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CORUS BANK

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March 6, 1999

Office of the Fiscal Assistant Secretary
U.S. Department of the Treasury, Room 2112
1500 Pennsylvania Avenue, N.W.
Washington, DC 20220

Response to Advance Notice of Proposed Rulemaking (ANPRM) Relating to Possible Regulation Regarding Access to Accounts at Financial Institutions Through Payment Service Providers

Ladies and Gentlemen:

I am writing to comment, on behalf of our Bank, on the proposed rules relating to the relationships between bank and non-bank payment service providers, particularly in the context of the Debt Collection Improvement Act of 1996. We have commented previously on issues related to this topic, and the comments herein are consistent with those made previously.

BACKGROUND

CORUS BANK is a Chicago based bank with assets of approximately $2.6 billion. The bank operates a 12 branch network in Chicago and enjoys approximately a 1% deposit market share in the Chicago area.

The bank serves a variety of niche customers including a number of currency exchange stores, often referred to as "Check Cashers." Among the services provided to these Check Cashers are the following:

- Handling deposits
- Providing currency for daily check cashing operations
- Clearing store money orders (i.e., being the drawee bank on money orders sold at the check cashing stores)
- Financing daily operations, expansion, etc.

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CURRENT HANDLING OF FEDERAL PAYMENTS

Our bank is involved in handling federal payments in any of a number ways:

- A federal payment recipient maintains a bank account at our bank and **deposits** the check by utilizing:
  - one of our branch locations
  - one of our ATMs
  - one of the "foreign" ATMs in our ATM network
  - the mail
- A federal payment recipient maintains a bank account with us, but **cashes** a check at one of our branch locations
- A federal payment recipient maintains a bank account with us and has the federal payment directly deposited (via ACH) into his/her account
- A federal payment recipient cashes his/her check at one of the check cashing outlets who, in turn, banks with us. (In this case, we have no customer relationship with the federal payment recipient.)
- Customers who are enrolled in our "SecureCheck" program, as described below

SecureCheck PROGRAM

The bank offers a program, in conjunction with the Community Currency Exchange Association of Illinois, Inc. and any of a number of individual check cashers. This program is in place today and is presently serving more than 50,000 federal payment recipients. The program works as follows:

- The federal payment recipient visits the check cashing store that he/she regularly visits and asks to have his/her payment handled electronically.
- The check casher's representative prepares an application for SecureCheck and an SF-1199 form with the recipient, giving a copy of the application to the recipient.
- The check casher forwards copies of the SecureCheck application and the recipient's identification to **CORUS BANK**.
- The bank reviews the paperwork, opens a checking account in the name of the recipient and completes the preparation of the SF 1199 form.
- The bank returns copies of the SecureCheck application to the check casher, who presents a copy to the recipient on their next visit.
- The bank forwards the completed SF 1199 form to the Social Security Administration for processing (or submits the information electronically via "Quick Start").
- The bank establishes a process which will automatically transfer the amount of the recipient's benefit (less the bank's nominal service fee) to a special trust account held by the recipient's check casher.
- Upon receipt of the ACH credit representing the recipient's benefit payment, the bank's computer system posts the credit to the recipient's account, transfers the

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amount of the credit, less the service fee, to the designated check casher's trust account.

- The bank communicates with the check casher so that the check casher is in receipt of a file. This file contains the data necessary for the check casher to print a check, drawn on the trust account, payable to the recipient. Attached to the check is a statement of account, which fulfills Regulation E reporting requirements.
- The recipient may then either cash this check at the check casher's location or leave with the check to negotiate it elsewhere.

The Advance Notice of Proposed Rulemaking contains three detailed descriptions of arrangements with payment service providers. We believe the first of these is intended to describe our SecureCheck program. That description is basically accurate, with one exception. The description in the Advance Notice of Proposed Rulemaking indicates that the cost of the program is $1.60 per federal payment, plus a check-cashing fee. The SecureCheck recipient account application gives customers a choice: they can receive their periodic statements at the currency exchanges when they pick up their checks, at a bank fee of $1.10 per federal payment, or they can receive an additional statement in the mail, at a cost of $1.60 per federal payment. The overwhelming majority of customers choose the lower cost option, so the cost of the program is $1.10 per federal payment, plus a check-cashing fee, for most customers.

