

FEDERAL RESERVE BANK OF DALLAS
DALLAS, TEXAS 75222

Circular No. 69-221
August 27, 1969

AMENDMENT TO REGULATION J

**To the Member and Nonmember Banks of the
Eleventh Federal Reserve District, and Others Concerned:**

The Board of Governors of the Federal Reserve System has approved an amendment to section 210.5 of its Regulation J relating to tenders of defense in litigation involving the Reserve Banks, to become effective October 1, 1969.

A copy of the amendment is enclosed. Member banks are requested to file the amendment with Regulation J in the ring binder containing the Regulations of the Board of Governors and the Bulletins of this Bank. Nonmember banks are requested to file the amendment in the red binder containing emergency bulletins of this Bank.

The attached postal card should be signed and returned to us as an acknowledgment of the receipt of the enclosure.

Yours very truly,

P. E. Coldwell

President

Enclosures (2)

TITLE 12 — BANKS AND BANKING
CHAPTER II — FEDERAL RESERVE SYSTEM
SUBCHAPTER A — BOARD OF GOVERNORS OF THE
FEDERAL RESERVE SYSTEM

[Regulation J]

PART 210 — COLLECTION OF CHECKS AND OTHER
ITEMS BY FEDERAL RESERVE BANKS

Recovery by Reserve Banks of Certain Litigation Expenses

1. Effective October 1, 1969, Section 210.5 is amended by adding a paragraph (c) as follows:

(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 Section 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 seasonable 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.

2a. The purpose of the amendment is 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 if the Reserve Bank has tendered defense of the suit to the sending bank and such tender has not been accepted.

b. On April 22, 1969, notice of proposed rule making regarding a sender's agreement (Section 210.5) and return of cash items (Section 210.12) was published in the Federal Register (34 F.R. 6739). After consideration of all relevant material, including communications from interested persons, the Board of Governors has adopted Section 210.5(c), as set forth above, and has deferred action on the proposed amendments to Section 210.5(a) and to Section 210.12.

Adopted August 15, 1969.

By order of the Board of Governors.
(Signed) Kenneth A. Kenyon
Kenneth A. Kenyon,
Deputy Secretary.

(SEAL)