



OCC BULLETIN

Comptroller of the Currency
Administrator of National Banks

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| Subject: | Availability of Funds and Collection of Checks (Regulation CC) and Collection of Checks and Other Items by Federal Reserve Banks and Funds Transfers through Fedwire (Regulation J) | Description: | Proposed Amendments to Regulation CC and J |
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TO: Chief Executive Officers and Compliance Officers of All National Banks, Federal Branches and Agencies, Technology Service Providers, and All Examining Personnel

The Board of Governors of the Federal Reserve System (Board) is requesting public comment on a proposal to amend its Regulation CC (12 CFR 229), the implementing regulation for the Expedited Funds Availability Act, to set forth rules governing remotely created checks. Generally, in place of a signature, a remotely created check bears a statement that the customer authorized the check or bears the customer's printed or typed name. The terms "telecheck," "preauthorized drafts," and "paper draft" are among the terms that describe remotely created checks. The Board is also proposing conforming cross-references to the proposed new warranties in Regulation J (12 CFR 210). These proposals are designed to help reduce fraud in the check-processing system.

Remotely created checks can be useful payment devices. For example, a debtor can authorize a credit card company to create a remotely created check by telephone. This may enable the debtor to pay the credit card bill in a timely manner and avoid late charges. These types of checks are also commonly used in telemarketing and Web-based transactions. Remotely created checks are vulnerable to fraud because they do not bear a signature or other readily verifiable indication that payment has been authorized.

To help reduce the potential for fraud, the proposed amendments to Regulation CC would create transfer and presentment warranties under which the depository bank would warrant that the remotely created check that it is transferring or presenting to the paying bank is authorized by the person on whose account the check is drawn. The proposed warranties would apply only to banks and, ultimately, would shift liability for losses attributable to an unauthorized remotely created check from the paying bank to the depository bank. These amendments would not affect the rights of checking account customers, as they are already not liable for unauthorized checks drawn on their accounts.

Comments on the Board's proposal are due on or before May 3, 2005. The Board's *Federal Register* notice is attached.

Questions may be directed to your OCC supervisory office or the Compliance Department at (202) 874-4428.

Ann F. Jaedicke
Deputy Comptroller for Compliance

Attachment – [70 FR 10509](#)
[<http://www.occ.treas.gov/fr/fedregister/70fr10509.pdf>]