Check 21 Resource Document March 2004

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Introduction

The Check Clearing for the 21st Century Act (Check 21 Act) facilitates significant change in the way checks are processed in the United States. All banks will be affected by this law even if they do nothing to change their current check processing operations. All customers (consumers and businesses) are affected by the Check 21 Act in that they have the potential to receive a substitute check.

To help educate customers, and to help train bank staff, the financial services industry associations have come together and developed this Resource Document that contains an overview of Check 21, common terms with definitions, examples of substitute checks, where substitute checks will be found and a list of industry resources. Using common material such as the information in this document will help reduce customer confusion.

The contributing organizations **strongly** urge anyone developing material for training or education on Check 21 to use this document as a resource for the correct terms, examples of substitute checks and other key points. This will promote consistency in the industry.

Overview of the Check Clearing for the 21st Century Act (Check 21)

Based on Final Enacted Bill

Background

- ❖ In 2000 the Federal Reserve Board staff began investigating a concept to promote check truncation and electronic check presentment. That concept evolved into the Check Clearing for the 21st Century Act (Check 21).
 - The idea was to enable a bank to substitute a machine-readable copy of a check (a "substitute check") for the original check for forward collection or return.
 - Substitute checks that meet the requirements of the Act would be the legal and practical equivalent of the original check.
- Federal Reserve Board staff worked with industry and other stakeholders through numerous versions of the Act.
 - ➤ On December 21, 2001, Chairman Greenspan sent the Federal Reserve Board's legislative proposal to the Chairs and Ranking Members of the Senate and House Banking Committees.
 - ➤ Both the House and Senate introduced bills in the 107th Congress (2002).
 - ➤ In the 108th Congress (2003), the following bills were introduced.
 - House: H.R. 1474
 - Senate: S. 1334
 - ➤ Many banking organizations monitored the legislative process and provided input.
- ❖ All sectors of the banking industry (small banks, large banks, credit unions, processors, technology companies, Federal Reserve Board, etc.) strongly supported the Act and worked together to achieve passage.
- ❖ The Accredited Standards Committee X9B (www.x9.org) focused on the development of industry standards for the financial services industry and developed the technical specification for substitute checks (DSTU X9.90-2003) in support of Check 21. (DSTU is an acronym for Draft Standard for Trial Use.)

Highlights of the Check 21 Act

- ❖ The purposes of the Check 21 Act are:
 - > To facilitate check truncation;
 - > To foster innovation in the check payment system without mandating receipt of checks in electronic format; and
 - To improve the payment system overall.
- ❖ The Act creates a new negotiable instrument, called a "substitute check".

- ➤ If the substitute check meets the Act's requirements, then it is the legal equivalent of the original paper check.
- A substitute check can be processed in the same manner as the original paper check.
- ➤ Parties cannot refuse to accept a substitute check that meets the Act's requirements.
 - "Parties" includes everyone: other banks, paying customers, depositing customers, consumers, corporations, Federal Reserve, processors, etc.
- ❖ The Act provides legal equivalence only for substitute checks.
 - ➤ The Act facilitates check truncation and electronic/image exchanges but does not provide legal equivalence for electronic check or image presentment.
 - > Systems and clearing arrangements involving electronic check or image presentment still require agreement of the parties who accept the electronic form of the instrument for value.
 - The Act encourages the use of electronics by empowering banks to truncate original checks, process them electronically and, where necessary, provide paper substitute checks.
- All checks, except foreign checks, are eligible to become substitute checks, including, but not limited to, the following:
 - Consumer checks
 - ➤ Business checks
 - ➤ Corporate checks
 - ➤ Government warrants
 - U.S. Treasury checks
 - Money orders
 - ➤ Controlled disbursement checks
 - Payable through drafts
 - Traveler's checks
- ❖ A bank creating the substitute check and all subsequent banks that process the substitute check provide warranties and an indemnity to subsequent parties in the collection and return processes.
 - The warranties are that:
 - The substitute check meets the Act's legal equivalence requirements; and
 - No party will be asked to make payment based on a check that it has already paid (no double debit).
 - The indemnity relates to losses incurred due to the receipt of a substitute check instead of the original check.
 - In the instance of a warranty breach, the indemnity includes damages proximately caused.
 - In the absence of a warranty breach, the indemnity is for the amount of the substitute check plus interest.
 - The indemnifying bank may limit its liability if it is able to produce the original check or a copy.

