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Administrative &  
Regulatory Updates to  
Agreements

## IMPORTANT REMINDER OF CHANGES TO REGULATION CC

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(Effective July, 1 2018)

The Federal Reserve Bank ("FRB") issued amendments to Regulation CC on May 31, 2017 that will become effective on July 1, 2018. The amendments update Regulation CC to bring the regulations up to speed with the current environment of check collection that has transitioned from one largely paper-based to one that is electronic-dominated. The FRB did not change any of the regulations governing Availability of Funds and Disclosure of Funds Availability Policies in Subpart B of Regulation CC. The FRB amended Subparts A, C, and D to create a framework for a check collection system that is inclusive of electronic considerations. Generally, the changes to this rule place different requirements on us, such as changed deadlines for check processing or shifted liability between banks. The new rule changes also mean we will make certain warranties on your behalf, and as a result you agree to indemnities tied to those warranties. The way you are impacted by the rule changes is through revisions to our agreements with you and is summarized in this document. Below you will find a broad overview of some Regulation CC changes that we will have to comply with as a bank. For further information regarding amendments to Regulation CC, we recommend you access a free downloadable copy of the Federal Register notice at <https://www.federalreserve.gov.htm>.

### APPLICATION OF EXISTING PAPER CHECK WARRANTIES AND CHECK-21-LIKE WARRANTIES TO ELECTRONIC CHECKS AND ELECTRONIC RETURNED CHECKS

Current paper check warranties are: (1) returned check warranties; (2) notice of nonpayment warranties; (3) settlement amount, encoding, and offset warranties; and (4) transfer and presentment warranties related to a remotely-created check ("RCC"). Those current warranties now also apply to electronic checks and electronic returned checks (e.g., a warranty that a bank will not be asked to pay an item twice or that an electronic image and information is sufficient to create a substitute check). Extending warranties ensures protection of electronic checks and electronic returned checks.

### ESTABLISHMENT OF NEW INDEMNITIES

- New Indemnity for Electronically-Created Items – a bank transferring an image or information that is from an electronically-created item indemnifies each transferee bank, any subsequent collecting bank, the paying bank, and any subsequent returning bank against any loss, claim, or damage that results from the fact that the image or information was not derived from a paper check.
- Indemnity Calculation – limits the amount of the indemnity so that it does not exceed the amount of loss of the indemnified bank
- New Indemnity for Losses Caused by Unauthorized or Duplicate Electronically-Created Items- each bank that transfers or presents an electronically-created item and receives settlement or other consideration indemnifies each transferee bank, any subsequent collecting bank, the paying bank, and any subsequent returning bank

- New Indemnity for Remote Deposit Capture- indemnity for remote deposit capture to indemnify a depository bank that received a deposit of an original paper check that was returned unpaid because the check was previously deposited using a remote deposit capture service and paid. It applies to depository banks that (1) are "truncating banks" under Regulation CC due to accepting deposits of an electronic image or other electronic information related to an original check, (2) do not receive the original check, (3) receive settlement or other consideration for an electronic check or substitute check related to the original check, and (4) does not receive the check returned unpaid. An exception was also added to prevent an indemnified bank from making such a claim if it accepted the original check containing a restrictive indorsement that is inconsistent with the means of deposit (e.g., "for mobile deposit only").

## NOTICE OF CHANGES – ADMINISTRATIVE AND REGULATORY UPDATES TO OUR AGREEMENTS

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(Effective when agreements are made available to you)

Due to the Regulation CC changes, BSA changes, and documentation improvements, we updated our Commercial Deposit Agreement and Terms and Services for the Treasury Services Agreement (now designated as the "Treasury Services Agreement") with you. Also, the agreements are updated in a way to improve the customer experience through an easily accessible format. We incorporated language from some of our supplemental agreements to the Commercial Deposit Agreement and/or Treasury Services Agreement, to streamline the papering process. The following is a broad overview of those changes, broken down by each agreement. Changes to the Commercial Deposit Agreement, Treasury Services Agreement, and the Online/Mobile Business Banking Services Agreement are listed below. Finally, if you are only interested in how terms affecting Wire Transfer Services changed, please see the last section below on Wire Transfer Services Agreement Terms.

