Sample Electronically created item (ECI) Indemnity claim Letter

fOR USE in RegULATION CC ECI Indemnity CLAIMS

A bank may use this letter to make an indemnity claim pursuant to Regulation CC (12 CFR 229.34(g) (Indemnities with respect to electronically-created items (ECIs)), *if the bank incurred losses* resulting from the fact that:

* *The electronic image or electronic information is not derived from a paper check;*
* *The person on whose account the electronically-created item is drawn did not authorize the issuance of the item in the amount stated on the item or to the payee stated on the item; or*
* *A person receives a transfer, presentment, or return of, or otherwise is charged for an electronically-created item such that the person is asked to make payment based on an item or check it has already paid.*

Additional conditions for the ECI indemnity include that the bank transferring or presenting the ECI (ECI sending bank) received settlement or other consideration for the ECI.

Regulation CC 229.2(hhh) Electronically-created item (ECI) Definition:

“Electronically-created item means an electronic image that has all the attributes of an electronic check or electronic returned check but was created electronically and not derived from a paper check”

**Instructions for Use of this Letter:**

* This letter should not be used for any other matter except by a bank making an ECI indemnity claim.
* This letter, including the indemnity claim process and the use of confidential customer information in this letter, should be reviewed by the bank’s legal counsel prior to use.
* Use of this letter is voluntary and is for ECI indemnity claims made within an automated interbank check image adjustment system or service, or for manual claims between banks.
	+ For manual claims, complete appropriate fields on the form and send accordingly. *(This form was created by ECCHO for the industry and may be used for completing manual ECI indemnity claims regardless of whether the item at issue was exchanged under ECCHO Rules or OC3—subject to review by your bank’s legal counsel).*
	+ For claims made via automated adjustment system/service:
		- For ECCHO exchanges only: complete appropriate fields and attach this form to the ECCHO WIC adjustment type. Please see ECCHO Rules Exhibit I: Adjustment Matrix for additional information on the WIC adjustment. Some fields may not be required for automated adjustment claims (e.g., recipient department name, request for response, settlement instructions, mailing address)
	+ Complete the indemnity claim letter *as appropriate*:
		- Date
		- Bank to which the ECI indemnity claim is being made and appropriate department
		- Bank that is making the ECI indemnity claim and its case/reference number for this claim
		- MICR code line with amount from the ECI
		- Depositary bank information including bank routing number, sequence number, endorsement date, cash letter date, and cash letter total
		- Check the reason(s) for the loss
		- Settlement instructions
		- Contact information for bank making the ECI indemnity claim
		- Confirm representation statement at the bottom of the letter with a signature
		- **Include a front and back copy of the ECI**

Date: INSERT DATE **Attention**: INSERT APPROPRIATE RECIPIENT/DEPARTMENT

**Re: Electronically Created Item (ECI) Indemnity Claim**

**Claim made to:** INSERT ECI SENDING BANK NAME

**Claim made by:** INSERT YOUR BANK NAME

**Our Case/Reference Number:** INSERT NUMBER

This letter constitutes our claim to your bank arising from your bank’s obligation under the ECI indemnity in Regulation CC (229.34(g)). We believe your bank is the **ECI sending bank** that transferred/presented an ECI, and we are the ECI Receiving bank that received the ECI and incurred a loss due to: 1) the electronic image or electronic information not being derived from a paper check, 2) the person on whose account the ECI is drawn did not authorize the issuance of the ECI for the amount or to the payee stated on the ECI, or 3) the ECI having already been paid.

1. DESCRIPTION OF THE ECI RECEIVED UPON WHICH THIS ECI INDEMNITY CLAIM IS BASED:

|  |  |
| --- | --- |
| ***MICR Code Line from the ECI:*** |  |
| External Processing Code: |  |
| ABA Routing Number: |  |
| Account Number: |  |
| Serial Number: |  |
| Amount: |  |

1. DEPOSITARY BANK INFORMATION:

|  |  |
| --- | --- |
| ABA Routing Number: |  |
| Sequence Number: |  |
| Endorsement Date: |  |
| Cash Letter Date: |  |
| Cash Letter Total: |  |

1. OUR BANK SUFFERED A LOSS DUE TO: (check all that apply)

[ ]  Electronic image or electronic information not being derived from a paper check

[ ]  Person on whose account the ECI is drawn did not authorize the issuance of the ECI for the amount or to the payee stated on the ECI

[ ]  ECI having already been paid

1. REQUEST FOR RESPONSE TO THIS INDEMNITY CLAIM: *(For Manual Claims)*

We request that your bank evaluate this claim and respond within 20 business days from the date of receipt of this claim letter.

We ask you to provide us with either:

(A) payment in the amount of $INSERT AMOUNT according to settlement instructions below, **OR**

(B) a letter indicating why your bank refuses payment of this indemnity claim.

1. SETTLEMENT INSTRUCTIONS: *(For Manual Claims)*

INSERT OR ATTACH SETTLEMENT INSTRUCTIONS

1. CONTACT INFORMATION:

If you have any questions concerning this matter, please contact:

INSERT CONTACT NAME

INSERT BANK NAME

INSERT PHONE NUMBER AND TIME ZONE, Monday through Friday & other info

INSERT EMAIL ADDRESS

Any written correspondence relating to this letter or the indemnity claim can be directed to:

INSERT CONTACT ADDRESS

**Enclosed is a copy of the front and back of the ECI that we received** *(required).*

*To our knowledge and belief, and consistent with our records, the information in this indemnity claim is accurate, we received an ECI, and* *we suffered a loss due to: 1) the electronic image or electronic information not being derived from a paper check, 2) the person on whose account the ECI is drawn did not authorize the issuance of the ECI for the amount or to the payee stated on the ECI, or 3) the ECI having already been paid.*

INSERT SIGNATURE

*Our bank reserves any rights or claims under law, regulation, bi-lateral agreement or clearing house rule which is applicable to the above referenced ECI.*

*The information contained in this letter and the copy of the ECI is to be used for the purpose of handling this ECI indemnity claim.*