

Regulation CC establishes a new RDC indemnity which provides some protection for the bank that received deposit of the paper check and then experienced a loss due to duplicate payment arising from a prior RDC deposit at a different bank.

RDC Indemnity Text

Reg CC Section 229.34(f) Text:

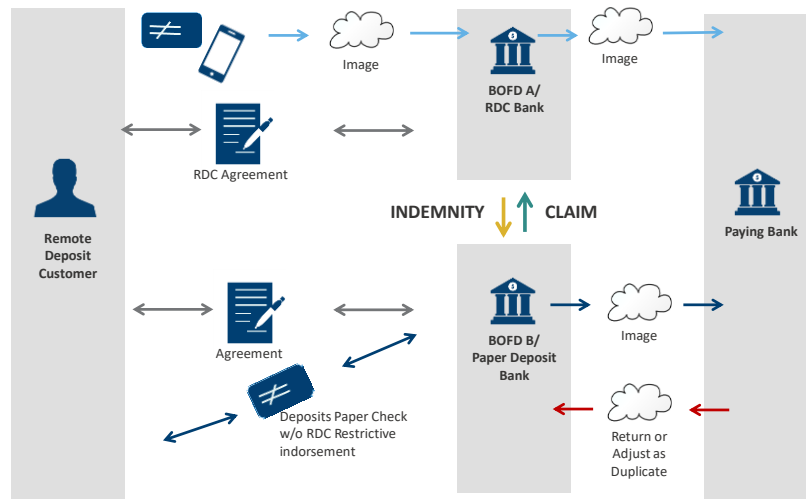
- 1) The indemnity described in paragraph (f)(2) of this section is provided by a depository bank that—
 - i. Is a truncating bank under § 229.2(eee)(2) because it accepts deposit of an electronic image or other electronic information related to an original check;
 - ii. Does not receive the original check;
 - iii. Receives settlement or other consideration for an electronic check or substitute check related to the original check; and
 - iv. Does not receive a return of the check unpaid.
- 2) A bank described in paragraph (f)(1) of this section shall indemnify, as set forth in § 229.34(i), a depository bank that accepts the original check for deposit for losses incurred by that depository bank if the loss is due to the check having already been paid.
- 3) A depository bank may not make an indemnity claim under paragraph (f)(2) of this section if the original check it accepted for deposit bore a restrictive indorsement inconsistent with the means of deposit.


Conditions

Summary of Rule conditions for the RDC indemnity:

- RDC bank is the truncating bank because it allows its customer to deposit by means of RDC the electronic check derived from the original check
- RDC bank does not receive the original check
- RDC bank receives settlement for the electronic check/substitute check from the paying bank
- RDC bank does not receive return of the check unpaid
- Paper deposit bank incurred a loss due to a duplicate payment
- Paper deposit bank must receive original paper check for deposit
- Original paper check must not have a restrictive indorsement inconsistent with the paper deposit.
Reg CC Commentary provides this example of a restrictive indorsement that is inconsistent with paper deposit: *“For Mobile Deposit at Depository Bank A Only.”*

Flow Diagram





Regulation CC establishes a new RDC indemnity which provides some protection for the bank that received deposit of the paper check and then experienced a loss due to duplicate payment arising from a prior RDC deposit at a different bank.

Reg CC does not provide instruction on how banks are to make interbank RDC indemnity claims—that was left to the banking industry rules sets/agreements like the ECCHO Rules.

Claims can only be made on check losses that occur after the Reg CC effective date of July 1, 2018. Claims must be brought within one year after the date of the occurrence of the violation¹.

Reg CC does not address how the Paper deposit bank can identify the RDC bank¹. The information must be requested from the Paying Bank, which can be done via email, fax, etc.

Reg CC does not mandate use of restrictive indorsements. However, the Board believes by providing the restrictive indorsement exception, the RDC bank is incentivized to take steps to minimize accidental and intentionally fraudulent deposits¹.

The RDC indemnity does not extend to the depositing customer. Banks may consider whether it is appropriate to pass the losses associated with duplicate payments to customers under their customer agreements/RDC agreements.

¹ Reg CC, Supplementary Information to the Final Rule, 82 Federal Register 27552, pp. 61-64.

ECCHO Rules do not vary the RDC indemnity as set forth in Reg CC. All Electronic Checks exchanged under ECCHO Rules are subject to Reg CC RDC Indemnity as a matter of law, assuming indemnity conditions are met.

The ECCHO Rules allow for the Source of Receipt Item adjustment type to be used to request information on the RDC bank from the Paying Bank. The Paying Bank must respond to the request within 20 days. (See ECCHO Rules Exhibit I – Adjustment Matrix)

ECCHO Rules utilize the WIC adjustment type for the Paper deposit bank to make an indemnity claim within an automated adjustment system. (See ECCHO Rules Exhibit I – Adjustment Matrix)

A Paper deposit bank may attach Sample RDC Indemnity Claim letter to provide the additional information required for an automated RDC indemnity claim. ECCHO Members may also make manual claims using the Sample RDC Indemnity Claim letter available on the [ECCHO website](#).

Note: The Paying Bank's duplicate item decisioning process remains unchanged— Paying Bank will continue to decide to which bank to return or adjust a duplicate item. The RDC indemnity does not apply to the Paying Bank and does not affect its decisioning.