- ❖ The Act includes a new expedited recredit feature for consumers who receive substitute checks.
 - A consumer receiving a substitute check may make an expedited recredit claim if a substitute check was improperly charged to the consumer's account or the consumer has a warranty claim and the consumer suffered a loss.
 - Bank generally has 10 business days after consumer claim to complete its investigation of the consumer's claim and to recredit the consumer's account for amounts up to \$2,500 per check, pending completion of the investigation. Exceptions are made for new accounts, accounts repeatedly overdrawn, and suspicion of fraud. All funds must be recredited within 45 calendar days if the claim still cannot be validated.
- * Banks are required to provide customer awareness notices explaining substitute checks for consumers who are provided substitute checks:
 - > Existing customers
 - New customers
- ❖ The Federal Reserve is to write model language for this requirement.
- The consumer awareness document must explain how a substitute check is the legal equivalent of an original check for all purposes and the consumer's recredit rights under the Act.

Significant Dates

- ❖ Act passed in House of Representatives unopposed on October 8, 2003.
- ❖ Act passed in Senate by unanimous consent on October 15, 2003.
- President signed bill into law on October 28, 2003.
- ❖ Federal Reserve Board issued request for comment on proposed rule to implement the legislation on December 22, 2003.
- Final regulations are expected May/June.
- ❖ Model language is required to be available by July 28, 2004.
- Act's effective date is October 28, 2004.

More Details

- Substitute Check: A paper reproduction of the original check that:
 - Contains an image of the front and back of the original check;
 - ➤ Bears a MICR line containing all the information appearing on the MICR line of the original check, except as provided under generally applicable industry standards for substitute checks to facilitate the processing of substitute checks (regulations may contain exceptions);
 - ➤ Conforms, in paper stock, dimension, and otherwise, with generally applicable industry standards for substitute checks; and
 - Is suitable for automated processing in the same manner as the original check.

- **Expedited recredit:**
 - Availability of recredit can be withheld up to 45 days in certain situations (e.g., in the case of a new account).
 - > The Act also sets forth expedited recredit procedures that apply between banks.
- * No special exceptions for Treasury Checks.
- ❖ The Act authorizes the Federal Reserve Board of Governors to promulgate regulations "to implement, prevent circumvention or evasion of, or facilitate compliance with the provisions of this Act."

Note: This is only a summary of the major element of the Act.

Common Terms and Definitions

Other definitions for these terms may be contained in U.S. laws, Federal Government regulations, state laws and state regulations. The definitions contained in this document are not intended to conflict with those definitions.

The Common Terms and Definitions section arranges terms first by subject and second in alphabetical order. There are additional terms contained in the Alphabetic Listing of Terms that are not in the Terms by Subject.

Note: The term Bank is used throughout this document with the following meaning:

Bank: Any depository financial institution, including a national bank, a state bank, a federal or state savings bank, a credit union, or a savings association.

Terms by Subject

Banks in the Check Collection Process

Bank of First Deposit (BOFD): A Bank that accepts a check for deposit from a customer. It is also the institution to which a check would be returned if the check is not paid. Also called: *Depositary Bank*.

Claimant Bank: A Bank that submits a claim for recredit to an Indemnifying Bank.

Collecting Bank: Any Bank handling a check for collection except the Paying Bank.

Converting Bank: The Bank that has truncated the original check or substitute check to a digital image. Preferred term: *Truncating Bank*.

Depositary Bank: See Bank of First Deposit.

Depository Bank: See Bank.

