

January 1, 2022 ECCHO Rules

Revision History

Changes from 2021 Version



Summary of ECCHO Rules Changes

ECCHO Rules changes and supplemental materials to educate and decrease late returns:

Exhibit I: Added return references to the ECCHO Adjustment Matrix

Created Exhibit VII: Comprehensive reference information on check returns

Created New Late Returns Disclaimer Form to be used as an attachment to the disclaimer of a Late Return adjustment

Correction:

Section XII & Commentary: to provide the ability to make Electronically Created Item (ECI) indemnity claim adjustments on ECIs to correct an oversight when the ECI indemnity claim was initially created in Regulation CC

Modernization to More Accurately Reflect Current ECCHO name and obligations:

Section I(II): Electronic Check Clearing House is now ECCHO

Section XI: revised such that ECCHO “may” operate a switch rather than “shall”. Additionally clarify that changes to the ECCHO Rules are “coordinate[d] with Business Committee”

Section XIX(G): changed to correct technical error and be consistent throughout

Section XX(F): changed to be consistent with Section XIX(G)



Changes Regarding Late Returns:
Exhibit I ECCHO Adjustment Matrix

New Resources Regarding Late Returns:
New Late Return Disclaimer Form
New Exhibit VII on Proper Returns



Exhibit I Adjustment Matrix: Late Return Claim/Disclaimer

Added Return Deadline Info/References

Added Disclaimer Conditions

Added Disclaimer Form Requirement

Adjustment Reason	Deadline (Ranges)	Min \$ Amount	With/ Without Financial Entry	Adjusting Bank Submits	Party who can Make Adjustment	Party to whom Adjustment Can be made	Information Needed	Group Adjust
Late Return Claim <u>Explanation:</u> Item was returned outside applicable return time frames. <u>The UCC requires the Paying Bank to pay or return the item by midnight of the banking day following the banking day of presentment (UCC 4-301, 4-302) and Regulation CC requires the Paying Bank to return the check "in an expeditious manner" (§ 229.31(b)) generally so that it will be received by the Depository Bank by 2:00 p.m. (local time of Depository Bank) on the second business day after the banking day of presentment.</u>	60 Calendar Days	Federal Reserve minimum	With Entry	Debit	Receiving Party	Sending Party	MICR Code line Sequence # Item Date Copy of Item	No
Late Return Claim <u>Explanation:</u> Request for compensation for an item returned outside applicable return time frames <u>(see return deadlines above)</u> .	61 Calendar Days – 1 year	Federal Reserve minimum	Without Entry	Debit	Receiving Party	Sending Party	MICR Code line Sequence # Item Date Copy of Item	No
Late Return Disclaimer <u>Explanation:</u> For disclaimer of a late return claim adjustment. (A disclaimer is a rejection of the original adjustment/warranty claim and not itself a new adjustment that can also be rejected). <u>Late return claims may only be disclaimed if the item was returned within the deadlines described above. Counterfeit/forged/ altered items must be returned within the UCC/Reg CC deadlines even if the customer notifies the Paying Bank about the fraud beyond the return deadlines (there may be other remedies available to the Paying Bank regarding the fraudulent item such as a direct warranty claim).</u>	20 Business Days	Federal Reserve minimum	With Entry	Debit	Receiving Party	Sending Party	<u>MICR Code line Sequence # Item Date Copy of Item</u> <u>Provide information requested within or complete and attach Sample Late Return Disclaimer Form** as appropriate</u>	No



Exhibit I Adjustment Matrix Late Return Disclaimer (cont.)

Added Disclaimer Info/Form to Late Return Disclaimer Without Entry

Late Return Disclaimer <u>Explanation:</u> Request for compensation for disclaimer of a late return claim adjustment. (A disclaimer is a rejection of the original adjustment/warranty claim and not itself a new adjustment that can also be rejected). See above for the conditions for a valid disclaimer.	21 Business Days – 1 year	Federal Reserve minimum	Without Entry	Debit	Receiving Party	Sending Party	Provide information requested within or complete and attach Sample Late Return Disclaimer Form** as appropriate MICR Code line Sequence # Item Date Copy of Item	No
---	---------------------------	-------------------------	---------------	-------	-----------------	---------------	---	----



Created Late Returns Disclaimer Form

- Late Returns Disclaimer Form was created and added as a requirement to the ECCHO Adjustment Matrix for Late Return Disclaimer adjustments
- Purpose: to educate and remind banks that late return claims cannot be disclaimed unless the item was in fact returned within the UCC and Regulation CC return deadlines
 - Fraudulent items must also conform to the return deadlines



SAMPLE LATE RETURN DISCLAIMER FORM INSTRUCTIONS

*This form may be used to disclaim a Late Return claim made by adjustment **only if the check was returned within the applicable required deadlines.***

When Late Return Disclaimer Can be Made: This form is to be used by the Paying Bank with the Late Return Disclaimer to disclaim an invalid Late Return claim adjustment. Use of the Late Return Disclaimer is appropriate only when:

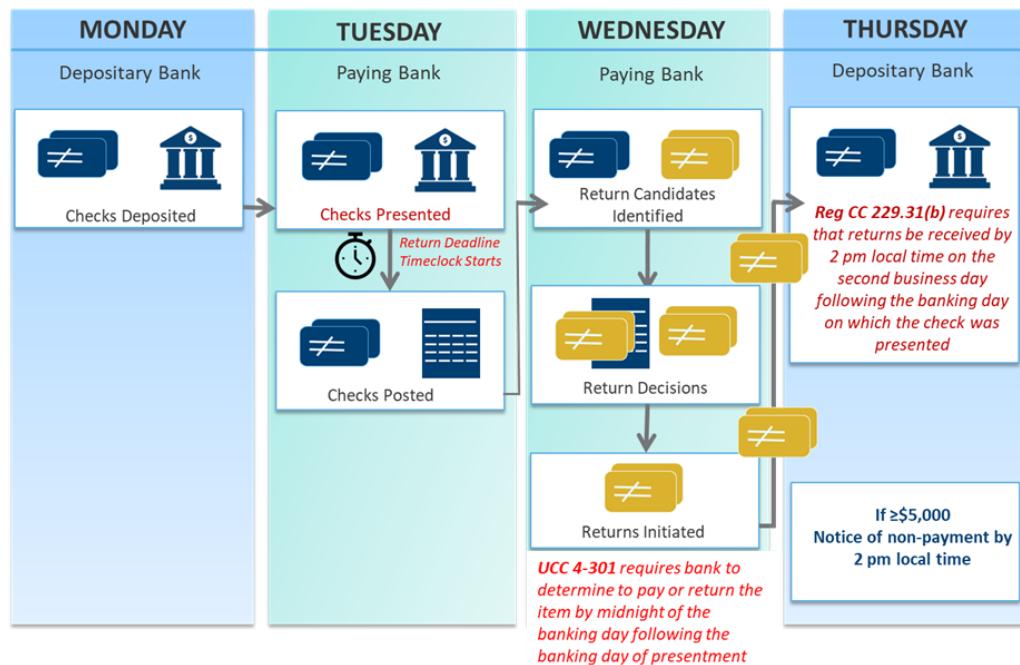
- the Depository Bank made a Late Return claim adjustment; and
- the Paying Bank returned the item within applicable required deadlines (see below)

A Late Return Disclaimer *should not* be made if the item was returned after the Uniform Commercial Code (UCC) and/or Regulation CC (Reg CC) return deadlines.

