

# B&B REVIEW

## *Financial Services and Transactions*

### **BANK REGULATORS ISSUE RISK MANAGEMENT GUIDANCE FOR REMOTE DEPOSIT CAPTURE**

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#### **INTRODUCTION**

With remote deposit capture (RDC), a bank may offer its customers the option to transmit digital information from deposit documents captured at remote locations. The locations can range from retail customers' locations to ATMs. In an RDC relationship, a customer scans copies of checks that are payable to the customer, then transmits the scanned copies to the depository bank for deposit into the customer's account. Physical copies of the scanned checks are never presented to the bank.

Banking regulators consider RDC to be an entirely new delivery system, like a branch system or ATM system. Accordingly, the Federal Financial Institutions Examination Council (FFIEC) recently issued guidance on managing the risks posed to banks from RDC. That guidance is comprehensive in the risks that banks should be taking into consideration as they implement RDC.

#### **BENEFITS OF RDC TO BANKS**

RDC has several benefits to banks:

##### ***Gathering Core Deposits.***

In an age where core deposits are highly valued, RDC offers a way to gather additional deposits from existing customers, especially those with operations outside a bank's footprint.

##### ***Consolidating Banking Relationships.***

RDC offers a means for banks to offer to consolidate customers' various banking relationships. As a customer's locations might increase, the bank can continue to provide efficient deposit services to the customer with relatively little investment by the bank or the customer. An RDC service might also be attractive to wealthy individual

clients desiring to deposit a large number of checks.

##### ***Lowered Transaction Costs.***

RDC lowers transaction costs by lessening the need for expensive teller time and backroom check processing facilities.

#### **RISK MANAGEMENT FOR RDC AS A NEW DELIVERY SYSTEM**

The FFIEC guidance outlines several broad risks that bank examiners will expect bank management to have assessed before it implements an RDC program. Banking examiners typically expect to see separate policies and procedures for a new delivery system and to see oversight by both senior management and the board of directors. Lack of such oversight has been cited as a typical negative finding in examinations of banks with RDC programs.

The risks to be assessed include:

##### ***Information Security.***

Examiners will check to see if a bank that has adopted an RDC program has followed the *Interagency Guidelines Establishing Information Security Standards*, which were issued in 2004. The threats to the confidentiality of personal information about customers increase when an RDC location includes customers' business premises. Examiners will look to see not only if the bank's own IT systems are adequate to ensure such confidentiality, but also if the systems of third-party service providers and the RDC customers themselves also are adequate.

##### ***ACH Transactions.***

Some RDC programs might include a feature by which items are transmitted and settled as an ACH transaction. In such programs, examiners will look to see if the bank has

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followed the entirely separate rules of the National Automated Clearinghouse Association (NACHA) and Regulation E of the Federal Reserve Board. There should be separate customer agreements for any ACH services and the customers themselves must comply with NACHA rules.

**Customer Due Diligence and Suitability.**

Examiners will expect that banks offering RDC take into account the additional risks posed by particular customers. For example, although agreements with customers should allocate responsibility for mistakes or fraud to customers, RDC raises the risk that a single item might be presented twice or that daily limits on the dollar amount of checks presented via RDC might be exceeded.

Banks should underwrite the creditworthiness of RDC customers to repay the bank for losses incurred as a result of double presentment or exceeding of limits. Banks that do not already have limits should consider imposing them. Banks should also require their RDC customers to have adequate training and controls in place over the approval process for submitting checks via RDC, including separation of duties at the customer level.

Banks should also apply their BSA/AML programs when evaluating new customers for the RDC service, especially those that are not well known to the bank.

**Contracts and Agreements.**

The FFIEC guidance states that strong contracts and agreements with RDC customers are critical to mitigate a bank's risks arising from an RDC program. Most agreements attempt to allocate to the customer much of the financial responsibility that can arise. A customer agreement should make it clear what warranties are being given by the bank and what exactly are the bank's duties and liabilities.

Likewise, the agreement will typically have very specific rules that must be followed for the customer to use an RDC program, and will provide that a failure by a customer to follow such rules will not create liability for the bank. The agreement should also have provisions for (i) record retention; (ii) periodic audits of the RDC process, including the IT infrastructure; (iii) funds availability, collateral and collected funds requirements and (iv) authority for the bank to terminate the relationship.

**Monitoring.**

Regulators have indicated that one of the most common problems identified in examinations of banks with RDC programs is a lack of monitoring by bank management. The FFIEC guidance states that bank management should set up performance metrics against which to measure the risks of an RDC program. For example, these reports might include reports on duplicate entries and violations of deposit thresholds so as to help detect fraud. In addition, fraud detection would be aided by reports with velocity metrics such as file size and number of files, transaction dollar value and volume and return item dollar value and volume, according to the FFIEC guidance.

Of course, examiners will expect not only that reports are generated but that management is actually reviewing the reports on a regular basis and taking appropriate action to address any problems identified in the reports.

**INVITATION TO JOIN US FOR  
ABA TELEPHONE BRIEFING ON RDC  
1:00 PM APRIL 14, 2009**

The American Bankers Association is sponsoring a telephone briefing on RDC on Tuesday April 14, 2009 at 1:00 pm central time. We have a limited number of seats available for clients and friends who would like to join in this briefing in our offices in Birmingham located at 1901 Sixth Avenue North on the 15<sup>th</sup> Floor of the Regions-Harbert Plaza. Lunch will be served. Please let Kate Musso know by Friday April 10 if you plan to join us, [kfmusso@balch.com](mailto:kfmusso@balch.com).