

Frequently Asked Questions for Check 21

What is Check 21

The Check Clearing for the 21st Century Act, commonly referred to as “Check 21”, is legislation that will revolutionize the check-processing world. Signed into law and effective October 28, 2004, the new law will facilitate the cost efficiencies of check truncation.

Check 21 encourages image based processing and truncation. This law does not mandate truncation, it mandates that a financial institution:

- 1. Accept substitute checks*
- 2. Treat substitute checks as legal equivalents of an original paper check*
- 3. Provide informational notices to consumers*
- 4. Adopt new expedited re-credit procedures for substitute checks*

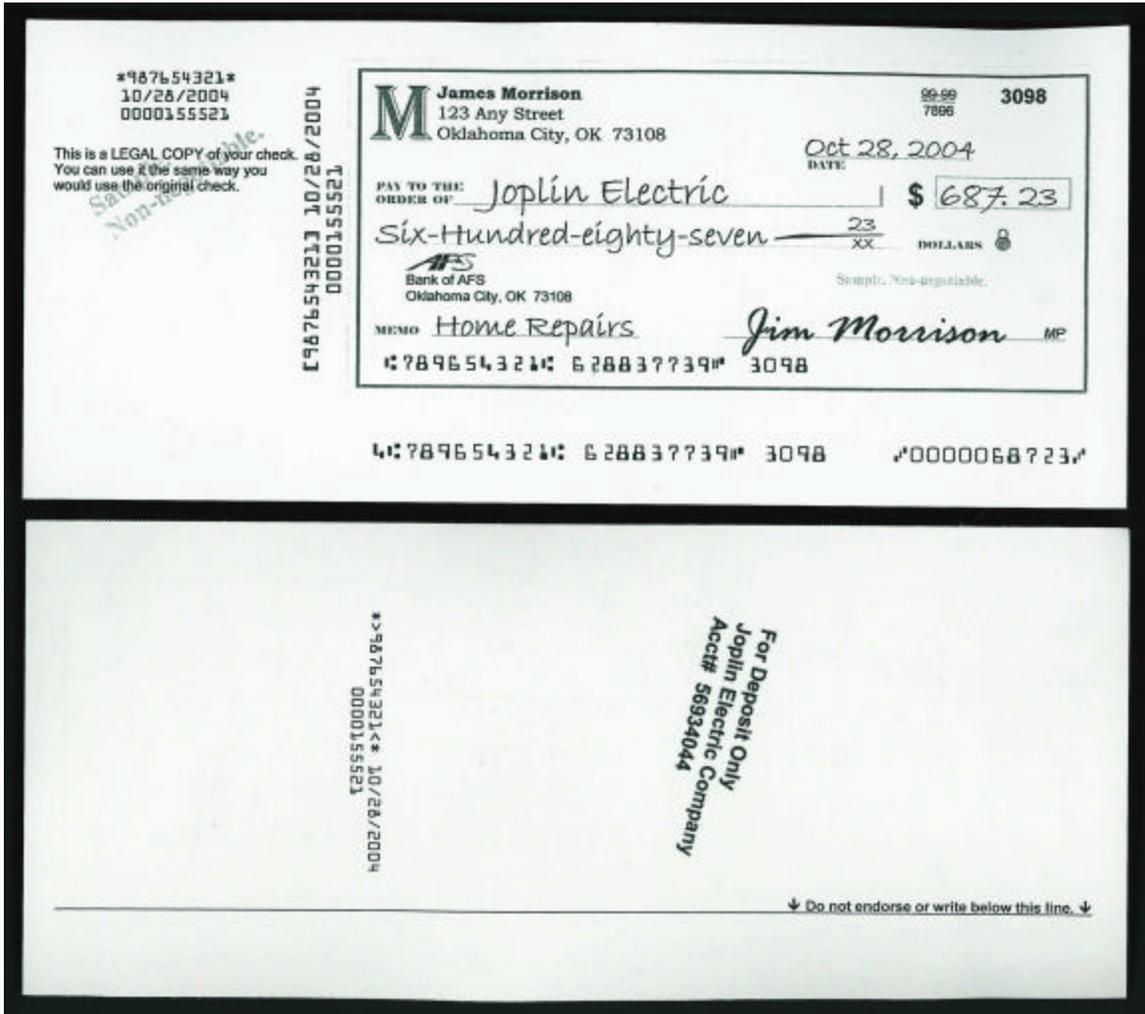
Specifically, the act creates a new legal instrument called a “substitute check,” which allows financial institutions to truncate the original paper check to process the check information electronically and to deliver substitute checks to financial institutions that want to continue receiving paper checks. Under the act, a financial institution no longer can demand the original paper check, but instead receive a substitute check. Because substitute checks could be processed just like original paper checks, a financial institution would not need to invest in new technology or otherwise change its current check processing operations.

What is a substitute check?