Depository Financial Institution (DFI): See *Bank*.

Indemnifying Bank: A Bank that is providing an indemnity with respect to a substitute check.

Paying Bank: The Bank that pays the check. The Bank of the customer who wrote the check.

Reconverting Bank:

- 1) The Bank that creates a substitute check; or
- 2) If a substitute check is created by a person other than a Bank, the first Bank that transfers or presents that substitute check.

Returning Bank: A Bank (other than the **Paying Bank** or **BOFD**) that handles a returned unpaid check or a notice in lieu of return.

Truncating Bank: The Bank that truncates the original check. Also Called: *Converting Bank*, but this is not the preferred term. See *Truncate*.

Substitute Check

Substitute Check: A paper reproduction of the original check that:

- 1) Contains an image of the front and back of the original check;
- 2) Bears a MICR line containing all the information appearing on the MICR line of the original check, except as provided under generally applicable industry standards for substitute checks to facilitate the processing of substitute checks (regulations may contain exceptions);
- 3) Conforms, in paper stock, dimension, and otherwise, with generally applicable industry standards for substitute checks; and
- 4) Is suitable for automated processing in the same manner as the original check.

Also called: *Image Replacement Document (IRD):* This term is used by the Accredited Standards Committee in the technical specification for substitute checks (X9.90).

External Processing Code (EPC): A number placed in Position 44, just before the ABA routing number, of the MICR line. Check 21 and the proposed Federal Reserve regulations require changes to the EPC field for processing substitute checks.

Whenever a substitute check is created, a "4" is always printed in the EPC field. ANS X9.90 requires that a "4" be placed in the EPC position identifying a substitute check. On an original check, Position 44 generally is left blank for forward collection. When a substitute check is created to return the check to a depositor, the substitute check will have a "4" in the EPC field. This holds true when an image of an unpaid check is returned to the bank of first deposit and a substitute check is created or sent back to the depositor of the original item.

A "2" is placed on a qualified return strip or carrier document if the item is an original check being sent as a qualified return. ANS X9.90 requires that a "5" be placed in the EPC position for qualified returns of a substitute check. In the return process, a "5" is placed on the qualified return strip, carrier document or perforated strip attached to a substitute check.

Indorsement: Information used to record the transfer of a negotiable instrument from one holder to another. Indorsements are placed on the check by payee(s), by the Bank of First Deposit, and by Banks subsequently handling the check. Electronically associated indorsements may also accompany electronic check records without being physically placed on the check. Indorsements are used to track the routing of the check in electronic or paper form. Also called: **Endorsement.**

Legend: A substitute check must bear the following legend to be the legal equivalent to the original check: "This is a legal copy of your check. You can use it the same way you would use the original check."

MICR (Magnetic Ink Character Recognition) Line: Numbers printed in magnetic ink near the bottom of the front of the check to facilitate automated processing. These numbers identify the Bank the check is drawn on, the account at that Bank, the amount of the check and other information. The position and content of the MICR line are governed by X9 industry standards.

Position 44: See External Processing Code.

Check Imaging

Binary Image: A black and white image of a check where each pixel can be stored in memory by one bit of information since it is binary - either black or white.

Black and White Image: The print of the image of an original check or substitute check is only in black and white tones.

Check Image: An electronic or digital image of an original check that is created by a depositor, a Bank or other participant in the check collection process. Check images can be exchanged electronically by banks, printed for customer statement purposes, displayed on Internet banking websites, and used to create substitute checks.

Digital Image: See Image.

Gray Scale Image: The print of the image of the original check or substitute check is in black or shades of gray.

Image: A digital representation of all or part of an original check or substitute check.

Image Exchange: An exchange of some or all of a digitized image (or images) of a check.

Forward Collection and Returns

Capture: Reading and storing data from the check MICR line to enable the funds represented by the check to move between banks and their customers.

Cash Letter: A group of checks packaged and sent by a Bank to another Bank, clearinghouse, or a Federal Reserve office. A cash letter is accompanied by a list containing the dollar amount of each check, the total amount of the checks and the number of checks in the cash letter.

