

Introduction to the ECCHO Operating Rules

Participation and exchange under these ECCHO Operating Rules ("Rules") are voluntary. Members are not required to exchange presentment notices, RNOTEs, electronic images or electronic/image returns. Members can decide in which programs they will participate. However, once a member agrees with another member to exchange under the Rules, those exchanges must comply with the Rules.

The Rules provide for transmittal of an electronic notice (a "presentment notice") by a sending bank indicating that each item identified in the presentment notice has been received for collection and that the sending bank intends to send each of these items to the receiving bank. The Rules impose certain requirements with respect to the subsequent presentment of items identified in a presentment notice. The Rules also provide rules and standards with respect to such matters as what items are eligible to be exchanged pursuant to the ECCHO Rules, MICR repair and batch integrity.

In addition, the Rules also accommodate two optional electronic notices by a receiving bank indicating that it may not pay an item (a "preliminary notice of nonpayment" and a "second preliminary notice of nonpayment"), and an optional electronic notice by a receiving bank indicating that it will not pay an item (a "notice of nonpayment" or "RNOTE"), provided in each case the sending bank has indicated its willingness to accept such a notice. The Rules also contain provisions relating to technical requirements for both such preliminary notices of nonpayment and RNOTEs, their legal effect, and the liability of participating banks for failure to comply with particular requirements of the Rules relating to those notices. Use of both such preliminary notices of nonpayment and RNOTEs is optional.

A Data Security rule provides a warranty from the sending bank to the receiving bank that it has established and implemented appropriate administrative, technical and physical safeguards to protect the security, confidentiality and integrity of check exchange data. If there is a breach of Data Security for check exchange data the sending bank will notify the receiving ~~bank~~**BANK** and if the receiving bank must notify its customers, ~~the~~**THE** sending bank indemnifies the receiving bank for the direct costs of ~~that~~ notification.

The Rules also address check images. Under these check image rules, the physical check is imaged and an electronic image of that check is exchanged. The image rules apply only to the image-based truncation scenario in which the receiving bank receives in the normal course a presentment notice and an electronic image; the physical check is not provided to the receiving bank, and the rules establish certain responsibilities on banks relating to the use of exchanged check images to create Substitute Checks.

Under the image rules, the electronic presentment notice and electronic image must be provided or made available to the receiving bank by the applicable deadline designated by the receiving bank. The image must be an Acceptable Copy of the Related Physical Check. Presentment is deemed to occur when both the presentment notice associated with the image is received by the paying bank and the image is received at or made available to the paying bank. The Rules also cover such matters as indorsement, status of the electronic image and electronic image return under the Code and Regulation CC, transmission of electronic images, storage and retrieval of the physical check, and warranties and indemnifications.

The image rules also apply to the use of exchanged check images to create Substitute Checks which are governed by the Check Clearing For The 21st Century Act (Check 21 Act) and the Federal Reserve's Regulation CC. These rules provide recourse for a bank that creates a Substitute Check to a prior bank when the bank creating the Substitute Check incurs liability under the Check 21 Act and Regulation CC as a result of an act or omission of the prior bank. It also provides an expedited recredit right for the bank that created the Substitute Check to mirror the expedited recredit claim that may be made against that bank under the Check 21 Act and Regulation CC.

The Rules also address Electronic/Image Returns. The Code and Regulation CC allow banks to agree to return items electronically. Under the Electronic/Image Return section, a Returning Member may send an Electronic Message or an Image to return an original check, presentment notice, electronic image, paper image or substitute check in connection with the return process. These rules cover such matters as third party agents, eligibility for Electronic/Image return, status of Electronic/Image return, the return process, Electronic/Image return in lieu of returning the original check, representment of the Electronic/Image return, and warranties and indemnifications.

The Rules leave a number of matters to bilateral or multilateral agreements between participating banks, such as the determination of the time for transmitting or delivering notices and items, whether preliminary notices of nonpayment, second preliminary notices of nonpayment and/or RNOTEs will be provided, and settlement for items, returns and adjustments. The Rules also leave to an individual paying bank, its bank-customer agreement and the law generally the decision whether to post an item to a particular customer's account on the basis of a presentment notice, as opposed to upon receipt of the physical item or electronic image, and the time and manner of such posting. The Rules also leave to an individual sending bank and the law generally what, if any, action is to be taken upon receipt of a preliminary notice of nonpayment, a second preliminary notice of nonpayment or, with one exception discussed in the commentary to Section VIII(G), an RNOTE.

The commentary provided after each of the Rules is designed to assist banks participating, and banks considering participating, in ECCHO to better understand and utilize the Rules. The commentary does not impose an independent obligation on a Member separate from the related Rule. To the extent of any inconsistency between the Rules and this commentary, the Rules take precedence. To the extent of any inconsistency between the Rules or the commentary and this Introduction, the Rules or commentary take precedence.