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A Guide to Check 21

Implementing Expedited Recredit for Consumers

For a consumer to make a claim under the Check 21 act, the consumer must assert in good faith;

1. The bank holding the consumer's account charged that account for a substitute check that was provided to the consumer (although the consumer need not be in possession of the substitute check at the time he or she submits a claim);
2. The substitute check was not properly charged to the consumer account or the consumer has a warranty claim with respect to the substitute check;
3. The consumer suffered a resulting loss; and
4. Production of the original check or a sufficient copy of the original check is necessary to determine whether or not the substitute check in fact was improperly charged or whether the consumer's warranty claim is valid.

Procedures for Making Claims

A consumer must make his or her claim for a recredit with the bank that holds the consumer's account in accordance with the timing, content, and form requirements described below.

A. Timing Requirement by Consumer for Making a Claim

The consumer must submit his or her claim to the bank by the end of the 40th calendar day after the later of the calendar day on which the bank mailed or delivered:

1. The periodic statement that contains information concerning the transaction giving rise to the claim;
2. The substitute check giving rise to the claim.

Note: If the consumer cannot submit his or her claim by the time specified due to extenuating circumstances, the bank must extend the 40-calendar day period by an additional reasonable amount of time. (i.e. for extended vacation or hospitalization).

B. Content of the Claim

The consumer's claim must include the following information:

1. A description of the consumer's claim, including the reason why the consumer believes his or her account was improperly charged for the substitute check or the nature of his or her warranty claim with respect to such check;

2. A statement that the consumer suffered a loss and an estimate of the amount of that loss;
3. The reason why production of the original check or a sufficient copy of the original check is necessary to determine whether or not the charge to the consumer's account was proper or the consumer's warranty claim is valid; and
4. Sufficient information to allow the bank to identify the substitute check and investigate the claim.

C. Form of Submission of Claim

The bank may require that the consumer to submit their claim in writing. A bank that requires the consumer to submit a written claim shall compute any time period in this part that begins with the submission of the claim from the date on which the consumer submitted the written claim.

1. Action on Claims

If the bank receives a notice from the consumer that meets the requirements for making a claim, the bank must act as follows:

- (a) Valid consumer claim – If the bank determines that the consumer's claim is valid, the bank must—
 - i. Recredit the consumer's account for the amount of the consumer's loss, up to the amount of the substitute check, plus interest if the account is an interest-bearing account, no later than the end of the business day after the banking day on which the bank makes that determination.
 - ii. Send to the consumer a *Notice of Recredit*.
- (b) Invalid consumer claim – If a bank determines that the consumer's claim is not valid, the bank must send to the consumer a *Notice that the Consumer's Claim is Not Valid*.
- (c) Recredit pending investigation – If the bank has not taken an action as shown in the above (a) or (b) before the end of the 10th business day after the banking day on which the consumer submitted the claim, the bank must –
 - i. Recredit the consumer's account for the amount of the consumer's loss, up to the lesser of the amount of the substitute check or \$2,500, plus interest if the account is an interest-bearing account, by the end of that day and send to the consumer a *Notice of Recredit*; and
 - ii. Recredit the consumer's account for the remaining amount of the consumer's loss, if any, up to the amount of the substitute check, plus interest if the account is an interest-bearing account, no later than the end of the 45th calendar day after the banking day on which the consumer submitted the claim and send to the consumer a *Notice of Recredit*, unless the bank prior to that time has determined that the consumer's claim is or is not valid.

- (d) Reversal of Recredit – A bank at any time may reverse a recredit that it has made to a consumer account, plus interest the bank has paid, if any, on that amount, if the bank—
- i. Determines that substitute check for which the bank recredited the consumer account in fact was properly charged to that account or that the consumer’s warranty claim was not valid; and
 - ii. Notifies the consumer with a *Notice of Reversal of Recredit*.

2. Availability of Recredit

Generally, the bank shall make any amount that it recredits to a consumer account available for withdrawal no later than the start of the business day after the banking day on which the bank provides the recredit.

