

# Managing RDC Risk

Angi Farren, UMACHA  
Jenny Johnson, The Clearing House

1

---

---

---

---

---

---

---

---

## Agenda

- RDC Products
- Types of Risk with RDC
- Risk Assessment Approach
- Reg CC RDC Indemnity
  - Issues with the RDC indemnity
  - Duplicate scenarios involving RDC indemnity
- Risk Management - Importance of Restrictive Endorsement
- Restrictive Endorsement Must Be on Physical Paper Check
- Growth and Time Savings Using Automation



2

---

---

---

---

---

---

---

---

## DISCLAIMER

The information contained herein has been prepared for general informational purposes only and is not offered as, and does not constitute legal advice or legal opinions. You should not act or rely on any information contained herein without first seeking the advice of your legal counsel.

The comments today are my own and not necessarily those of The Clearing House or the ECCHO membership.



3

---

---

---

---

---

---

---

---

## Important Info

Regional Payments Associations, through their Direct Membership in NACHA, are specially recognized and licensed providers of ACH education, publications and support. Regional Payments Associations are directly engaged in the NACHA rulemaking process and the Accredited ACH Professional (AAP) and Accredited Payments Risk Professional (APRP) programs.

NACHA owns the copyright for the NACHA Operating Rules & Guidelines. The Accredited ACH Professional (AAP) and The Accredited Payments Risk Professional (APRP) are service marks of NACHA.

### DISCLAIMER:

- This presentation and applicable materials are intended for general education purposes and nothing in this presentation should be considered to be legal, accounting or tax advice.
- You should contact your own attorney, accountant or tax professional with any specific questions you might have related to this presentation that are of a legal, accounting or tax nature.



4

---

---

---

---

---

---

---

---

---

---

## Acronyms & Terms

- BOFD – bank of first deposit
- Paper Depository/Paper Deposit Bank – bank accepting paper check for deposit in RDC indemnity scenario
- Reg CC – Regulation CC
- RDC – remote deposit capture
- RDC Depository Bank/RDC Bank – bank truncating check via remote deposit in RDC indemnity scenario
- RDC Indemnity – new in Reg CC to provide protection in certain conditions for depository bank that accepted deposit of paper check and then experienced a loss
- UCC – Uniform Commercial Code



5

---

---

---

---

---

---

---

---

---

---

## RDC Products

- Merchant Capture
  - Desktop scanners at a corporate user's location
- Corporate Mobile Capture (mRDC)
  - Utilizes an end user's mobile device in lieu of a desktop scanner
- Consumer Capture
  - Desktop or flatbed scanners used to deposit items to a consumer account
- Consumer Mobile Capture (mRDC)
  - Utilizes an end user's mobile device in lieu of a desktop or flatbed scanner



6

---

---

---

---

---

---

---

---

---

---

### RDC Products

- Branch Capture
  - Backroom type of function for a financial institution to process its own items
- Teller Capture
  - Frontline type of function for each teller at a financial institution to process its own items
- ATM Capture
  - ATM type of function for a financial institution to process its own items through its ATM



7

---

---

---

---

---

---

---

---

### Types of Risk with RDC

- General/Strategic Risk
- **Operational Risk**
- Credit and **Transactional Risk**
- Cross-Channel Risk
- **Compliance and Legal Risk**
- Information Systems Risk
- Third-Party Service Provider Risk
- Business Continuity Risk



8

---

---

---

---

---

---

---

---

### Risk Assessment Approach

- Risks
  - Parts of the RDC program that could cause harm or loss
- Controls
  - Policies, procedures, or other safeguards put into place to reduce risk
- Risk Tolerance
  - How much risk the financial institution is willing to accept in the RDC program



9

---

---

---

---

---

---

---

---

RDC Indemnity Definitions (229.34(f))

- Definitions for RDC Indemnity Scenario:
  - Paper Depository Bank – Bank accepting original paper check for deposit
  - RDC Depository Bank – Allows their customer to truncate a check via remote deposit
  - RDC Restrictive indorsement – from Reg CC Commentary - *“For mobile deposit at Depository Bank A only and the customer’s account number at Depository Bank A”*



10

---

---

---

---

---

---

---

---

Intention of the RDC Indemnity (229.34(f))

- New indemnity
- Indemnity protects Paper Depository bank that received deposit of paper check that was returned unpaid because check previously deposited at another depository bank using RDC service (RDC Depository Bank)
- RDC bank’s potential liability arises when it permits customer to truncate check and deposit image
- RDC restrictive indorsement must be on the original paper check to exempt RDC depository bank from providing the RDC indemnity
- Paying Bank – BOFD relationship
  - Does not alter protection to Paying Bank under duplicate payment warranty
  - Does not alter Paying Bank duplicate decisioning (i.e., to return/adjust, to which BOFD)



11

---

---

---

---

---

---

---

---

RDC Indemnity (229.34(f))

- 1) The indemnity described in paragraph (f)(2) of this section is provided by a depository bank that—
  - i. Is a truncating bank under § 229.2(eee)(2) because it accepts deposit of an electronic image or other electronic information related to an original check;
  - ii. Does not receive the original check;
  - iii. Receives settlement or other consideration for an electronic check or substitute check related to the original check; and
  - iv. Does not receive a return of the check unpaid.
- 2) A bank described in paragraph (f)(1) of this section shall indemnify, as set forth in § 229.34(i), a depository bank that accepts the original check for deposit for losses incurred by that depository bank if the loss is due to the check having already been paid.
- 3) A depository bank may not make an indemnity claim under paragraph (f)(2) of this section if the original check it accepted for deposit bore a restrictive indorsement inconsistent with the means of deposit.