We believe that this fee is very reasonable for the services which the bank provides. If the customer chose to open a full-featured deposit account at our bank, it would cost approximately $7.00 per month. We make that option available, but few (if any) federal benefit recipients have chosen to take advantage of it. We established the two-tier fee structure to try to keep the fees as low as possible. Preparation and mailing of a separate statement costs the bank more, and therefore forces us to charge a higher fee. If the Treasury were to require additional features on the account, those additional features would probably increase the cost to the bank and, therefore, the fees which the bank would have to charge to the customer. We do not think that would be a good idea. Our experience (with giving customers an option of how to receive their monthly statements) clearly suggests that customers prefer the lowest fees possible.

The amount of the bank's fees is clearly disclosed on the face of the latest application form (proposed to the O.C.C.), together with a statement that the customer may also have to pay a fee to whoever cashes their check, and that they should ask about the fee before they cash it. The customer is not required to cash their check at the currency exchange.

We think the SecureCheck program provides a good, cost-effective alternative for customers who are not comfortable dealing with banks directly, without the sacrifice of safety or consumer protections. Funds in each of the recipient's accounts are ensured by the Federal Deposit Insurance Company up to $100,000. Moreover, funds in the trust account for the benefit of the recipients should be individually insured by the Federal Deposit Insurance Corporation. The title of the trust account expressly discloses the existence of the fiduciary relationship, and both the bank and the currency exchange maintain adequate records of the customer's interest in the accounts in good faith and in the regular course of business. Accordingly, the requirements for pass-through deposit insurance coverage should be satisfied. 12 CFR §330.5(b).

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Benefit recipients should also be protected from the risk of insolvency of the currency exchange, because their funds will always be maintained either: (i) in a deposit account in their own name, or (ii) in the trust account for which the currency exchange serves solely as trustee.

Benefit payments to the account are made through the automated clearing house system,so the government achieves the cost savings entailed by the avoidance of paper checks, and the government will not be involved in any disputes regarding lost or misappropriated checks.

Moreover, benefit recipients receive payment from the government by electronic means, and so do not receive paper checks in the mail where they can be lost or stolen before they can be cashed. Recipients receive paper checks at the currency exchange, but they will receive them at a facility where they are known as a customer and can negotiate the check immediately. This should significantly reduce the risk that checks will be lost or stolen.

In addition, the bank believes that it complies fully with Regulation E in connection with the SecureCheck program. The bank's forms have been reviewed by the appropriate regulatory authorities, and the forms have been revised to comply with their suggestions. The bank is committed to doing everything necessary to comply with Regulation E.

SPECIFIC ISSUES FOR COMMENT

Three specific issues were cited for comment in the Treasury Department communication. Each of the three is addressed below.

FIRST COMMENT:

> Should Treasury regulate or prohibit arrangements between financial institutions and payment service providers in which electronic federal payments are deposited to a recipient's non-ETA account at a financial institution but made available to the recipient through a payment service provider?

We strongly object to the concept that a program such as SecureCheck should be precluded. Much discussion has been raised on this topic and topics related to the "non-banked" population in this country. We believe that this regulation should not mandate how banking is to be conducted for all payment recipients. To deny an opportunity for a recipient to continue to "bank" with a check casher--with which the recipient *has consciously chosen to do business*--is an unfair restraint on the customer.

We understand that there are about 4,000 check-cashing establishments throughout the United States. They are conveniently located to many of this nation's "unbanked" people, who have willingly expressed a preference to do business with check cashers. In some cases, these people have no affordable alternative for conducting their financial business.

The check casher provides many useful services at competitive prices; requires no minimum balance relationship; does not insist that the customer accept a "bundle" of services for which there may be no real need; and offers friendly, reliable service. It should not be a surprise to

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anyone that check cashers have built a loyal customer following based on such benefits. Millions of people nationwide feel very comfortable doing business with check cashers. Millions of people prefer to pay their bills with money orders instead of checks or credit cards. By meeting their customers' needs for decades, check cashers have firmly established their place in the financial landscape of the United States.

