

FEDERAL RESERVE BANK OF DALLAS

DALLAS, TEXAS 75222

Circular No. 80-202
October 29, 1980

FINAL REVISION TO REGULATION J

TO ALL BANKS AND
OTHERS CONCERNED IN THE
ELEVENTH FEDERAL RESERVE DISTRICT:

The Federal Reserve Board has adopted a clarification and simplification of its Regulation J, effective November 13, 1980, which deals with Reserve Bank procedures for check collection and wire transfer of funds. There is no substantive change in the regulation.

The modification was undertaken by the Board as part of its Regulatory Improvement Project, under which all of the Board's regulations and rules are being reviewed to determine whether they are in whole or in part required by law, their costs and benefits, whether underlying statements need revision, whether there are non-regulatory alternatives, and whether any regulations can be eliminated. The Board's regulations are also being simplified or put into better format where possible.

Printed on the following pages are the press release and Federal Register document regarding the revision of Regulation J.

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

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.

FEDERAL RESERVE press release



For immediate release

October 9, 1980

The Federal Reserve Board today adopted a clarification and simplification of its Regulation J, which deals with Reserve Bank procedures for check collection (Subpart A of the Regulation) and wire transfer of funds (Subpart B).

The modification, proposed for public comment on December 14, 1979, makes no substantive change in the Regulation. It was undertaken by the Board as part of its Regulatory Improvement Project, under which all of the Board's regulations and rules are being reviewed to determine whether they are in whole or in part required by law, their costs and benefits, whether underlying statutes need revision, whether there are non-regulatory alternatives, and whether any regulations can be eliminated. As part of this project, the Board's regulations are also being simplified or put into better format where possible.

A proposed new section of Regulation J (Subpart C), dealing with electronic transfer of funds through automated clearing houses operated by the Federal Reserve, was issued for comment in November 1979.

Copies of Subparts A and B of Regulation J will be distributed to institutions that use the Federal Reserve for check clearing and wire transfer of funds. The text of the Regulation is available upon request at the Federal Reserve Board and the Reserve Banks.

TITLE 12—BANKS AND BANKING

CHAPTER II—FEDERAL RESERVE SYSTEM

SUBCHAPTER A—BOARD OF GOVERNORS OF THE FEDERAL RESERVE SYSTEM

PART 210—COLLECTION OF CHECKS AND OTHER ITEMS
AND TRANSFER OF FUNDS

REGULATION J

Docket No. R-0266

AGENCY: Board of Governors of the Federal Reserve System.

ACTION: Final Rule.

SUMMARY: The Board is adopting in final form revisions that clarify and simplify Subparts A and B of Regulation J. No substantive changes are intended to occur in these regulatory provisions.

EFFECTIVE DATE: November 13, 1980.

FOR FURTHER INFORMATION CONTACT: Lee S. Adams, Senior Attorney (202/452-3623), Legal Division, Board of Governors of the Federal Reserve System, Washington, D.C. 20551.

SUPPLEMENTARY INFORMATION: As part of its Regulatory Improvement Project, the Board proposed on December 13, 1979 (44 FR 75174) revisions intended to simplify and clarify the regulatory framework for the collection of checks and other items and for wire transfers of funds. These regulatory provisions are found in Subparts A and B of Regulation J. The Board's proposal contained no substantive changes in the regulation, and the Board noted that care had been taken not to alter legal concepts through stylistic change. The Board believed this to be important since much of the terminology of the regulation is common and legally recognized through its consistency with the Uniform Commercial Code.

The comments received on the proposed revisions were supportive of the Board's effort to simplify and clarify Regulation J without making substantive changes to it. Nearly all of the commentors stated they believed the proposal had achieved its objective. Further, the commentors noted that the many bankers and others who use this regulation would have a better understanding of it and would be better able to apply it as a result of the changes.

The Board has made only minor changes in the regulation from its earlier proposal. Unless otherwise noted, the changes that are discussed compare the existing provisions of Regulation J with those contained in the revised version being published in this notice. One new provision that does differ from the December 13 proposal is in section 210.2(j) of Subpart A, where the term "sender" has been revised to include a branch or agency of a foreign bank maintaining reserves in accordance with the provisions of Regulation D (12 CFR 204). Branches and agencies of foreign banks that begin to maintain reserves on November 13 will at that time be eligible to send checks and wire transfers of funds through Federal

Reserve Banks under authority granted in section 7 of the International Banking Act of 1978. A similar change in Subpart B was not required, however, because section 210.26(g) already defines a "transferor" as including an institution maintaining or using an account at a Reserve Bank and authorized by the Reserve Bank to initiate wire transfers of funds. The terms under which branches and agencies of foreign banks will be authorized to initiate wire transfers of funds will be detailed in a separate release. The Board anticipates making additional definitional modifications in the near future as needed to implement provisions of the Monetary Control Act of 1980 (Title I of Public Law 96-221) which entitles all depository institutions to access to Federal Reserve check collection and wire transfer services as these services are priced. The Board also notes that the revised regulation adopted today does not include the proposed Subpart C, which was published for comment on November 26, 1979 (44 FR 67995), to govern the handling by Reserve Banks of automated clearing house items.

