

a check or because a check that the consumer deposited was returned unpaid to the consumer in the form of a substitute check. Some increase in the potential for duplicate posting (substitute check and original) may also involve a degree of consumer education and explanation. The regulation specifies the appropriate timing for the distribution of the consumer awareness disclosure and also provides model language. Finally, institutions will likely want to train their personnel so that they can adequately convey to customers the impact of this new instrument in the payments system.

General

1. Obtain copies of the documents associated with the institution's Check 21 compliance, including but not limited to the following:
 - Consumer awareness disclosure(s)
 - Sample (test) substitute checks, *if available*
 - Direct mail correspondence, statement stuffers, etc., describing Check 21/substitute check implementation to consumer customers
 - Notices relating to expedited recredit claims:
 - Notice of valid claim and refund
 - Notice of provisional refund
 - Denial of claim
 - Reversal of refund
 - Any other relevant documents
2. Determine the individuals within the institution who may have responsibilities associated with Check 21. The following represents a non-exhaustive listing:
 - New accounts personnel
 - Employee training department
 - Internal auditors, reviewers
 - Deposit operations, bookkeeping
3. Review the financial institution's training manual, internal audit or similar reports for Regulation CC, written procedures given to employees detailing their responsibilities under the regulation, and other similar materials.
4. Determine the training methods employed by the institution in conveying specific responsibilities to employees. Are written procedures distributed to employees?

Consumer Awareness – §229.57

NOTE: Model disclosure language is provided in Appendix C of the Regulation

Determine whether the bank distributes only a single version of its Consumer Awareness Disclosure or whether variations, depending on the circumstances giving rise to distribution, are maintained. Each notice should reflect the following:

1. *General Disclosure Content*

Determine whether the disclosure notice states

- That a substitute check is the legal equivalent of an original check; [§229.57(a)(1)] and
- the consumer recredit rights that apply when a consumer in good faith believes that a substitute check was not properly charged to his or her account. [§229.57(a)(2)]

2. *Timing and Distribution*

A bank is required to provide its consumer customers with a Consumer Awareness Disclosure prior to the receipt of a substitute check.

- For those who receive cancelled checks with periodic statements:
 - *Existing customers as of October 28, 2004*
Determine that the bank provided the disclosure no later than the first regularly scheduled communication with the consumer after October 28, 2004 (for each consumer who is a customer of the bank on that date). [§229.57(b)(1)(i)]
 - *New customers after October 28, 2004*
Determine that the bank provided the disclosure at the time the customer relationship was established. [§229.57(b)(1)(ii)]
- For those who do not receive cancelled checks with periodic statements and who will receive substitute checks on an occasional basis only
 - *Upon customer request for an original check or a copy of a check*
Determine that the bank provide the disclosure to a consumer customer who requested an original check or a copy of a check and received a substitute check in response. [§229.57(b)(2)(i)]
 - *Upon customer's receipt of a returned substitute check*
Determine that the bank provide the disclosure to a consumer customer of the bank who receives a returned substitute check (at the time the bank provides such substitute check). [§229.57(b)(2)(ii)]

3. *Mode of Delivery of Information* [§229.58]

Determine whether the bank employed one of the following in delivering its Consumer Awareness Disclosure(s) and expedited recredit notice(s)

- U.S. mail
- Any other means to which the recipient agreed to receive account information, including electronically