserve System  
Jennifer J. Johnson, Secretary  
20<sup>th</sup> Street and Constitution Avenue, NW  
Washington DC 20551

RE: FR 3080 Check 21 Act Survey

The Credit Union National Association (CUNA) is pleased to respond to the Federal Reserve Board's Comment Request on its Check 21 Act Survey, which will be used to collect information from a random selection of financial institutions, including credit unions, on various aspects of check processing. We commend the Federal Reserve (Board) for initiating implementation of Section 16 of the Check Clearing for the 21<sup>st</sup> Century Act (Check 21), which requires the Federal Reserve to study its implementation and report to Congress on its results.

By way of background, CUNA represents approximately 90% of our nation's nearly 9,100 state and federal credit unions that serve approximately 85 million members. This letter was prepared under the auspices of CUNA's Payment Systems Subcommittee, which is chaired by Ralph Jones, Executive Vice President of the Georgia Credit Union Affiliates.

### **Summary of CUNA's Position**

- CUNA applauds the Board's initiative for conducting a broad-based survey to obtain feedback from credit unions and financial institutions on check processing
- CUNA believes retrieving specific statistical information might be challenging for those institutions that do not specifically store certain information in a format that is readily available.
- CUNA suggests the survey request information on funds availability policies as well as how often and under what circumstances an institution uses an exception hold, or does not place a hold on a deposited check.
- CUNA requests that the Board provide notice to those institutions that are selected so that they will have adequate time to train staff, make the

appropriate changes to their systems and accurately track the information necessary for responding to the survey.

- CUNA believes it would be helpful to the Board to have a narrative section that would enable institutions to provide additional comments on check processing, funds availability, check losses, or other operational or consumer issues or situations they experience as a result of the implementation of Check 21.
- CUNA suggests that the Board delay initiating any changes to the maximum hold periods mandated by Regulation CC until it has had sufficient time to accurately determine the effect Check 21 has had on our check processing system.

## **Discussion**

The Federal Reserve is required to study the implementation of Check 21 and its effect on various aspects of check processing and to report the results and any recommendations for legislative action to Congress by April 28, 2007. We applaud the Board's initiative for conducting a broad-based survey to obtain feedback from a random sampling of financial institutions, including credit unions, on check processing. We believe it is important to accurately characterize the existing check processing system to better gauge the effect, if any, the recent implementation of Check 21 has had on both consumers and financial institutions.

We believe that while the information that the Board is seeking in its survey is available at institutions, it may not be easily accessible. Retrieving requested information might be challenging for those institutions that do not specifically store certain information in a format that is readily available. Check losses and returns specific to local or nonlocal checks or presentment methods, for example, are not typically stored for easy retrieval. Additionally, determining the total number of deposited checks broken down by when the funds become available would be a difficult task since institutions typically do not track this data. To retrieve this information, institutions would need to track this information for the time period with which the Board is seeking information. This would require manual and automated tracking procedures as well as programming changes to complete the survey. Institutions would need to make these changes well in advance of actually tracking the information in order to train staff and make programming changes.

We respectfully request that the Board consider survey questions that do not ask for specific statistical information, but rather request information on institutions' policies for funds availability and under what circumstances institutions utilize the exception holds and do not place holds on deposited checks. We believe that

responses received would provide enough information for the Board to determine whether the hold periods currently mandated by Regulation CC are sufficient.

If the Board chooses to retain the existing questions, we request that the Board provide notice to those institutions that are selected so that they will have adequate time to train staff and make the appropriate changes to their systems. This will enable the credit unions to accurately track the information necessary for responding to the survey. Additionally, we request that the survey questions be rephrased so that they provide specificity and maintain a consistent format. Currently, questions use the terms "as of March 2006" and are phrased in terms of "number of cases," "percentage of consumer accounts," or "percentage of consumer check deposits." Specifying a specific time frame, such as "from March 1, 2006 – December 31, 2006" and maintaining a consistent format will provide more reliable responses from credit unions and ensure the Board is examining survey results from the same time-frame.

We believe it would be helpful to the Board to have a narrative section that would enable institutions to provide additional comments on check processing, funds availability, check losses, or other operational or consumer issues or situations they experience as a result of the implementation of Check 21. As institutions begin processing checks electronically and participating in the electronic exchange of checks, additional operational and procedural issues arise. We believe it would be helpful for the Board to obtain all applicable information surrounding the implementation of Check 21, so that it can fully study the effect Check 21 has on credit unions.

We believe that although a survey at this time would accurately characterize our nation's existing check processing system, it may be premature to gauge the effect Check 21 has on it because it is too early in the process. We respectfully suggest that the Board delay initiating any changes to the maximum hold periods mandated by Regulation CC until it has had sufficient time to accurately determine the effect Check 21 has had on our check processing system.

## **Conclusion**

We appreciate the opportunity to comment on this Request for Comment. In summary, we commend the Federal Reserve for initiating implementation of Section 16 of the Check 21 Act by surveying credit unions and other financial institutions. If you have any questions, please contact me at (202) 638-5777.

Sincerely,



*Lilly Thomas*  
Assistant General Counsel