- i. Safeguard exceptions – A bank may delay availability to a consumer of up to \$2,500, plus interest if applicable, until the start of the earlier of the business day after the banking day on which the bank determines the consumer’s claim is valid or the 45th calendar day after the banking day on which the consumer submitted the claim, if—
 - (a) On six or more business days during the six-month period ending on the calendar day on which the consumer submitted the claim, the balance in the consumer account was negative or would have become negative if checks or other charges to the account had been paid; or
 - (b) On two or more business days during such six-month period, the balance in the consumer account was negative or would have become negative in the amount of \$5,000 or more if check or other charges to the account had been paid, or
 - (c) The bank has reasonable cause to believe that the claim is fraudulent, based on facts that would cause a well-grounded belief in the mind of a reasonable person that the claim is fraudulent. The fact that the check in question or the consumer is of a particular class may not be the basis for invoking this exception.
- ii. Overdraft fees – A bank that delays availability for Safeguard purposes, may not impose an overdraft fee with respect to drafts drawn by the consumer on such recredited funds until the fifth calendar day after the calendar day on which the bank sent the *Notice of Recredit*.

Check 21 Definitions

Acronyms

CAR – Courtesy Amount Recognition. The ability to locate, analyze, and recognize handwritten or machine-printed amounts on documents.

COF – Common Output Format

CTA – Check Truncation Act

EPC – External Processing Code

IRD – Image Replacement Document that provides for a machine-readable substitute document created from the image that is made from the front and back of the original check.

LAR – Legal Amount Recognition

OCR – Optical Character Recognition

Definitions

Bank – Means any person located in a State engaged in the business of banking, including any depository institution; and includes:

- any Federal Reserve bank
- any Federal Home Loan bank
and to the extent that it acts as a payor-
- the Treasury of the United States;
- the United States Postal Service
- a State Government; and
- a unit of general local government

Collecting Bank – Means any bank handling a check for collection except the paying bank.

Depository Bank – (i) The first bank to which a check is transferred, even if such bank is also the paying bank or the payee; or (ii) a bank to which a check is transferred for deposit in an account at such bank, even if the check is physically received and endorsed first by another bank.

Depository Institution – The term “Depository institution” means (1) any bank or savings association. (2) Insured depository institution. - The term "insured depository institution" means any bank or savings association the deposits of which are insured by the Corporation pursuant to this chapter. (3) Institutions included for certain purposes. - The term "insured depository institution" includes any uninsured branch or agency of a foreign bank or a commercial lending company owned or controlled by a foreign bank for purposes of section [1818](#) of this title.

Indemnifying Bank – Means a bank that transfers, presents, or returns a substitute check or a paper or electronic representation of a substitute check for which it receives consideration shall indemnify the recipient and any subsequent recipient (including a collecting or returning bank, the depository bank, the drawer, the drawee, the payee, the depositor, and any indorser) for any loss incurred by any recipient of a substitute check if that loss occurred due to the receipt of a substitute check instead of the original.

Paying Bank – Means the bank by which a check is payable, unless the check is payable at or through another bank and is sent to the other bank for payment or collection; or the bank at or through which a check is payable and to which the check is sent for payment or collection.

Returning Bank – Means a bank (other than the paying or depository bank) handling a returned check or notice in lieu of return.

Reconverting Bank – Means the bank that creates a substitute check; or if a substitute check is created by a person other than a bank, the first bank that transfers or presents such a substitute check.

Other Parties

Board – Means the Board of Governors of the Federal Reserve System.

Consumer – Means an individual who, with respect to a check handled for forward collection, draws the check on a consumer account; or, with respect to a check handled for return, deposits the check into, or cashed the check against, a consumer account.

Consumer Account - The term "consumer account" means any account used primarily for personal, family, or household purposes.

Customer – Means a person having an account with a bank.

Person – Means a natural person, corporation, unincorporated company, partnership, government unit or instrumentality, trust, or any other entity or organization.

Other Important Terms

Account – Means a deposit account at a bank.

Check Conversion – The process by which essential information contained on a conventional paper check is captured electronically (data and image) at the first point in the clearing process; essential information, consists of the routing & transit number, customer account number, check serial number, and the dollar amount of the check. The electronic data, not the paper check, is then sent through the clearing system.