Return Deadlines: The UCC requires the Paying Bank to pay or return the item by midnight of the *banking day* following the *banking day* of presentment (UCC 4-301, 4-302) and Regulation CC requires the Paying Bank to return the check “in an expeditious manner” (§ 229.31(b)) generally so that it will be received by the Depository Bank by 2:00 p.m. (local time of Depository Bank) on the second *business day* after the *banking day* of presentment. The return deadline timeclock begins on the banking day of presentment.

Under UCC 4-104(3), **Banking day** means the part of a day on which a bank is open to the public for carrying on substantially all of its banking functions; Under Regulation CC 229.2(f), **Banking day** means that part of any business day on which an office of a bank is open to the public for carrying on substantially all of its banking functions.

Under Regulation CC 229.2(g), **Business day** means a calendar day other than a Saturday or a Sunday, January 1, the third Monday in January, the third Monday in February, the last Monday in May, July 4, the first Monday in September, the second Monday in October, November 11, the fourth Thursday in November, or December 25. If January 1, July 4, November 11, or December 25 fall on a Sunday, the next Monday is not a business day.



Fraudulent Items Must Be Returned within Required Return Deadlines:

Counterfeit/forged/ altered items **must be** returned within the UCC/Reg CC deadlines even if the customer notifies the Paying Bank about the fraud beyond the return deadlines. Although fraudulent items must be returned within return deadlines, there may be another remedy available to the Paying Bank regarding the fraudulent item (e.g., a direct warranty claim, etc.). In addition, the Paying Bank may have a legal defense to a Late Return claim made by adjustment (e.g., breach of presentment warranty under the UCC). However, such defenses should be handled outside of the adjustments process and not through use of a Late Return Disclaimer.

Each Paying Bank warrants in Reg CC 229.34(d) that it returns a check within the UCC midnight deadline and the Reg CC expeditious return requirements. Failing to return within these timeframes constitutes a breach of the return warranty, and the paying bank is liable to the depositary bank for the amount of the late return for up to one year from the cash letter date of the late return.

Regulation CC sets forth certain limited exceptions to the Reg CC expeditious return rule such as for: checks drawn on US Treasury, US Postal Service money orders, and checks drawn on a state or unit of general local government that is not payable at/through a bank (Reg CC 229.42); Depositary Banks that do not have arrangements in place to accept electronic returned checks directly or indirectly through commercially reasonable means (Reg CC 229.33(a)); Depositary Banks not subject to Reg CC Subpart B because for example they maintain only time and savings accounts or are not a depository institution (Reg CC 229.31(d)(1)); or the Paying Bank is unable to identify the Depositary Bank of the check (Reg CC 229.31(d)(2)).

Regulation CC also extends the UCC midnight deadline to the time of the Paying Bank's dispatch of the return (if after the midnight deadline) where the Depositary Bank (or receiving bank if the Depositary Bank is unidentifiable) receives the return by the Depositary Bank's (or receiving bank's) cut-off hour on its next banking day. (Special rules are provided in the event the Paying Bank's midnight deadline is on a Saturday which is a banking day for the Paying Bank.) Reg CC 229.30(g).

For more info on proper return of items, see ECCHO Rules Exhibit VII

Instructions for Making this Disclaimer: *(Complete information on the form on the next page)*

- This form should be reviewed by your bank's legal counsel prior to use
- Provide information about the Late Return claim adjustment that was made against your bank
- Provide information on the presentment and return of the item in question
- Ensure that the item was returned within the applicable UCC and Reg CC deadlines
- Check the reason for disclaimer
- Sign and include contact information
- Include a copy of the item

Note: The Paying Bank may have a legal defense to a Late Return claim adjustment (e.g., breach of presentment warranty under the UCC). However, such defenses should be handled outside of the adjustments process and not through use of a Late Return Disclaimer.

SAMPLE LATE RETURN DISCLAIMER FORM

*This form may be used with a Late Return Disclaimer. A Late Return Disclaimer may be made **only if the item was returned within the applicable required deadlines.***

Counterfeit/forged/ altered items may not be returned after the UCC midnight deadline or Reg CC expeditious return deadline.

Date: INSERT DATE

Re: Late Return Disclaimer

Purpose: To disclaim a late return claim because the check was returned properly within UCC and Reg CC deadlines.

Disclaimer made to: INSERT BANK NAME / INSERT ABA ROUTING NUMBER

Your Bank Late Return Case/Reference Number: INSERT NUMBER

Disclaimer made by: INSERT OUR BANK NAME / INSERT OUR ABA ROUTING NUMBER

Our Bank Case/Reference Number: INSERT NUMBER

This letter constitutes our bank's disclaimer and refusal of your bank's Late Return claim adjustment.

Information on Presentment: We certify that this item was presented to us or our processor by:

Bank Name: INSERT BANK NAME / INSERT ABA ROUTING NUMBER

Received Date: INSERT DATE

Received Time: INSERT TIME

Cash Letter Date: INSERT DATE

Cash Letter Total: INSERT INFORMATION

Sequence Number: INSERT INFORMATION

Information on Return: We returned this item to:

Bank Name: INSERT BANK NAME / INSERT ABA ROUTING NUMBER

Return Cash Letter Date: INSERT DATE

Return Cash Letter Total: INSERT INFORMATION

Bundle (Tape) Total: INSERT INFORMATION

Sequence Number: INSERT INFORMATION

Listed between items INSERT INFORMATION and INSERT INFORMATION

Check Information/MICR Line:	
External Processing Code:	
ABA Routing Number:	
Account Number:	
Serial Number:	
Amount:	

Reason for Disclaimer:

Our bank returned this item within required UCC and Regulation CC deadlines. (See information on pages 1 and 2 of the instructions.)

By checking this box, we certify that these deadlines were met.

A COPY OF THE ITEM HAS BEEN INCLUDED

INSERT SIGNATURE

INSERT PHONE NUMBER / EMAIL ADDRESS

By signing, we certify that the required UCC and Regulation CC return deadlines were met and that use of the Late Return Disclaimer is appropriate. A Paying Bank may only use the Late Return Disclaimer to disclaim a Late Return claim adjustment if it in fact returned the check within the applicable required UCC and Regulation CC return deadlines.