Electronic Check Presentment (ECP): An electronic record governed by check law, created from the entire MICR line on a check and suitable for posting to a customer's account. ECP transmissions may stand alone or may be followed by or accompanied by check images or paper checks. ECP transmissions are governed by check law.

Forward Collection: The transfer of a check by a Bank to a Paying Bank for payment. That is, the Bank forwards the check to another Bank directly or through an intermediary.

Qualified Return Check (QRC): An unpaid return check prepared for automated processing. This means that either an additional strip of paper is added to the check, or the item is placed in a carrier envelope, and the strip or carrier is encoded with the routing number of the Bank of First Deposit, the dollar amount of the check, and the value "2" or "5" in the EPC field of the MICR line.

Truncate: To remove an original check from the forward collection or return process and send to a recipient, in lieu of such original check, a substitute check or, by agreement, information relating to the original check.

Electronic Check Terms

Conversion: Transforming a payment initiated by paper check that has not been negotiated to an electronic payment.

Electronic Check (e-check): Used to refer to several types of electronic transactions that debit a checking account. An electronic check is not a substitute check.

ACH Terms (not related to Check 21, but are similar)

ACH-Based Electronic Check: A payment that begins as a source document is converted into an ACH debit entry; or a payment that begins as a paper check is truncated to an ACH debit entry. Also referred to as an eCheck. See *Check Conversion*.

Check Conversion: The processes of converting a source document (a paper check) to an ACH Debit or ATM/POS debit. Check conversion is different from check truncation, which is facilitated by the Check 21 Act. When a check is truncated, the transaction remains subject to check law. When a check is converted to an ACH debit, the rules of the National Automated Clearing House Association apply.

Internet- or Telephone-Initiated Payments: A transaction that is initiated over the Internet or via phone, which is processed as an electronic debit, usually an ACH debit. Some users categorize a payment initiated via Internet or telephone as an electronic check, even though the debit was not initiated by a source document (a paper check).

Alphabetical Listing of Terms

ACH-Based Electronic Check: A payment that begins as a source document is converted into an ACH debit entry; or a payment that begins as a paper check is truncated to an ACH debit entry. Also referred to as an eCheck. See *Check Conversion*.

Bank: Any depository financial institution, including a national bank, a state bank, a federal or state savings bank, a credit union, or a savings association.

Bank of First Deposit (BOFD): A Bank that accepts a check for deposit from a customer. It is also the institution to which a check would be returned if the check is not paid. Also called: *Depositary Bank*.

Binary Image: A black and white image of a check where each pixel can be stored in memory by one bit of information since it is binary - either black or white.

Black and White Image: The print on the image of an original check or substitute check is only in black and white tones.

Capture: Reading and storing data from the check MICR line to enable the funds represented by the check to move between banks and their customers.

Cash Letter: A group of checks packaged and sent by a Bank to another Bank, clearinghouse, or a Federal Reserve office. A cash letter is accompanied by a list containing the dollar amount of each check, the total amount of the checks and the number of checks in the cash letter.

Check 21 Act: Check Clearing for the 21st Century Act.

Check Conversion: The processes of converting a source document (a paper check) to an ACH debit or ATM/POS debit. Check conversion is different from check truncation, which as facilitated by the Check 21 Act. When a check is truncated, the transaction remains subject to check law. When a check is converted to an ACH debit, the rules of the National Automated Clearing House Association apply.

Check Image: An electronic or digital image of an original check that is created by a depositor, a Bank or other participant in the check collection process. Check images can be exchanged electronically by banks, printed for customer statement purposes, displayed on Internet banking websites, and used to create substitute checks.

Check-to-Image Conversion: A process by which a check image is created from an original check or substitute check. Check images are processed through the check clearing system and posted to a customer account in the same manner as a paper check.

Check Safekeeping: Truncation by the paying bank of the original check or substitute check.

