

# Imaged Deposits Service Terms and Conditions



Capitalized terms used but not defined below have the meanings given to them in your Business and Non-Personal Account Terms, Disclosures and Agreements Booklet.

## 4.7. Imaged Deposits Service

The Imaged Deposits Service allows you to deposit qualifying Checks to your designated Treasury Account by transmitting to us for deposit an electronic image of a paper Check. This Imaged Deposit Service consists of the following service options: (a) Remote Deposit Capture, (b) Mobile Check Deposit, and (c) transmission of an image cash letter. You may select among these service options using the applicable Services Documentation.

To use the Imaged Deposits Service, you must: (a) designate at least one Treasury Account, (b) acquire the hardware and software required to access the Imaged Deposits Service, as described in more detail in the Services Documentation, (c) have access to the Internet, (d) maintain a valid email address, (e) submit to us the Certifications as described in the "Imaged Deposit Certifications" sections below, and (f) meet any other requirements described in the Services Documentation or Services Addendum, or as determined by us in our sole discretion.

### 4.7.1. Designated Treasury Account(s); Administrator; Users

**4.7.1.1.** Check Images shall be subject to finally collected funds and the Account Agreement, credited to your designated Treasury Account. If you have more than one designated Treasury Account, you must identify the designated Treasury Account to be credited with your Check Images when you transmit those Check Images to us, by selecting the designated Treasury Account before transmitting the Check Images.

**4.7.1.2.** In order to add, change or delete designated Treasury Accounts or to add, change or delete the identified Administrator, you will need to contact us.

**4.7.1.3.** You understand and agree that all users of the Imaged Deposits Service will have the ability to see the transaction history of the designated Treasury Account(s) for which those users have been given access.

### 4.7.2. Compliance with Security Procedure

Company and EverBank shall comply with the requirements described in the "Security Procedures" section above and in the Services Documentation related to this Imaged Deposits Service (collectively, the "Imaged Deposits Security Procedure"). Company acknowledges that the purpose of the Image Deposits Security Procedure is for verification of authenticity and not to detect an error in the transmission or content of a Check Image. No security procedure for the detection of any such error has been agreed upon between EverBank and Company. You and we shall comply with the Imaged Deposits Security Procedure with respect to the Imaged Deposits Service.

### 4.7.3. Process

**4.7.3.1.** You may scan Checks using an image capture device, or you may take photographs of Checks using a Mobile Device, or you may send to us an image cash letter to deposit those Checks to your designated Treasury Account(s). You agree to restrictively endorse any Item prior to transmitting it to us through the Imaged Deposits Service as "For Online Deposit Only at EverBank," or as otherwise instructed by us, and you further agree to stamp or otherwise mark the original Check "Processed," "Deposited," "Scanned," or something similar after you have transmitted to us each Check Image such that the risk of subsequently re-scanning the same Item and thus creating a duplicate is reduced accordingly.

**4.7.3.2.** You agree that the manner (e.g., Substitute Check, image exchange, ACH) in which we clear or present Items for payment shall be determined by us, in our sole and absolute discretion. The Account Agreement contains additional terms and conditions applying to fees, and the presentment, collection, and return of Items. We reserve the right to select the clearing agents through which we clear Items. You agree to be bound by any clearinghouse agreements, operating circulars and image exchange agreements to which we are a party.

**4.7.3.3.** Funds from deposited Check Images will be available according to our Funds Availability Disclosure included in this Booklet. For purposes of Funds Availability, Check Images will be considered Checks.

**4.7.3.4.** For purposes of determining the availability of funds, Check Images deposited through the Services are considered received by us upon the our successful receipt of the transmission of such images that are complete, usable, and adhere to any data specifications provided to you by us. If the Check Images are not complete, are not usable, or do not adhere to such data specifications, we may be unable to process such Items, in which case your deposit will be adjusted as appropriate.

**4.7.3.5.** We have no obligation to notify you of the rejection of a Check Image or other information sent to us through the Imaged Deposits Service. We will have no liability to you for the rejection of a Check Image or other information sent to us through the Imaged Deposits Service or for not notifying you of such rejection. Upon receipt of a Check Image submitted by you, we may examine such Check Image and other information sent to us through the Imaged Deposits Service to ensure that you have complied with the Account Agreement, which includes these terms and conditions. If we determine that you have not complied with the Account Agreement or if errors exist in the Check Image or other information sent to us through the Imaged Deposits Service, we, in our sole and absolute discretion, may, in our sole discretion, (a) reject the Check Image, (b) hold the Check Image, or (c) elect to correct the error and accept and process the corrected Check Image. As a form of correction, we may credit your designated Treasury Account for the full amount of the deposit and make any necessary adjustments to the Treasury Account to correct the error. We may, in our sole and absolute discretion, also perform a risk-management analysis of one or more Check Images submitted by you to detect potentially fraudulent Check Images, and we may, in our sole and absolute discretion, reject any Check Image or other information sent to us through the Imaged Deposits Service. If after our examination of a Check Image or other information sent to us through the Imaged Deposits Service, we determine that you have complied

with and processed and transmitted the Check Image in accordance with the Account Agreement, then we shall accept the Check Image for deposit in your designated Treasury Account. Notwithstanding the fact that we accept a Check Image for deposit, any credit made to your designated Treasury Account shall be provisional, and you shall remain liable to us for any errors, inaccuracies, breach of warranties, and any loss sustained by, or any claim made against, us.

