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SEPTEMBER 2011 Operations Meeting

ECCHO RULES UPDATE

ECCHO Membership Update

3,079 ECCHO Members

New Associate Members:

Access National Bank (VA)
Bank of Utah (UT)
Citizens Business Bank (CA)
First Federal S & L (SC)
First Nat'l Bank of Omaha (NE)
Pacific Western Bank (CA)
Randolph-Brooks FCU (TX)

New Sponsoring Organization:
Southeast Corporate FCU

The ECCHO Ops meeting was held on September 14 in San Diego, CA with approximately 80 participants. With the input of the membership, ECCHO Rules evolve to meet the demands of the check image environment. First, subcommittees meet via phone to explore potential changes, and how to accomplish them equitably. Recommendations for rules changes are developed and brought to triannual Ops meetings. If the changes are accepted by the Ops Committee, they proceed to the Board for final approval. Two rules changes were recommended to the Board from the September meeting:

1) Altered versus Counterfeit Rule—is intended to provide a uniform rule in light of recent court cases. Under current paper check law, responsibility for check fraud is allocated between the paying bank and depository bank based on whether the original check was altered or counterfeit. Once the physical check is destroyed, it is extremely difficult to make this determination. Under UCC, customers and banks make transfer and presentment warranties. Based on these warranties, the paying bank: 1) cannot make a claim for counterfeit/unauthorized item after midnight deadline and 2) can make claim for altered item after midnight deadline. Loss was allocated based on who was in the best position to prevent loss. This results in paying bank minimizing liability if check was altered and BOFD minimizing liability if check was counterfeit. Since Check 21, there have been several court cases regarding altered versus counterfeit checks. The results have been inconsistent. These split judicial decisions create significant uncertainty for banks in the collection of checks.

Therefore in a dispute of an item exchanged under ECCHO rules, the rules will now assume that the dollar amount or payee on the check or image was altered, unless the Member can prove with overwhelming evidence that the check was counterfeit or as issued by the drawer.

It is appropriate to place the burden on depository bank because they hold the customer relationship and most likely had the physical item. It is assumed that the physical check is not available for review by Members at the time of the dispute. This rule does not apply to substitute checks because Reg CC, and not ECCHO Rules, covers substitute checks.

2) Comply with All Rules—added a provision to comply with all ECCHO Rules. During a recent review of Section XX for returns, it was discovered that the warranty does not cover all rules. Therefore a provision was added to XIX(A) that a Member that engages in image exchange will comply with Sections I-XVIII applicable to it.

Discussed at Ops Meeting—No Rules Change:

Missing Image—item that needs to be cleared with MICR only, because the image is not available. These items are not eligible for image exchange. After significant discussion, the Ops Committee does not want to include these items in the rules, therefore there will be no additional work on this topic at this time.

Get the latest copy of the ECCHO Rules at www.eccho.org (These changes will be available after October 21st)

National Check Payment Certification

ECCHO appreciates the great response to the pilot NCPC exam. There are 150+ people taking the exam in November.

Sign up at www.eccho.org/ncpc for the first production exam to be held April 21-May 12.

For more info contact Jenny Johnson at jjohnson@eccho.org.



Working on for Next Ops Meeting

January 11, 2012 in Tampa, FL

FAQs—developing the answers to frequently asked questions to assist financial institutions in understanding how the rules work in order to avoid and resolve image exchange dilemmas. FAQs will continue to be developed within a new subcommittee and then will be accessible on the ECCHO website, once complete.

Dispute Resolution—refining the ECCHO arbitration process (Section XIV) as an alternative to litigation. ECCHO often gets questions regarding the enforcement of ECCHO Rules. Work will be done on a dispute escalation process for next Ops meeting.

Update on XCK

NACHA Rules for XCK have been expanded to include “certain damaged checks for which processable images cannot be made and certain images that are unprocessable.” Several RPAs, including EastPay, EPCOR, NEACH, MACHA, UMACHA, and WACHA, conducted a survey to determine how financial institutions would respond to this change. Out of 168 financial institution responses:

- 79% said they would accept XCKs
- 21% said they would not accept XCKs
- 11% said they plan to originate XCKs

RPAs provide training on ACH, check and other payment systems. If you have further questions please contact your local RPA.