

OPERATING RULES

I. DEFINITIONS (CONTINUED)

UU. Routing Number. A routing number, as that term is defined under Regulation CC of the Board of Governors of the Federal Reserve System.

Note: Throughout document all the following references have been altered to “Routing Number”:

- routing number,
- routing transit number,
- routing transit,
- transit routing number,
- transit routing
- RTN

OPERATING RULES

III. ITEMS ELIGIBLE FOR EXCHANGE AND ROUTING INFORMATION; DEADLINES; REPAIRS

A. (1) Eligible Items and Routing Transit Numbers. Items eligible for exchange under these Rules are described in Section XIX(C) (for Electronic Images in forward exchange) and Section XX(C) (for Electronic/Image Returns).

(2)

Routing Numbers. Each Member will inform each Member with which it agrees to exchange items pursuant to these Rules of the Routing Numbers and MICR line data requirements for all items it agrees to receive by providing the lists or exchange information required by Section XIX(G) (for Electronic Images) or Section XX(F) (for Electronic/Image Returns). A receiving Member either may provide a list of specific Routing Numbers or may inform the sending Member that the receiving Member will accept any Regular Routing Numbers that are currently active Routing Numbers as established by the ABA Routing Number Board and its official registrar of routing numbers. – The Member receiving items may also provide a copy of such lists to the Organization and/or any Exchange Provider.

OPERATING RULES

XIX. ELECTRONIC IMAGE (CONTINUED)

G. Transmission and Acknowledgement of Electronic Image.

(6) Receiving Bank Authority to Not Accept an Electronic Image

(a) If a Receiving Bank has not otherwise identified to the Sending Bank a specific Routing Number as acceptable for exchange under Section III(B), the Receiving Bank may in its discretion refuse acceptance of, or return, as applicable, an Electronic Image and the related Presentment Notice that contains a non-active Routing Number to the Sending Bank.

~~(a)~~(b) Nothing in this paragraph is intended to limit or restrict the ability of a Receiving Bank to refuse acceptance or to return an Electronic Image and the related Presentment Notice as otherwise permitted under applicable law, these Rules or applicable Exchange Provider procedures and policies.

XIX(L). COMMENTARY (continued)

A payment to a holder of an item (outside of the check exchange system) may give rise to a warranty claim to the Sending Bank under the ECCHO Rules warranty against double payment of an item. A holder of an item may demand payment on the item directly from the drawer when the item has been returned unpaid by the paying bank. (UCC Article 3-414(b)). An example of a double payment warranty claim by a Receiving Bank (that is a paying bank) would include a situation where a Receiving Bank has reimbursed its drawer customer because the drawer customer has paid the check/claim to the holder or holder in due course. The ECCHO warranty from a Sending Bank to the Receiving Bank against double payment covers the situation where a person (which could include either the Receiving Bank or a drawer customer) is “asked to make a payment” twice. The double payment arises in this holder situation because there are two payments by a person relating to the same item: (a) the first payment occurs when the Sending Bank presents the image of the item to the Receiving Bank and the Receiving Bank pays the item and charges the drawer customer’s account, and (b) the second payment occurs when the drawer customer pays the holder for its claim to the drawer under the UCC based the original item. As a result, the Receiving Bank can make a warranty claim under Section XIX(L)(7) of the ECCHO Rules to a Sending Bank that previously presented an image of the same item to recover the Receiving Bank’s losses in compensating its drawer customer or paying the holder directly. The application of the warranty against double payment in the context of a payment to a holder of an item is consistent with the underlying policy – as expressed in the warranty provisions of Check 21, Regulation CC and the ECCHO Rules -- to protect the paying bank and drawer customer from losses associated with double payment of a check image or substitute check.