The following is a brief discussion of certain of the changes made in Subparts A and B that are embodied in the regulation published today.

Subpart A

Section 210.2 ("Definitions"). The definitions have been placed in alphabetical order for easier reference. The definition of "actually and finally collected funds" (new section 210.2(a)) comes from former section 210.1(b). The definition of "check" (new section 210.2(e)) combines the former definitions of "check" and "draft" (former sections 210.2(b) and (c)), with the reference to "bill of exchange" deleted since all states have adopted Articles 3 and 4 of the Uniform Commercial Code. The former definition of "nonbank depositor" (former section 210.2(m)) has been deleted and its substance incorporated in section 210.3(d). Throughout the subpart, the word "forwards" has been omitted, since the term "sends" is adequate, and the words "remit" and "remittance" have been omitted since the terms "pay" and "payment" are adequate.

Section 210.3(a) ("General") includes the authorization for Reserve Banks to issue circulars, from section 210.16 of the former regulation. The words "or other matters deemed appropriate by the Reserve Banks" have been added to answer the question raised in Colorado National Bank v. First National Bank and Trust Co., 459 F. Supp. 1366 (W.D. Mich. 1978), whether Reserve Bank circular provisions dealing with "wire notice of nonpayment" are authorized by Regulation J. The Federal Reserve Banks will issue operating circulars revised for the purpose of clarification and simplification on the effective date of the regulation. The two existing circulars governing cash items ("Collection of Cash Items" and "Instructions to Collecting Banks and Paying Banks") have been consolidated into one circular, and the circular governing noncash items ("Collection of Noncash Items") has been shortened. Section 210.3(b) ("Binding effect") has been modified to clarify that the subpart and the Reserve Banks' circulars are binding on all parties. Section 210.3(c) ("Government Issues") is derived from former section 210.1(b); section 210.3(d) ("Government Senders") is from former section 210.2(m).

Section 210.5 ("Sender's Agreement; Recovery by Reserve Bank"). The sender's agreement that the subpart and the Reserve Banks' circulars will govern the relationships between the sender and the Reserve Banks (last portion of former section 210.5(a)) is deleted, since section 210.3(b) provides that the subpart and the circulars are binding.

Section 210.12(a) ("Recovery of payment"). The last two sentences in the proposal have been rewritten to eliminate any implication that the time limits cannot be extended by circumstances beyond a party's control under section 210.14.

Subpart B

Section 210.26 ("Definitions"). The definitions have been placed in alphabetical order for easier reference. The definition of "item" (now section 210.26(c)) derives from the former definitions of "item" and "instrument for the payment of money" (former sections 210.51(a) and (c)). The definition of "transfer request" or "request" (section 210.26(e)) is new and incorporates the sense of former section 210.54. A transfer request is not an "item" because it is not a writing. References to member banks, Reserve Banks, international organizations, and so forth, have been deleted from the definitions of "transferor" and "transferee" in former sections 210.52(d) and (e) because a transferor or transferee can be any institution maintaining or using an account at a Reserve Bank (a transferor must be authorized to transfer funds and may have conditions imposed on the privilege). The definition of "transferor's account" and "transferee's account" in section 210.26(h) is new; it clarifies that an account can be a transferor's or transferee's account even if it is in the name of another institution, so long as the transferor or transferee has access to it. The former definitions of "international organization" and "foreign correspondent" have been deleted, since the terms are never used in the regulation.

Section 210.27 ("General Provisions") has been placed after the definitions, to parallel Subpart A. Section 210.27(a) ("General") incorporates former section 210.57(c), former section 210.65, and part of former section 210.51(a). As under Subpart A, the Reserve Banks' operating circulars under Subpart B will be issued in clarified and simplified form on the effective date of the regulation. Section 210.27(b) ("Binding effect") has been rewritten to clarify that the subpart and the Reserve Banks' circulars are binding on all parties.

Section 210.28(b) ("Transfer requests") derives from former section 210.54 and incorporates the term now defined in section 210.26(e).

Section 210.29 derives from former section 210.55. The transferor's agreement in former section 210.55(3) has been deleted, since Subpart B and the Reserve Banks' circulars are binding on transferors by virtue of section 210.27(b).

Section 210.30(b) has been amended to refer to a transferee that receives an advice of credit of a transfer item designating a beneficiary.

Section 210.31 ("Sending Transfer Items and Requests") derives from former sections 210.57(a) and (b). (Former section 210.57(c) is covered by new section 210.27(a).) Section 210.31(a) has been recast from the version proposed for comment, without substantive change.

Section 210.33 ("Time Limits") derives from former section 210.59, except that section 210.33(d) ("As of adjustments") derives from former section 210.64(b). The good faith/ordinary care language in former section 210.64(b) has been eliminated, since the paragraph applies even when a Reserve Bank has been negligent.

Section 210.34 ("Advices of Credit and Debit") derives from former section 210.60, with various details eliminated as best left to the Reserve Banks' circulars.

Section 210.38(b) ("Damages") has been rewritten to incorporate the provision in section 210.38(a) ("Limitations on liability") that a Reserve Bank can be liable only to its immediate transferor.

