

FEDERAL RESERVE BANK OF DALLAS

DALLAS, TEXAS 75222

Circular No. 69-114
May 2, 1969

To the Member and Nonmember Banks of the
Eleventh Federal Reserve District, and others concerned:

Enclosed is a notice of proposed rule making by the Board of
Governors, as published in the Federal Register of April 22, 1969.

The proposed amendments of Regulation J, "Collection of Checks
and Other Items by Federal Reserve Banks," would provide for direct
returns of unpaid items handled by the Reserve Banks and also a
method for Federal Reserve Banks to recover expense of litigation
and amounts of judgments entered against a Federal Reserve Bank
from the banks sending an item, under the conditions stated in the
amendment.

Any comments on the proposed amendment should be submitted
directly to the Secretary of the Board of Governors, Federal
Reserve System, Washington, D. C. 20551, by May 16, 1969.

Yours very truly,

P. E. Coldwell

President

Enclosure

FEDERAL RESERVE SYSTEM

[12 CFR Part 210]

[Reg. J]

COLLECTION OF CHECKS AND OTHER ITEMS BY FEDERAL RESERVE BANKS

Sender's Agreement and Return of Cash Items

The Board of Governors is considering amending Part 210 (Regulation J) in the following respects:

1. Section 210.5(a) would be amended and new paragraph (c) would be added at the end thereof as follows:

§ 210.5 Sender's agreement.

(a) By its action in sending any cash item or noncash item to a Federal Reserve Bank, the sender shall be deemed (1) to authorize the receiving Federal Reserve Bank, and any other Federal Reserve Bank or other collecting bank to which such item may be forwarded, to handle such item subject to the provisions of this Part and of the operating letters of the Federal Reserve Banks; (2) to warrant its own authority to give such authority; (3) to agree that such provisions shall, insofar as they are made applicable thereto, govern the relationships between such sender and the Federal Reserve Banks with respect to the handling of such item and its proceeds; and (4) to agree that it will honor drafts drawn upon it in connection with the direct return of cash items to it pursuant to § 210.12(b).

* * * * *

(c) Whenever any action or proceeding is brought in any court against a Federal Reserve Bank which has collected an item, based upon the alleged failure of the sender of such item to have the authority to make the warranty and the agreement referred to in paragraph (a) of this section, or upon any action taken by such Federal Reserve Bank within the scope of its authority for the purpose of collecting such item, or upon any warranty or agreement with respect thereto made by such Federal Reserve Bank consistently with paragraph (b) of § 210.6 of this part, such Federal Reserve Bank may, upon the entry of a final judgment or decree in such action or proceeding, recover from the sender in the manner provided herein the amount of attorneys' fees and other expenses of litigation actually incurred, and, in addition, any amount required to be paid by such Federal Reserve Bank under such judgment or decree, together with interest thereon. Such recovery may be effected by charging the amount thereof to any account of the sender maintained on the books of such Federal Reserve Bank (or if the sender is another Federal Reserve Bank, by entering a charge therefor against such other Federal Reserve Bank through the Interdistrict Settlement Fund), provided only (1) that such Federal Reserve Bank shall have made reasonable demand on the sender in writing to assume the defense of the action or proceeding, and (2) that the sender shall not have made any other provision acceptable to such Federal

Reserve Bank for the payment of such amount. A Federal Reserve Bank against which any such charge has been entered through the Interdistrict Settlement Fund may recover from its sender, in any case herein provided, as if the action or proceeding against the Federal Reserve Bank which entered the charge had been brought against it. The failure of any Federal Reserve Bank to avail itself of the remedy provided by this paragraph shall not prejudice the enforcement by it in any other manner of the indemnity agreement referred to in paragraph (b) of this section.

2. Section 210.12 would be amended by relettering paragraph (b) of that section as paragraph (c) and by inserting the following new paragraph (b):

§ 210.12 Return of cash items.

* * * * *

(b) Within the time and in the manner prescribed by paragraph (a) of this section, a paying bank may return an unpaid cash item directly to the sender, if the sender was the first bank to which the item was transferred for collection; and the paying bank may send for collection as a cash item a draft drawn upon the sender and obtain reimbursement. In such case, if the sender has received credit for the item in accordance with § 210.10, the sender shall reimburse the paying bank drawing the draft; and any provisional credits for the item between banks shall become and remain final.

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The purpose of the first and third of the proposed amendments would be to permit any paying bank to return an unpaid cash item directly to the bank for collection (if the sending bank was the first bank to which the item was transferred for collection) and to draw a draft upon the sending bank for reimbursement for provisional payment of the item. Such a procedure for the direct return of unpaid items is provided for by provisions of the Uniform Commercial Code as adopted in most but not all of the States. The proposed amendments would in effect supplement the Uniform Commercial Code, in respect to items handled by the Reserve Banks, in those States in which provision for direct return of unpaid items has not been adopted.

The second of the proposed amendments is intended to provide a procedure under which a Federal Reserve Bank that is sued in connection with a cash item collected by it may recover from the sending bank expenses of such litigation and the amount of any adverse judgment by charging the account of the sending bank, provided the Reserve Bank has tendered defense of the suit to the sending bank and such tender has not been accepted.

This notice is published pursuant to section 553(b) of title 5 of the United States Code, and § 262.2(a) of the Rules of Procedure of the Board of Governors.

To aid in the consideration of this matter by the Board, interested persons are invited to submit relevant data, views, or arguments. Any such material

should be submitted in writing to the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, to be received not later than May 16, 1969.

Dated at Washington, D.C., this 14th day of April 1969.

By order of the Board of Governors.
[SEAL] ROBERT P. FORRESTAL,
Assistant Secretary.

[F.R. Doc. 69-4719; Filed, Apr. 21, 1969; 8:45 a.m.]