



TIFF Tag Discussion Summary

The following is a summary of discussions of the Legal Work Group on issues relating to possible revisions to the TIFF Tag Standard.

- Banks and their customers (that image checks prior to deposit) comply with the TIFF (Tagged Image File Format) Standard 1992 (www.adobe.com/Support/TechNotes.html) (referred to as the "TIFF Tag Standard") when they create a check image. This TIFF Tag Standard sets forth certain permissible tags for the check image. (For example, permissible tags include length of image, width of image, and other more technical information like orientation, compression and resolution.)
- This TIFF Tag Standard is currently flexible/unspecified such that not all check images exchanged by banks have the same TIFF tags and values associated with them, even though all such check images may be in compliance with the TIFF Tag Standard. Different imaging hardware and software apply different TIFF tags, or different values or default values on the same TIFF tag, to a check image.
- In certain cases, a bank that receives a check image from a customer (in an image deposit) or from another bank (in a check image exchange) may revise and alter the TIFF tags, or the values associated with a TIFF tag, for that particular check image. This check image (post-tag revision) would still comply with the TIFF Tag Standard.
- There was discussion on the Legal Work Group conference calls as to whether the Check 21 Act, the ECCHO Rules or other applicable law prohibited a bank or a customer from making a change to the "original" TIFF tags and their values on a check image after the check image was created by another person, assuming the underlying check image was not changed and the TIFF tags still complied with the TIFF Tag Standard after the changes. Members of the Legal Work Group indicated that changing the technological formatting of a check image file (such as the TIFF tags and their values) was not, in and of itself, a violation of Check 21 Act (for a substitute check subsequently created from that check image) or the ECCHO Rules (for check image only exchange).

- It was noted that there were a number of existing situations (other than TIFF tag changes) where banks make changes to the technological formatting of a check image or check image file, without altering the information displayed in the image. For example, many banks convert check images from grey-scale to black and white prior to exchanging the images with other banks.
- It was noted that a change in the technological format of a check image (including a change to the TIFF tags and their values) could result in liability under the Check 21 Act or the ECCHO Rules if the change in the technology format resulted in the information on the check image not accurately reflecting the information on the original check, or otherwise made the check image/resulting substitute check unusable. For example, certain (but not all) tags can be corrected without regenerating the image itself, while other changes to the tags may require regenerating the image without changing the content. Other technological processes can result in information being changed.
- Banks could address some of the risks associated with TIFF tag changes to check images that they receive from their customer by making the customer responsible for any resulting liability from changes to the TIFF tag and its value that the bank undertakes in order to exchange the check image with other financial institutions. This would be a bank-customer agreement issue.
- It was also reported to the Legal Work Group that representatives of at least one organization have expressed concern that any change to the TIFF tags of a check image after the creation of the check image could cause difficulty for a bank seeking to enter the check image as evidence in litigation. It was felt that banks need to be able to tell a court that there was no change to the electronic record since it was created by the bank or its customer. No specific court cases were identified by the commenter on this point. The Legal Work Group discussed that there is the potential risk that, with a new technology such as check images, banks may have to establish in court (such as through testimony of an employee in charge of data retention) that the check image was a valid record of the original check transaction, regardless of changes to the check image format. Banks have used this process in the past to enter electronic records evidence in litigation, such as evidence of wire transfers stored in computer databases.
- The banking industry is interested in seeking support to develop a TIFF Tag Standard for bank image exchange that would reduce some of the current flexibility/non-specificity of the TIFF Tag standard. The industry believes that providing more detail on allowable TIFF Tags and their values will over time increase the interoperability of check image exchanges and reduce processing required on the multiple TIFF tag options.