Effective November 13, 1980, pursuant to the Boards' authority under the Federal Reserve Act, section 13 (12 U.S.C. § 342), section 16 (12 U.S.C. §§ 248(o), 360), section 11(i) (12 U.S.C. § 248(i)), and other laws, Regulation J (12 CFR PART 210) is revised to read as follows:

REGULATION J

(12 CFR 210)

Collection of Checks and Other Items and Wire Transfers of Funds

SUBPART A--Collection of Checks and Other Items

SECTION 210.1--Authority, Purpose, And Scope

The Board of Governors of the Federal Reserve System ("Board") has issued this subpart pursuant to the Federal Reserve Act, section 13 (12 U.S.C. §342), section 16 (12 U.S.C. §§ 248(o), 360), section 11(i) (12 U.S.C. § 248(i)), and other laws. This subpart governs the collection of checks and other cash and noncash items by Federal Reserve Banks ("Reserve Banks"). Its purpose is to provide rules for collecting items and settling balances.

SECTION 210.2--Definitions

As used in this subpart, unless the context otherwise requires:

- (a) "Actually and finally collected funds" means cash or any other form of payment that is, or has become, final and irrevocable.
- (b) "Bank draft" means a check drawn by one bank on another bank.
- (c) "Banking day" means a day during which a bank is open to the public for carrying on substantially all its banking functions.
- (d) "Cash item" means:
 - (1) a check other than one classified as a noncash item under this section; or
 - (2) any other item payable on demand and collectible at par that the Reserve Bank of the District in which the item is payable is willing to accept as a cash item.
- (e) "Check" means a draft, as defined in the Uniform Commercial Code, that is drawn on a bank and payable on demand.
- (f) "Item" means an instrument for the payment of money, whether negotiable or not, that is:

- (1) payable in a Federal Reserve District^{1/} ("District");
- (2) sent by a sender to a Reserve Bank for handling under this subpart; and
- (3) collectible in funds acceptable to the Reserve Bank of the District in which the instrument is payable.

Unless otherwise indicated, "item" includes both cash and noncash items. "Item" does not include a check that cannot be collected at par,^{2/} or an "item" as defined in section 210.26 that is handled under subpart B.

- (g) "Nonbank payor" means a payor of an item, other than a bank.
- (h) "Noncash item" means an item that a receiving Reserve Bank classifies in its operating circulars as requiring special handling. The term also means an item normally received as a cash item if a Reserve Bank decides that special conditions require that it handle the item as a noncash item.
- (i) "Paying bank" means:
 - (1) the bank by which an item is payable, unless the item is payable or collectible through another bank and is sent to the other bank for payment or collection; or
 - (2) the bank through which an item is payable or collectible and to which it is sent for payment or collection.
- (j) "Sender" means any of the following that sends an item to a Reserve Bank: a member bank, a nonmember clearing bank, another Reserve Bank, an international organization, a foreign correspondent, or a branch or agency of a foreign bank maintaining reserves under section 7 of the International Banking Act of 1978.
 - (1) "Nonmember clearing bank" means:
 - (i) a bank that is not a member of the Federal Reserve System, but maintains with a Reserve Bank the balance referred to in the first paragraph of section 13 of the Federal Reserve Act; or
 - (ii) a corporation that maintains an account with a Reserve Bank in conformity with section 211.4 of this chapter (Regulation K).

^{1/} For purposes of this subpart, the Virgin Islands and Puerto Rico are deemed to be in the Second District, and Guam and American Samoa in the Twelfth District.

^{2/} The Board publishes a "Memorandum on Exchange Charges," listing the banks that would impose exchange charges on cash items and other checks forwarded by Reserve Banks and therefore would not pay at par.

- (2) "International organization" means an international organization for which a Reserve Bank is empowered to act as depository or fiscal agent and maintains an account.
- (3) "Foreign correspondent" means any of the following for which a Reserve Bank maintains an account: a foreign bank or banker, a foreign state as defined in section 25(b) of the Federal Reserve Act (12 U.S.C. §632), or a foreign correspondent or agency referred to in section 14(e) of that Act (12 U.S.C. § 358).
- (k) "State" means a State of the United States, the District of Columbia, Puerto Rico, or a territory, possession, or dependency of the United States.

SECTION 210.3--General Provisions

(a) General. Each Reserve Bank shall receive and handle items in accordance with this subpart, and shall issue operating circulars governing the details of its handling of items and other matters deemed appropriate by the Reserve Bank. The circulars may, among other things, classify cash items and noncash items, require separate sorts and letters, and provide different closing times for the receipt of different classes or types of items.

(b) Binding effect. This subpart and the operating circulars of the Reserve Banks are binding on the sender of an item, on each collecting bank, paying bank, and nonbank payor, to which a Reserve Bank (or a subsequent collecting bank) presents or sends an item, and on other parties interested in the item, including the owner.

(c) Government Items. As depositories and fiscal agents of the United States, Reserve Banks handle certain items payable by the United States or certain Federal agencies as cash or noncash items. To the extent provided by regulations issued by, and arrangements made with, the United States Treasury Department and other Government departments and agencies, the handling of such items is governed by this subpart. The Reserve Banks shall include in their operating circulars such information regarding these regulations and arrangements as the Reserve Banks deem appropriate.