Return Deadlines: return deadlines include the UCC requirement for the paying bank to either pay or return the item by midnight of the banking day following the banking day of presentment (UCC 4-301, 4-302) and the Regulation CC requirement for the paying bank to return the check "in an expeditious manner" (§ 229.31(b)) generally so that it will be received by the depositary bank by 2:00 p.m. (local time of depositary bank) on the second business day after the banking day of presentment. The return deadline timeclock begins on the banking day of presentment. Regulation CC sets forth certain limited exceptions to the expeditious return rule and UCC midnight deadline. Please see ECCHO Rules Exhibit VII for more information.

Note: Your bank may have a legal defense to a Late Return claim adjustment (e.g., breach of presentment warranty under the UCC). However, such defenses should be handled outside of the adjustments process and not through use of a Late Return Disclaimer.

Technical Correction in Section XII(A) & Commentary

To reflect that Electronically Created Item (ECI) indemnity claim adjustments may be made on ECIs



Section XII(A) Changes

OPERATING RULES

XII. ADJUSTMENT CLAIMS

A. Application of Adjustment Rules.

(1) *A Member may make an Adjustment Claim under this Section XII only if the claim:*

(a) *is a type of adjustment claim listed on the Adjustment Matrix in Exhibit L*

(b) *is made to another Member, and*

(b)(c)

(i) *arises out of the forward exchange of an*

Electronic Check under Section XIX of the Rules or the return of an Electronic Returned Check under Section XX of the Rules or (ii) arises out of the forward exchange of an Electronically

Created Item (ECI) under Section XIX of the Rules as a purported Electronic Check or the return of an ECI under Section XX of the Rules as a purported Electronic Returned Check, notwithstanding that ECIs are not eligible for exchange under such sections, regarding which the Member makes an ECI indemnity claim using the Warranty Indemnity Claim adjustment reason

or (iii) arises from the forward exchange or return of an Electronic Check or ECI under an exchange not subject to the Rules if the Member to which the Adjustment Claim is made has agreed with the Member making the claim that such items can be adjusted pursuant to this Section XII.



Section XII(A) Commentary Changes

XII(A). COMMENTARY

Rule: A Member may make an Adjustment Claim under this Section XII only if the claim:

(a) is a type of adjustment claim listed on the Adjustment Matrix in Exhibit I,

(b) is made to another Member, and

(c)(i) arises out of the forward exchange of an Electronic Check under Section XIX of the Rules or the return of an Electronic Returned Check under Section XX of the Rules or (ii) arises out of the forward exchange of an Electronically Created Item (ECI) under Section XIX of the Rules as a purported Electronic Check or the return of an ECI under Section XX of the Rules as a purported Electronic Returned Check, notwithstanding that ECIs are not eligible for exchange under such sections, regarding which the Member makes an ECI indemnity claim using the Warranty Indemnity Claim adjustment reason or (iii) arises from the forward exchange or return of an Electronic Check or ECI under an exchange not subject to the Rules if the Member to which the Adjustment Claim is made has agreed with the Member making the claim that such items can be adjusted pursuant to this Section XII.

Comment: Generally, Adjustment Claims must relate to the forward exchange of Electronic Checks or the return of Electronic Returned Checks, as set out in Rule XII(A)(1). However, Members may use the Warranty Indemnity Claim (WIC) for an ECI Indemnity Claim adjustment when they have a claim against another Member under the Electronically Created Item indemnity in Regulation CC (12 CFR 229.34(g)) and the item was exchanged under Section XIX of the Rules as a purported Electronic Check, or Section XX as a purported Electronic Returned Check, or the Electronically Created Item was exchanged in an exchange not subject to the Rules and the Member to which the Adjustment Claim is made has agreed with the Member making the claim that such items can be adjusted pursuant to the ECCHO Rules.



Changes to Section XI of the ECCHO Rules

To more accurately reflect the obligations of
TCH/ECCHO



Section XI(A) Changes

OPERATING RULES

XI. OBLIGATIONS OF ORGANIZATION; CLEARING HOUSE

- A. Obligations of Organization; Clearing House. The Organization ~~shall~~may monitor the operation of the program established by these Rules, coordinate_I the exchange of information among Members regarding its operation, engage the services of a third party to operate the Clearing House, designate days of operation and deadlines for receipt and transmission by the Clearing House, and coordinate with the Business Committee to make such changes in to these Rules as ~~it deems~~ appropriate from time to time. The Organization is not liable for settlement between Members or for any default, error or other act or omission of, or any liability incurred by, any Member arising out of these Rules or their operation.



Miscellaneous Changes to the ECCHO Rules



Definition Change Regarding Accurate Use of ECCHO Name

OPERATING RULES

I. DEFINITIONS (CONTINUED)

- II. Licensed Entity.*** A clearing house or other entity listed at Exhibit II to which ~~the
Electronic Check Clearing House Organization~~ECCHO has licensed the right to use these Rules.



XIX(G)(1) Changes

Changed 'the Clearing House or an Exchange Provider' to accurately reflect how Electronic Check transmission occurs and to ensure consistency across ECCHO Rules

XIX. ELECTRONIC CHECK (CONTINUED)

G. Transmission and Acknowledgement of Electronic Check.

- (1) Delivery of Electronic Check. An Image and the associated Electronic Information for an Electronic Check shall be transmitted or otherwise provided to or made available at the location(s) designated by the Receiving Bank
 - (a) by the Sending Bank directly or
 - (b) if so agreed by the Sending Bank and the Receiving Bank, by another entity or through the transmission facility of thea Clearing House or an Exchange Provider.



XIX(G)(2) Changes

Same as XIX(G)(1) to accurately reflect how Electronic Check transmission occurs and to ensure consistency across ECCHO Rules

- (2) Sending Bank's Acknowledgement For Images Made Available To Receiving Bank. *In the event the Sending Bank does not transmit or otherwise provide, but makes available, an Image to the Receiving Bank as provided in Section XIX(G)(1), the Sending Bank shall transmit or otherwise provide, a Sending Bank's Acknowledgement identifying the Images made available to the Receiving Bank, to the location designated by the Receiving Bank*
- (a) *by the Sending Bank directly or*
 - (b) *if so agreed by the Receiving Bank and the Sending Bank, by another entity or through the transmission facility of thea Clearing House or an Exchange Provider.*



XIX(G)(3) Changes

Same as XIX(G)(1) to accurately reflect how Electronic Check transmission occurs and to ensure consistency across ECCHO Rules

- (3) *Receiving Bank's Acknowledgement For Receipt of Images Sent Directly to Receiving Bank.* Upon receipt of an Image as provided in Section XIX(G)(1), the Receiving Bank shall transmit or otherwise provide or make available a Receiving Bank's Acknowledgement to the location(s) designated by the Sending Bank
- (a) by the Receiving Bank directly or
 - (b) if so agreed by the Receiving Bank and the Sending Bank, by another entity or through the transmission facility of thea Clearing House or an Exchange Provider.