12

---

---

---

---

---

---

---

---

### RDC Indemnity Conditions (229.34(f))

- 1) The indemnity described in paragraph (f)(2) of this section is provided by a depository bank that—
- i. Is a truncating bank under § 229.2(eee)(2) because it accepts deposit of an electronic image or other electronic information related to an original check;
  - ii. Does not receive the original check;
  - iii. Receives settlement or other consideration for an electronic check or substitute check related to the original check; and
  - iv. **Does not receive a return of the check unpaid.**
- \* Receiving a duplicate adjustment satisfies the condition of “Does not receive a return of the check unpaid” and therefore RDC depository bank provides the RDC indemnity—subject to meeting the other conditions



13

---

---

---

---

---

---

---

---

---

---

### Background on RDC Indemnity Issue

- ECCHO reached out to Federal Reserve Board (FRB) staff in 2017 for clarification on the issue of whether the FRB intended for the indemnity exception regarding “returns” to extend also to adjustments
- FRB staff referred to the plain language of the Reg CC provision which refers to a depository bank that “does not receive a return of the check unpaid”
- The issue may be problematic in cases with multiple bank duplicate scenarios
- ECCHO reached out to FRB staff with additional information for further clarification in Fall 2018, advocating that adjustments should be treated the same as returns in the RDC bank conditions set out in the RDC indemnity in Reg CC 229.34(f)(1)(iv)
- FRB staff is standing by original response and has granted The Clearing House permission to communicate that response to the industry



14

---

---

---

---

---

---

---

---

---

---

### Federal Reserve Board’s Response

*“We reviewed the Board’s recent amendments and the remote deposit capture (RDC) indemnity as it relates to the scenario you describe, where a check accepted via RDC is adjusted back to the depository bank as a warranty claim instead of being returned unpaid. The amendments state that the RDC indemnity is provided by a depository bank when the four requirements set forth in 229.34(f)(1) are satisfied, which include in relevant part that the depository bank receives settlement or other consideration for an electronic check or substitute check related to the original check, and does not receive a return of the check unpaid.*

*As we understand the scenario you describe, the depository bank that accepted a check via RDC that was then adjusted back as a warranty claim would likely still satisfy both those requirements. That bank received settlement or other consideration as part of the forward collection process and did not receive the check returned unpaid. Assuming the other requirements of the indemnity provision are also satisfied, then it is likely under the amendments that the bank in your scenario would indemnify a depository bank that accepts the original check for deposit, as set forth in 229.34(f)(2). To guard against subsequent deposit of the paper check and minimize the likelihood of the scenario you describe, banks may decide to take certain steps including requiring a restrictive indorsement and performing appropriate customer due diligence to determine whether to enable RDC capabilities”.*



15

---

---

---

---

---

---

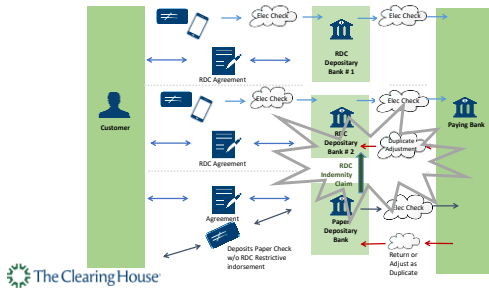
---

---

---

---

### RDC Multiple Bank Scenario



16

---

---

---

---

---

---

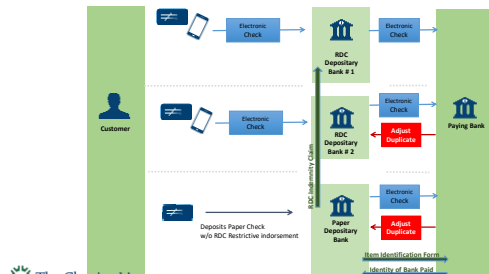
---

---

---

---

### Make RDC Indemnity to Bank Paid for Item



17

---

---

---

---

---

---

---

---

---

---

### RDC Indemnity Claim Processing

- ECCHO Rules:
  - Use ECCHO Rules WIC Adjustment Type with automated adjustment system
  - Sample Item Identification Form – For the Paper Depository Bank to send to Paying Bank to identify bank that was paid for the item in order to potentially file RDC indemnity claim
  - Sample RDC Indemnity Claim Letter – for the Paper Depository Bank to provide all the information necessary to make the claim to the RDC Bank
  - Sample RDC Indemnity Disclaim Form – for RDC Bank to disclaim the claim
- Under ECCHO Rules, RDC WIC claims can be made for one year with entry
- File manual claims using ECCHO sample forms available on [ECCHO website](http://ECCHO website)
- Check out [www.checkimagecentral.org](http://www.checkimagecentral.org) for info on Fed & ECCHO