(d) Government Senders. Except as otherwise provided by statutes of the United States, or regulations issued or arrangements made thereunder, this subpart and the operating circulars of the Reserve Banks apply to the following when acting as a sender: a department, agency, instrumentality, independent establishment, or office of the United States, or a wholly owned or controlled Government corporation, that maintains or uses an account with a Reserve Bank.

SECTION 210.4--Sending Items to Reserve Banks

(a) A sender may send any item to the Reserve Bank with which it maintains or uses an account, but that Reserve Bank may permit or require the sender to send direct to another Reserve Bank an item payable within the other Reserve Bank's District.

(b) With respect to an item sent direct, the relationships and the rights and liabilities between the sender, the Reserve Bank of its District, and the Reserve

Bank to which the item is sent are the same as if the sender had sent the item to the Reserve Bank of its District and that Reserve Bank had sent the item to the other Reserve Bank.

- (c) The Reserve Banks shall receive cash items and other checks at par.

SECTION 210.5—Sender's Agreement; Recovery By Reserve Bank

- (a) Sender's agreement. By sending an item to a Reserve Bank, the sender:

- (1) authorizes the receiving Reserve Bank (and any other Reserve Bank or collecting bank to which the item is sent) to handle the item subject to this subpart and to the Reserve Banks' operating circulars, and warrants its authority to give this authorization;
- (2) warrants to each Reserve Bank handling the item that: (i) the sender has good title to the item or is authorized to obtain payment on behalf of one who has good title (whether or not this warranty is evidenced by the sender's express guaranty of prior indorsements on the item); and (ii) to the extent prescribed by State law applicable to a Reserve Bank or subsequent collecting bank handling the item, the item has not been materially altered; but this subparagraph (2) does not limit any warranty by a sender arising under State law; and
- (3) agrees to indemnify each Reserve Bank for any loss or expense sustained (including attorneys' fees and expenses of litigation) resulting from (i) the sender's lack of authority to make the warranty in paragraph (a)(1) of this section; (ii) any action taken by the Reserve Bank within the scope of its authority in handling the item; or (iii) any warranty made by the Reserve Bank under section 210.6(b) of this subpart.

- (b) Recovery by Reserve Bank. If an action or proceeding is brought against a Reserve Bank that has handled an item, based on:

- (1) the alleged failure of the sender to have the authority to make the warranty and agreement in subparagraph (a)(1) of this section;
- (2) any action by the Reserve Bank within the scope of its authority in handling the item; or
- (3) any warranty made by the Reserve Bank under section 210.6(b) of this subpart,

the Reserve Bank may, upon the entry of a final judgment or decree, recover from the sender the amount of attorneys' fees and other expenses of litigation incurred, as well as any amount the Reserve Bank is required to pay under the judgment or decree, together with interest thereon.

- (c) Methods of recovery. The Reserve Bank may recover the amount stated in paragraph (b) of this section by charging any account on its books that is maintained or used by the sender (or if the sender is another Reserve Bank, by entering a charge against the other Reserve Bank through the Interdistrict Settlement Fund), if:

- (1) the Reserve Bank made reasonable written demand on the sender to assume defense of the action or proceeding; and
- (2) the sender has not made any other arrangement for payment that is acceptable to the Reserve Bank.

A Reserve Bank that has been charged through the Interdistrict Settlement Fund may recover from its sender in the manner and under the circumstances set forth in this paragraph. A Reserve Bank's failure to avail itself of the remedy provided in this paragraph does not prejudice its enforcement in any other manner of the indemnity agreement referred to in subparagraph (a)(3) of this section.

SECTION 210.6—Status, Warranties, and Liability of Reserve Bank

(a)(1) Status and liability. A Reserve Bank shall act only as the sender's agent in respect of an item. This agency terminates not later than the time the Reserve Bank receives payment for the item in actually and finally collected funds and makes the proceeds available for use by the sender. A Reserve Bank shall not act as agent or subagent of an owner or holder of an item other than the sender. A Reserve Bank shall not have or assume any liability to the sender in respect of an item or its proceeds except for the Reserve Bank's own lack of good faith or failure to exercise ordinary care.

(2) Reliance on routing designation appearing on item. A Reserve Bank may present or send an item based on the routing number or other designation of a paying bank or nonbank payor appearing in any form on the item when the Reserve Bank receives it. A Reserve Bank shall not be responsible for any delay resulting from its acting on any designation, whether inscribed by magnetic ink or by other means, and whether or not the designation acted on is consistent with any other designation appearing on the item.

(b) Warranties and liability. By presenting or sending an item, a Reserve Bank warrants to a subsequent collecting bank and to the paying bank and any other payor:

- (1) that the Reserve Bank has good title to the item (or is authorized to obtain payment on behalf of one who either (i) has good title or (ii) is authorized to obtain payment on behalf of one who has good title), whether or not this warranty is evidenced by the Reserve Bank's express guaranty of prior indorsements on the item; and
- (2) that the item has not been materially altered to the extent prescribed by State law applicable to a Reserve Bank or subsequent collecting bank holding the item.

The Reserve Bank shall not have or assume any other liability to the paying bank or other payor, except for the Reserve Bank's own lack of good faith or failure to exercise ordinary care.

