

E-Cheque as a Modern Mechanism for Payment

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Introduction

An electronic cheque is one of several electronic payment mechanisms that have replaced paper payment methods. Individuals can use this e-cheque as a convenient and quick method for payment. It performs the same functions as a paper cheque and is governed by the same regulations. The meaning and importance of e-cheque, as well as the working method and requirements for e-cheque, will be presented in this study. The first section of this study will go through the legal structure of e-cheques, and the second section will discuss methods of dealing with electronic cheques. The study will also highlight the results of managing electronic cheques, as well as recommendations for dealing with electronic cheques that support this sort of e-cheque as a modern and quick electronic payment mechanism.

Keywords: E-Cheque, payment, guarantees, Issuance.

1. Overview of e-cheque

Definition of e-cheque

The electronic cheque is characterized as one of the emerging techniques of electronic payment. It has no particular definition in research or legislation, but it is known and defined in commercial law and provisions dealing with commercial paper transactionsⁱ.

An electronic cheque can be defined as:

"An e-cheque is the electronic equivalent of a paper cheque. It completely automates the cheque writing and depositing operations online"ⁱⁱ.

Issuance of e-cheque

It is a process of transferring funds from one person's account called the drawer to another person's account called a beneficiary. This process is completed using the payer's personal device over the Internet, eliminating the need for the payer to physically visit the bank. The process is completed effortlessly between the two parties without the involvement of a third party. There are two forms of payment using e-cheque which can be made electronically via e-cheques or Net Chex.

The first method is the e-cheque, which is comparable to a traditional paper cheque in that the drawer can use a standard paper cheque book. The e-cheque can be issued at any time, and the only difference between it and a regular cheque is the signature, which is digitally signed in the case of the e-cheque. When a person writes an electronic cheque, the data is digitally written and signed, and the e-cheque is then sent to the beneficiary, ready to be paid.

The second method is NetChex, in this type, the e-cheque of a consumer is considered as an extension to the existing traditional cheque. Both the merchant and consumer register their data

on NetChex, and when the merchant receives the e-cheque on NetChex, it validates the cheque and the information received, the total amount, as well as the signature, then the information is to be verified for authenticity by the merchant. The transaction is then handled like any other banking transaction, with the debtor being notified of the e-cheque issuance and the beneficiary being able to draw the exact amount of money written on the electronic chequeⁱⁱⁱ.

After that, the merchant will confirm that the transaction is valid while writing the cheque and sending it to the beneficiary's account, assuring the security of such transactions when dealing with e-cheques.

E-cheque Regulations

There are specific conditions when dealing with an electronic cheque, these can be highlighted as follows:

E-cheque Payment Time

The legislator has fixed the date for e-cheque payment, and there is a penalty imposed by law for failing to meet this deadline, which is required in article 264 of Jordanian law as follows:^{iv}

1. The e-cheque payment fulfillment must be within 30 days.
2. If the e-cheque is issued by a European country, the payment date must be within 60 days, and if it is issued by a Mediterranean country, the payment date must be within 90 days. If the e-cheque is issued by a developing country, the payment date must be within 90 days.
3. Cheque payment validity starts from the date on which the cheque was issued.

Penalty for failing to pay an e-cheque on time

Some penalties are imposed on the holder of the electronic cheque if it is not submitted on time, based on the following cases:

1. Negligence of the holder against the drawer.
2. The holder is unable to get the endorsers or guarantors, which prevent payment if the cheque is not submitted on time.

2. Deployment of the e-cheque

Parties of the e-cheque

In terms of parties, the e-cheque is equivalent to the physical cheque in that there are three parties involved: drawer, beneficiary, and the drawee bank. The procedure involving the three parties is completed instantaneously, with each party participating electronically by expressing their intention online or by email, without having to face one other. The definition of each party of the e-cheque is explained as follows:

First party: Drawer

The drawer is the person who writes the electronic cheque and may also sign several contracts to deliver various services to consumers via online purchases and e-cheques. In order for these transactions to take place, this party must have a current account with the bank^v.

This person is required to have sufficient funds to cover the amount stated on the cheque and to retain the payment order by signing, fingerprinting, or stamping, even if the cheque was written by a machine or someone else's handwriting. It is also conceivable that the cheque is written on paper and is regarded genuine if all information on the commercial papers system is correct^{vi}.

The e-cheque should include the signature and name of the drawer, and the signature is required to approve the right of the beneficiary, and the name is required to facilitate the transaction by the beneficiary, which has been mentioned in the trading reference^{vii}.

The bank must have a copy of the drawer's signature in order to compare it to the written signature; if the two signatures do not match, the transaction is cancelled.