XX(F) Changes

Changed to provide consistency with XIX(G)(1), XIX(G)(2) & XIX(G)(3)

XX. ELECTRONIC RETURNED CHECKS (CONTINUED)

F. Return of Electronic Returned Checks.

- (1) *A Returning Member returns an Originally Received Item under this Section XX by transmitting or otherwise providing or making available to a Returnee Member an Electronic Returned Check in accordance with the requirements of this Section XX and the time limitations and other requirements of applicable law.*
- (2) *An Electronic Returned Check shall be transmitted or otherwise provided or made available to the location(s) designated for the Electronic Returned Check to the Returnee Member to which the Electronic Returned Check is being transmitted or otherwise provided or made available*
 - (a) *by that Returnee Member or*
 - (b) *if so agreed by the Returnee Member and the Returning Member, by another entity or through the transmission facility of thea Clearing House or an Exchange Provider.*



Updated Website Addresses

ECCHO – a business line of The Clearing House Payments Company, L.L.C.

ECCHO Office:

3710 Rawlins Street
Suite 1075
Dallas, Texas 75219

Phone Number:

(214) 273-3200 Main Number

Visit our web site:

<http://www.echotheclearinghouse.org/eccho>

^{**} Sample optional letters and forms can be found on www.eccho.org. <https://www.theclearinghouse.org/eccho/check-resources>

Copyright © 2024 by The Clearing House Payments Company L.L.C.



New ECCHO Rules Exhibit VII

- New exhibit added to ECCHO Rules effective Jan 1, 2022
- Purpose: to address the issue of late returns through education and providing a reference document for ECCHO Members
- This exhibit contains the following sections:
- Return Reason Codes
- Return Deadlines
- Sample Return Deadline Scenarios
- Fraudulent Items are Not Exempt from Return Deadlines
- What to do When it is too Late to Return an Item
- Exceptions to Regulation CC Expeditious Returns
- Late Returns & Late Return Disclaimers
- Return Routing
- Selected Best Practices for Returning and Re-presentment
- Re-presentment of Returned Checks
- Return Warranties
- Notice of Nonpayment
- Notice in Lieu
- ECCHO Rules Return Variances
- Proper Use of Return Reason Refer to Maker
- Customer Return Reason Code List
- Administrative Return Reason Code List



EXHIBIT VII – RETURNING CHECKS

This exhibit contains the following sections:

- *Return Reason Codes*
- *Return Deadlines*
- *Sample Return Deadline Scenarios*
- *Fraudulent Items are Not Exempt from Return Deadlines*
- *What to do When it is too Late to Return an Item*
- *Exceptions to Regulation CC Expedited Returns*
- *Late Returns & Late Return Disclaimers*
- *Return Routing*
- *Selected Best Practices for Returning and Re-presentment*
- *Re-presentment of Returned Checks*
- *Return Warranties*
- *Notice of Nonpayment*
- *Notice in Lieu*
- *ECCHO Rules Return Variances*
- *Proper Use of Return Reason Refer to Maker*
- *Customer Return Reason Code List*
- *Administrative Return Reason Code List*

Introduction. The return of a check occurs when a check is dishonored, or not paid, by the Paying Bank. Returns of checks are governed by federal (Expedited Funds Availability Act/Regulation CC) and state (Uniform Commercial Code) law requirements. There are two types of returns: customer & administrative. “Customer returns” occur when there is an issue with the customer’s account or other reason related to the customer that causes the Paying Bank not to pay, like insufficient funds, account closed, stop pay, duplicate, etc. “Administrative returns” are for other reasons like poor quality, ineligible item, image missing, duplicate due to multiple cash letters being sent by the bank, etc. Customer return and Administrative return reason codes are listed at the end of this Exhibit.

Return items can travel directly from the Paying Bank to the Depositary Bank or they may travel indirectly to the Depositary Bank through an intermediary like the presenting bank, another collecting bank, or a returning bank not involved in the forward collection of the item. It is important for the Paying Bank to complete returns within the required return deadlines set forth in the UCC and Regulation CC that are discussed in this Exhibit.

Return Reason Codes. The Return Reason Code describes why an item is being returned and is required by Regulation CC 229.31(e). It is up to each financial institution to determine what Return Reason Code it will use when returning a check. Although Regulation CC requires the Paying Bank to provide a reason for the return, Regulation CC does not provide specific Return Reason Codes for the industry. Return Reason Codes are defined and maintained within X9.100-188 by the Accredited Standards Committee X9, Inc. Operationally, when a check is returned unpaid, the Paying Bank must indicate the reason in accordance with the applicable standards including X9.100-187, X9.100-188 and X9 Technical Report 47/Universal Companion Document. See a list of Return Reason Codes at the end of this Exhibit.

Per ECCHO Rules XX(D)(4), a Returning Member (bank that is returning an item) is not required to indicate all return reasons. There may be multiple possible return reasons but only one Return Reason Code must be provided. As explained in the Commentary to ECCHO Rule XX(D) “[i]f there is more than one potential reason for the return, the Returning Member may in its discretion, consistent with the general practices of that Returning Member, determine which return reason to indicate on an Electronic Returned Check.” Additionally, if that Electronic Check is re-presented, the Returning Member may return the item for a previously unindicated return reason or any other applicable return reason, provided that the return is timely.

EXHIBIT VII – RETURNING CHECKS

Return Deadlines. Paying Banks must comply with two return deadlines:

Uniform Commercial Code (UCC) Return Deadline. The UCC requires the Paying Bank to pay or return the item by midnight of the banking day following the banking day of presentment (UCC 4-301, 4-302). Presentment is defined in UCC 3-501(a) as a demand made by or on behalf of a person entitled to enforce an instrument to pay the check made to the Paying Bank. The Paying Bank may treat presentment as occurring on the next business day after the day of presentment if the Paying Bank has established a cut-off hour of 2 p.m. or later for the receipt and processing of checks presented to it for payment, and presentment is made after that cut-off hour. UCC 3-501(b)(4).

ECCHO Rules I (GG) Definition of Image Ledger Cutoff Time. A time of day established by the Receiving Bank after which any Image or Electronic Information received by the Receiving Bank is deemed to be received at the opening of the Receiving Bank's next Banking Day. Please note that under the ECCHO Rules, the Receiving Bank may establish an Image Ledger Cutoff Time before 2:00 p.m. (Receiving Bank local time). See also ECCHO Rules XIX(H)(1).

