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STATEMENT ON

DELAYED FUNDS AVAILABILITY

PRESENTED TO

SUBCOMMITTEE ON FINANCIAL INSTITUTIONS
SUPERVISION, REGULATION AND INSURANCE OF THE
COMMITTEE ON BANKING, FINANCE AND URBAN AFFAIRS
UNITED STATES HOUSE OF REPRESENTATIVES

BY

THE FEDERAL DEPOSIT INSURANCE CORPORATION

9:30 a.m.
Wednesday, April 4, 1984

Room 2128
Rayburn House Office Building

The FDIC appreciates the opportunity to present its views on the question of delayed funds availability and, more particularly, on the proposed legislation. In view of the short notice of this hearing, our testimony will necessarily be quite brief. We will be pleased to supplement it at a later date, should the Subcommittee so desire.

Delayed availability of funds is a practice employed by some institutions whereby a customer's access to funds deposited by check is delayed for a period of time after the date of deposit. We are sympathetic to the problems that depositors face as a result of delayed availability policies, especially when the policy is inflexible or is not disclosed to depositors in an effective manner. The FDIC has made an effort to keep informed of delayed availability practices and problems through monitoring consumer complaints by our Office of Consumer Programs.

During the past five years the number of complaints involving delays in the availability of funds has consistently represented only about one or two percent of the total number of consumer complaints. In 1982 and 1983 complaints regarding delayed funds availability numbered 20 and 13 respectively, again representing less than two percent of total complaints.

Recently, the FDIC joined with the Federal Reserve Board, the Office of the Comptroller of the Currency and the Federal Home Loan Bank Board in the development and issuance of a joint policy statement that addresses this issue. A copy of that statement is attached for the Subcommittee's convenience.

The joint policy statement was issued on March 22 and urges financial institutions to refrain from imposing unnecessary delays in making funds available to their depositors. In order to accomplish this objective, the policy statement calls for institutions to review their policies with the objective of reducing delays consistent with prudent business practices. They are also encouraged to disclose funds availability policies to customers and avoid the imposition of delays across the board, specifically delays on Social Security and other government checks deposited in established accounts.

We believe that the portion of the proposed legislation that mandates a funds availablity schedule is premature. Time should be allowed to observe the effectiveness of the joint policy statement in bringing about greater consumer awareness of differences in funds availability practices between institutions and in evaluating its impact on those institutions that are causing the problem.

The weight of a joint policy statement can influence the delayed availability policies of financial institutions. Furthermore, we believe that the policy statement, calling for voluntary management actions, is in keeping with a decreasing reliance on governmental regulation and an increasing reliance on market forces to direct the course of financial institution behavior. In the end, a more competitive financial marketplace, not more government regulation of an already overly burdened industry, is the best protection we can provide the American public.

Disclosure of an institution's availability schedule gives the consumer the ability to choose between financial institutions on the basis of this and other aspects of the services offered by competing institutions. Disclosure of availability schedules will allow market forces to work. The institution that does not provide reasonable customer access to funds will lose customers if they feel strongly enough about the practice.

We are reluctant to prescribe statutory remedies if disclosure by financial institutions will cure most of the problems. Statutory requirements will be less flexible than market-established schedules in adjusting to changes in technological and other factors that influence the time required to complete the collection process. Given the present diversities in geographical locations, transportation facilities, use of technology and banking structure in this country, a single, uniform availability schedule could prove inequitable or extraordinarily complex. If there is any way to avoid the type of regulatory morass we have experienced under Truth-in-Lending, we should do so.

On January 20, in response to a request by the Committee, the FDIC provided information on 58 insured nonmember banks dealing with service charges and funds availability. Results of that earlier request dealing with funds availability are shown in Table I of this statement. As reflected in Table I, one-half of the banks provide immediate credit, and another 15 percent of the banks impose "holds" of one to five days. In short, this revealed that nearly two-thirds of the banks provide availability within five days of the date a check is deposited.

Several factors bear on a bank management's decision to place a hold on a check or to give immediate credit. These factors include:

- o the amount of the check;
- o the type of check (government, bank, personal, payroll);
- o the locality of the drawee bank;
- o the customer account history (new account, total account relationship, average collected balance, and number of checks previously returned).

Your March 28 letter contained four specific questions dealing with the check clearing process, volume and cost of nonsufficient funds (NSF) checks, and amount of losses suffered by institutions from NSF checks. The FDIC does not maintain an information base on these particular items from which to fully respond to the questions.

However, last Friday our examiners gathered information from 40 state nonmember banks then under examination (Table II of this statement details the findings). The results of this limited sample reveal that metropolitan banks generally receive provisional credit somewhat earlier than nonmetropolitan banks. This is largely due to closer proximity to their Federal Reserve district or other clearing banks. Also, it is not surprising that as a percentage of transaction account deposits, NSF checks are less than one percent and losses from these items are negligible. Costs associated with processing NSF items are reported to be higher in those banks located in metropolitan areas. We attribute this to a generally higher cost of doing business for these banks, but also feel that the banks located in metropolitan areas have better cost accounting systems. Consequently, the figures shown for these banks may more accurately represent NSF processing costs.

In summary, the FDIC is concerned with the problems experienced by depositors as a result of delayed availability policies that are unrealistic, inflexibly applied and are not disclosed to depositors in an effective manner. We believe that the recently issued joint policy statement will underscore our regulatory concerns by forcing the attention of bank management on their policies and the reasons behind them. Voluntary disclosure will result in market discipline and in more realistic availability policies overall.

As noted in the policy statement, the agencies will be monitoring the effectiveness of banks' voluntary efforts to determine the extent to which disclosure is being made and the nature of specific delayed availability policies. Information will also be gathered through existing consumer surveys to determine the level of consumer awareness of delayed availability practices and the extent of consumer problems. Furthermore, time is needed to analyze the benefits and problems that may result from recent legislation on delayed availability in New York and California. We believe that an in-depth study of the effects of the joint policy statement and the New York and California initiatives should be made before a nationwide availability schedule is imposed.

We urge that sufficient time be allowed to elapse for the effects of the joint policy statement to take hold. As also noted in the policy statement, if it appears that voluntary action is inadequate to address this issue, the agencies will consider further steps. At least until the banking industry and agencies have had a reasonable opportunity to address this issue, legislation would be premature at best.

Attachments