The drawer's signature has no specified requirements, language, or forms, and must be written in the same language as the cheque, which is Arabic. If the drawer is unable to sign, the bank should be notified that a stamp or fingerprint will be used. The stamp or fingerprint is deemed an order of payment to the beneficiary if the cheque lacks the signature, which is an important requirement^{viii}.

When the drawer requests that someone else sign the cheque, the bank must be aware of this and establish a signing form for that person. The bank must ensure that the signature is valid, and that person's signature should be on file with the bank.

Second: Beneficiary

The person who interacts with electronic cheques between merchants and consumers, and this relationship is based on a prior agreement between the merchant and the consumer. The merchant accomplishes this through supplying goods and services to the consumer. The objective of this offer is to receive funds for services provided, and then the two parties deal with each other via electronic cheques, with the drawer being the one who writes the cheque and should have a bank account in order to fulfil the payment obligation^{ix}.

When dealing with a typical cheque, the beneficiary is the one who writes the cheque, which must then be indicated in the instrument, and the cheque must be in his or her name and not include the payment order. There may be a dispute over whether the cheque is payable for the name stated or as an authorization for a holder, which is helpful in establishing how the payment order is handled and the standard to which the bank follows. It is also possible to write a check for the drawer if the following conditions are met^x:

- The word "cheque" must be written in the same language of the cheque.
- The cheque must not include a condition for delaying the payment.
- Writing the name of the person who is liable for payment.
- It is required to specify the location where the payment will be made.
- Writing the date on which the check was issued.
- The drawer's signature should be included.

Based on article 91 of the Commercial Papers System, there are two instances in which the instrument is regarded a cheque even if one of the above-mentioned requirements is not met, and these cases are as follows:^{xi}

- If the payment location is missed, the check is still valid, and if multiple locations are indicated, the first one should be the one used for payment.

- If the location of the cheque issuance is not stated, then the issuance location is the one which is written next to the drawer's name.

Third: Drawee

The drawee is the bank with which the drawer deals, and the drawee, whether it is a bank or a financial institution, implements the instructions provided by customers to fulfil the payment, as required by law. The bank offers banking services to its customers, including the service of processing payments through electronic cheques.

There are several electronic banks known as pc banks, in which the bank provides customers with software that can be downloaded on their own devices as a paid or free service, allowing customers to use online banking services^{xii}.

Customers' financial transactions with the bank are facilitated by the drawee model, and the bank has staff to document all electronic transactions as well as validate customers' signatures and information^{xiii}.

The mechanism for fulfilling e-cheque payment

Because it is done over the Internet, the electronic cheque stands apart from other forms of cheques, and because of this, electronic clearing has become a viable option for fulfilment. The following is a description of clearing and the mechanism by which it works:

First: The meaning of electronic clearing

One of the options for online payment that uses electronic clearing is the electronic cheque.

Electronic clearing is defined as "a system in which all forms of data and magnetic checks, rather than traditional cheques, are exchanged". This is accomplished by employing various electronic technologies, such as electronic clearing, by which balances are determined and validated.

Electronic clearing is also defined as "a system by which cheque-written payments are electronically settled between banks", and it has largely replaced all traditional payments. Such payments are validated through electronic clearing, in which debts are incurred for two people, each of whom is both a creditor and a debtor.

The electronic clearing of e-cheques takes a short time since they contain an electronic chip that allows users to inquire about their account balance, which is distributed across a private communications network connecting the banking systems.

The Saudi Arabian Monetary Agency (SAMA) has worked on this system, which includes dealing with electronic clearing, that is monetarily compensated and settled. Statistically, the quantity of commercial and personal cheques cleared through clearing houses fell by around 13.2 %, or 647.2 thousand cheques. The total amount was likewise decreased by 1.14 %, or SAR 820639^{xiv}.

Second: The importance of electronic clearing service

The value of cheques may be collected for holders using this service, which is critical in the banking industry. The significance of clearing can be summarized as follows:

- Electronic clearing transactions are simpler and faster than conventional clearing.

- Electronic clearing decreases fraud and money loss that could happen with paper cheques.
- Electronic clearing allows a creditor to safeguard its claim against other creditors who have a right to the debtor, by deducting an amount from the debtor's balance.
- Electronic clearing is one of several methods of electronic fulfilment, including electronic cheques, and the amount of the cheque is received by submitting it to the bank via different electronic ways.
- The electronic clearing system adheres to the legal system of electronic cheques, and unlike traditional clearing, there is no need to deal with paper money, which puts pressure on the bank if cash is required, and the bank must provide funds, which is not the case with electronic clearing.