**4.7.3.6. Imaged Deposit Specific Transaction and Daily Limits.** If you exceed the daily and transaction-specific limits that we have established for you, we may, in our sole and absolute discretion, either (a) accept the deposited Checks in excess of these limits, or (b) refuse to accept the Checks that would cause you to exceed your limits or that are submitted to us when you have already exceeded the applicable limit. If you exceed the daily limit or per transaction-specific limit, we also may terminate the Imaged Deposits Service without notice, except as such notice is required by law. If we do at any time accept a Check for deposit when the Check would cause you to exceed your limits or when you have already exceeded your limits, we will have no obligation to do so in the future. For Remote Deposit Capture and image cash letter, we will inform you of your initial Daily Limit and per transaction limit when you first apply. Unless otherwise approved by us in writing, for Mobile Check Deposit, you may scan and submit to us no more than \$50,000 in Checks per day, and no single Check may be for more than \$50,000. We may at any time in our discretion raise or lower these limits.

**4.7.3.7.** Generally, Check Images scanned and transmitted to us before the Cut-Off Time will be considered received by us on that day. Acknowledgment of receipt or delivery does not constitute an acknowledgment by us that the transmission of a Check Image or Images does not contain errors or that the Item has been accepted for deposit. You agree that we may at any time, in our sole and absolute discretion, refuse to accept deposits of Checks from you via the Imaged Deposits Service. In the event that the Imaged Deposits Service is interrupted or are otherwise unavailable, you may, at your option, deposit Checks using an alternative method such as in-person at one of our financial centers, by courier service, via night drop, or postal mail to: EverBank, PO Box 11622, Newark, NJ 07101-9940.

#### **4.7.4. Your Obligations**

**4.7.4.1.** You hereby request that your designated Treasury Account(s) be made available for access through the Imaged Deposits Service.

**4.7.4.2.** You agree that you will use the Imaged Deposits Service to deposit only Checks drawn on financial institutions with a valid United States ABA/Routing Number and denominated in U.S. Dollars. All other items must be deposited by alternative means such as in person, via courier, using a night drop facility, or by postal mail accompanied by a deposit slip issued by us. Furthermore, you agree you will use the Imaged Deposits Service only to deposit Checks with us.

**4.7.4.3.** You will restrictively endorse all Items transmitted to us through the Imaged Deposits Service as "For Online Deposit Only at EverBank," or as otherwise instructed by us, and once transmitted to us, you will stamp or otherwise mark the original Check "Processed," "Deposited," "Scanned," or something similar.

**4.7.4.4.** Unless we make alternate arrangements with you, you are solely responsible for obtaining and installing a scanner or obtaining a Mobile Device, depending on the Imaged Deposits Service you use, and purchasing, obtaining, installing and operating any and all necessary equipment or software needed to access the Imaged Deposits Service from us or through an alternative we approve, and shall be responsible for maintaining such equipment or software in an operating condition, including any mandatory maintenance service programs prescribed by us. We will provide minimum specifications for scanners (including Mobile Devices) and all other equipment or software. If we do make arrangements with you to provide, or facilitate the installation of, a scanner, then, without our prior written consent, you will use that scanner only at the physical location where we provided it to you, or facilitated the installation thereof.

**4.7.4.5.** When you transmit Check Images to us, you must at that time specify which of your designated Treasury Accounts (if you have more than one designated Treasury Account) is to be credited with the funds from the Check. We shall provide you with details of the specific transactions, reported similarly as other transactions may be done, that were a result of access to the Imaged Deposits Services. You shall be responsible for auditing and balancing all of your designated Treasury Accounts.

**4.7.4.6.** You will retain each Check in a secure location for a reasonable period of time, but in no event fewer than 30 days after such Check has been converted to a Check Image and transmitted to us. At the end of such retention period, you shall destroy the Check using commercially reasonable procedures. During the time that you are required to retain the Check, you will promptly provide any retained Check (or, if the Check is no longer in existence, a copy of an Original Check that accurately represents all of the information on the front and back of the original Check as of the time the original Check was truncated or is otherwise sufficient) to determine whether or not a claim is valid to the Bank, as requested, to aid in the clearing and collection process or to resolve claims by third parties with respect to any Check.

**4.7.4.7.** You will retain all information relating to Check Images, including without limitation computerized information, for no less than 30 days. In the event of lost, mistaken, incomplete or unusable Check Images, or in the event of claims of fraud, alteration, counterfeit or otherwise, you agree to cooperate fully with us in providing information, including access to such records.