[The above commentary is not meant to be an exclusive example of double payment scenarios that may give rise to a warranty claim to a Sending Bank by a Receiving Bank under Section XIX\(L\)\(7\). For example, warranty claim scenarios also could arise where the Receiving Bank is acting as a payable at or a payable through bank of a money order or other draft \(as opposed to a paying bank on a check\). In this situation, the Receiving Bank may have a warranty claim if it first presented an image of a draft to the draft issuer and then subsequently had to reimburse the draft issuer because the issuer has paid the draft in favor of the holder or holder in due course of the draft.](#)

OPERATING RULES

XIX. ELECTRONIC IMAGE (CONTINUED)

N. Remotely Created Check Warranty. (This is generally referred to as Rule 8)

- (1) This Rule sets forth a process for a Receiving Bank that is the Paying Bank to make a claim to a Sending Bank that is the Depository Bank for a breach of a warranty provided under Section 229.34(d) of Regulation CC (an "RCC warranty") for a remotely created check. For the purposes of this Rule, the term "remotely created check" shall have the meaning as defined in Section 229.2(fff) of Regulation CC. This Rule, or a Receiving Bank's use of the process set forth in this Rule, shall not alter, enlarge or diminish the rights of a Receiving Bank or any other Member with respect to a claim or right arising under the warranty provided under Section 229.34(d) of Regulation CC for a remotely created check.
- (2) A Paying Bank may make an RCC warranty claim using the process set forth in this Section XIX(N) only if all of the following exist:
 - (a) ~~within 60 calendar days after the account statement which first reflects the paid Electronic Image subject to the RCC warranty (or substitute check created from such Electronic Image) has been made available to the Paying Bank's customer~~ the Paying Bank's customer completes, signs and delivers a written statement under penalty of perjury (the "Customer's written statement") for each such Electronic Image or substitute check, specifying in reasonable detail, that the check was not authorized by the customer in the amount, and/or to the payee, stated on such Electronic Image or substitute check, and, if applicable, returns such substitute check to the Paying Bank; and
 - (b) an RCC warranty claim is made for the Electronic Image by the Paying Bank by delivering (i) the Electronic Image, (ii) a paper copy of the front and back of such Electronic Image or (iii) a substitute check created from such Electronic Image to the Depository Bank in accordance with Section XIX(N)(7) with a notation of "Breach of RCC Warranty – Do Not Redeposit or Re-Present" or with similar language or reason code, within ninety (90) 15- calendar days Business Days after presentment of the Electronic Image to the Paying Bank. ~~has received its Customer's written statement.~~
- (3) Within 15 Business Days of receipt of a request from the Depository Bank for a copy of the Customer's written statement referenced in Section XIX(N)(2)(a), the Paying Bank shall deliver to the Depository Bank at a place specified in the request a copy of the Paying Bank Customer's written statement.
- (4) The Depository Bank may disclaim the RCC warranty claim if: (a) the Depository Bank has a defense to the RCC warranty claim under Regulation CC, the UCC or other applicable law, or (b) the Paying Bank has not complied with the time limitations and other requirements under

Section XIX(N)(2) or complied with a request for a Customer's written statement under Section XIX(N)(3). Depository Bank shall not disclaim an RCC Warranty Claim on any basis relating to the effectiveness or validity of the payor customer's authorization for the creation of the remotely created check, including without limitation on the basis that the Depository Bank (or its depositing customer) has evidence of the payor customer's authorization for the remotely created check. To disclaim the RCC warranty, the Depository Bank may deliver to the Paying Bank in accordance with Section XIX(N)(8), a Disclaimer Form in the form set forth in Exhibit VIII, signed by a representative of the Depository Bank, attached to the warranty claim, within 15 Business Days of receipt of the claim. In the event the Depository Bank requests a copy of the Paying Bank's Customer's written statement pursuant to Section XIX(N)(2) within the 15 Business Day period prescribed in the preceding sentence, such 15 Business Day period may be extended until the expiration of 5 Business Days after the Depository Bank receives the requested copy, or if the requested copy is not received, until the expiration of 5 Business Days after the day on which the Paying Bank is required to have provided such copy under Section XIX(N)(3). A Depository Bank that fails to deliver a Disclaimer Form within the time period and in accordance with the requirements prescribed in this Section XIX(N)(4) thereafter waives any right to refuse the warranty claim under the process set forth in these Rules. Nothing in this Section XIX(N) precludes a Depository Bank from disclaiming an RCC warranty claim or otherwise raising a defense to an RCC warranty claim outside of these Rules or the process set forth in this Section XIX(N).

