

Check 21

Frequently Asked Questions

What is Check 21?

The Check Clearing for the 21st Century Act (**Check 21**) is a regulation issued by the Federal Reserve Board that allows financial institutions to replace original checks with “substitute checks”. The implementation of substitute checks will reduce the amount of time it takes for your check/draft to clear, virtually eliminating any “float” time. This means funds must be available in your account when a check/draft is written.

When Will Check 21 Take Effect?

Check 21 was signed into law on October 28, 2003, and will become effective on October 28, 2004.

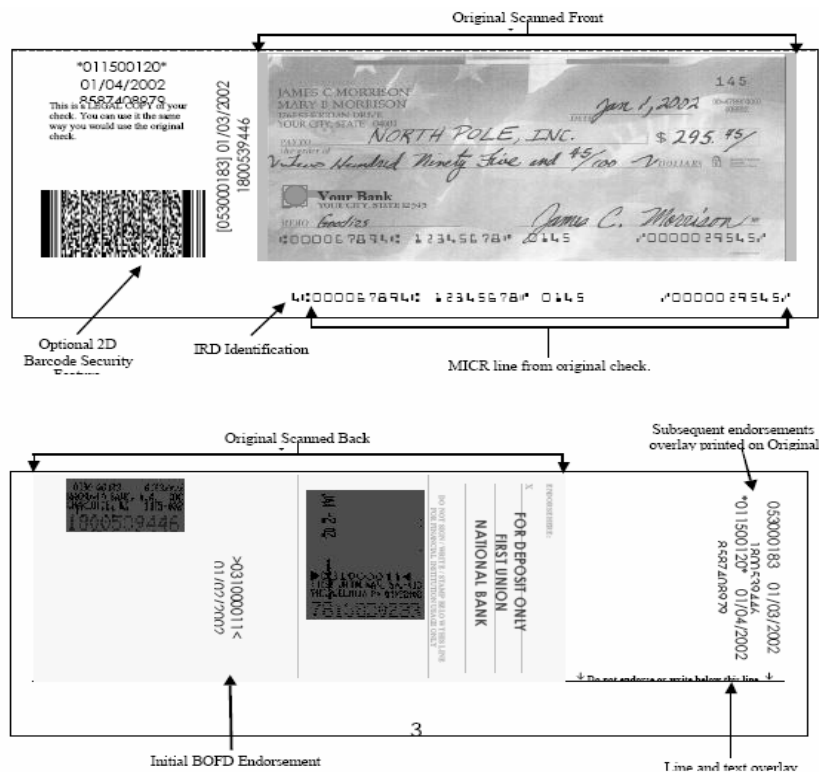
What Does Check 21 Authorize?

Check 21 authorizes the use of a new negotiable instrument called a “substitute check”, commonly referred to as an IRD (Image Replacement Document). Check 21 provides the legal framework for the creation of substitute checks, which can be used in place of the original paper document, without an agreement in place with other financial institutions.

What is a Substitute Check?

To make check processing faster, federal law permits financial institutions to replace original checks with "substitute checks." These checks are similar in size to original checks with a slightly reduced image of the front and back of the original check. The front of a substitute check states: "This is a legal copy of your check. You can use it the same way you would use the original check." You may use a substitute check as proof of payment just like the original check. Some or all of the checks that you receive back from us may be substitute checks.

Example of a “Substitute Check”



What are my rights regarding substitute checks?

In certain cases, federal law provides a special procedure that allows you to request a refund for losses you suffer if a substitute check is posted to your account (for example, if you think that we withdrew the wrong amount from your account or that we withdrew money from your account more than once for the same check). The losses you may attempt to recover under this procedure may include the amount that was withdrawn from your account and fees that were charged as a result of the withdrawal (for example, bounced check fees). The amount of your refund under this procedure is limited to the amount of your loss or the amount of the substitute check, whichever is less. You also are entitled to dividends on the amount of your refund if your account is a dividend-bearing account. If your loss exceeds the amount of the substitute check, you may be able to recover additional amounts under other law.

If you use this procedure, you may receive up to \$2,500 of your refund (plus dividends if your accounts earns dividends) within 10 days after we received your claim and the remainder of your refund (plus dividends when applicable) not later than 45 calendar days after we received your claim. We may reverse the refund (including any dividend on the refund) if we later are able to demonstrate that the substitute check was correctly posted to your account.

How do I make a claim for a refund?

If you believe that you have suffered a loss relating to a substitute check that you received and that was posted to your account, please contact us at (940)423-6776, or mail your claim to: Windthorst Federal Credit Union, P O Box 127, Windthorst, TX 76389. You may also contact us via our website at www.windthorstfcu.org. You must contact us within 40 calendar days of the date that we mailed (or otherwise delivered by a means to which you agreed) the substitute check in question or the account statement showing that the substitute check was posted to your account, whichever is later. We will extend this time period if you were not able to make a timely claim because of extraordinary circumstances.

Your claim must include—

- A description of why you have suffered a loss (for example, you think the amount withdrawn was incorrect);
- An estimate of the amount of your loss;
- An explanation of why the substitute check you received is insufficient to confirm that you suffered a loss; and
- A copy of the substitute check [and/or] the following information to help us identify the substitute check: (identifying information, for example the check number, the name of the person to whom you wrote the check, the amount of the check).

Can I continue writing checks as I do today?

Yes. You may continue to write checks and present payment the way you currently do. However, because checks may be presented and cleared electronically, it may take less time for a check to clear your account.

As a credit union member, can I opt out of Check 21?

No. Under the Act, no institution or any of its members may "opt out" of the Act. All checks, except foreign checks, are eligible to be converted to substitute checks and all parties that receive checks must accept the substitute check in lieu of the original paper check. Check 21 affects all customers of banks, savings & loans and credit unions. This includes consumer customers, corporate customers and governmental agencies.

Does Check 21 grant check images the same legal status as paper checks for clearing and settlement?

No. The substitute check, not the check image, will serve as the legal equivalent to the original check.

Does Check 21 apply to money orders, controlled disbursements, and all government checks, including Treasury checks and state warrants?

Yes. All checks, with the exception of foreign checks, are eligible for replacement with substitute checks. In addition, Savings Bonds are not checks and therefore are not subject to Check 21.

Does Check 21 allow financial institutions to truncate an item and convert it to an ACH item?

No. While Check 21 encourages check truncation, the conversion of a check to ACH is outside the scope of the legislation.

Does Check 21 allow financial institutions to exchange checks electronically?

Check 21 does not provide legal equivalence for image exchange, nor does it mandate image acceptance. Electronic check presentment and image exchange will continue to be by agreement only.