**4.7.4.8.** During the period that you maintain the Checks, you understand and agree that you must use a high degree of care to protect these Checks against security risks (i.e., maintain these Checks in a secure or protected location). These risks include, without limitation, (a) theft or reproduction of the Checks (including by employees) for purposes of presentment for deposit of these Checks (i.e., after the Checks have already been presented for deposit via the Imaged Deposits Service) and (b) unauthorized use of information derived from the Checks, including, but not limited to, confidential information and nonpublic personal information, as defined in 12 C.F.R. Part 573, as it may be amended from time to time. When you destroy and dispose of the Checks pursuant to the requirements for this Imaged Deposits Service, you understand and agree that you must use a high degree of care when selecting and implementing destruction and disposal procedures. Among other things, these procedures must be designed to ensure that the Checks are not accessed by unauthorized persons during the destruction and disposal process and, once destroyed, the Checks are no longer readable or capable of being reconstructed (e.g., through the use of competent shredding equipment).

**4.7.4.9.** You shall not present, or attempt to present, or allow others, either directly or indirectly, to present, or attempt to present, for deposit any Check that has already been presented for deposit to us or any other institution, whether that Check was presented as an Original Check or a Substitute Check, and whether that Check was deposited in person, by mail, by remote deposit or any other means. In

the event that you, or any third party, presents, or attempts to present, a deposit in violation of this subsection you agree to defend, indemnify, and hold us and our agents harmless from and against all Losses arising out of any claims, suits, or demands brought by third parties with respect to any such Substitute Check or Original Check.

**4.7.4.10.** You will verify and reconcile any out-of-balance condition, and promptly notify us of any errors within the time periods established in your Account Agreement (exclusive of weekends and applicable holidays). If notified within such period, we shall correct and resubmit all erroneous files and other data at our then standard charges, or at no charge, if the erroneous data directly resulted from our error.

**4.7.4.11.** If a Check Image is sent to us using your Access Code and password, we may deem it as having been sent by you and you shall be liable for that Check Image even if you did not authorize the sending of that Check Image. If a Check Image is sent to us by you, or was authorized by you to be sent to us, you shall be liable under this Account Agreement for that Check Image even if it was not sent using your Access Code and password, including Check Images transmitted through TPSP.

**4.7.4.12.** You assume full responsibility for the consequences of any misuse or unauthorized use of or access to the Imaged Deposits Service or disclosure of any confidential information or instructions of yours by your employees, agents, TPSP or other third parties.

**4.7.4.13.** You agree to promptly consent to any agreement, and to provide to us any certifications or re-certifications, that we request regarding the use of this Imaged Deposits Service.

#### **4.7.5. Representations and Warranties**

**4.7.5.1.** You represent and warrant that with respect to each Check processed by you hereunder and the corresponding Check Image: (a) neither you nor any of your employees or agents has altered the Check or the Check Image; (b) you have not and will not present, negotiate or transfer the Check Image or the Check to any other institution or person for payment, collection, or negotiation; (c) the Check Image is a digitized image of the front and back of the Check and accurately represents all of the information on the front and back of the Check as of the time you converted the Check to a Check Image; (d) the Check Image contains all endorsements of all parties transferring or negotiating the Item before you receive it; (e) you have sent us only one Check Image for any single Check and will not send us any other Check Image for that same Check; (f) you will not present any Check for collection or payment, or otherwise negotiate the Check, after the Check has been presented as a Check Image; (g) you will destroy the original Check promptly after the 30th day the you send the corresponding Check Image to us or within such other period as required by us and communicated to you in writing; (h) no person except as authorized by you has had access to the scanner or has transmitted or altered any Check or Check Image; and (i) you have restrictively endorsed all Items transmitted to us with "For Online Deposit Only at EverBank," or as otherwise instructed by us.

**4.7.5.2.** With respect to each Check and corresponding Check Image, you make to us all transfer and presentment warranties made under applicable law and the Account Agreement. If you capture a digital image of a previously truncated and reconverted Substitute Check for processing, you shall ensure that such Substitute Check meets the requirements for legal equivalency under Regulation CC, as amended from time to time, and that the identifications of previous truncating and reconvert bank(s) (as such terms are defined in Regulation CC) are preserved.

**4.7.5.3.** Because you are performing the function of converting Original Checks to Check Images which may become Substitute Checks you understand and agree that you are responsible, to the extent permitted by law, for all warranties and indemnifications set forth in Check 21 applying to the Reconvert Bank and Truncating Bank, as such terms are defined by Check 21, including, without limitation, the obligation to only convert an Original Check that allows for the creation of a Substitute Check that clearly and accurately represents the information on the front and back of the Original Check. We and our service providers may, but shall have no obligation, to screen Items or Substitute Checks for legal compliance.