

FEDERAL RESERVE BANK OF DALLAS

DALLAS, TEXAS 75222

Circular No. 80-97

May 20, 1980

REVISION TO BULLETIN 11

TO ALL BANKS IN THE
ELEVENTH FEDERAL RESERVE DISTRICT:

Enclosed is a revised page 3 to Bulletin 11, "Instructions to Collecting and Paying Banks".

Section 5, Paragraph 5.25, has been revised to include wording concerning the return of items because of alleged forged, missing, or erroneous endorsements, or breach of warranty.

Member banks and others that maintain Regulations Binders should file the revised page of Bulletin 11 in their binders. The corresponding page of the bulletin should be removed and destroyed.

Questions concerning this revision should be directed to Larry J. Reck, Vice President at this Bank, Ext. 6337; Robert W. Schultz, Assistant Vice President at the El Paso Branch, (915) 544-4730; Vernon L. Bartee, Assistant Vice President at the Houston Branch, (713) 659-4433; or Thomas H. Robertson, Assistant Vice President at the San Antonio Branch, (512) 224-2141.

Sincerely yours,

Robert H. Boykin

First Vice President

Enclosure

Banks and others are encouraged to use the following incoming WATS numbers in contacting this Bank: 1-800-442-7140 (intrastate) and 1-800-527-9200 (interstate). For calls placed locally, please use 651 plus the extension referred to above.

be deemed to have approved the entry and the statement of account shall be deemed finally adjusted. The foregoing shall not relieve such a depositor from the duty of exercising due diligence to examine statements of account sent to it and of notifying us immediately upon discovery of any error, nor shall it apply to claims based upon the breach of a warranty in respect of an item to which an entry relates by a Federal Reserve Bank.

Section 5, RETURN ITEMS

5.00 Recovery

If a paying bank returns to us an unpaid cash item in accordance with the provisions of section 210.12 of Regulation J,⁴ it may recover any payment or remittance theretofore made by it for such item by requesting a credit therefor to an account on our books; and paying banks are urged to follow this procedure to the extent practicable. However, any such paying bank may return any such unpaid item to us for refund.

5.05 Time for return by collecting banks

Any collecting bank which receives an unpaid cash item from a paying bank for return to us is hereby directed to forward the return item to us before midnight of its next banking day following the banking day of its receipt of the return item, or as such time may be extended by operation of section 210.14 of Regulation J.

5.10 Warranty of collecting banks

A collecting bank which takes or receives a credit or obtains a refund for the amount of any remittance made by it in respect of a cash item forwarded to it by us and returned to us by it thereby:

- (1) Warrants to us and to the sender of the item and all prior parties thereon that its return of the unpaid item to us was timely; and
- (2) Agrees to indemnify us for any loss or expense sustained (including but not limited to attorneys' fees and expense of litigation) resulting from its breach of such warranty.

5.15 Warranty of paying banks

In accordance with section 210.12(b) of Regulation J, each paying bank which takes or receives credit or obtains a refund in respect of a cash item received by it from or through us, warrants to us, to any subsequent collecting bank, and to the sender and all prior parties that it took all action necessary to entitle it to recover such payment within the times limited therefor.

5.20 Items without our endorsement

A collecting bank or paying bank sending to this Bank a return item that does not bear our endorsement thereby warrants to us and to the sender of the item and all prior parties that the item was presented, sent or forwarded by us to the collecting or paying bank and that the collecting or paying bank will provide source of receipt information on request.

5.25 Return without entry

A paying bank, or a collecting bank may return a cash item to us with entry for credit or refund only if the item is returned within the time limits set forth in Section 210.12 of Regulation J and section 5.15 hereof, as applicable. Items returned after those time limits must be returned without entry; this includes those items returned for reason of a missing or erroneous endorsement, for a reason of a claim of breach of warranty, including alleged forged endorsement with affidavit of forgery, or for other reasons. We will make refund to the paying bank or collecting bank for a cash item returned without entry only if the sender specifically authorizes us to charge its account.

5.30 First and second returns

If the cash item is being dishonored and returned for the first time, the paying bank is urged to stamp the following symbol on the upper right hand area of the face of the item: ★. If the cash item is being dishonored and returned for the second time, the paying bank shall invalidate the MICR routing number on the face of the item in such a manner that the item will no longer qualify for handling by high-speed automated check processing equipment. No Federal Reserve Bank shall have any responsibility for handling as a cash item an item whose MICR routing number has not been invalidated as required.

