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Via electronic submission

December 2, 2024

The Honorable Rohit Chopra  
Director  
Consumer Financial Protection Bureau  
1700 G Street, NW  
Washington, DC 20522

**RE: Petition for Rulemaking Requesting a Rule to Shorten Maximum Permissible Hold Times for Funds Deposited by Consumers [Docket ID CFPB-2024-0051]**

Dear Mr. Chopra,

The Independent Community Bankers of America (ICBA)<sup>1</sup> appreciates the opportunity to comment on the petition for rulemaking<sup>2</sup> requesting a rule to shorten maximum permissible hold times for funds deposited by consumers. The petition was submitted to the Board of Governors of the Federal Reserve System (“Federal Reserve”) and the Consumer Financial Protection Bureau (“CFPB”).

**Summary of the Petition**

The petitioner asks the Federal Reserve and the CFPB to consider amending Regulation CC, which implements the Expedited Funds Availability Act, to decrease maximum hold times for checks and funds deposited by consumers. The Federal Reserve and the CFPB share rulemaking authority over Subpart B of Regulation CC, which governs funds availability schedules.

The petitioner believes that there have been technological advances in the check clearing process that require regulatory action to decrease allowable hold times defined in the regulation. The petition also notes that real-time payments provide advantages relative to payment mechanisms that rely on slower clearing and settlement.

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<sup>1</sup> The Independent Community Bankers of America® has one mission: to create and promote an environment where community banks flourish. We power the potential of the nation’s community banks through effective advocacy, education, and innovation. As local and trusted sources of credit, America’s community banks leverage their relationship-based business model and innovative offerings to channel deposits into the neighborhoods they serve, creating jobs, fostering economic prosperity, and fueling their customers’ financial goals and dreams. For more information, visit ICBA’s website at [icba.org](https://icba.org).

<sup>2</sup> The petition was made by Aaron D. Klein, Miriam K. Carliner Chair in Economic Studies and Senior Fellow, Center on Regulation and Markets, The Brookings Institution. It is available at <https://www.regulations.gov/document/CFPB-2024-0051-0001>.

## **ICBA Comments**

Shortening check hold times would limit banks' ability to detect and mitigate instances of check fraud, which would ultimately harm consumers and businesses. Instead, amendments to Regulation CC should be appropriately tailored to helping banks address check fraud.

Community banks and their customers continue to be challenged by a rise in fraud and scams across payment types. Most significantly, check fraud has emerged over the past several years as a leading concern. Mail theft, increasingly sophisticated mechanisms for altering paper checks and check images, and coordination problems among financial institutions have led to mounting losses for community banks.

Even if the petitioner is correct that technological advances could enable faster check availability, criminals have matched or exceeded any benefit of these advantages with their ability to alter checks in almost undetectable ways. As a result, financial institutions need even more time to verify the validity of checks than even a few short years ago.

For consumers and businesses that need faster access to funds, the industry's deliberate move toward instant payments networks is helping to make the payments ecosystem faster, more secure, and more efficient. Instant payments networks like the Federal Reserve's FedNow Service ("FedNow") and The Clearing House's RTP network ("RTP") offer significant benefits and create opportunities to innovate for community banks and their customers.

### **Check holds help banks detect and mitigate check fraud**

Generally, Regulation CC requires banks to make funds deposited by check available within two business days. However, there are exceptions that enable banks to hold funds longer. For example, Regulation CC allows banks to hold funds longer in the case of new accounts, large deposits, redeposited checks, repeated overdrafts, and when there is reasonable cause to doubt collectability.

Delaying funds availability is an important tool banks use to detect and mitigate check fraud. Holding checks gives banks an opportunity to review the checks for signs of fraud and investigate any suspicions. If fraud is detected, banks can return checks before customers are affected and prevent the checks from entering the ecosystem.

Shortening these hold times would limit banks' ability to effectively detect and mitigate check fraud by reducing the amount of time banks have to review checks. As a result, all businesses and consumers—including underbanked and lower-income consumers—would continue to suffer losses from check fraud. This outcome would be counter to the petitioner's goal of reducing harm to consumers.

To best help consumers and businesses, the Federal Reserve and the CFPB should explore making amendments to Regulation CC that directly address check fraud. Appropriately

tailoring amendments will require careful analysis of the problem and potential solutions, and ICBA welcomes the opportunity to continue to engage with the Federal Reserve and the CFPB on this topic.

### **Instant payments provide a faster, safer, more efficient alternative to check payments**

ICBA agrees that continued adoption of instant payments offers significant benefits to financial institutions and their customers. As consumers and businesses accelerate the move to instant payments, check volume will continue to decrease. Fewer checks in circulation will naturally lead to fewer opportunities for fraudsters to steal and alter checks. In addition, instant payment networks are inherently more secure than paper checks.

ICBA has been a consistent advocate for community bank access and choice throughout the journey to ubiquitous instant payments in the United States. When the Federal Reserve announced its payments improvement initiative in 2012, community bankers quickly realized the benefits of developing a faster, safer, and more efficient payment system. Now, with FedNow and RTP live and operational, community banks are rallying around the use cases and opportunities to innovate.

Community banks are relationship-based providers of financial services and understand the unique needs of the members of their communities, including underbanked and lower-income consumers and businesses. ICBA continues to support community banks as they explore how real-time funds availability can be leveraged to help these customers, especially when it can be used to offset checks' inherent weaknesses.

### **Conclusion**

Combatting check fraud is a shared responsibility that requires continued collaboration and engagement among all stakeholders. With that in mind, any changes to the regulatory framework surrounding checks should be appropriately tailored to combatting fraud. If you have any questions or would like additional information, please do not hesitate to contact me at [scott.anchin@icba.org](mailto:scott.anchin@icba.org) or (202) 659-8111.

Sincerely,

/s/

Scott Anchin  
Vice President, Operational Risk and Payments Policy