Check Truncation: Refers to a number of processes for removing the paper check from the forward collection or return process while sending the check data forward in the check collection system.

Claimant Bank: A Bank that submits a claim for recredit to an Indemnifying Bank.

Collecting Bank: Any Bank handling a check for collection except the Paying Bank.

Consumer Account: An account used primarily for personal, family and household purposes.

Consumer: An individual who writes a check drawn on a consumer account.

Conversion: Transforming a payment initiated by paper check that has not been negotiated to an electronic payment.

Converting Bank: The Bank that has truncated the original check or substitute check to a digital image. Preferred term: *Truncating Bank*.

CTA: Check Truncation Act, now known as the Check 21 Act.

Depositary Bank: See Bank of First Deposit.

Depository Bank: See Bank.

Depository Financial Institution (DFI): See Bank.

Digital Image: See *Image*.

Electronic Check Presentment (ECP): An electronic record governed by check law, created from the entire MICR line on a check and suitable for posting to a customer's account. ECP transmissions may stand alone or may be followed by or accompanied by check images or paper checks. ECP transmissions are governed by check law.

Electronic Check (e-check): Used to refer to several types of electronic transactions that debit a checking account. An electronic check is not a substitute check.

External Processing Code (EPC): A number placed in Position 44, just before the ABA routing number, of the MICR line. Check 21 and the proposed Federal Reserve regulations require changes to the EPC field for processing substitute checks.

Whenever a substitute check is created, a "4" is always printed in the EPC field. ANS X9.90 requires that a "4" be placed in the EPC position identifying a substitute check. On an original check, Position 44 generally is left blank for forward collection. When a substitute check is created to return the check to a depositor, the substitute check will have a "4" in the EPC field. This holds true when an image of an unpaid check is returned to the bank of first deposit or a substitute check is created and sent back to the depositor of the original item.

A "2" is placed on a qualified return strip or carrier document if the item is an original check being sent as a qualified return. ANS X9.90 requires that a "5" be placed in the EPC position for qualified returns of a substitute check. In the return process, a "5" is placed on the qualified return strip, carrier document or perforated strip attached to a substitute check.

Forward Collection: The transfer of a check by a Bank to a Paying Bank for payment. That is, the Bank forwards the check to another Bank directly or through an intermediary.

Gray Scale Image: The print or background on the image of the original check or substitute check is in black or shades of gray.

Image: A digital representation of all or part of an original check or substitute check.

Image Exchange: An exchange of some or all of a digitized image (or images) of a check.

Indemnifying Bank: A Bank that is providing an indemnity with respect to a substitute check.

Internet- or Telephone-Initiated Payments: A transaction that is initiated over the Internet or via phone, which is processed as an electronic debit, usually an ACH debit. Some users categorize a payment initiated via Internet or telephone as an electronic check, even though the debit was not initiated by a source document (a paper check).

Indorsement: Information used to record the transfer of a negotiable instrument from one holder to another. Indorsements are placed on the check by payee(s), by the Bank of First Deposit, and by Banks subsequently handling the check. Electronically associated indorsements may also accompany electronic check records without being physically placed on the check. Indorsements are used to track the routing of the check in electronic or paper form. Also called: *Endorsement*.

Legend: A substitute check must bear the following legend to be the legal equivalent to the original check: "This is a legal copy of your check. You can use it the same way you would use the original check."

MICR (Magnetic Ink Character Recognition) Line: Numbers printed in magnetic ink near the bottom of the front of the check to facilitate automated processing. These numbers identify the Bank the check is drawn on, the account at that Bank, the amount of the check and other information. The position and content of the MICR line are governed by industry standards.

On-Us Field: The MICR print band area between the closing amount symbol and the opening routing symbol. Arrangement of the on-us field is variable, specified by the financial institution on which the check is written. It may include such information as the user's account number, a consecutive number, and a transaction or processing code.

Original Check: Original check means the first paper check issued with respect to a particular payment transaction.