Guarantees of payment obligation using e-cheque

Many financial institutions have attempted to develop payment methods to keep up with the growth of e-commerce, such as e-cheque methods, which incorporate data that must exist such as an electronic signature and the total amount as a guarantee for the cheque's holder. The electronic cheque and its requirements are stated conditions for this guarantee in the commercial paper system^{xv}. Such guarantees are classified as follows:

First: Definition of payment obligation

In terms of payment obligations, there is no difference between paper and electronic payments. According to some legal scholars, it may be characterized as "a set quantity of money that amounts to a debt owed to the drawer and that is owed to be withdrawn by the drawee, with a right to dispose of such amount"^{xvi}.

The obligation of payment is one of the fundamental guarantees that the drawer provides to the cheque holder in order for the cheque to be paid. It is well known that a cheque cannot be withdrawn if there is a debt relationship between the drawer and the holder, but there is a debt relationship between the drawer and the bank, i.e., the bank is a creditor of the drawer by an amount equal to the amount drawn on the bank^{xvii}.

If the debt is for a commercial paper, such as a cheque, the debtor will not be given a time limit for payment. According to the Saudi lawmaker, "no time limit is offered to meet the payment obligation," and hence the debtor's request for a time limit is denied. The Unified Trade Act, which specifies that "courts will not allow time-limits to satisfy the payment obligation of a commercial paper", has endorsed such a provision^{xviii}.

According to the preceding discussion, everyone who signs a commercial paper is obligated to make payment, which is referred to as a financial obligation and is regarded a civil obligation on the drawer. Another sort of obligation is a commercial obligation, in which the debtor issues a cheque to the creditor for goods purchased^{xix}.

Second: Ownership of cheque holder for payment obligation

Payment obligation is the beneficiary's only guarantee, which has led to a debate on commercial papers among countries who signed the Geneva Convention as a consequence of payment obligation requirements as one of the guarantees granted to commercial paper holders.

Some countries, such as Germany, argue that it is untrustworthy as a payment obligation for holders of commercial papers since the payment obligation is unrelated to past transactions, and so it is not a justification to revoke commercial papers.

Payment obligation is a debt on the drawer and a withdrawal right by the bank, so the holder of the commercial paper cannot depend on the debt and consider it a promise to receive such a debt. Some nations agree with the French view that payment obligation is the guarantee for holders of commercial papers where debt and banking are linked^{xx}.

Because of this disagreement, the aforementioned agreement allows each nation to establish its own laws to determine whether a payment obligation is regarded a guarantee for holders of commercial papers or not.

The Saudi legislator agreed with the French legislator view, who believed that payment obligations are a guarantee for commercial paper holders. Article 31 of the commercial papers' regulations stated that "private ownership stands for payment obligation and may be transferred to holders of commercial papers", this was stipulated at the time when the Saudi Government was regulating the provisions for payment obligation ^{xxi}.

Payment obligation, as discussed above, is also a guarantee for cheque holders if the cheque is issued for the benefit of the drawer, in which case the amount deposited by the drawer in the bank is called obligation for payment and can also be referred to as balance. This amount deposited in the bank is the drawer's right to withdraw any time, and because the bank is a debtor in this case, the bank must pay this amount at the time of cheque issuance.

Third: Terms and conditions honoring e-cheques

Article 94 of the commercial papers system stipulates that a cheque cannot be issued if the drawer has no funds with the drawee bank at the time the cheque is issued, and the legislator has created particular regulations that must be followed for electronic cheque honoring. This can be done based on an implicit or explicit agreement between the drawer and the drawee bank. If the drawer intends to withdraw funds, a payment obligation to honor the cheque is required.

Such regulations can be summarized as follows^{xxii}:

- A payment obligation must exist at the time the cheque is issued.
- The drawer should be able to withdraw the amount specified on the electronic cheque.
- The drawee bank must have a debt against the payment obligation.
- The total amount on the cheque should match the total owed.

Conclusion

This research was crucial in determining the concept of an electronic cheque, its validity, and the provisions and regulations of payment obligations. Study results and recommendations are highlighted as follows:

Results

- Instead of a traditional cheque, the e-cheque has become a mechanism for transactions among individuals.
- Using an electronic cheque increases security and reduces fraud.

- The United Nations Trade Law Commission is one of the most essential international endeavors since computerized trading has become easier than ever before.
- Using electronic cheques in banking transactions may result in higher investment in the country, as well as play a significant role in the ongoing growth of individual trade and commercial interactions.
- Ease and speed are two qualities of an electronic cheque.

Recommendations

- When employing e-cheques , a separate procedure for resolving disputes is required.
- When dealing with electronic cheques, banks should be regulated and controlled.
- It is vital to improve public awareness and understanding, since using an e-cheque is simple and quick, resulting in increased business efficiency.
- Given the importance of electronic cheques, it is critical to understand the risks associated with their use and how these risks can be mitigated.

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footnote

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