



Nonprofit Publisher
of Consumer Reports

April 19, 2005

Support Consumer-Friendly Changes to Check 21

House Committee on Financial Services
Subcommittee on Financial Institutions and Consumer Credit
U.S. House of Representatives
Washington, DC 20515

Dear Member of the House Financial Services Committee:

In anticipation of tomorrow's hearing on implementation of the "Check Clearing for the 21st Century Act," Consumers Union, the non-profit, independent publisher of *Consumer Reports*, would like to draw your attention to the attached *Consumer Reports* article highlighting our support for H.R. 799, the "Consumer Checking Account Fairness Act," introduced by Rep. Carolyn Maloney.

Consumers Union strongly supports Rep. Maloney's efforts to help consumers get quicker access to their deposits now that financial institutions can clear consumer checks much faster under the new Check 21 law. This is a simple matter of fairness now that banks will benefit from quicker check processing, which ultimately is expected to save banks billions of dollars.

What is not speeding up, however, are check deposit hold times for consumers. Under Check 21, financial institutions that take advantage of faster check-processing technology can still delay consumer access to such funds through a series of confusing check-hold requirements. For instance, banks can hold a locally written check for an additional business day, not counting weekends, before making the funds available in the consumer's account, even if that check has cleared and they know the funds have gone through. Non-local checks and local checks deposited on Fridays can take even longer to clear. This could lead to more bounced checks and penalties for consumers.

We appreciate your interest in examining the implementation of Check 21 and look forward on working with you on this issue.

Sincerely,

Susanna Montezemolo
Policy Analyst
Washington Office

Chanelle Hardy
Esther Peterson Fellow
Washington Office

Consumers Union
Headquarters Office
101 Truman Avenue
Yonkers, New York 10703-1057
(914) 378-2029
(914) 378-2992 (fax)

Washington Office
1666 Connecticut Ave, NW #310
Washington, DC 20009
(202) 462-6262
(202) 265-9548 (fax)

West Coast Office
1535 Mission Street
San Francisco, CA 94103-2512
(415) 461-6747
(415) 431-0906 (fax)

South West Office
1300 Guadalupe, Suite 100
Austin, TX 78701-1643
(512) 477-4431
(512) 477-8934 (fax)

Put a stop to the check-hold squeeze

Congress has an opportunity to fix a problem it created with the new "Check 21" law, which went into effect last October. The law makes it easier for banks, thrifts, and credit unions to process checks by sending electronic images of checks instead of the actual checks.

Check 21 (short for Check Clearing for the 21st Century Act) is expected to speed up check processing and to save banks billions of dollars once it is fully implemented. The problem is that banks are still allowed to impose the same old delay called a check hold, before permitting consumers to spend or withdraw money that they have already deposited. During the check-hold period, deposits are not available to pay checks. The mismatch between checks clearing faster and the continued delays on check deposits increases the risk of bouncing a check.

The Consumer Checking Account Fairness Act, recently introduced in Congress, would ease the check-hold squeeze. It would shorten the amount of time a bank, thrift, or credit union could make its customers wait to use funds that they have already deposited in their accounts. It would count Saturdays toward the check-hold waiting period for deposits that consumers make at any bank, thrift, or credit union that debits checks against consumer accounts on Saturdays. Count-

ing Saturdays toward the check-hold period would mean that a check drawn on a local bank and deposited on Friday would have to be made available to cover checks on Monday instead of on Tuesday.

The act would shorten the even longer delays faced by consumers who deposit nonlocal checks. Currently, banks, thrifts, and credit unions can impose check holds that make consumers wait for access to deposited funds until the fifth business day after deposit of a nonlocal check. ("Nonlocal" doesn't necessarily mean out of state. Checks from outside your city or county may or may not be considered local.) Since weekends don't count under the current rules, consumers can face a weeklong wait for access to their deposits. The current wait can be even longer if the deposit is made in the evening. In that case, five business days could involve two weekends, forcing the consumer to wait until the 10th calendar day.

The pending legislation would make funds from most nonlocal checks available on the second business day counting Saturday. Banks, thrifts, and credit unions would be prohibited from charging a fee related to an overdraft if the funds were actually in the consumer's account but not yet available because of a check hold.

Banks say that they need check holds to avoid paying bad checks. The proposed

what you can do

To compare provisions of the proposed Consumer Checking Account Fairness Act with the current law, go to www.consumersunion.org/Check_chart.pdf.

legislation leaves in place rules that allow longer check-hold times for checks deposited into new accounts or repeatedly overdrawn accounts, and for checks that a bank reasonably believes might not clear.

Bankers also claim that the speed-up of check processing under Check 21 will be gradual, but the industry press reports that 11 large banks, accounting for about half the nation's check volume, plan to be processing checks through the exchange of electronic images by the end of 2005. Those checks will clear in one day or less.

Not all checks are subjected to holds, but that is small consolation for the consumer who deposits a paycheck on Friday, writes a check at the grocery store on Saturday, and gets hit with a \$30 bounced-check fee because the bank delayed her access to the funds.

Consumers Union supports passage of the Consumer Checking Account Fairness Act. Since banks are going to benefit from quicker check processing under Check 21, so should their customers.

then & now protecting our youngest passengers



1972

Adults had safety belts to keep them safe in 1972. But we found 12 out of 15 child safety seats that we crash-tested that year to be Not Acceptable.

Consumers Union urged the government to use a test that was more representative of real crashes. It took until 1981 for that test to become an industry standard. The federally mandated LATCH system took effect in 2002. It required most cars and child safety seats to be redesigned for simpler installation.

The seat at left was one of the few acceptable ones in 1972. The Britax Companion, at right, is among dozens of models scoring excellent or very good for crash protection in our latest tests (see report on page 19). Progress, but our work continues.



2005