Paying Bank: The Bank that pays the check. The Bank of the customer who wrote the check.

Position 44: See External Processing Code.

Qualified Return Check (QRC): An unpaid return check prepared for automated processing. This means that either an additional strip of paper is added to the check, or the item is placed in a carrier envelope and the strip or carrier is encoded with the routing number of the Bank of First Deposit, the dollar amount of the check, and the value "2" or "5" in the EPC field of the MICR line.

Reconverting Bank:

- 1) The Bank that creates a substitute check; or
- 2) If a substitute check is created by a person other than a Bank, the first Bank that transfers or presents that substitute check.

Returning Bank: A Bank (other than the **Paying Bank** or **BOFD**) that forwards a returned unpaid check or a notice in lieu of return.

Substitute Check: A paper reproduction of the original check that:

- 1) Contains an image of the front and back of the original check;
- 2) Bears a MICR line containing all the information appearing on the MICR line of the original check, except as provided under generally applicable industry standards for substitute checks to facilitate the processing of substitute checks (regulations may contain exceptions);
- 3) Conforms, in paper stock, dimension, and otherwise, with generally applicable industry standards for substitute checks; and
- 4) Is suitable for automated processing in the same manner as the original check.

Also called *Image Replacement Document (IRD):* This term is used by the Accredited Standards Committee in the technical specification for substitute checks (X9.90).

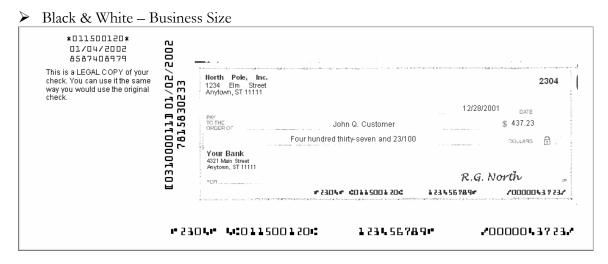
Truncate: To remove an original check from the forward collection or return process and send to a recipient, in lieu of such original check, a substitute check or, by agreement, information relating to the original check.

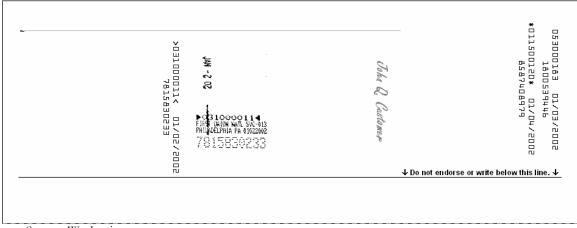
Truncating Bank: The Bank that truncates the original check. Also called: *Converting Bank*, but this is not the preferred term. See *Truncate*.

Examples of Substitute Checks

The examples below show personal size checks and business size checks that have been converted to substitute checks for forward collection and in the return process. These substitute checks are shown in black and white and in gray scale.

Forward Collection





Source: Wachovia

Gray Scale – Personal Size

***D1.500.120 **
01/04/2002
A58740.8979
This is a LEGAL COPY of your check. You can use it the same way you would use the original check.

***D1.500.120 **
01/04/2002
A58740.8979
This is a LEGAL COPY of your check. You can use it the same way you would use the original check.

