

## Check 21 Legal Disclosure

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### **IMPORTANT CONSUMER AWARENESS INFORMATION AND DISCLOSURES:**

A SUBSTITUTE CHECK IS THE LEGAL EQUIVALENT OF AN ORIGINAL CHECK FOR ALL PURPOSES, INCLUDING ANY PROVISIONS OF ANY FEDERAL OR STATE LAW, AND FOR ALL PERSONS, IF THE SUBSTITUTE CHECK:

- A. ACCURATELY REPRESENTS ALL OF THE INFORMATION ON THE FRONT AND BACK OF THE ORIGINAL CHECK AS OF THE TIME AT WHICH THE ORIGINAL CHECK WAS TRUNCATED; AND
- B. BEARS THE LEGEND: "THIS IS A LEGAL COPY OF YOUR CHECK. YOU CAN USE IT IN THE SAME WAY YOU WOULD USE THE ORIGINAL CHECK."; AND
- C. THE CONSUMER RECREDIT RIGHTS ESTABLISHED BY CHECK 21 APPLY WHEN A CONSUMER BELIEVES IN GOOD FAITH THAT A SUBSTITUTE CHECK WAS NOT PROPERLY CHARGED TO THE ACCOUNT OF THE CONSUMER. SUCH RIGHTS ARE SET FORTH BELOW:

1. **IN GENERAL:** A consumer may make a claim for expedited recredit from the financial institution that holds the account of the consumer with respect to a substitute check, if the consumer asserts in good faith that: (A) the financial institution charged the consumer's account for a substitute check that was provided to the consumer; (B) either the check was not properly charged to the consumer's account or the consumer has a warranty claim with respect to such substitute check; (C) the consumer suffered a resulting loss; and (D) the production of the original check or a better copy of the original check is necessary to determine the validity of any claim described in subparagraph (B).

2. **40-DAY PERIOD:** Any claim with respect to a consumer account may be submitted by a consumer before the end of the 40-day period beginning on the later of the date on which the financial institution mails or delivers, by a means agreed to by the consumer, the periodic statement of account for such account which contains information concerning the transaction giving rise to the claim or the date on which the substitute check is made available to the consumer. The 40-day period can be extended by a reasonable amount of time due to extenuating circumstances, including extended travel or the illness of the consumer, the 40-day period shall be extended by a reasonable amount of time.

3. **PROCEDURES FOR CLAIMS:** To make a claim for an expedited recredit with respect to a substitute check, the consumer shall provide to the financial institution that holds the account of such consumer: (A) a description of the claim, including an explanation of (i) why the substitute check was not properly charged to the consumer's account; or (ii) the warranty claim with respect to such check; (B) a statement that the consumer suffered a loss and an estimate of the amount of the loss; (C) the reason why production of the original check or a better copy of the original check is necessary to determine the validity of the charge to the consumer's account or the warranty claim; and (D) sufficient information to identify the substitute check and to investigate the claim. The financial institution can require that the claim be submitted in writing and the financial institution can permit the consumer to submit the claim electronically if the consumer has agreed to communicate with the financial institution in that manner.

4. **REREDIT TO CONSUMER: CONDITIONS FOR REREDIT:** The financial institution shall recredit a consumer account for the amount of a substitute check that was charged against the consumer account if (A) a consumer submits a claim to the financial institution with respect to that substitute check that meets the "PROCEDURES FOR CLAIMS" listed above and (B) the financial institution has not (i) provided to the consumer the original check or a copy of the original check (including an image or a substitute check) that accurately represents all of the information on the front and back of the original check, as of the time at which the original check was truncated; and (ii) demonstrated to the consumer that the substitute check was properly charged to the consumer account. **TIMING OF REREDIT.** In general, the financial institution shall recredit the consumer's account for the amount described under "CONDITIONS FOR REREDIT" above no later than the end of the business day following the business day on which the financial institution determines the consumer's claim is valid. **REREDIT PENDING INVESTIGATION.** If the financial institution has not yet determined that the consumer's claim is valid before the end of the 10th business day after the business day on which the consumer submitted the claim, the financial institution shall recredit the consumer's account for (i) the lesser of the amount of the substitute check that was charged against the consumer account, or \$2,500, together with interest if the account is an interest-bearing account, no later than the end of such 10th business day; and (ii) the remaining amount of the substitute check that was charged against the consumer account, if any, together with interest if the account is an interest-bearing account, not later than the 45th calendar day following the business day on which the consumer submits the claim.