SECTION 210.7—Presenting Items for Payment

(a) Presenting or sending. As provided under State law or as otherwise permitted by this section: (1) a Reserve Bank or a subsequent collecting bank may present an item for payment or send the item for presentment and payment; and

(2) a Reserve Bank may send an item to a subsequent collecting bank with authority to present it for payment or to send it for presentment and payment.

(b) Place of presentment. A Reserve Bank or subsequent collecting bank may present an item:

- (1) at a place requested by the paying bank;
- (2) at a place requested by the nonbank payor, if the item is payable by a nonbank payor other than through a paying bank;
- (3) under a special collection agreement consistent with this subpart; or
- (4) through a clearing house and subject to its rules and practices.

(c) Presenting or sending direct. A Reserve Bank or subsequent collecting bank may, with respect to an item payable in the Reserve Bank's District:

- (1) present or send the item direct to the paying bank, or to a place requested by the paying bank; or
- (2) if the item is payable by a nonbank payor other than through a paying bank, present it direct to the nonbank payor. Documents, securities, or other papers accompanying a noncash item shall not be delivered to the nonbank payor before the item is paid unless the sender specifically authorizes delivery.

(d) Item payable in another district. A Reserve Bank receiving an item payable in another District ordinarily sends the item to the Reserve Bank of the other District, but with the agreement of the other Reserve Bank, may present or send the item as if it were payable in its own District.

SECTION 210.8—Presenting Noncash Items for Acceptance

A Reserve Bank or a subsequent collecting bank may, if instructed by the sender, present a noncash item for acceptance in any manner authorized by law if: (1) the item provides that it must be presented for acceptance; (2) the item is payable elsewhere than at the residence or place of business of the payor; or (3) the date of payment of the item depends on presentment for acceptance. Documents accompanying a noncash item shall not be delivered to the payor upon acceptance of the item unless the sender specifically authorizes delivery. A Reserve Bank shall not have or assume any other obligation to present or to send for presentment for acceptance any noncash item.

SECTION 210.9—Payment

(a) Cash items. A paying bank becomes accountable for the amount of a cash item received directly or indirectly from a Reserve Bank, at the close of the paying bank's banking day on which it receives^{2/} the item if it retains the item after the close of that banking day, unless, prior to that time, it pays for the item by:

- (1) debit to an account on the Reserve Bank's books;

- (2) cash; or
- (3) in the discretion of the Reserve Bank, any other form of payment.

The proceeds of any payment shall be available to the Reserve Bank by the close of the Reserve Bank's banking day on the banking day of receipt of the item by the paying bank. If the banking day of receipt is not a banking day for the Reserve Bank, payment shall be made on the next day that is a banking day for both the Reserve Bank and the paying bank.

(b) Noncash items. A Reserve Bank may require the paying or collecting bank to which it has presented or sent a noncash item to pay for the item in cash, but the Reserve Bank may permit payment by a debit to an account on the Reserve Bank's books or by any of the following that is in a form acceptable to the Reserve Bank: bank draft, transfer of funds or bank credit, or any other form of payment authorized by State law.

(c) Nonbank payor. A Reserve Bank may require a nonbank payor to which it has presented an item to pay for it in cash, but the Reserve Bank may permit payment in any of the following that is in a form acceptable to the Reserve Bank: cashier's check, certified check, or other bank draft or obligation.

(d) Handling of payment. A Reserve Bank may handle a bank draft or other form of payment it receives in payment of a cash item as a cash item. A Reserve Bank may handle a bank draft or other form of payment it receives in payment of a noncash item as either a cash item or a noncash item.

(e) Liability of Reserve Bank. A Reserve Bank shall not be liable for the failure of a collecting bank, paying bank, or nonbank payor to pay for an item, or for any loss resulting from the Reserve Bank's acceptance of any form of payment other than cash authorized in paragraphs (a), (b), and (c) of this section. A Reserve Bank that acts in good faith and exercises ordinary care shall not be liable for the nonpayment of, or failure to realize upon, a bank draft or other form of payment that it accepts under paragraphs (a), (b), and (c).

SECTION 210.10—Time Schedule and Availability of Credits for Cash Items

(a) Each Reserve Bank shall include in its operating circulars a time schedule for each of its offices indicating when the amount of any cash item received by it (or sent direct to another Reserve office for the account of that Reserve Bank) is counted as reserve for purposes of Part 204 of this chapter (Regulation D) and becomes available for use by the sender. The Reserve Bank shall give either immediate or deferred credit in accordance with its time schedule to a sender

3/ A paying bank is deemed to receive a cash item on its next banking day if it receives the item:

- (1) on a day other than a banking day for it; or
- (2) on a banking day for it, but
 - (i) after its regular banking hours;
 - (ii) after a "cut-off hour" established by it in accordance with State law; or
 - (iii) during afternoon or evening periods when it is open for limited functions only.

other than a foreign correspondent. A Reserve Bank ordinarily gives credit to a foreign correspondent only when the Reserve Bank receives payment for the item in actually and finally collected funds, but, in its discretion, a Reserve Bank may give immediate or deferred credit in accordance with its time schedule.