Regulation CC Return Deadline. Regulation CC requires the Paying Bank to return the check “in an expeditious manner” so that it would normally be received by the Depository Bank by 2:00 p.m. (local time of Depository Bank) on the second business day after presentment (Regulation CC 229.31(b)(1)). *The Regulation CC return deadline clock begins on the banking day on which the check is presented to the Paying Bank* (Regulation CC 229.31(b)). For purposes of Regulation CC:

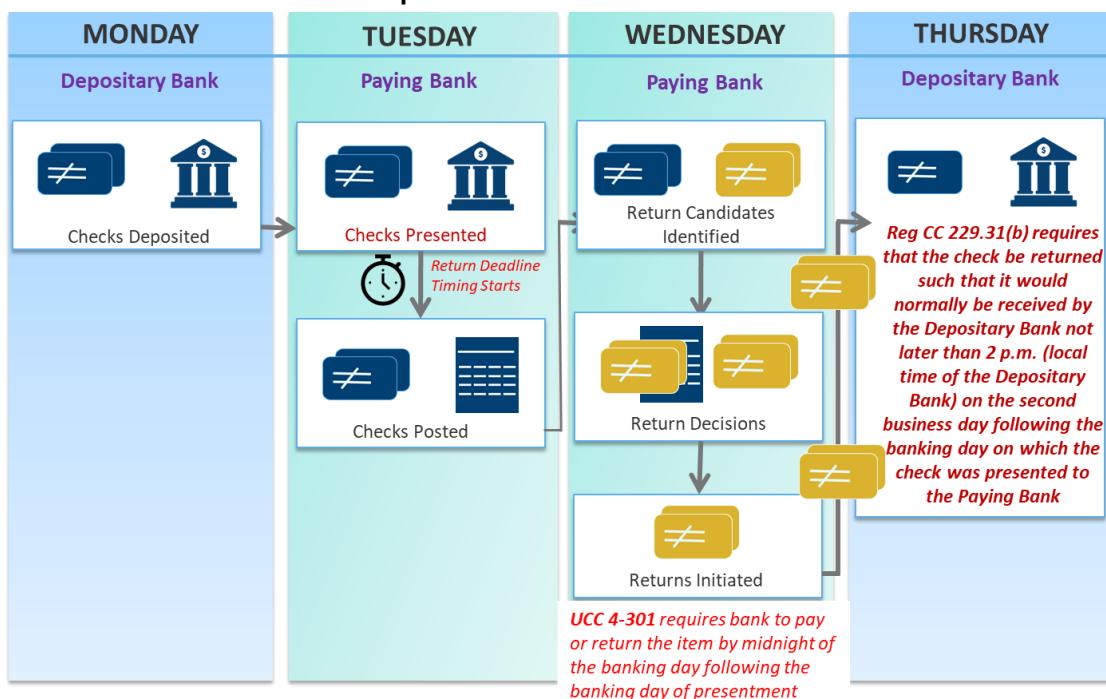
- **Banking day** means that part of any business day on which an office of a bank is open to the public for carrying on substantially all of its banking functions. Regulation CC 229.2(f).
- **Business day** means a calendar day other than a Saturday or a Sunday, January 1, the third Monday in January, the third Monday in February, the last Monday in May, July 4, the first Monday in September, the second Monday in October, November 11, the fourth Thursday in November, or December 25. If January 1, July 4, November 11, or December 25 fall on a Sunday, the next Monday is not a business day. Regulation CC 229.2(g). (Expecting Juneteenth holiday to be added to this definition.)

Each Paying Bank warrants in Regulation CC 12 CFR 229.34(d) that it returns a check within the UCC midnight deadline (or the extended deadline under the UCC if permitted under Regulation CC 12 CFR 229.31(g) discussed below). Failing to return within this UCC deadline constitutes a breach of the Regulation CC returned check warranty. Alternatively, a Paying Bank may be liable for non-compliance with the Regulation CC expeditious return deadline under the Regulation CC liability provisions in 12 CFR 229.38.¹ In either case, the Paying Bank may be liable to the Depository Bank for the amount of the item that was returned outside the required deadline. See Regulation CC 12 CFR 229.38 for additional information regarding potential liability under Regulation CC.

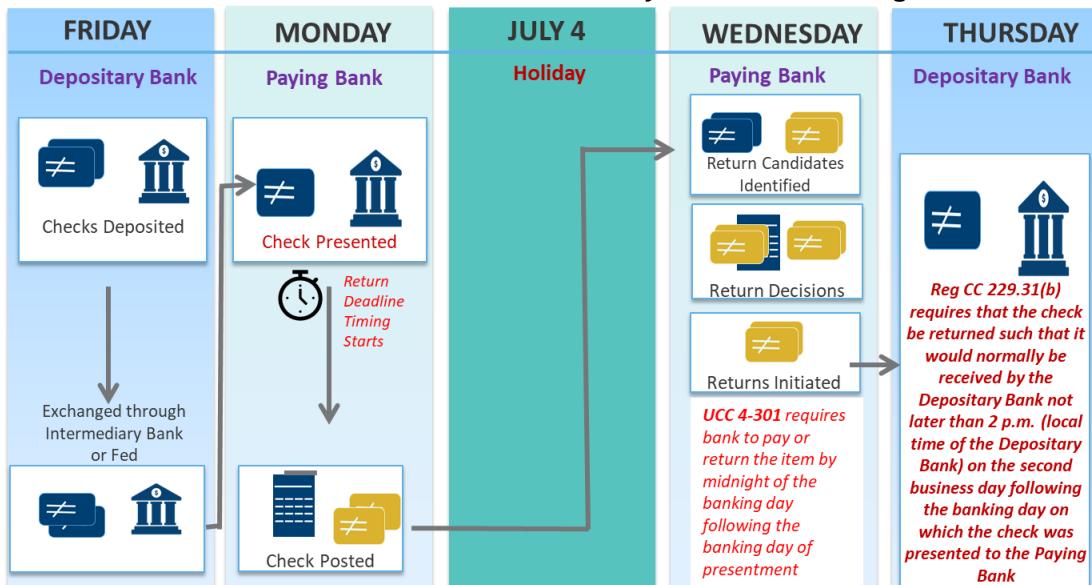
¹ Note Regulation CC 12 CFR 229.38(b) which provides “[i]f a paying bank fails both to comply with its expeditious return requirements under § 229.31(b) and with the deadline for return under the UCC, Regulation J (12 CFR part 210), or the extension of deadline under § 229.31(g) in connection with a single nonpayment of a check, the paying bank shall be liable under either § 229.31(b) or such other provision, but not both.”

EXHIBIT VII – RETURNING CHECKS

Simple Return Deadline Scenario



Return Deadline Scenario with Holiday & Indirect Exchange



Summary: Check was deposited on Friday. Presentment occurred on Monday. The return decision was made on Wednesday. The return reached the Depository Bank by 2pm on Thursday. Although this return scenario spanned across days, it was accomplished within the UCC & Reg CC deadlines since the weekend days and holiday are not banking or business days.

Note: Under Regulation CC, a returning bank which is not the Paying Bank has the same expeditious return obligation as the Paying Bank. Regulation CC 229.32(b).