## 5. AVAILABILITY OF RECREDIT:

**NEXT DAY AVAILABILITY.** Except as provided in "SAFEGUARD EXCEPTIONS" below, a financial institution that provides a recredit to a consumer account shall make the recredited funds available for withdrawal by the consumer by the start of the next business day after the business day on which the financial institution recredits the consumer's account. **SAFEGUARD EXCEPTIONS.** A financial institution may delay availability to a consumer of a recredit provided under "RECREDIT PENDING INVESTIGATION" above until the start of either the business day following the business day on which the financial institution determines that the consumer's claim is valid or the 45th calendar day following the business day on which the consumer submits a claim for such recredit, whichever is earlier, in any of the following circumstances: **NEW ACCOUNTS.** The claim is made during the 30-day period beginning on the business day the consumer account was established. **REPEATED OVERDRAFTS.** Without regard to the charge that is the subject of the claim for which the recredit was made (i) on 6 or more business days during the 6-month period ending on the date on which the consumer submits the claim, the balance in the consumer account was negative or would have become negative if checks or other charges to the account had been paid; or (ii) on 2 or more business days during such 6-month period, the balance in the consumer account was negative or would have become negative in the amount of \$5,000 or more if checks or other charges to the account had been paid. **PREVENTION OF FRAUD LOSSES.** The financial institution has reasonable cause to believe that the claim is fraudulent, based on facts (other than the fact that the check in question or the consumer is of a particular class) that would cause a well grounded belief in the mind of a reasonable person that the claim is fraudulent. **OVERDRAFT FEES.** No financial institution that delays the availability of a recredit under "SAFEGUARD EXCEPTIONS" above to any consumer account may impose any overdraft fees with respect to drafts drawn by the consumer on such recredited amount before the end of the 5-day period beginning on the date notice of the delay in the availability of such amount is sent by the financial institution to the consumer.

**6. REVERSAL OF RECREDIT:** A financial institution may reverse a recredit to a consumer account if the financial institution (1) determines that a substitute check for which the financial institution recredited a consumer account was in fact properly charged to the consumer account; and (2) notifies the consumer in accordance with "NOTICE TO CONSUMER" provisions below.

**7. NOTICE TO CONSUMER: NOTICE IF CONSUMER CLAIM NOT VALID.** If a financial institution determines that a substitute check subject to the consumer's claim was in fact properly charged to the consumer's account, the financial institution shall send to the consumer, no later than the business day following the business day on which the financial institution makes a determination (A) the original check or a copy of the original check (including an image or a substitute check) that (i) 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 (ii) is otherwise sufficient to determine whether or not the consumer's claim is valid; and (B) an explanation of the basis for the determination by the financial institution that the substitute check was properly charged, including a statement that the consumer may request copies of any information or documents on which the financial institution relied in making the determination. **NOTICE OF RECREDIT.** If a financial institution recredits a consumer account, the financial institution shall send to the consumer, no later than the business day following the business day on which the financial institution makes the recredit, a notice of (A) the amount of the recredit; and (B) the date the recredited funds will be available for withdrawal. **NOTICE OF REVERSAL OF RECREDIT.** In addition to the notice required if a consumer's claim is not valid, if a financial institution reverses a recredited amount, the financial institution shall send to the consumer, no later than the business day following the business day on which the financial institution reverses the recredit, a notice of (A) the amount of the reversal; and (B) the date the recredit was reversed. **MODE OF DELIVERY.** Any notice described above shall be delivered by United States mail or by any other means through which the consumer has agreed to receive account information.

**8. OTHER CLAIMS NOT AFFECTED:** Providing a recredit in accordance with this section shall not absolve the financial institution from liability for a claim made under any other law, such as a claim for wrongful dishonor under the Uniform Commercial Code, or from liability for additional damages under sections 6 or 10 of Check 21.

**9. CLARIFICATION CONCERNING CONSUMER POSSESSION:** A consumer who was provided a substitute check may make a claim for an expedited recredit under this section with regard to a transaction involving the substitute check whether or not the consumer is in possession of the substitute check.

**10. SCOPE OF APPLICATION:** These expedited recredit rights shall only apply to customers who are consumers.