5.35 Reason for nonpayment on item

Each cash item returned unpaid should bear a notation clearly indicating the reason for nonpayment.

5.40 Federal Reserve responsibility

If we are once furnished with a cash item accompanied by a statement, signed by an authorized representative of a sender (other than a Federal Reserve Bank), that, upon the information and belief of such sender, the paying bank did not take all action necessary to entitle it to recover its payment or remittance for such cash item within the times limited therefor by the provisions of Regulation J, thereby causing loss to the

⁴Section 210.12 of Regulation J is set forth in Supplement A to this bulletin.

sender, we shall, on the basis of such statement, charge the amount of the item to the account maintained or used by, and forward the item to, the collecting bank or paying bank to which the item was originally presented, sent or forwarded by us and credit the account on our books of the sender (or Federal Reserve Bank furnishing such item and statement) with that amount; provided, however, that such credit to the sender shall be revoked if for any reason we cannot obtain the amount of such credit from the paying bank, and such credit to the sender shall be revoked if we subsequently receive not later than fifteen (15) banking days after we forwarded the item to the collecting bank or paying bank as provided in this paragraph, the same cash item accompanied by a statement, signed by an officer of the paying bank, that the paying bank took all action necessary to entitle it to recover its payment or remittance within the times limited therefor by the provisions of Regulation J, and the paying bank (or collecting bank furnishing such item and statement) will be credited accordingly. No Federal Reserve Bank shall have any responsibility for determining whether the paying bank took all action necessary to entitle it to recover such payment or remittance or whether the return of the item to it by a collecting bank was timely.

5.45 Maintenance of records

For its own protection each paying and collecting bank returning cash items to us for any reason should maintain adequate records to permit the reproduction or tracing of any items lost or destroyed in transit.

5.50 Provisional credits

If a paying bank or a collecting bank makes, in accordance with applicable state law, a direct return to the depository bank of an unpaid cash item which it has received from or through us or any other Federal Reserve Bank, any provisional credit for the item:

- (1) Between such paying bank or collecting bank and this Bank or any other Federal Reserve Bank;
- (2) Between this Bank or any other Federal Reserve Bank and the sender; and
- (3) Between this Bank and any other Federal Reserve Bank

shall become and remain final.

Section 6, UNIFORM INSTRUCTIONS REGARDING PROTEST AND ADVICE OF NONPAYMENT

6.00 General

Except as provided in section 6.05 hereof, all paying banks and collecting banks must receive, handle, and forward cash items in accordance with the following uniform instructions regarding protest and wire advice of nonpayment; and any contrary or special instructions noted on cash letters or otherwise transmitted with cash items are to be disregarded:

(1) **PROTEST** any dishonored item of \$2,500 or over:

(a) Which appears on its face to have been drawn at a place which is not within any state,⁵ unless it bears on its face the ABA no-protest symbol of a Federal Reserve Bank or of a preceding bank endorser, or

(b) Which bears on its face the legend, "**PROTEST REQUIRED**," of a Federal Reserve Bank or of a preceding bank endorser.

(2) **DO NOT PROTEST**:

(a) Any item of less than \$2,500, or

(b) Any item of \$2,500 or over unless it is protestable under subparagraph (1).

(3) **WIRE ADVICE** of nonpayment of any item of \$2,500 or over, unless it has not been paid because of a missing, irregular, or unsatisfactory endorsement or unless it bears on its face the legend, "**DO NOT WIRE NONPAYMENT**," of a Federal Reserve Bank or a preceding bank endorser. Include in the advice of nonpayment, the amount of the item, the reason for nonpayment, the date of our cash letter, the name of the drawer or maker, and the names of all endorsers preceding the Federal Reserve Bank or their ABA transit numbers, if any. Wire advices of nonpayment should be furnished in a form similar to that which is used in the following specimen:

Returning \$2,513.24 insufficient funds yours
18th maker John Doe endorsed 37-2 17th
88-4185 16th and Richard Roe.

(4) **DO NOT WIRE ADVICE** of nonpayment of:

(a) Any item less than \$2,500; or

(b) Any item of \$2,500 or over unless such advice is required by subparagraph (3).

6.05 United States obligations

DO NOT PROTEST AND DO NOT WIRE ADVICE of nonpayment of any cash item, regard-

⁵The term "state" is defined in section 210.2(n) of Regulation J to mean any state of the United States, the District of Columbia, or Puerto Rico, or any territory, possession, or dependency of the United States.