Business Day - The term "business day" means any day other than a Saturday, Sunday, or legal holiday.

Check – Means a draft, payable on demand and drawn on or payable through or at an office of a bank, whether or not negotiable, that is handled for forward collection or return, including a substitute check and a travelers check; and (b) does not include a noncash item or an item payable in a medium other than United States dollars.

Forward Collection – Means the transfer by a bank of a check to a collecting bank for settlement or the paying bank for payment.

MICR Line – Magnetic ink character recognition line means the numbers, which may include the bank routing number, account number, check number, check amount, and other information, that are printed near the bottom of a check in magnetic ink in accordance with generally applicable industry standards.

Noncash Item - The term "noncash item" means - (A) a check or other demand item to which a passbook, certificate, or other document is attached; (B) a check or other demand item which is accompanied by special instructions, such as a request for special advise of payment or dishonor; or (C) any similar item which is otherwise classified as a noncash item in regulations of the Board.

Substitute Check – Means a paper reproduction of the original check that – (a) contains an image of the front and back of the original check; (b) bears a MICR line containing all of the information appearing on the MICR line of the original check, except as provided under generally applicable industry standards for substitute checks to facilitate the processing of substitute checks; (c) conforms, in paper stock, dimension, and otherwise, with generally applicable industry standards for substitute checks; and (d) is suitable for automated processing in the same manner as the original check.

Truncate – Means to remove an original paper check from the check collection or return process and send to a recipient, in lieu of such original paper check, a substitute check or, by agreement, information relating to the original check (including data taken from the

MICR line of the original check or an electronic image of the original check), whether with or without subsequent delivery of the original paper check.

NOTICE OF REFUND

May 25, 2004

[Customer Name]
address
City, St., zip code

Dear [Mr./Mrs./Miss Customer Name],

We have determined that your claim that a substitute check was incorrectly charged to your account is valid. We are refunding {dollar amount} [of which {amount} represents accrued interest] to your account. You may withdraw these funds as of {date}. [This refund is the amount in excess of the \$2,500 that we credited to your account on {date}.]

If we later determine that the substitute check was correctly charged to your account, we will reverse the refund by charging your account. We will notify you within one day of any such reversal.

If you have any further questions, please call me at {phone number}.

Sincerely,

Employee Name
Title

NOTICE OF PARTIAL REFUND

May 25, 2004

[Customer Name]
address
City, St., zip code

Dear [Mr./Mrs./Miss Customer Name],

In response to your claim that a substitute check was incorrectly charged to your account, we are refunding {dollar amount} [of which {amount} represents accrued interest] to your account, pending the completion of our investigation of your claim. You may withdraw these funds as of {date}. [Unless we determine that your claim is not valid, the remaining amount of your refund will be credited to your account no later than the 45th calendar day after you submitted your claim.]

If we later determine that the substitute check was correctly charged to your account, we will reverse the refund by charging your account. We will notify you within one day of any such reversal.

If you have any further questions, please call me at {phone number}.

Sincerely,

Employee Name
Title

NOTICE OF DENIAL OF CLAIM

May 25, 2004

[Customer Name]
address
City, St., zip code

Dear [Mr./Mrs./Miss Customer Name],

We reviewed your claim that a substitute check was incorrectly charged to your account. We are denying your claim. As the enclosed [(original check) or (copy of the original check)] shows, the charge to your account of {amount} was proper because {reason, e.g. amount charged is the same or the signature is authentic.}.

[We have also enclosed a copy of the other information we used to make our decision.]
[Upon your request, we will send you a copy of the other information that we used to make our decision.]

If you have any further questions, please call me at {phone number}.

Sincerely,

Employee Name
Title

NOTICE OF REVERSAL

May 25, 2004

[Customer Name]
address
City, St., zip code

Dear [Mr./Mrs./Miss Customer Name],

In response to your claim that a substitute check was incorrectly charged to your account, we provided a refund of {amount} by crediting your account on {date(s)}. We now have determined that the substitute check was correctly charged to your account. As the enclosed [(original check) or (copy of the original check)] shows, the charge to your account of {amount} was proper because {reason, e.g. amount charged is the same or the signature is authentic.} As a result, we have reversed the refund to your account [plus interest we have paid you on that amount] by charging your account in the amount of {amount} on {date}.