EXHIBIT VII – RETURNING CHECKS

Fraudulent Items are Not Exempt from Return Deadlines.

Counterfeit/forged/alterated items must be returned within the UCC/Regulation CC deadlines.

Though returns are not permissible outside of the UCC/Regulation CC deadlines, if a Paying Bank learns after its return deadline has passed of a fraudulent item having been paid, there may be another remedy available to the Paying Bank. Other ways to resolve an exception include creating an adjustment, dealing directly through a demand letter or making an ECCHO Rule 9 claim, as applicable. It is important to understand the warranties each bank (i.e. Paying Bank or Depositary Bank) makes regarding different types of fraud and potential methods for resolution, which are summarized below.

Responsibility for Forged Drawer Signature/Counterfeit Items. The Paying Bank is generally liable for paid forged or counterfeit checks where the drawer has not signed to authorize the payment. The framework governing the allocation of responsibility for this type of unauthorized checks being paid dates back to a legal decision in England from 1762--*Price vs. Neal*. That decision is based on the principle that the party in the best position to know the drawer's signature bears the responsibility for paying a check with an unauthorized drawer's signature. This responsibility is set forth in the UCC Presentment Warranties (UCC3-417, 4-208), that the warrantor has no knowledge that the signature of the drawer of the draft is unauthorized.

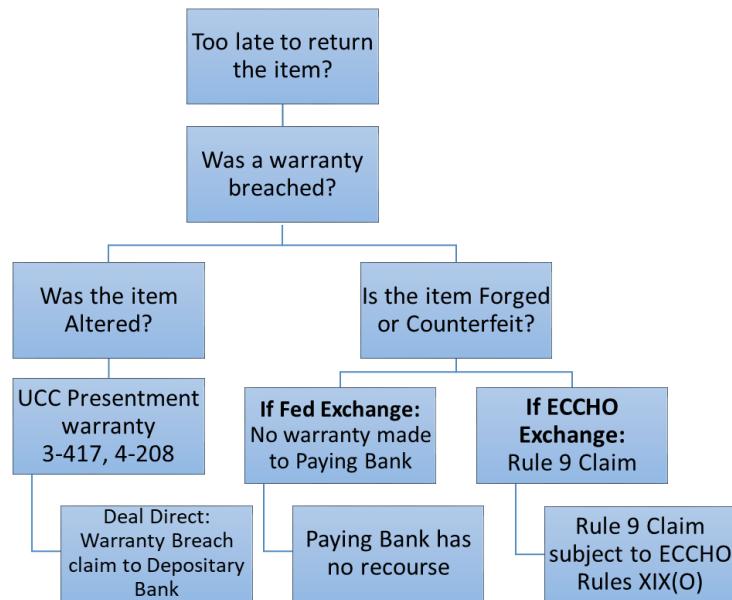
ECCHO Rule 9 Claims. ECCHO Rule 9 varies the UCC by agreement to conditionally shift responsibility for a forged drawer signature/counterfeit check to the Depositary Bank, which warrants in Rule 9 that “the signature of the purported drawer of the Related Physical Check is not forged or otherwise unauthorized and/or the Related Physical Check is not counterfeit.”

ECCHO Rules XIX(O)(2). Under check exchanges governed by the ECCHO Rules, ECCHO Rule 9 allows an ECCHO Member Paying Bank (which has not opted out of Rule 9) to file a claim to recover a fraudulent item (forged drawer signature/counterfeit check) after the UCC midnight and Regulation CC return deadlines from an ECCHO Member Depositary Bank which has not opted out of Rule 9. ECCHO Rule 9 shifts responsibility from the Paying Bank to the Depositary Bank's depositor *when there are sufficient funds in the depositor's account*, and the Rule 9 claim has been made timely in accordance with the ECCHO Rules. The loss remains with the Paying Bank if there are insufficient funds in the Depositary Bank depositor's account to pay the Rule 9 claim, or if the Paying Bank did not make the Rule 9 claim within the timeframe specified in the ECCHO Rules. Rule 9 claims are warranty breach claims, although they may ride the return system rails. For more information on Rule 9, see <https://www.theclearinghouse.org/eccho/check-resources>.

Responsibility for Altered Items. An altered item is another type of fraud that the Paying Bank may learn about after the return deadlines have expired. An alteration is any unauthorized change to the item that purports to modify in any respect the obligation of any party to the item, such as an unauthorized change to the payee, amount, or date of the item (UCC 3-407(a)). The Depositary Bank is ultimately responsible for altered items, as it warrants in UCC 3-417 and 4-208 Presentment Warranties that “the draft has not been altered.” After the return deadlines have passed, altered item warranty breach claims must be made via dealing directly with the presenting bank or Depositary Bank such as through a demand letter. See Sample Altered Warranty Claim Letter at <https://www.theclearinghouse.org/eccho/check-resources>.

EXHIBIT VII – RETURNING CHECKS

What To Do When It Is Too Late To Return An Item



Exceptions to Regulation CC Expedited Returns. Regulation CC sets forth the following limited exceptions to the Regulation CC expedited return rule:

- Checks drawn on the U.S. Treasury (Regulation CC 229.42);
- U.S. Postal Service money orders (Regulation CC 229.42);
- Checks drawn on a state/local government that are not payable at/through a bank (Regulation CC 229.42);
- Depository Banks that do not have arrangements in place to accept electronic returned checks (directly or indirectly) through commercially reasonable means (Regulation CC 229.33(a));
- Depository Banks not subject to Regulation CC Subpart B because for example they maintain only time or savings accounts or credit card accounts, or are not a depository institution such as Federal Reserve Banks, Federal Home Loan Banks, private bankers and possibly certain industrial banks (Regulation CC 229.31(d)(1));
- When the Paying Bank is unable to identify the Depository Bank of the check because for example the Depository Bank or a collecting bank has failed to indorse the item in accordance with Regulation CC requirements or the Depository Bank's indorsement has been obscured by indorsements or other information placed on the back of the check by the Depository Bank's customer or other prior indorser (Regulation CC 229.31(d)(2)).

Regulation CC also extends the UCC midnight deadline to the time of the Paying Bank's dispatch of the return (if after the midnight deadline) where the Depository Bank (or receiving bank if the Depository Bank is unidentifiable) receives the return by the Depository Bank's (or receiving bank's) cut-off hour on its next banking day. (Special rules are provided in the event the Paying Bank's midnight deadline is on a Saturday which is a banking day for the Paying Bank.) Regulation CC 229.31(g).

EXHIBIT VII – RETURNING CHECKS

Late Returns & Late Return Disclaimers. When a Paying Bank breaches its warranty to return an item within the UCC deadline or Regulation CC 229.31(g) (which as discussed above provides that the return deadline under the UCC is extended under certain circumstances) or is liable to the Depositary Bank for failure to make a timely return under Regulation CC, the Depositary Bank may choose to file a late return claim. A claim can be made via direct demand letter or through an adjustment system.