XIX(N). COMMENTARY

Comment: This commentary explains the relationship between the RCC warranty claim process established under this Section XIX(N) and the adjustment process for RCC warranty claims established under Section XII. A Paying Bank is not required to use the warranty claim process established under Section XIX(N) of the Rules. If a Paying Bank determines that it has a warranty claim arising as a matter of law under Section 229.34(d) of Regulation CC, the Paying Bank has three potential options. First, if the Paying Bank can satisfy the requirements of Section XIX(N) for making a claim to the Depository Bank, including the ability of the Paying Bank to deliver the warranty claim to the Depository Bank in a return channel (see Section XIX(N)(7) of the Rule), the Paying Bank may use the process established under Section XIX(N). Second, the Paying Bank may use the adjustment process for RCC warranty claims set forth under the ECCHO adjustment rules (Section XII of the Rules) and the related adjustment matrix, if the Paying Bank satisfies the requirements under such rules and matrix. Third, the Paying Bank can seek to make a Regulation CC Section 229.34(d) warranty claim outside of the ECCHO Rules' processes, such as by bringing a court action, making a written demand on the Depository Bank or other intermediary banks, or by using an adjustment process provided by a clearing house, bank or network.

~~Rule: Within 60 calendar days after the account statement which first reflects the paid Electronic Image subject to the RCC warranty (or substitute check created from such Electronic Image) has been made available to the Paying Bank's customer, the customer completes, signs and delivers a written statement under penalty of perjury (the "Customer's written statement") for each such Electronic Image or substitute check.~~

~~Comment: A sample Customer's written statement appears at Exhibit VIII to the Rules. A Paying Bank may want to consult with its legal division on any modifications to the sample written statement form for use by the Bank with its customers.~~

Rule: The Customer's written statement should specify in reasonable detail, that the check was not authorized by the customer in the amount, and/or to the payee, stated on such Electronic Image or substitute check, and, if applicable, returns such substitute check to the Paying Bank.

Comment: Under Regulation CC, the RCC warranty is that the RCC is authorized by the customer in the amount, and to the payee, stated on the check. Accordingly, the Customer's written statement should allege that this warranty has been breached, and therefore a claim is appropriate. Specially, the statement should include that either the amount is not authorized or the payee is not authorized. A sample Customer's written statement appears at Exhibit VIII to the Rules. A Paying Bank may want to consult with its legal division on any modifications to the sample written statement form for use by the Bank with its customers.

Rule: An RCC warranty claim is made for the Electronic Image by the Paying Bank by delivering (i) the Electronic Image, (ii) a paper copy of the front and back of such Electronic Image or (iii) a substitute check created from such Electronic Image to the Depository Bank in accordance with Section XIX(N)(7) with a notation of "Breach of RCC Warranty - Do Not Redeposit or Re-Present" or with similar language or reason code.

Comment: The RCC warranty claim is the Electronic Image, the paper copy or substitute check delivered to the Depository Bank. A Paying Bank may use a return process of a clearinghouse or otherwise to deliver the RCC warranty claim to the Depository Bank. However, the delivery of the RCC warranty claim is not a return of the underlying check or Electronic Image to which the RCC warranty claim relates. A Paying Bank may use a reason code that appropriately reflects that the item (either Electronic Image or paper reproduction) is being sent as a warranty claim.

Rule: The Depository Bank may disclaim the RCC warranty claim if: (a) the Depository Bank has a defense to the RCC warranty claim under Regulation CC, the UCC or other applicable law, or (b) the Paying Bank has not complied with the time limitations and other requirements under Section XIX(N)(2) or complied with a request for a Customer's written statement under Section XIX(N)(3). A Depository Bank

may not disclaim a RCC warranty claim on the basis that the Depository Bank or its customer has evidence of a payor authorization.

Comment: ~~For example, a Depository Bank could disclaim a RCC warranty claim if the Depository Bank can establish that the customer authorized the RCC, such as by producing a tape recording of the customer authorization, a written authorization form, or other evidence of authorization.~~ The Rule does not establish specific burdens of proof or types of evidence for a Depository Bank to establish ~~authorization or~~ the existence of a defense under Regulation CC or the UCC. The Rule does preclude a Depository Bank from using any defense to the warranty claim that relates the existence of an authorization of the payor to create the remotely created check. In a dispute regarding the effectiveness of an RCC authorization, the Depository Bank cannot disclaim the RCC warranty claim. This approach to prohibiting certain defenses to a RCC warranty claim is consistent with the approach taken under the ECCHO adjustment rules. (See Section XII(E)(3)). Members are encouraged to use good faith and fair dealing in investigating, resolving and processing claims and disclaimers of RCC warranty claims.

