

Key revisions to Operating Circular 3

A. End to End Update of Operating Circular 3 Reflecting Changes Since Check 21

- Revisions designed to make the operating circular more focused on electronic processing:
 - Electronic items and electronic returned items are identified as items that the Reserve Banks will handle as cash items;
 - Electronically-created items are identified as items that the Reserve Banks do not handle as cash items, and under the operating circular, senders warrant to the Reserve Banks that any item they send to a Reserve Bank is not an electronically-created item;
 - Throughout the document, references to checks and electronic items were replaced with “item” to capture items in both paper and electronic form;
 - Provisions regarding the Reserve Banks technical requirements, including those that relate to the version of the American National Standard Specifications for Placement and Location, were updated to refer to the Reserve Banks’ current requirements;
 - Terms that had been included in the agreements that accompany the circular to address electronic presentment and returns points are now included in body of the circular;
 - New requirements for maintaining an electronic connection and due diligence with respect to file submission and receipt were added, including new terms that outline applicable information security standards; and
 - Terms related to check truncation were consolidated into a single appendix.

- Revisions to the adjustment provisions:
 - Previously, OC3 contained widely separated paragraphs related to adjustments for non-processing errors (e.g., billing), adjustments by Reserve Banks for processing exceptions (e.g., adjustments based on file exceptions), and adjustments initiated by banks, including claims related to warranties, indemnities, and delays. The amendment places all adjustments in a single paragraph. The amendment also provides for two new types of adjustments, one for claims arising under the new “remote deposit capture indemnity” that was created by the recent Reg CC amendment, and another for claims arising from warranties or indemnities related to electronically-created items.

- Revisions to reflect other changes to the way the Reserve Banks provide check services:
 - The circular now requires any bank that sends items to the Reserve Banks or that has entered into an agreement with the Reserve Banks for check services to designate an account for settlement of items;

- Terms related to notices of large dollar return items were updated and amended to reflect a change in Regulation CC's dollar threshold for such items;
- A provision regarding the termination of services that the Reserve Banks provide by agreement with a depository institution was added to the circular; and
- Most of the payor bank services that were structured under a series of appendices were eliminated because the Reserve Banks no longer offer those services. The appendices now support only the surviving "truncation" service, presentment point services, and informational image services.
- The contents of the appendices that were established in 2004 to support "Check 21" services and the "Image to Follow Archive" for documents that support adjustments cases, have been incorporated into the body of OC3.
- A new paragraph 11.3(c) has been added, explicitly permitting the Reserve Bank to enter a written agreement with a bank to vary the presentment or return points set forth in the Operating Circular.

B. Changes to Conform to Reg CC as amended July 1, 2018

- Revisions with respect to terms defined in the operating circular or Regulation CC:
 - "Electronic item" was removed because it is now replaced by new defined terms (electronic check, electronic returned check) in Regulation CC;
 - "Electronic returned check" is now a defined term in Reg CC. It had not been used in the operating circular, but it is now used throughout the document; and
 - "Purported electronic item" was removed because Regulation CC now defines a similar type of item as an "electronically-created item."

C. Changes intended to conform to Reg J as amended January 1, 2019

- Revisions to reflect proposed Reg J amendment language explicitly stating that electronically created items ("ECIs", essentially, images that were not issued as paper checks) are not items:
 - Added new language to make it clear that the term "item" as used in OC3 does not include an ECI.
 - Removed the proposed warranty from our sender that it will not send us an ECI.
 - Added language to the OC paragraph describing things that are not items and that should not be sent to us for handling without our express agreement to include provisions related to ECIs:
 - Language that prohibits sending an ECI to an FRB for handling.

- Language stating our sender warrants that it will send us only cash items as previously described in the OC and noncash items that we specifically agree to handle.
- Language stating our sender indemnifies us from any loss that results if the sender sends us anything other than a cash item or a noncash item that we have agreed to handle.