Under the ECCHO Rules, the Depositary Bank may make a Late Return Claim (adjustment type) for items with a value \$100 and above. A claim with entry must be made within 60 calendar days of receiving the late return. (ECCHO Rules XII and Exhibit I Adjustment Matrix)

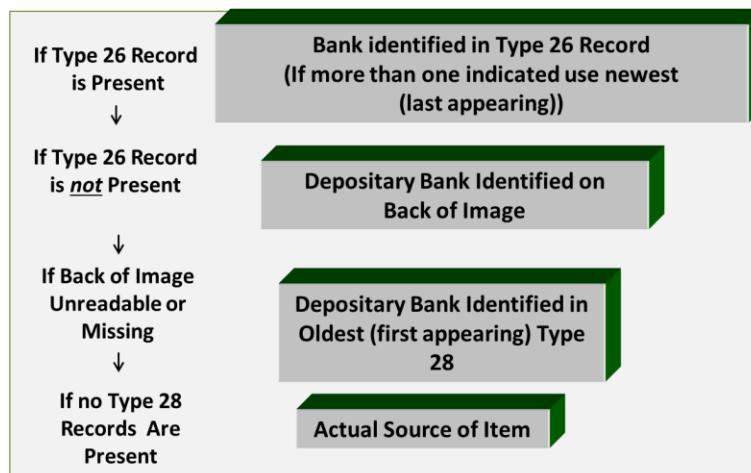
Under Federal Reserve Banks Operating Circular 3, which governs Federal Reserve check collection services, a late return claim with entry can be made using the LC ITYP within 2 months of the return letter date if the item is \$100 or more.

Note: Although late return adjustment claims for less than \$100 are not permitted under ECCHO Rules or Federal Reserve Operating Circular 3, the Paying Bank (i) is subject to return timing requirements and (ii) provides the Regulation CC warranty regarding timely returns, regardless of the amount of the check. While adjustment claims are not available for losses resulting from the late return of checks for less than \$100, claims for such losses can be made by direct claim letter.

The Paying Bank can disclaim the Late Return Claim through the adjustment process and may do so **only if the item was returned within UCC and Regulation CC deadlines.** Under the ECCHO Rules, a with entry Late Return Disclaimer adjustment may be made within 20 business days following the late return claim. Under Operating Circular 3, a with entry LR ITYP must be made within 20 business days of the Federal Reserve Bank's late return claim debit entry date.

Return Routing. ECCHO Rule XX(D)(5) provides guidance on non-administrative return routing.

ECCHO Hierarchy of Returns for the Paying Bank



Although the above chart assists Paying Banks in managing the returns process when the appropriate indorsements are not present, it is a breach of ECCHO Rules XIX(E) not to have at least one electronic indorsement record. ECCHO Rules XIX(E)(1) states, “[t]he Sending Bank shall indorse the Electronic Check in accordance with the requirements of Section 229.35 of Regulation CC. An Electronic Indorsement is the legal equivalent of a written indorsement on a physical check, and the Electronic Indorsement shall be an ‘indorsement’ for all purposes, including for purposes of the Code and Regulation CC.”

EXHIBIT VII – RETURNING CHECKS

ECCHO Rules XIX(E)(3) holds the Depository Bank responsible for including its Routing Number for the return of the Electronic Check in the indorsement record of the Electronic Check. The Sending Bank may identify in its Electronic Indorsement a different bank as the Depository Bank, provided that (1) the bank identified in the Electronic Indorsement is the bank to which the return is to be routed and (2) the Sending Bank includes its own Electronic Indorsement indicating that it is a Collecting Bank. Additionally, all Returning Members are responsible for complying with ECCHO Rules XX(D)(1) which states “[a]n Electronic Returned Check must clearly indicate that it is a return and the reason for return. A Returning Member shall indorse the Electronic Returned Check in accordance with applicable law.”

Banks may agree to a return hierarchy different from the above return hierarchy chart in a banking practices or other agreement. As an alternative to the above return hierarchy chart, a returning bank may return the item to a bank that has agreed to act as a returning bank in conformance with Regulation CC.

Selected Best Practices for Returning and Re-Presentment.

Electronic Indorsement Information. There is a risk to a Returning Member that does not include the appropriate electronic indorsement information in an Electronic Returned Check in compliance with applicable industry standards, to the extent that the Returnee Member cannot create an effective substitute check and incurs liability under the Check 21 Act and Subpart D of Regulation CC and subsequently makes a claim against the Returning Member under Section XX(L) of the ECCHO Rules.

Re-Presentment. Re-presenting the paper check presents a risk since the indorsement history will not show that the item has been previously presented. It is a better practice to re-present the item with its indorsement history. Banks can re-present the Electronic Check with all its indorsement history or an IRD.

Intermediary Banks. Another suggested return practice is for intermediary Collecting Banks to not make return decisions, but rather pass all items through to the Paying Bank for decisioning. Intermediary Collecting Banks often do not have all the information necessary to make a return decision—particularly in the case of a suspected duplicate—and may incur liability if it returns a check without the specific instruction of the Paying Bank. A suspected duplicate may be a legitimate re-presentation. The intermediary Collecting Bank may have no way of knowing whether the item was previously paid. An item should only be returned as a duplicate when it has previously been paid.

Re-presentation of Returned Checks. Under ECCHO Rules, an item can be presented once and, if returned, can be re-presented two more times. Under Operating Circular 3.1(a), which applies to Federal Reserve check services, an item may be presented once and, if returned, then only re-presented once.

ECCHO Rules XX(I)(3) states: “A Returnee Member that is the Depository Bank that has received an Electronic Returned Check may re-present or resend to the Paying Bank: (1) the Related Physical Check, (2) an Electronic Check or (3) any other form or manner of the Related Physical Check outside of these Rules, no more than two times after the return of the Electronic Returned Check. Any other re-presentation or resending of the Originally Received Item or the Related Physical Check, an Electronic Check of such Related Physical Check or any other form or manner outside these Rules as either a check or an electronic funds transfer, is prohibited.” The re-presentation is governed by the ECCHO Rules applicable to the forward collection and presentment of the re-presented item and any agreement between the banks as to re-presentation or re-sending upon the Depository Bank’s receipt of the Electronic Returned Check. As stated in the commentary to ECCHO Rule XX(I), “[t]he Returnee Member is not required to re-present the item. Upon receipt of a return of an Electronic Returned Check as provided in Section XX(F), the Returnee Member may determine not to re-present the item at all, or to re-present the Related Physical Check outside of the Rules. However, the Returnee Member may not re-present or resend the Related Physical Check or an Electronic Check derived from the Related Physical Check to the Paying Bank more than two times, regardless of the manner of the re-presentments (such as through a Federal Reserve Bank, other check clearing houses, or ACH check conversion).”