	Adjustment Reason	Deadline (Ranges)	Min \$	With/Without Entry	Dr /Cr	Party who can Make Adj	Party to whom Adj Can be made	Information Needed	Group Adjust
5	Duplicate – Item (single or multiple) – Same Bank	180 C	None	W Entry	Dr/Cr	Either Party	Either Party	For Both items MICR Code Line Seq # Date of indorsement Cash letter totals ACH info (if applicable) Case # (if notified) If originally received from FRB can include only information received from FRB plus FRB reference number or copy of FRB adjustment form or advice	Yes*
5a	Duplicate – Item (single or multiple) – Same Bank	181 C - 1 year	None	W/O Entry	Dr/Cr	Either Party	Either Party	For Both items MICR Code Line Seq # Date of indorsement Cash letter totals ACH info (if applicable) Case # (if notified) If originally received from FRB can include only information received from FRB plus FRB reference number or copy of FRB adjustment form or advice	Yes*
6	Duplicate – Item (single or multiple) – Different Bank	180 C	None	W Entry	Dr/Cr	Either Party	Either Party	For Both items MICR Code Line Seq # Date of indorsement Cash letter totals ACH info (if applicable) Case # (if notified) If originally received from FRB can include only information received from FRB plus FRB reference number or copy of FRB adjustment form or advice	Yes*
6a	Duplicate – Item (single or multiple) – Different Bank	181 C - 1 year	None	W/O Entry	Dr/Cr	Either Party	Either Party	For Both items MICR Code Line Seq # Date of indorsement Cash letter totals ACH info (if applicable) Case # (if notified)	Yes*

	Adjustment Reason	Deadline (Ranges)	Min \$	With/Without Entry	Dr /Cr	Party who can Make Adj	Party to whom Adj Can be made	Information Needed	Group Adjust
								If originally received from FRB can include only information received from FRB plus FRB reference number or copy of FRB adjustment form or advice	

EXHIBIT VIII – EXHIBITS RELATED TO RULES IN SECTION XIX(N) AND XIX(O)

DISCLAIMER FORM FOR SECTION XIX(N)

Disclaimer Form

Breach of Warranty – Unauthorized Remotely Created Check

I _____, a representative of _____ hereby disclaim and refuse the
(Please print) (Depository Bank)

“Breach of Warranty – Unauthorized Remotely Created Check” claim made by

_____ (ABA#) _____
(Claimant Paying Bank) (Claimant Bank's R/T number)

Name of Paying Bank: _____

Name of Paying Bank's Customer: _____

Paying Bank's Customer's Account Number: _____
(Account Number of Above Named Account)

Amount Claimed: _____

- 1 Claim was not made timely, as follows
 - a) ~~Paying Bank's customer did not provide customer written statement within 60 calendar days after account statement of check made available~~
 - ab) Paying Bank did not deliver warranty claim within 90+5 Calendar Business Days
after presentation of the Electronic Image to the Paying Bank of receipt of customer written statement
 - be) Paying Bank failed to deliver copy of customer written statement within 15 Business Days to Depository Bank
- 2 Depository Bank is not the first bank to which the check was transferred (BOFD)
- 3 Other defenses as provided by other applicable law