### COMMERCIAL DEPOSIT AGREEMENT

#### General Changes to the Agreement

- New, hyperlinked Table of Contents and larger formatting to improve accessibility.
- Large sections of information are broken down into smaller paragraphs dealing with a particular topic.
- Organizational changes so that information is relocated to allow for a more logical flow of information.
- Deletion of the Spanish Language Translation section.

### **Section 1 - General Terms**

- Expanded language on the relationship of parties and there being no third party beneficiaries of the agreement.
- New language that our interest and fees are subject to the maximum rate permissible by law.

### **Section 2 – Opening and Closing Your Account**

- An escheatment paragraph was added.

### **Section 3 – Account Ownership**

- New terms describing commercial deposit account ownership.
- In the Account Changes paragraph there is new language to cover your responsibility to send us notifications about changes to certain information in accordance with BSA requirements.

### **Section 4 – Deposits to Your Account**

- New language for Credit for Deposits, Direct Deposits, Our Responsibility for Items You Deposit, Loss or Destruction of Items (some additional duties of cooperation placed on you), Returned Items (ability to deduct amount of returned items; no responsibility of other banks' actions; no separate notice of a return; importance of including your account number in your endorsement in the event the item is returned). Instructions about how and where you must place your endorsements on checks are added. Language is added about restrictive endorsements of which we will not be responsible for due to the automated processing of the large volume of checks we receive limiting our ability to inspect such endorsements. Finally, there is new language about Remotely Created Checks.

### **Section 5 – Availability of Deposited Funds**

- Added a new paragraph about Cash Withdrawals of large amounts and notification requirements.

### **Section 6 – Checks Drawn On Your Account**

- Added language about restrictive endorsements and there are also additions to Stop Payment Orders, including an indemnity that ties with those. There is a new paragraph about Your Rights Regarding Checks Drawn on Your Account.

### **Section 7 – Transactions On Your Account**

- Added language to clarify multiple payee's items and responsibilities along with a new paragraph called Disputed Transactions.

### **Section 8 – Overdrafts**

- There are new paragraphs added: Overdraft Timing, Credits and Debits, and Explaining the Posting Order of Transactions on Your Account. A sentence was added to explain course of performance

is inapplicable to Overdrafts, and some language added to Order of Posting paragraph that describes when and why the posting order may change or vary from time to time.

### **Section 9 – Statements and Other Communications and Notices**

- A unified standard of timing deadlines for notification and liability is set for clarity and logistical purposes. New paragraphs were added to cover Communications with You, When Notices are Effective, Recording, Phone Number and Address Change, and revisions to the paragraph regarding how you make notices to us and when we may disregard notices to us that we consider unreliable.

### **Section 10 – Our Standard of Care**

- There are updates to clarify our standard of care, align our warranty disclaimer and limitation of liability, and language added to Third Party Claims and Disputes among Owners and Others.

### **Section 11 – Your General Obligations**

- There is expanded language on your responsibility to safeguard your account, added in responsibility to comply with laws such as the Unlawful Internet Gambling Enforcement Act of 2006, and added in language that the indemnity provision survives the termination of the agreement and our ability to deduct indemnity-related amounts from your account.

### **Section 12 – Miscellaneous**

- Added language in the Interpretation paragraph for interpretation of the agreement headings, capitalized words, the word “may,” the word “include,” the word “assume,” the word “item”; new Course of Dealing paragraph; the paragraph about Garnishment, Legal Process, Disputes is now located in the Miscellaneous section.
- Deletion of the Spanish Language Translation section.

## **TREASURY SERVICES AGREEMENT**

### **General Changes to the Agreement**

- There were business organization changes that required modifications to existing forms and schedules. These changes eliminated certain forms to streamline our customer onboarding process that added language into the Treasury Services Agreement.
- The hyperlinked Table of Contents reflects new sections and exhibits.
- References to the “Terms” are changed to “Agreement” to reflect the overall change of the title of this agreement changing from “Terms and Conditions for Treasury Services” to “The Treasury Services Agreement”.

