

WHO IS ECCHO?

ECCHO is the Electronic Check Clearing House Organization, a not-for-profit corporation created in 1990. Every depository financial institution in the U.S. is eligible for membership.



WHAT DOES ECCHO DO?

ECCHO has three primary functions: Provide education on image exchange, to serve as an advocate for industry objectives, and to create and maintain rules for check image exchange for all ECCHO members.

WHY IS THERE A NEED FOR CHECK IMAGE EXCHANGE RULES?

There is no law to govern the exchange of check images. Without ECCHO rules, institutions exchanging images would assume an indeterminate amount of risk. ECCHO rules address this deficiency in check law by providing a common, multilateral agreement among the members.

ECCHO offers the only set of comprehensive clearing house rules with broad industry recognition and support. The aggregate deposits of current member institutions under ECCHO rules exceeds 60% of the total deposits for the U.S.

Paper checks have been around for centuries and protections are primarily provided through the Uniform Commercial Code (UCC) and through applicable Federal regulations. The U.S. legal system is a composite of statutory law (passed by legislatures – state and national), regulatory law (passed by regulatory authorities), and case law (from litigations and judicial determinations).

Check 21 authorized the unilateral truncation of a paper check only when it is replaced with a substitute check, but it does not validate the exchange of check payments electronically. Check image exchange must be preceded by agreements between the parties to accept the images and no institution can be forced to accept check images. To exchange check images outside of an agreement is to do so without the support of the statutory, regulatory or case law and includes an indeterminately large amount of risk. Since the law does not cover electronic check exchange, it is unclear to whom the courts might assign liability and in what amounts whenever disputes arise. In paper check law, there is the potential for “proximately caused damages” or consequential damages.

The same applies to image exchange and, should the courts determine that the award of consequential damages is appropriate, there is no statutory or regulator guidance to assist the courts in making a fair determination as to how much and to which parties awards should be made. This raises the level of uncertainty as to the outcome of litigations and also the expense of litigations. The solution to mitigate this risk is to have agreements between the exchanging parties.

Agreement options range from two-party agreements that bind only the two parties, multi-party agreements such as through a provider of image services or clearinghouse agreements. In two-party agreements and multi-party agreements, only those agreeing are bound. Both of these approaches could be better than exchanging without any protections, but the preferred option is to have legal coverage through clearinghouse rules.

Clearinghouses have two unique characteristics under the UCC. They can vary or clarify certain aspects of the law and, when transactions are exchanged under clearinghouse rules, all parties with an interest in the transactions are covered by the rules even if they are unaware of the clearinghouse or its rules. Of course, clearinghouses do not have unlimited ability to vary the law, but these two aspects equip clearinghouses with the ability to provide broader coverage and protections that institutions could obtain under two- or multi-party agreements.

In the U.S., ECCHO is the only clearinghouse with a comprehensive set of image exchange rules. ECCHO enjoys broad acceptance across the industry. The ECCHO rule set is for mutual benefit and provides guidelines between exchange partners. ECCHO rules support multiple partnerships/arrangements.

The fees to be covered under the ECCHO rule set are minimal.
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