We further do not believe that Treasury should regulate these arrangements. Instead, the regulation of these arrangements should continue to fall within the normal purview of banking regulators (e.g., Office of the Comptroller of the Currency). In our case, for instance, we have had ongoing discussions with the OCC regarding this program, consumer protections and disclosures, etc. In our view, the current regulation process works; we see no reason to change this. As discussed above, any increase in regulation will probably add to the cost of the program, and so to the fees charged to customers.

SECOND COMMENT:

> Do such arrangements deny the recipient either: (a) an account at a financial institution, (b) access to such account, (c) access at a reasonable cost, or (d) the same consumer protections with respect to the account as other account holders at the same institution?

We do **not** believe that the SecureCheck program denies the recipient any of the items listed here. Specifically, the recipient does have an account at a financial institution-and could open additional accounts (subject to the normal terms and conditions of these other accounts). To date, none of our 50,000+ customers has elected to open an additional or different type of account at our bank.

The recipient does have access to such account though that access is limited to receiving a check at the selected check casher. Information access is available from the bank in person or via a toll free telephone number, which is printed on the check. We do respond to a number of routine customer inquiries about their account. Access restrictions to accounts are not uncommon in the banking industry.

We believe that the access provided to the recipient is provided at a reasonable cost. Most SecureCheck customers in the State of Illinois presently pay $1.10 per payment; fees are slightly higher to SecureCheck customers beyond Illinois. In other words, Illinois customers who receive one payment per month pay about $13 per year, surely a low-cost fee structure by anyone's measure. If the customer chooses to cash his or her check at the check casher, customary fees apply; however, the customer is under no obligation to cash the check. "Customary"/Fees in Illinois, for instance, would be no more than $7.20 for a $450 check. [i]

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[i] in Illinois, check cashers are regulated by the Illinois Department of Financial Institutions, which imposes a maximum fee for this type of check of $0.90 + 1.4% of the amount. For a typical federal payment check ($450), this is $7.20.

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We believe that SecureCheck provides the same consumer protections with respect to the account as other account holders receive here at **CORUS BANK**. This specifically includes FDIC insurance coverage, process for dispute resolution, telephonic and customer service access, etc.

THIRD COMMENT:

> Should all payment service providers be subject to regulation, or only a particular subset, and if only a subset, what is the basis for such distinction?

We are not opposed to the regulation of payment service providers. However, because in the state of Illinois and many other states, check cashers are regulated, it would make no sense to require additional regulation. Thus, we would be particularly supportive of initiatives to continue existing regulation; add regulation to those states not having regulation; and working toward some framework of consistency among the regulations.

ADDITONAL COMMENTS

We believe that our SecureCheck program meets the requirements for federal payments.

Among other features, the program provides a means for:

1. Eliminating the production and mailing of government checks
2. Allowing consumer choice in their federal payment receipt. A recipient could open a typical bank account with a bank such as ours or the consumer can participate in a SecureCheck type of arrangement.
3. Provide for a minimum of change to the recipient, many of whom do their "banking" at an institution such as a check casher. The SecureCheck program allows-if the recipient so chooses-for the recipient to continue to "bank" with the check casher.
4. The introduction (albeit on a limited basis) of the "non-banked" to a financial institution, since each recipient opens a bank account.

We feel that a review of our program-its growth, consumer acceptance, national presence, moderate fee, and involvement with regulators will demonstrate that this type of a program is working well and continued support of it is warranted.

In our view, "upsetting" the present SecureCheck program could have the effects (intended or otherwise) of:

- Requiring more than 50,000 existing bank customers to rearrange their financial relationships again
- Retroactively negate the choice made by the recipient to enter into SecureCheck
- Require federal payment recipients to seek out financial arrangements which would likely be more expensive and, almost certainly, would be less convenient. If it were true that cheaper, more convenient services were already available to these payment recipients, then it is

probable that they would be using that method today. Since this group has elected to "bank" as they do presently, then it seems clear that they recognize the check casher as their most convenient method through which to conduct business.

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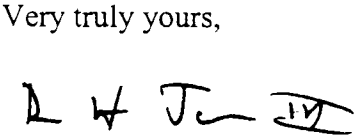
We appreciate the opportunity to provide these comments and I am personally available to discuss any or all of them in more depth as you require.

Very truly yours,



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