## Section 1 – General Terms

- A general paragraph, “Services That We Provide,” now specifically includes supplemental enrollment forms and agreements as part of the Agreement.
- A general paragraph, “Your Obligations,” changes the definition of Rules so that Rules also includes product and user Service guides.
- A general paragraph, “Your Personnel,” now called “Your Authorized Personnel,” was updated to add in language regarding the situation of when your Authorized Personnel are employees of your third party processor (originally located in separate Wire Transfer Agreement terms); also added is language regarding your Authorized Representatives.
- A general paragraph, “Security Procedure” added for easy accessibility for you along with additional security procedure paragraphs in other Agreement sections that are Service-specific, that may supplement or override the general Security Procedure (the focus of organization of the Security Procedure is structured based on how you submit entries, wire requests, payments or returns, notices, foreign exchange contracts, or other information to us); these additions eliminated the need for the FX Authorization Form package, Co-Bank FX Authorization, FX Authorization Form ONLY, FX Authorization Schedule I, FX Authorization Schedule II, FX Authorization Schedule III, Wire Schedule I – Telephone Only, Wire Schedule I – Telephone or other electronic transfers, Wire Schedule II – Telephone Only, Wire Schedule II – Telephone or other electronic transfers, Wire Schedule II – CMO, Telephone or other electronic customers (where terms of those agreements were also added into the applicable FX and Wire Services sections, respectively).
- A general paragraph, “Relationship of Parties; Third Parties,” was updated with new language that fits the status quo of currently-existing language about our relationship.
- A general paragraph, “Communications and Notices,” was updated to reflect terms on communications, the duty of obtaining required consents in certain situations, and whose records govern in event of conflict; originally located in separate Wire Transfer Agreement terms
- A general paragraph, “Confidentiality,” was updated with clearer descriptions of the standard of care of each party

## Section 4 – Depository Services

- “Your Account,” was added as a new paragraph to eliminate redundant provisions regarding your account under other portions of the agreement; this section applies to every account you open for Services under this Agreement.
- A section is added to Lockbox Services on the topic of “Acceptable Payees”.
- Language added to the Remote Deposit Capture section about Your Responsibilities, which are more clearly defined.
- Updated equipment service/warranty to clarify your maintenance warranty.
- Added a section on Cash Vault to govern these services.

## Section 5 – Electronic Transaction Services

- The Wire Transfer Agreement was added under Section 5, which eliminates the need for separate papering for the Wire Transfer Agreement, Designation of Outgoing Wire Transfer Notifications, Wire Schedule I – Telephone Only, Wire Schedule I – Telephone or other electronic transfers, Wire Schedule II – Telephone Only, Wire Schedule II – Telephone or other electronic transfers, Wire Schedule II – CMO, Telephone or other electronic customers, and Wire Schedule VII – Designation of Repetitive Transfer (To Another Institution from Bank); some terms are updated in regard to wire services, including a new definition “Authorized Personnel”, language that wire notifications may or may not be sent via paper form, and an updated liability paragraph. The paragraph about PINS and template codes was taken out of this section and added to the general section’s definition of Security Credentials along with terms about those. This section also has supplemental information unique to wires that adds to the general Security Procedure.
- Supplemental Wire Schedule III was changed to bear a new title reflecting that it is supplemental to either the standalone Wire Transfer Agreement or the Treasury Services Agreement.
- Supplemental Wire Schedule VI was changed so that the option to “ADD” a Standing Order Transfer is labeled as “NEW”.
- Supplemental Wire Schedule V was changed so that the option to “ADD” a Repetitive Transfer for Taxes is labeled as “NEW”.
- Supplemental Wire Schedule VII - Designation of Repetitive Transfer (To Another Institution from Bank) was merged with Supplemental Wire Schedule VI – Designation of Repetitive Transfer (now including the label of “Draw Downs” in the title), with the change so that the option to “ADD” a Repetitive Transfer is labeled as “NEW” and an extra option is added to draw from another institution or draw to another institution from the bank.
- The Agreement for MasterCard RPPS Services was added under Section 5, which eliminates the need for a separate standalone Agreement for MasterCard RPPS Services or MasterCard RPPS Services Attachment form; terms are largely left unchanged, but there is a new organization for clarity purposes to specifically designate some terms as direct terms between you and us versus indirect flow-through terms between you and MasterCard.

