



## CHECK 21 RULES OF THE CONSUMER AWARENESS DISCLOSURE

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The Check 21 Act requires banks to provide customers that receive original checks in their statements with a notice describing how a substitute check is the legal equivalent of an original check and describing the consumer expedited recredit rights. The notice must be distributed to existing customers who receive original or substitute checks in their statements on the first regularly scheduled communication with the customer following the effective date of the Act. For most customers, that will be the first account statement sent after October 28, 2004. For new account holders, the notice must be given when the account is opened. The notices may be sent by mail or by any other method through which the customer has agreed to receive account information.

The Federal Reserve released the final rules for Check 21 on July 26, 2004. The rules are contained in a new Subpart D of Regulation CC and include a model consumer awareness disclosure in Appendix C-5A. While the effective date of the rules is October 28, 2004, the model consumer awareness disclosure form may be used immediately. A bank using the model language is deemed to be in compliance with the notice content requirements. The notice may contain additional information regarding substitute checks that is not required by the rules.

The notice requirement is based on the consumer relationship, not the account relationship. Therefore, if a consumer has an account with the bank and receives the consumer awareness disclosure in his statement before or in the first statement after October 28, 2004, there would be no need to make an additional disclosure to that customer when he opens another account. In addition, if a consumer has more than one account subject to disclosure on October 28, 2004, only one disclosure must be provided to that customer. For joint accounts, only one of the account owners must be sent the notice.

Financial institutions must also give the disclosure when a substitute check is provided in response to a consumer's request for a check or check copy. The disclosure must be delivered either at the time the consumer asks for a check or copy of a check or when the bank actually provides a substitute check in response to the request. The disclosure is also required when a customer who deposits a check receives a substitute check back as an unpaid return item. A depository bank that provides a returned substitute check to a consumer depositor must provide the substitute check disclosure at the time of the return.

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