(b) Notwithstanding its time schedule, a Reserve Bank may refuse at any time to permit the use of credit given for any cash item for which the Reserve Bank has not yet received payment in actually and finally collected funds.

SECTION 210.11—Availability of Proceeds of Noncash Items; Time Schedule

(a) Availability of credit. A Reserve Bank shall give credit to the sender for the proceeds of a noncash item when it receives payment in actually and finally collected funds (or advice from another Reserve Bank of such payment to it). The amount of the item is counted as reserve for purposes of Part 204 of this chapter (Regulation D) and becomes available for use by the sender when the Reserve Bank receives the payment or advice, except as provided in paragraph (b) of this section.

(b) Time schedule. A Reserve Bank may give credit for the proceeds of a noncash item subject to payment in actually and finally collected funds in accordance with a time schedule included in its operating circulars. The time schedule shall indicate when the proceeds of the noncash item will be counted as reserve for purposes of Part 204 of this chapter (Regulation D) and become available for use by the sender. A Reserve Bank may, however, refuse at any time to permit the use of credit given for a noncash item for which the Reserve Bank has not yet received payment in actually and finally collected funds.

(c) Handling of payment. If a Reserve Bank receives, in payment for a noncash item, a bank draft or other form of payment that it elects to handle as a noncash item, the Reserve Bank shall neither count the proceeds as reserve for purposes of Part 204 of this chapter (Regulation D) nor make the proceeds available for use until it receives payment in actually and finally collected funds.

SECTION 210.12—Return of Cash Items

(a) Recovery of payment. A paying bank that receives a cash item directly or indirectly from a Reserve Bank, other than for immediate payment over the counter, and that pays for the item as provided in section 210.9(a) of this subpart, may recover the payment if, before it has finally paid the item, it:

- (1) returns the item before midnight of its next banking day following the banking day of receipt; or
- (2) takes any other action to recover the payment within the times and by the means provided by State law.

The rules or practices of a clearinghouse through which the item was presented, or a special collection agreement under which the item was presented, may not extend these return times, but may provide for a shorter return time.

(b) Paying bank's warranties and agreement. A paying bank that obtains a credit or refund for the amount of a payment it has made for a cash item:

- (1) warrants to the Reserve Bank (and to a subsequent collecting bank, and to the sender and all prior parties) that it took all action necessary to entitle it to recover its payment within the time limits of: (i) this subpart; (ii) State law, unless a longer time is afforded by this subpart; (iii) the rules or practices of any clearing house through which the item was presented; and (iv) any special collection agreement under which the item was presented; and
- (2) agrees to indemnify the Reserve Bank for any loss or expense sustained (including attorneys' fees and expenses of litigation) resulting from the Reserve Bank's giving the credit or refund to the paying bank, or charging, or obtaining a refund from, the sender.

A Reserve Bank shall not have or assume any responsibility for determining whether the action taken by a paying bank was timely.

SECTION 210.13—Chargeback of Unpaid Items

(a) Right of chargeback. If a Reserve Bank does not receive payment in actually and finally collected funds for an item for which the Reserve Bank gave credit subject to payment in actually and finally collected funds, the Reserve Bank shall charge back the amount of the item to the sender, whether or not the item itself can be returned. In the event of chargeback, neither the owner or holder of the item nor the sender shall have any interest in any reserve balance or other funds of the paying bank or a collecting bank in the Reserve Bank's possession.

(b) Suspension or closing of bank. A Reserve Bank shall not pay or act on a draft, authorization to charge, or other order on a reserve balance or other funds in its possession after it receives notice of suspension or closing of the bank making the payment for that bank's own or another's account.

SECTION 210.14—Extension of Time Limits

If, because of interruption of communication facilities, suspension of payments by a bank or nonbank payor, war, emergency conditions or other circumstances beyond its control, a bank (including a Reserve Bank) or nonbank payor is delayed in acting on an item beyond applicable time limits, its time for acting is extended for the time necessary to complete the action, if it exercises such diligence as the circumstances require.

SECTION 210.15—Direct Presentment of Certain Warrants

If a Reserve Bank elects to present direct to the payor a bill, note, or warrant that is issued and payable by a State or a political subdivision and that is a cash item not payable or collectible through a bank: (a) sections 210.9, 210.12, and 210.13 and the operating circulars of the Reserve Banks apply to the payor as if it were a paying bank; (b) section 210.14 applies to the payor as if it were a bank; and (c) under section 210.9 each day on which the payor is open for the regular conduct of its affairs or the accommodation of the public is considered a banking day.

SUBPART B--Wire Transfers of Funds

SECTION 210.25--Authority, Purpose, and Scope

The Board of Governors of the Federal Reserve System ("Board") has issued this subpart pursuant to the Federal Reserve Act, section 13 (12 U.S.C. § 342), paragraph (f) of section 19 (12 U.S.C. § 464), paragraph 14 of section 16 (12 U.S.C. § 248(o)), paragraphs (i) and (j) of section 11 (12 U.S.C. §§ 248(i) and (j)), and other laws. This subpart governs the handling by Federal Reserve Banks ("Reserve Banks") of transfer items and transfer requests. Its purpose is to provide rules for the wire transfer of funds.