## Section 7 – Global Services

- The Multi-Currency Account Services Amendment to Terms and Conditions for Treasury Services was added under Section 7, which eliminates the need for a separate standalone Multi-Currency Account Services Amendment to Terms and Conditions for Treasury Services form; terms are unchanged.
- Section 7 terms about “FX Trading” added paragraphs about Agents, a unique security procedure to FX, procedures about new authorizations, restrictions on transfers and company instructions, and a representation and warranty about valid organization and authorization. These sections were all originally listed on the FX Authorization Form package, Co-Bank FX Authorization, FX Authorization Form ONLY, FX Authorization Schedule I, FX Authorization Schedule II, and FX Authorization

Schedule III, which have been eliminated as all necessary terms are incorporated in the Agreement.

- Trade Services agreement language added to the Global services Section 7

#### **Exhibit 1 – Processing Schedules**

- Clarification on Controlled Disbursement Payable through Drafts was added separately from the normal Payable through Draft service where the drafts are drawn on First National Bank Routing Transit number.
- The Cut-Off for Controlled Disbursement times was updated.
- ACH file processing cut off times for processing were added for clarification from normal originated files and Same-Day files.
- ACH Debit Block/ACH Positive Pay times were updated.

## **WIRE TRANSFER SERVICES AGREEMENT TERMS**

Note that there were business organization changes that made changes to existing forms and wire schedules. These changes eliminated certain forms to streamline the onboarding process, and led to some of the additions below that added language into the Treasury Services Agreement.

- A term about third party processors in relation to Authorized Personnel was moved into Section (c) Your Authorized Personnel, and applies to all Services.
- Terms about the duty to obtain required consents in certain situations and whose records of communication govern in the event of conflict were moved into a general section in the Agreement, "Communications and Notices," and apply to all Services.
- There were changes to the Security Procedure, because there is a new universal Security Procedure that was added to the general section of the Agreement to apply to all Services, as supplemented or overridden by terms regarding unique security procedures for Services under a different part of the Agreement. For Wire Transfer Services, the additional security procedure language under this section is supplemental to the general Security Procedure. There are no substantive changes to the terms under this section, however the change added in language that comes from various current schedules and the change is organizational and is structured based on how you submit entries, wire requests, payments or returns, notices, foreign exchange contracts, or other information to us); these additions eliminated the need for the Wire Schedule I – Telephone Only, Wire Schedule I – Telephone or other electronic transfers, Wire Schedule II – Telephone Only, Wire Schedule II – Telephone or other electronic transfers, Wire Schedule II – CMO, Telephone or other electronic customers (where terms of those agreements were also added into the applicable Wire Services sections).
- There are updated terms to define and describe "Authorized Personnel".



- The paragraph about PINS and template codes was taken out of this section and added to the general section's definition of Security Credentials along with terms about those, so it applies to all Services.
- Minor change to the terms about restrictions on Wire Requests and Customer Instructions.
- There are updated terms of language under the section about Acceptance and Rejection of Wire Requests, explaining that wire notifications may or may not be sent via paper form.
- There were no changes to the Execution of Wire Requests terms.
- There was a minor change to the terms about Cancellation or Amendment of Wire Request.
- There were no changes to the Misdescription of Parties, Bank Procedures and Wire Transfer Days, or Duty of the Customer.
- There was a minor change to the Liability of Bank.
- There are updated terms on the Liability of Customer, that explain added liability for when your current or former Authorized Personnel initiates a Wire Request outside the standard agreed upon process, noting that any additional verifications required by Bank and any internal policies, procedures, and technologies of Bank are deemed commercially reasonable.
- There was a minor change to the Affiliated/Sponsored Entities terms.