18

---

---

---

---

---

---

---

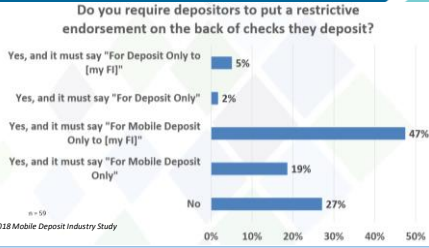
---

---

---



### Small Business - Restrictive Endorsements



22

---

---

---

---

---

---

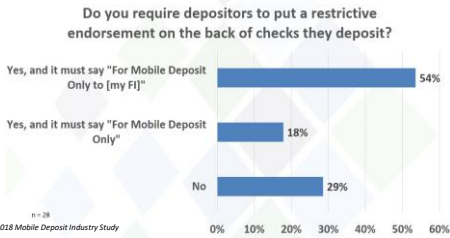
---

---

---

---

### Corporate - Restrictive Endorsements



23

---

---

---

---

---

---

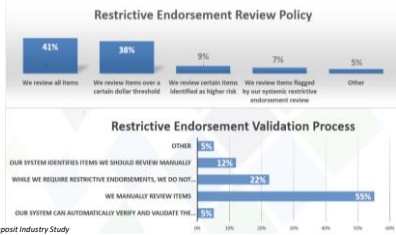
---

---

---

---

### Restrictive Endorsements...



24

---

---

---

---

---

---

---

---

---

---

### Restrictive Endorsements...

If an item is deposited without your required restrictive endorsement, will you still accept, or reject the deposit?



Has a restrictive endorsement protected your FI against an indemnity claim?

- 7% said YES!
- Has your FI accepted an item restrictively endorsed to another FI, thereby invalidating a potential indemnity claim?
- 0% said YES!

Source: 2018 Mobile Deposit Industry Study



25

---

---

---

---

---

---

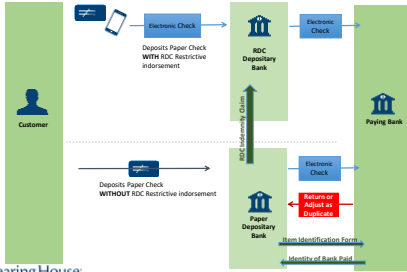
---

---

---

---

### Altered/Washed/Indorsed Other Back



26

---

---

---

---

---

---

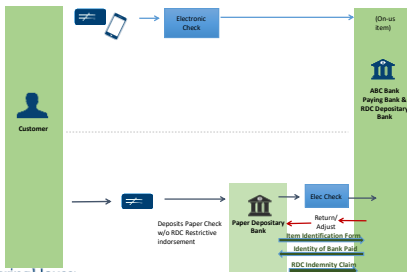
---

---

---

---

### Paying Bank is RDC Bank Scenario



27

---

---

---

---

---

---

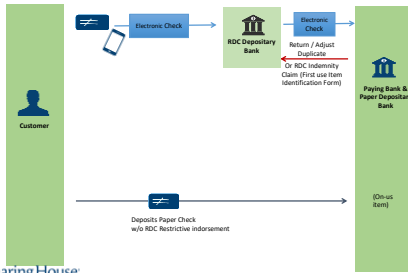
---

---

---

---

### Paper Deposit Bank is the Paying Bank



28

---

---

---

---

---

---

---

---

### Considerations

- Review customer agreements for Updates regarding RDC indemnity
- Training Staff
  - On changes, new defined terms, timing and potential liability
    - Remote deposit capture (RDC) – Liability for duplicate with new indemnity
- Policies and Procedures
  - Know your customer
  - Thresholds for review
- Stay current with additional industry updates



29

---

---

---

---

---

---

---

---

### Key Takeaways

- Restrictive Endorsement are NOT required but they help reduce the risk of duplicates
- Look at your own business case: Labor, risk and fraud
- Determine what levels you set for reviewing or inspecting items
- Recognition Inspection:
  - Solution providers are developing and enhancing solutions
  - FIs are still creating requirements



30

---

---

---

---

---

---

---

---

Thank You!!



Angi Farren, AAP & APRP  
Executive VP and COO  
UMACHA  
[www.umacha.org](http://www.umacha.org)  
[angif@umacha.org](mailto:angif@umacha.org)  
**UMACHA**  
YOUR ELECTRONIC PAYMENTS PROFESSIONALS

Jenny Johnson, NCP  
Director, ECCHO  
The Clearing House  
[www.eccho.org](http://www.eccho.org)  
[jjohnson@eccho.org](mailto:jjohnson@eccho.org)  
**The Clearing House**  
At the Center of Banking Since 1857

---

---

---

---

---

---

---

---