SECTION 210.26--Definitions

As used in this subpart, unless the context otherwise requires:

(a) "Beneficiary" means a person or organization, other than the transferee, designated in a transfer item or request to receive the amount of the item or request from the transferee.

(b) "Interoffice transaction" means a transfer between a transferor and transferee that do not maintain or use accounts at the same office of a Reserve Bank.

(c) "Item" means a writing evidencing a request for the payment of money, that is handled under this subpart. "Item" does not include a "item" as defined in section 210.2 that is handled under subpart A.

(d) "Transfer item" means an item: (1) sent by a transferor (other than a Reserve Bank) to a Reserve Bank for debit to the transferor's account at the Reserve Bank and for credit to a transferee; (2) sent by a Reserve Bank to another Reserve Bank for credit to the latter or to any other transferee; or (3) issued by a Reserve Bank at the request of a transferor for credit to a transferee.

(e) "Transfer request" or "request" means a request by telephone that a Reserve Bank issue a transfer item.

(f) "Transferee" means a member bank, a Reserve Bank, or other institution that (1) maintains or, if authorized by the Reserve Bank, uses an account at a Reserve Bank and (2) is designated in a transfer item or request to receive the amount of the item or request.

(g) "Transferor" means a member bank, a Reserve Bank, or other institution that maintains or uses an account at a Reserve Bank and that is authorized by that Reserve Bank to send a transfer item or request to it.

(h) "Transferor's account" or "transferee's account" means the account at its Reserve Bank maintained or used by the transferor or transferee, respectively.

(i) "Transferor's Reserve Bank" or "transferee's Reserve Bank" means the Reserve office at which the transferor or transferee, respectively, maintains or uses an account.

SECTION 210.27--General Provisions

(a) General. Each Reserve Bank shall receive and handle transfer items, and shall itself issue transfer items, in accordance with this subpart. Each Reserve Bank shall issue an operating circular governing the details of its funds transfer operations and other matters deemed appropriate by the Reserve Bank. The circulars may, among other things: set minimum and maximum dollar amounts; specify format and authentication requirements for transfer items and requests; and impose reasonable funds transfer charges.

(b) Binding effect. This subpart and the operating circulars of the Reserve Banks are binding on transferors, transferees, beneficiaries, and other parties interested in an item.

(c) Government transferors and transferees. Except as otherwise provided by statutes of the United States, or regulations issued or arrangements made thereunder, this subpart and the operating circulars of the Reserve Banks apply to the following when acting as a transferor or transferee: a department, agency, instrumentality, independent establishment, or office of the United States, or a wholly owned or controlled Government corporation, that maintains or uses an account with a Reserve Bank.

SECTION 210.28--Media for Transfer Items and Requests

(a) Transfer items. A transferor may issue and send a transfer item in any of the following media, if specified in the operating circular of the transferor's Reserve Bank:

- (1) a letter, memorandum, or similar writing;
- (2) a telegram (including TWX, TELEX, or similar form of communication); and
- (3) any form of communication, other than voice, registered on (or in form suitable for being registered on) magnetic tape, disc, or other medium designed to contain in durable form conventional signals used for electronic communication of messages.

(b) Transfer requests. A transferor may make transfer requests only under special arrangements with its Reserve Bank. The Reserve Bank may record these telephone messages.

SECTION 210.29--Transferor's Agreement

A transferor, by sending a transfer item or making a transfer request to its Reserve Bank, authorizes:

(a) its Reserve Bank to debit the amount to the transferor's account, and to handle the transfer item or request in accordance with this subpart and the operating circulars of the Reserve Banks; and

(b) the transferee's Reserve Bank to handle a matching transfer item (matching as to amount, transferee, and beneficiary, if any) in accordance with this subpart and the operating circulars of the transferee's Reserve Bank.

SECTION 210.30—Transferee's Agreement

(a) A transferee (other than a Reserve Bank), by maintaining or using an account at a Reserve Bank, authorizes its Reserve Bank to credit the amount of the transfer item to its account.

(b) A transferee (other than a Reserve Bank) that receives a transfer item, or advice of credit of a transfer item, designating a beneficiary, agrees:

- (1) to credit promptly the beneficiary's account or otherwise make the amount available to the beneficiary; or
- (2) to notify promptly its Reserve Bank if it is unable to do so because of circumstances beyond its control.

SECTION 210.31—Sending Transfer Items and Requests

(a) A transferor (other than a Reserve Bank) may send a transfer item to, or make a transfer request of, its Reserve Bank. A Reserve Bank may refuse to act on, or may impose conditions to its acting on, a transfer item or request if it has reason to believe that the balance in the transferor's account is not sufficient to cover the item or request. The transferor shall arrange to have in its account, at the end of its Reserve Bank's banking day, a balance of actually and finally collected funds sufficient to cover the amounts of transfer items debited to the account during that day. In addition to other remedies, the Reserve Bank has a security interest in the transferor's assets in the possession of, or held for the account of, the Reserve Bank if:

- (1) the balance in the transferor's account at the end of the Reserve Bank's banking day is not sufficient to cover the amounts debited to the account during that day; or
- (2) the transferor suspends payment or is closed at any time during the Reserve Bank's banking day, and does not have a balance sufficient to cover the amounts debited to its account.