Specify: _____

_____/_____/____ (____)_____
Signature of Representative – Depository Bank Date Phone

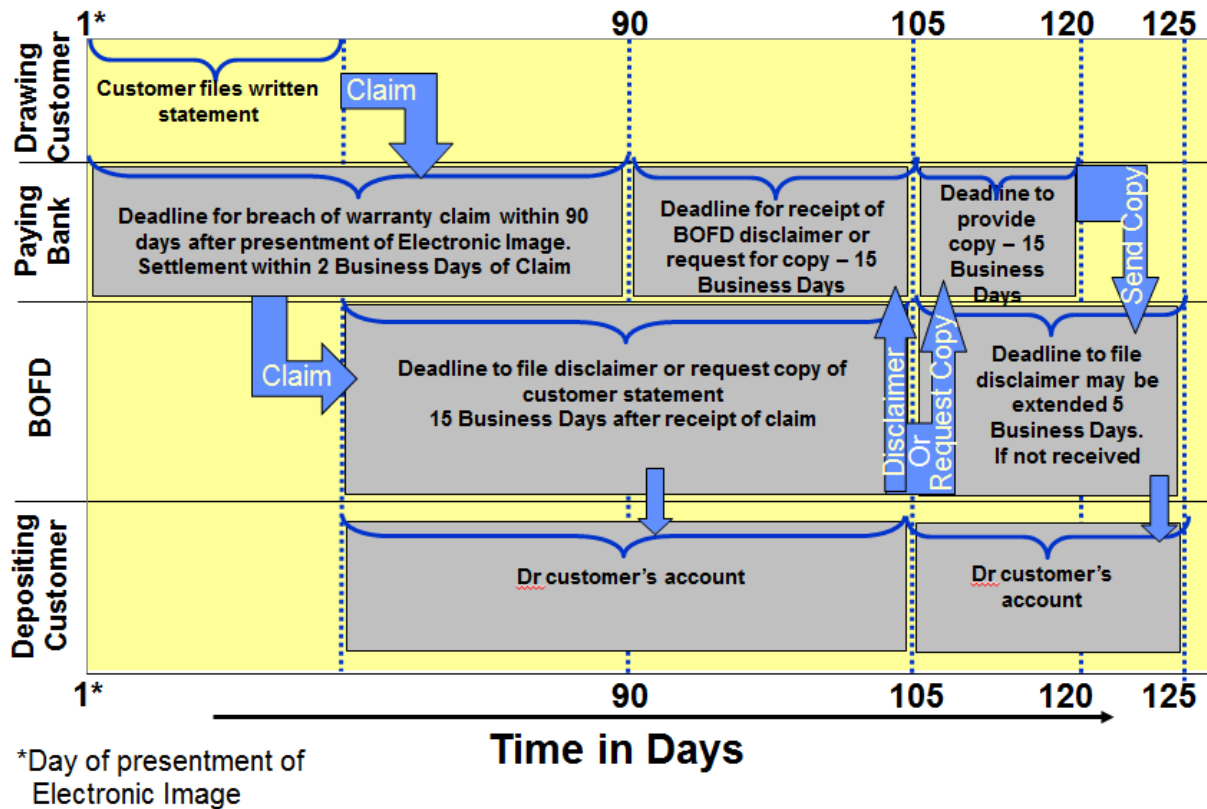
INSTRUCTIONS TO Sending Bank:

- 1. This form is to be completed and signed by a representative of the Depository Bank. A defense MUST be specified.
- 2. Keep a copy of the completed form and a copy of the check, Electronic Image, a paper copy of the front and back of such Electronic Image or substitute check stamped “Breach of Warranty - Do not Redeposit or Re-Present” or with similar language (the claim) for your files.
- 3. Attach the original check, Electronic Image, a paper copy of the front and back of such Electronic Image or substitute check stamped “Breach of Warranty - Do not Redeposit or Re-Present” or with similar language to this form and deliver to the Claimant Paying Bank in full compliance with Section XIX(N) of the ECCHO Rules

DO NOT SEND THIS FORM THROUGH THE FEDERAL RESERVE BANK – IT WILL BE REJECTED

EXHIBIT VIII – EXHIBITS RELATED TO RULES IN SECTION XIX(N) AND XIX(O)