**These schedules were changed and still exist:**

- Supplemental Wire Schedule III was changed to bear a new title reflecting that it is supplemental to either the standalone Wire Transfer Agreement or the Treasury Services Agreement.
- Supplemental Wire Schedule VI was changed so that the option to "ADD" a Standing Order Transfer is labeled as "NEW".
- Supplemental Wire Schedule V was changed so that the option to "ADD" a Repetitive Transfer for Taxes is labeled as "NEW".
- Supplemental Wire Schedule VII - Designation of Repetitive Transfer (To Another Institution from Bank) was merged with Supplemental Wire Schedule VI – Designation of Repetitive Transfer (now including the label of "Draw Downs" in the title), with the change so that the option to "ADD" a Repetitive Transfer is labeled as "NEW" and an extra option is added to draw from another institution or draw to another institution from the bank.

## **ONLINE MOBILE BUSINESS BANKING AGREEMENT**

### **General Changes to the Agreement**

- Addition of a clarification that by clicking "I Agree" or "Submit" or logging on with your user ID and password you accept the electronic Online Mobile Business Banking Agreement and agree and represent to those statements under Section II. Relating to that topic.
- Minor changes grammatical changes throughout and "accounts" is used more frequently as a defined term, "Accounts".

### Online Banking Services Terms

- Section formerly titled "Internal Transfers" is now titled "Internal Transfer Scheduling." In that paragraph, an addition clarified that the one-time same day Internal Transfers that you request can be made virtually immediately if input before 8:00 AM and up to 10:00 PM.
- There is an addition under the section regarding Compliance with Law, Rules and Regulations that you authorize the bank as an ODFI to originate entries on your behalf.
- Under the section about Account Alerts, it states the Account Alerts Service allows you to now also request and receive via text messages in addition to email messages. There is an addition related to this change that you will use text message, you are responsible for providing the bank with a current and accurate mobile phone number.
- Under the section about Account Alerts, under the subheading on Account Alerts/Service Provider, there is additional ways of how you may receive Account Alerts (email, text message, push notifications, etc.). There is a clarification that your ability to receive Account Alerts is subject to any agreement you have with your Service Provider, and you are also responsible for fees charged to you by your Service Provider.
- Under the section about Account Alerts, there is a new sentence added in all-caps type that states you do not have to enroll in mobile banking services for you to be able to receive certain account alerts via text message, push notification, and/or other means.
- Reference to Priority Account Alerts is stricken.
- Business Days are clarified as Monday through Friday, excluding Saturdays, Sundays, and federal holidays.
- Fees paragraph on Standard Fees was simplified to one sentence only about how there is no charge for Internal Transfers made using the "Transfer Between Accounts" feature; all other previous sentences in this paragraph were deleted.

### Mobile Banking Application Services Terms

- The section on Enrollment added push notification and/or by other means to the list of how you agree to be contacted at the mobile phone number and email address you provide. Push notifications and text messages were added to the method of calls as a list of how you consent to contact to respond to your questions or collect money owed to the bank. There is an addition that you must promptly notify the bank if you change your phone number, and that your Service Provider's fees and rates may apply.
- Under Eligibility (and throughout the Agreement), the reference to "wireless carriers" is changed to "Service Provider," and the reference that "you wireless carrier's message and data rates may apply" in this paragraph was deleted.
- Under the Proper Use of the Mobile Remote Deposit Feature paragraph, you now agree to comply with instructions and restrictions that are in the Bank's applicable Product/Service or User Guide, in addition to instructions provided in the App and other instructions. There is an addition that you are responsible for assuring each check in remote deposit has to be both properly endorsed as well as include the

application of any required restrictive endorsements. You now also agree to be responsible for each image you submit to include all proper endorsements and required restrictive endorsements.

- Under Your Responsibility for Mobile Remote Deposits, each time you use the remote deposit service, you now also represent that the check payable to and endorsed by you also includes any required restrictive endorsement, in addition to the language that was already there. There was an addition that you agree to reimburse the Bank for all losses, etc. the Bank incurs that could have been prevented if you would have supplied a required restrictive endorsement, where applicable.