(b) A Reserve Bank may send a transfer item to, or make a transfer request of, another Reserve Bank.

SECTION 210.32—Handling Transfer Items and Requests

(a) Intraoffice transactions. If the transferor and transferee maintain or use accounts at the same Reserve office, that office shall act on a transfer item by debiting and crediting their accounts. The Reserve office shall act on a transfer request by issuing a transfer item, and debiting and crediting the accounts.

(b) Interoffice transactions. The transferor's Reserve Bank shall handle an interoffice transaction by debiting the transferor's account and, acting as a transferor, issuing and sending to the transferee's Reserve Bank a matching transfer item (matching as to amount, transferee, and beneficiary, if any). The transferee's Reserve Bank shall transfer funds to the transferee by debiting the account of the transferor's Reserve Bank, and crediting the transferee's account.

(c) Notice of delay. If a Reserve Bank learns that it is unable to effectuate a transfer of funds on a timely basis for any reason, it shall notify the transferor of the delay within a reasonable time.

SECTION 210.33—Time Limits

(a) Time schedule. Each Reserve Bank shall include in its operating circular a schedule showing the hours during which it handles transfer items and requests.

(b) Acting seasonably. A Reserve Bank acts seasonably if it takes proper action on the day it receives a transfer item or request. Taking proper action within a reasonably longer time may be seasonable but the Reserve Bank has the burden of so establishing. No Reserve Bank shall represent that it will complete a transfer of funds on the day requested.

(c) Transfers after closing hour. A Reserve Bank is not required to act on the day it receives an item or request if it receives the item or request after the time shown in its schedule. In emergency or other unusual circumstances, a Reserve Bank may handle a transfer item or request after the time shown in its schedule. The completion of an interoffice transaction in these circumstances is also discretionary with the transferee's Reserve Bank.

(d) As of adjustments. If a Reserve Bank fails to credit to the transferee's account on the day requested the amount of a transfer item or request received by the Reserve Bank before the time shown in its schedule, the Reserve Bank shall, unless otherwise instructed, complete the transfer on its next banking day and make adjustments for reserve accounting purposes as of the day the transfer was to have been made.

SECTION 210.34—Advices of Credit and Debit

(a) Advice of credit. The transferee's Reserve Bank shall give advice of credit to the transferee for an executed transfer of funds.

(b) Advice of debit. After receiving a transfer item or request, the transferor's Reserve Bank shall send an advice of debit to the transferor. A transferor is deemed to approve the accuracy of an advice of debit unless it sends to its Reserve Bank written objection within 10 calendar days of receiving the advice of debit.

SECTION 210.35—Revocation of Transfer Items and Requests

(a) Request for revocation. A Reserve Bank may cease acting on a transfer item or request if it receives from the transferor a request for revocation in time to give the Reserve Bank a reasonable opportunity to comply. If the request is received too late, the Reserve Bank may, on request from the transferor, ask the transferee to return the funds. In an interoffice transaction, the Reserve Bank may ask the transferee's Reserve Bank to ask the transferee to return the funds.

(b) Erroneous transfer. In an erroneous or irregular transfer of funds, a Reserve Bank may, on its own initiative or at the request of another Reserve Bank, ask the transferee to return funds previously transferred.

SECTION 210.36—Final Payment; Use of Funds

(a) Final payment. A transfer item is finally paid when the transferee's Reserve Bank sends the transfer item or sends or telephones the advice of credit for the item to the transferee, whichever occurs first.

(b) Right to use funds. Credit given by a Reserve Bank for a transfer of funds becomes available for use when the transfer item is finally paid, subject to the Reserve Bank's right to apply the transferred funds to an obligation owed to it by the transferee.

SECTION 210.37—Timeliness of Action

If, because of circumstances beyond its control, a Reserve Bank is delayed beyond the time limits provided in this subpart, in its operating circular, or by law in acting on a transfer item or request, the time for acting is extended for the time necessary to complete the action, if the Reserve Bank exercises such diligence as the circumstances require.

SECTION 210.38—Reserve Bank Liability

(a) Limitations on liability. A Reserve Bank shall not have or assume any responsibility to a transferee, beneficiary, or other party, except its immediate transferor. A Reserve Bank shall not be liable for the insolvency, neglect, misconduct, mistake, or default of another bank or person, including a transferor, except as provided in this section. A Reserve Bank shall not have or assume any liability except for its own or another Reserve Bank's lack of good faith or failure to exercise ordinary care.

(b) Damages. A Reserve Bank is liable to its immediate transferor for damages proximately caused by a failure to credit the amount of a transfer item or request to the transferee's account caused by a Reserve Bank's failure to exercise ordinary care or to act in good faith. Whether damages are proximately caused by a Reserve Bank's failure to exercise ordinary care or to act in good faith is a question of fact to be determined in each case.

(c) Right to indemnity. The transferee's Reserve Bank shall indemnify the transferor's Reserve Bank for any loss or expense sustained (including attorneys' fees and expenses of litigation) as a result of the failure of the transferee's Reserve Bank to exercise ordinary care or to act in good faith in an interoffice transaction.

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By order of the Board of Governors of the Federal Reserve System, October 9, 1980.

Theodore E. Allison
Secretary of the Board