***D1.500.120 **
01.45

JAMES C MORRISON
MARY B MORRISON
1/65 SHERIDAN DRIVE
YOUR CITY, STATE 04001
PAY TO NORTH POLE, INC. \$ 295. 45

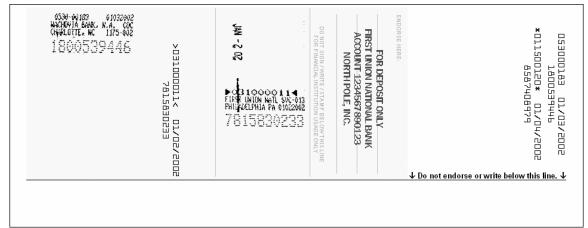
***D000.678.94: 1234.56.78 **

***D000.678.94: 1234.56.78 **

***D000.678.94: 1234.56.78 **

****D000.678.94: 1234.56.78 **

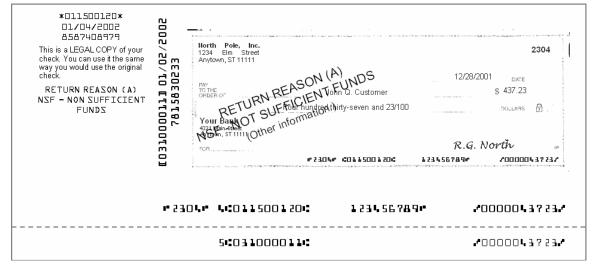
***D000.678.94: 1234

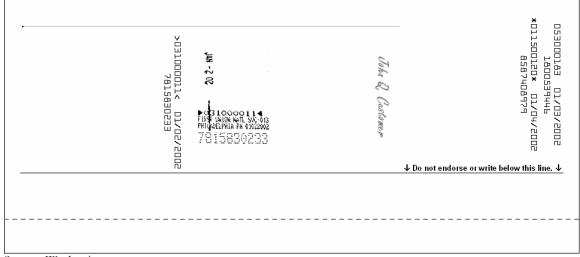


Source: Wachovi

Returns

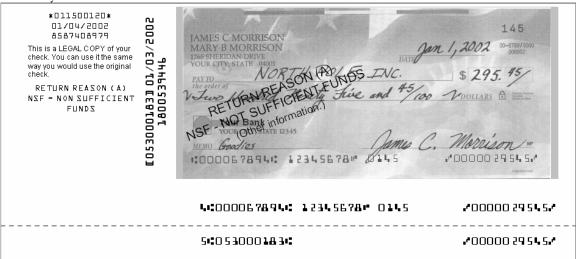
➤ Black & White – Business Size

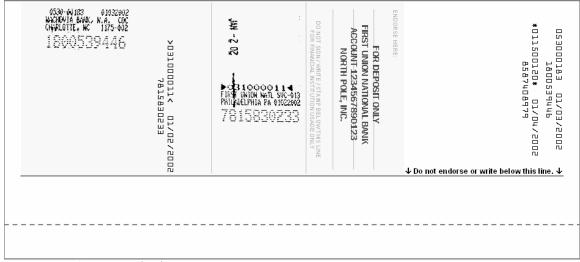




Source: Wachovia

➤ Gray Scale – Personal Size





Source: Wachovia

Where Substitute Checks will be Found

- ❖ Bank employees may find a substitute check any place that they could find an original check, a photocopy, or an image.
- * Bank customers may find a substitute check:
 - With their periodic statement.
 - When viewing check images via on-line banking.
 - > If they request a copy of the paid check from the bank.
 - As a deposited check that is returned unpaid.

Contributing Organizations

These websites may contain useful Check 21 Act information.

American Bankers Association www.aba.com
America's Community Bankers www.acbankers.org

BAI www.bai.org

Bank of America <u>www.bankofamerica.com</u>

BITS
Consumer Bankers Association
Www.cbanet.org
Credit Union National Association
Www.cuna.org
ECCHO
www.eccho.org

ECS (a subsidiary of SVPCo) <u>www.electronicclearingservices.com</u>
Federal Reserve Board <u>www.federalreserve.gov/paymentsystems/truncation</u>

Federal Reserve Banks <u>www.frbservices.org/Retail</u>

Financial Services Technology Consortium www.fstc.org
Independent Community Bankers of America www.icba.org

NACHA - The Electronic Payments Association www.nacha.org or http://ecc.nacha.org

Wachovia <u>www.wachovia.com</u>

X9 <u>www.x9.org</u>

Other Websites of Interest

Federal Reserve Board Consumer Guidance www.federalreserve.gov/pubs/checkconv/default.htm

Electronic-Check.org www.electronic-check.org/

Accredited Standards Committee X9 Site (for purchase of standards): www.x9.org/