A substitute check is a paper image of an original paper check that has all the legal rights as the original paper check. A substitute check must contain an image of the front and back of the original paper check, bear all the information appearing on the MICR line of the original paper check, conform in paper stock and dimension, be suitable for automated processing, and contain the words: “This is a legal copy of your check. You can use it the same way you would use the original check

What does a substitute check look like?

A substitute check is approximately 3.75 x 8.5 inches long, containing a leading “4” in the MICR line and includes an image of the original paper check (front and back) with additional endorsements such as the reconverting bank, bank of first deposit and truncating bank routing numbers and a legal legend.



What is truncation?

Truncation means to remove an original paper check from the check process, and in its place make a substitute electronic check. Truncation means you do not receive the actual canceled check back with your monthly statements.

How will Check 21 change things?

Check 21 clearly brings change to the nation's check clearing system. Check 21 reduces the dependence of the check clearing system on physical transportation networks. Unexpected interruptions such as natural disasters will be better avoided because it does not rely on the physical transportation of checks.

What changes might I see with regard to my credit union checking account because of Check 21?

Because credit unions have been truncating checks for several decades, you will see minimal changes. One change you may notice, however, is that if you request a copy of one of your cleared checks, you may actually receive an Image Replacement Document or IRD (an electronic check equivalent), which will carry all the information of your original check.

What is an “IRD”?

IRD stands for “Image Replacement Document.” It is the industry vernacular for “substitute check.” IRD and substitute check can be used interchangeably.

So will I still be able to get a copy of a cancelled check if I need one?

Yes. However, as mentioned above, the cancelled check may actually be an electronic check substitute of your check.

Does Check 21 Apply to business checking accounts?

Yes. Check 21 applies to all types of checks – consumer, business, traveler’s and US Treasury checks.

Will this substitute copy be “legal”?

Yes. A substitute check is the legal equivalent of its original check for all purposes, if it meets all specified requirements. This substitute check can be used in the same legal manner as if it was your original cancelled paper check.

What are recredit rights? Do I have them?

Yes, you have recredit rights. If you believe that a substitute check was not properly charged to your account, recredit rights allow you to pursue a correction. You will be given a disclosure outlining these rights and the steps to take, every time a substitute check is given to you.

Is there anything I should do differently with regard to my credit union checking account?

No not really. Accurately maintain your checking account records, and reconcile your statements, timely, as you have in the past. Do be aware that Check 21 does take away float time so if you write a check out of your account be sure that funds are in the account to cover the check.

Can institutions or their members “opt out” of Check 21?

No. Under the Act no institution or any of its members may “opt out” of the Act, they all must accept the substitute check in lieu of the original paper check.

What member education/notification is required by the Act?

The Act requires that credit unions provide a member awareness notice. A credit union must provide to each member a notice that describes how a substitute check is the legal equivalent of an original check and a description of the member recredit rights as provided in the Act.

To whom must the credit union provide the member education/notification?

Any member that when requesting a copy of a check, receives a substitute check.

How does Check 21 relate to other consumer protection laws such as NACHA and Reg E?

There is no direct relationship of Check 21 Act to NACHA rules for ACHs and Reg E for electronic transactions. Check 21 Act is Federal Law, but other than the special provisions for substitute checks under the Act a substitute check is governed under applicable check law..

If a member needs to obtain an original check that has been converted to a substitute check, how can the member go about locating it and gaining access to it?

The Act does not require that an original check be retained or provided to the member. Credit unions typically provide their members with a copy of a paid check upon request. Under the Act, a credit union is required to provide the original check or a copy of the original check in connection with expedited recredit claims by members. Other provisions of the Act recognize that the credit union can provide either the original check or a copy of the original check. A copy of the original check could be a substitute check.

Can businesses, courts, or governmental organizations refuse to accept substitute checks as proof of payment?

No. A substitute check that meets all the requirements of the Act (accurate image plus legend) is the legal equivalent of the original check and must be accepted as proof of payment.

What are the consumer protections under Check 21?

The consumer protection provisions contained in Check 21 are called “expedited re-credit” provisions and pertain specifically to substitute checks. The expedited re-credit provisions provide a mechanism for a consumer to make a claim when a consumer feels that a substitute check was wrongfully charged against their account. There are specific steps for the consumer to follow when making the claim, and there are certain steps for the credit union to follow, as well as timetables built in for addressing a consumer’s claim.

How much time does a consumer have to make a claim?

If a consumer believes that a substitute check has been charged wrongfully against their account, they have 40 calendar days after their statement is delivered or 40 calendar days from the date the substitute check was made available to the consumer, whichever is later.

How much time does the credit union have to address a consumer's claim?

Check 21 requires a credit union to re-credit the member's account no later than the end of the business day following the business day on which the credit union determined that claim was valid or on the tenth business day if the credit union has not determined the validity of the claim.