[We have also enclosed a copy of the other information we used to make our decision.]
[Upon your request, we will send you a copy of the other information that we used to make our decision.]

If you have any further questions, please call me at {phone number}.

Sincerely,

Employee Name
Title

CHECK 21

Expedited Recrediting

Timing Requirements

A Guide to Check 21

Implementing Expedited Recredit for Banks

Circumstances Giving Rise to a Claim

A bank that has an indemnity claim with respect to a substitute check may make an expedited recredit claim against an indemnifying bank if—

1. The claimant bank or a bank that the claimant bank has indemnified
 - i. Has received a claim for expedited recredit from a consumer; or
 - ii. Would have been subject of such a claim if the consumer account had been charged for the substitute check;
2. The claimant bank is obligated to provide an expedited recredit with respect to such substitute check or otherwise has suffered a resulting loss; and
3. The production of the original check or a sufficient copy of the original check is necessary to determine the validity of the charge to the consumer account or the validity of any warranty claim connected with such substitute check.

Procedures for Making a Claim

A claimant bank must send its claim to the indemnifying bank, subject to the timing, content, and form requirements as stated below.

1. Timing of Claim – The claimant bank must submit its claim to the indemnifying bank by the end of the 120th calendar day after the date of the transaction that gave rise to the claim.
2. Content of Claim – The claimant bank’s claim must include the following information-
 - i. A description of the consumer’s claim or the warranty claim related to the substitute check, including why the bank believes that the substitute check may not be properly charged to the consumer account;
 - ii. A statement that the claimant bank is obligated to recredit a consumer account or otherwise has suffered a loss and an estimate of the amount of that recredit or loss, including interest if applicable;
 - iii. The reason why production of the original check or a sufficient copy of the original check is necessary to determine the validity of the charge to the consumer account or the warranty claim; and
 - iv. Sufficient information to allow the indemnifying bank to identify the substitute check and investigate the claim.

Requirement Relating to Copies of Substitute Checks

If the information submitted by a claimant bank includes a copy of any substitute check, the claimant bank must take reasonable steps to ensure that the copy cannot be mistaken

for the legal equivalent of the check or sent or handled by any bank, including the indemnifying bank, for forward collection or return.

Form and Submission of Claim: Computation Time

The indemnifying bank may, in its discretion, require the claimant bank to submit the information required by this section in writing, including a copy of the paper or electronic claim submitted by the consumer, if any. An indemnifying bank that requires a written submission may permit the claimant bank to submit the written claim electronically. A bank that requires the claimant bank to submit a written claim shall compute any time period in the subpart that begins with the submission of the claim from the date on which the bank received the written claim.

Action on Claims

No later than the 10th business day after the banking day on which the indemnifying bank receives a claim that meet these requirements, the indemnifying bank must—

1. Recredit the claimant bank for the amount of the claim, up to the amount of the substitute check, plus interest if applicable;
2. Provide to the claimant bank the original check or a sufficient copy of the original check; or
3. Provide information to the claimant bank regarding why the claimant bank is not obligated to comply with 1 and 2 of this paragraph.

Recredit Does Not Abrogate Other Liabilities

Providing a recredit to a claimant bank under this section does not absolve the indemnifying bank from liability for claims brought under any other law or from additional damages.

Indemnifying Bank's Right to a Refund

1. If a claimant bank reverses a recredit it previously made to a consumer account or otherwise receives reimbursement for a substitute check that formed the basis of its claim under this section, the claimant bank must provide a refund promptly to any indemnifying bank that previously advanced funds to the claimant bank. The amount of the refund to the indemnifying bank shall be the amount of the reversal or reimbursement obtained by the claimant bank, up to the amount previously advanced by the indemnifying bank.
2. If the indemnifying bank provides the claimant bank with the original check or a sufficient copy of the original check shall—
 - a. Be liable only for losses that are incurred up to the time that the bank provides that original check or a sufficient copy of the to the indemnified party; and
 - b. Have a right to the return of any funds it has paid in excess of those losses.

