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Delivered electronically.

Dear Ms. Orman,

The American Bankers Association feels it is important that we respond to your article "How the New Check 21 Law Affects You," which is posted on Yahoo Finance webpage, in order that consumers not be misled, harmed, and unnecessarily panicked. It appears that the article relied primarily on the often astonishingly false and misleading claims of some consumer activists who have adopted an "end justifies the means" approach.

The article warns consumers about float and repeats the grim prediction of consumer activists who predicted that consumers would be unwittingly bouncing dozens of checks as soon as Check 21 went into effect on October 28, 2004. Clearly, this prediction was wrong as October 28th has come and gone without such a result. As ABA had said repeatedly and has proven to be the case, Check 21 is not a flip of the switch event, but a gradual change. Indeed, after more than a month, only a very small percentage of checks are being processed electronically. Most of those checks are in the $15,000 to $20,000 range, not the typical consumer check.

Moreover, consumers are smarter than that. The predicted estimates of the increase in the number of bounced checks are based on the assumption that as float declines, consumers will continue past behavior, despite knowledge of the change in float! This simply isn't how consumers behave. In the 1950s, float was drastically cut as magnetic ink allowed checks to be processed automatically rather than manually. Consumers adjusted then and they will again. Give them some credit. And keep in mind, most banks already waive bounced check fees for customers who occasionally bounce a check. They can be expected to continue that practice as the check processing system gradually becomes more efficient.

The article laments the reduction in float and suggests that only the banks benefit. But it is not a one-way street. Banks will also lose the float as the system becomes more efficient. After all, the funds will leave the customer's bank sooner. Check 21 is simply a recognition that a more efficient system is better.

In suggesting that banks will not be required to shorten the period they can hold funds from deposits, the article ignores an existing law, the Expedited Funds Availability Act. ***That law clearly requires that those hold periods be shortened once checks are in fact being processed electronically.*** It doesn't make sense to do it before checks are actually moving faster. However, the legal check hold schedules are somewhat moot anyhow. Survey after survey has shown that most banks generally provide access to funds on the ***day of deposit or the day after deposit****.* (Exceptions are made for certain checks such as those over $5,000).

The article also seems confused about how banks pay some overdrafts. It suggests that banks paying overdrafts is a new practice. It is not. Banks have for many years, paid overdrafts rather than returned them as a courtesy to good customers, even when the customer has not signed up for such a service. Previously, which checks to pay was a manual decision. Today, it is usually made using sophisticated automated systems which eliminate the subjectivity inherent in manual decisions so that customers are treated more equitably and uniformly.

But consumers very much want the banks to pay those occasional, inadvertent overdrafts. For example, they would rather the bank pay their mortgage than return the check. This way, the consumer avoids a late penalty or other penalty from the mortgage company, avoids being reported to the credit bureau, and avoids the hassle of straightening it out. If banks returned all overdrafts absent the consumer's affirmative consent, which the article seems to recommend, consumers would be up in arms.

In any case, as we believe that you will agree, consumers should not rely on the float. It is not good financial management to write checks if there is no money in the account. In fact, in many states, it is a crime.

The article also claims that banks will save billions and consumers will not benefit. First, it is a basic and proven tenet of economics that in an industry as competitive as banking, consumers benefit from reductions in the industry's costs, either in the form of lower prices or improved products. No law is required to "pass the savings on" in a competitive environment. Such a system was tried and failed in Eastern Europe, for example. Second, any savings to banks will only be gained over the long term. Short term, it is likely to be more expensive as two systems will have to be supported for some time. For example, the planes that currently transport paper checks around the country will have to continue to fly, whether they carry 500 or 5,000 checks.

Finally, the article advises consumers that they need to obtain a substitute check in order to dispute a check transaction. This advice is very harmful to consumers because it misleads them into believing that they have no rights unless they receive a substitute check. Yet, they clearly do, as described in our attached letter to the Consumers Union.

However, if they are told that they do not, they will not know to exercise those rights.

We hope that this helps clarify some facts about Check 21 and the check system. We are surprised and disappointed that you chose not to talk to ABA, or the Federal Reserve Board, for that matter, before publishing this article. The attached letter responding to the Consumers Union letter provides additional information. Unfortunately, the Consumers Union chose to ignore the letter in its public statements and chose not to post it on its website. If it had, perhaps, consumers would be better informed and better protected. Please feel free to contact me if you need additional information.

Sincerely,

Nessa Eileen Feddis