EXPLANATORY CHARTS FOR SECTION XIX(N) PROCESSES¹
 Overview of Events Timing



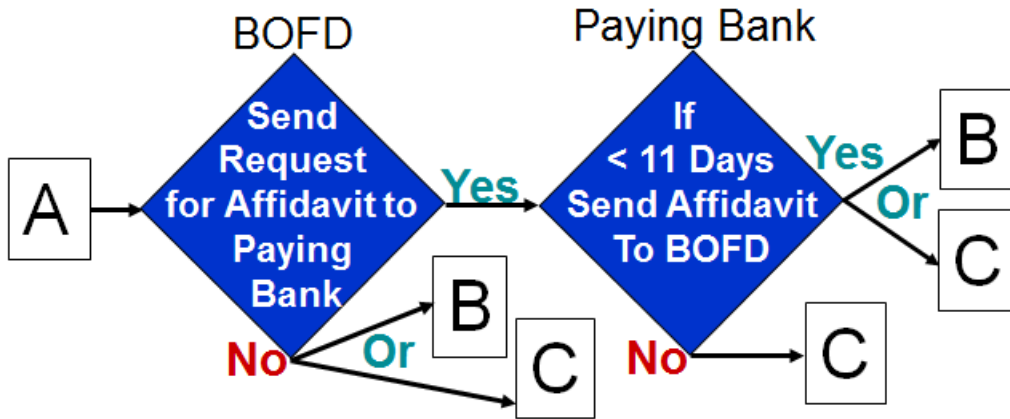
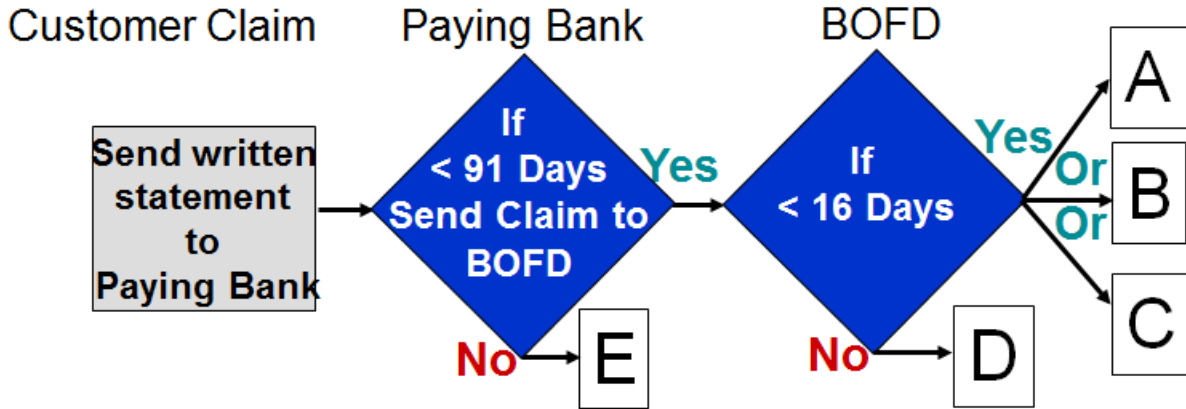
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This chart shows a summary of the Section XIX(N) timeline considerations. ~~Specifically it shows that the Paying Bank's customer has 60 calendar days from the date their statement is available to file a customer written statement under penalty of perjury with the Paying Bank. Specifically it shows that Assuming the customer's written statement is filed within the 60 calendar days, the Paying Bank then has 90 Calendar Days after presentation of the Electronic Image 15 Business Days within which to file a breach of warranty claim with the Depository Bank (bank of first deposit or BOFD). After 15 Business Days the Paying Bank cannot make a claim using Section XIX(N). If a warranty claim is filed within the 15 Business Days, the BOFD then has two options; 1) provide a disclaimer notice back to the Paying Bank within 15 Business Days of the receipt of the breach of warranty claim; or 2) request a copy of the paying customer's written statement within 15 Business Days of the receipt of the breach of warranty claim. Should a copy of the customer written statement be requested, the Paying Bank has 15 Business Days to provide the copy. Should the Paying Bank provide the requested copy within the 15 Business Days, the BOFD has 5 additional Business Days to provide a disclaimer back to the Paying Bank.~~

¹ The examples and other provisions in this Exhibit are for informational and illustrative purposes only and are not meant to expand, limit or alter the provisions of Section XIX(N) in any manner.

EXHIBIT VIII – EXHIBITS RELATED TO RULES IN SECTION XIX(N) AND XIX(O)

EXPLANATORY CHARTS FOR SECTION XIX(N) PROCESSES
Overview of Decisions



Note: the picture above has been replaced

This chart shows a summary of the decision processes associated with Section XIX(N). It begins with the paying customer providing having 60 calendar days from the date of statement availability to provide a customer written statement under penalty of perjury to the Paying Bank. The Paying Bank then has 90/15 Calendar Business Days after presentment of the Electronic Image within which to provide a warranty claim to the Depository Bank (bank of first deposit or BOFD). After 15 Business Days the Paying Bank cannot make a claim using Section XIX(N). If a warranty claim is filed within the 15 Business Days, BOFD then has three options; A) request a copy of the paying customer's written statement within 15 Business Days of the receipt of the breach of warranty claim; or B) (discussed on the next page); or C) (also discussed on the next page). After 15 Business Days the Paying Bank cannot make a claim using Section XIX(N). If a copy is requested by the BOFD, then the Paying Bank has 15 Business Days within which to provide the copy or the BOFD can forward a disclaimer to the Paying Bank. If the BOFD decides to not request the copy, then it has two other options, B) or C).