EXHIBIT VII – RETURNING CHECKS

Return Warranties. Every bank that returns or transfers returns makes certain warranties including those described below.

Regulation CC 229.34(d) Returned Check Warranties. Each Paying Bank or Returning Bank that transfers a returned check warrants that:

- 1) The Paying Bank returned the check within its deadline under the UCC or Regulation CC §229.31(g);
- 2) It is authorized to return the check;
- 3) The check has not been materially altered; and
- 4) If sending a notice in lieu of return, that the check itself has not and will not be returned.

The Paying Bank makes these warranties to the Depository Bank, the transferee returning bank, to any subsequent returning bank, and to the owner of the check. The statute of limitations for Regulation CC is one year.

UCC Warranties. The UCC does not include any returned check warranties. The UCC assigns the obligation for return timing in 4-301 and assigns liability in 4-302 for failing to return within the 4-301 timeframe. The UCC statute of limitations under Article 4 (4-111) is three years but can vary by state implementation of the code.

ECCHO Rules Returning Member Warranty. Under ECCHO Rule XX(J), each Returning Member warrants to each Returnee Member (bank that receives a return) that the Returning Member has complied with each of the requirements within ECCHO Rules Section XX applicable to it.

ECCHO Rules Returnee Member Warranty. Each Returnee Member warrants to the Returning Member that the Returnee Member has complied with each of the requirements within ECCHO Rules Section XX applicable to it with respect to each Electronic Returned Check received by it.

ECCHO Rules Return Variances. The ECCHO Rules vary Regulation CC in two ways with regard to returns:

- ECCHO Rule XX(D)(8) varies the Regulation CC Sections 229.31(a)(2) and 229.32(a)(2) requirement that the returning bank notify the returnee bank that the Depository Bank indorsement on the item is illegible. “The Returning Member is not required to provide an advice or notice to the Returnee Member that the Depository Bank indorsement was illegible, as otherwise required under Regulation CC, Section 229.31(a)(2) or Section 229.32(a)(2).”
- ECCHO Rule XX(D)(1) varies the Regulation CC Section 229.31(e) requirement for the return reason to appear on “the front” of an Electronic Returned Check. “A Returning Member is not required to place a reason for return on the front of the Image of the Electronic Returned Check.”

Proper Use of Return Reason Refer to Maker. The return reason Refer to Maker is often misused. So much so, that the Federal Reserve Board proposed eliminating the Refer to Maker return reason entirely. Instead, Regulation CC provides guidance on the appropriate use of the Refer to Maker return reason in the Section 229.31(e) Commentary: “A reason such as “Refer to Maker” may be appropriate in certain cases, such as when a drawer with a positive pay arrangement instructs the bank to return the check. By contrast, a reason such as “Refer to Maker” would be inappropriate in cases where a check is being returned due to the paying bank having already paid the item, where a check has been altered, or where a check is unauthorized. In such cases, the payee and not the drawer would generally have more information as to why the check is being returned.”

EXHIBIT VII – RETURNING CHECKS

Notice of Nonpayment. Regulation CC section 229.31(c) provides the following requirements for the Paying Bank to send a notice of nonpayment:

- Applies to returns of items of \$5,000 or more.
- Should normally be received by the Depository Bank not later than 2 p.m. (local time of the Depository Bank) on the second business day following the banking day on which the check was presented to the Paying Bank. If the day the Paying Bank is required to provide notice is not a banking day for the Depository Bank, receipt of notice not later than 2 p.m. (local time of the Depository Bank) on the Depository Bank's next banking day constitutes timely notice.
- Notice may be provided by any reasonable means, **including the returned check itself**, a writing (including a copy of the check), or telephone.

Regulation CC 229.31(c)(2) outlines the information required within the notice of non-payment, to the extent available to the Paying Bank:

- The MICR line information
- Name of the payee(s)
- Amount
- Date of the indorsement of the Depository Bank
- The bank name, routing number, and trace or sequence number associated with the indorsement of the Depository Bank
- Reason for nonpayment

If the Paying Bank is not sure of the accuracy of any of this information, it is to include the information to extent possible and identify the information about which it is unsure.

Notice in Lieu. Regulation CC also contains provisions that apply where a check is unavailable for return. Regulation CC section 229.31(f) states that a Notice in Lieu of Return may be sent:

- if check/image is unavailable for return because for example it has been lost or destroyed;
- if the bank does not have sufficient electronic information/image to create a substitute check/IRD (229.31(f) Commentary); or
- if the bank does not have a copy of the front and back of the check

The notice in lieu must be in writing (either in paper form or if agreed by the parties in electronic form), clearly state that it constitutes a notice in lieu of return, and should contain the same information specified in 229.31(c)(2) above for the notice of nonpayment.

EXHIBIT VII – RETURNING CHECKS

Customer Return Reason Code List

- 'A' NSF – insufficient funds
- 'B' UCF – uncollected funds hold
- 'C' Stop payment
- 'D' Closed account
- 'E' UTLA – unable to locate account
- 'F' Frozen/blocked account
- 'G' Stale dated
- 'H' Post dated
- 'I' Endorsement missing
- 'J' Endorsement irregular
- 'K' Signature(s) missing
- 'L' Signature(s) irregular, suspected forgery
- 'M' Non-cash item (non negotiable)
- 'N' Altered/fictitious item/Suspected counterfeit/Counterfeit
- 'O' Unable to process
- 'P' Items exceeds stated max value
- 'Q' Not authorized RCC
- 'R' Branch/account sold (Wrong Bank)
- 'S' Refer to Maker
- 'T' Item cannot be re-presented (exceeds allowable number of presentments)
- 'U' unusable image
- 'W' Cannot determine amount
- 'X' Refer to image
- 'Y' Duplicate presentment
- 'Z' Forgery
- '3' Warranty breach (includes Rule 8 & 9 claims)
- '4' RCC warranty breach
- '5' Forged and counterfeit warranty breach (Rule 9)
- '6' Retired/ineligible routing number

Administrative Return Reason Code List

- 'I' Image Missing
- 'Q' Ineligible Item
- 'T' Item cannot be re-presented (exceeds number of allowable times for presentment)
- 'U' unusable image
- 'V' Image fails security check
- 'Y' Duplicate presentment
- '1' Does not conform with ANS X9.100-181
- '2' Does not conform to the Industry's Universal Companion Document
- '3' Warranty Breach (includes Rule 8 & Rule 9 claims)
- '4' RCC Warranty Breach (Rule 8)
- '5' Forged and Counterfeit Warranty Breach (Rule 9)
- '6' Retired/Ineligible Routing Number

For more information on return codes and tips for selecting the most appropriate code, please see the **Check Return Code Handbook** at <https://www.theclearinghouse.org/eccho/check-resources>. Or see X9.100-188 at www.x9.org.