

FEDERAL RESERVE BANK OF DALLAS

DALLAS, TEXAS 75222

Circular No. 81-179  
September 2, 1981

AMENDMENTS TO REGULATION J

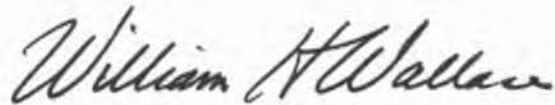
TO ALL DEPOSITORY INSTITUTIONS  
AND OTHERS CONCERNED IN THE  
ELEVENTH FEDERAL RESERVE DISTRICT:

The Board of Governors of the Federal Reserve System has amended Subpart A of Regulation J to include other depository institutions under the term "bank" and "sender".

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

Questions concerning this revision should be directed to Larry J. Reck at the Head Office, (214) 651-6337; Robert W. Schultz, El Paso Branch, (915) 544-4730; Vernon L. Bartee, Houston Branch, (713) 659-4433; or John A. Bullock, San Antonio Branch, (512) 224-2141.

Sincerely yours,



William H. Wallace  
First Vice President

# FEDERAL RESERVE press release



For immediate release

August 13, 1981

The Federal Reserve Board has amended its Regulation J, effective immediately, to conform the regulation to legislation making Federal Reserve check collection services available to all depository institutions.

The revision of the regulation deals with expansion of access to Federal Reserve check collection services in accordance with the Monetary Control Act of 1980. Expanded access to these services became available to all depository institutions when the Federal Reserve began pricing its services August 1, 1981.

A summary of the Board's notice of its action is overleaf. The text of the notice may be obtained from the Federal Reserve Board or from the Federal 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-0357]

AGENCY: Board of Governors of the Federal Reserve System.

ACTION: Final rule.

SUMMARY: The Board has amended Subpart A of Regulation J, governing the collection of checks and other items by Reserve Banks, to implement the Monetary Control Act of 1980. This amendment redefines the terms "sender" and "bank" so that each term includes "depository institutions" as defined in section 19(b) of the Federal Reserve Act, as amended by the Monetary Control Act.

EFFECTIVE DATE: August 12, 1981.

FOR FURTHER INFORMATION CONTACT: Lee S. Adams, Senior Counsel (202/452-3623), or Joseph R. Alexander, Attorney (202/452-2489), Legal Division, Board of Governors of the Federal Reserve System, Washington, D.C. 20551.

SUPPLEMENTARY INFORMATION: The Monetary Control Act of 1980, Title I of Pub. L. No. 96-221, 94 Stat. 132, expands access to Reserve Bank check collection services to all depository institutions. The Board is amending Subpart A of Regulation J to bring this regulation into conformance with this expanded access by broadening the definition of "sender" in Subpart A to include a depository institution as defined in section 19(b) of the Federal Reserve Act.

The amendment also defines the term "bank" to include a depository institution as defined in section 19(b). The Consumer Checking Account Equity Act of 1980, Title III of Pub. L. No. 94-221, 94 Stat. 145, authorized depository institutions (as defined in 12 U.S.C. § 1832(b)) to offer NOW accounts and credit unions to offer share draft accounts beginning December 31, 1980. The Board believes depository institutions (including credit unions) should be considered "banks" (at least to the extent that they offer third-party payment accounts equivalent to checking accounts), for purposes of Article 4 of the Uniform Commercial Code ("U.C.C.") and Subpart A of Regulation J.

The Board issued this amendment (along with several other amendments to Subpart A) for comment on April 27, 1981. The majority of those commenting on the proposals favored adopting this amendment. Some commentators did express concern that defining nonbank depository institutions (such as credit unions and savings and loan associations) as banks could foster public confusion regarding the differences between these institutions and commercial banks. Several comments, while favoring approval of the amendment, urged the Board to take steps to insure that the identification of nonbank depository institutions as banks be strictly limited to the cash item collection field.

The Board has considered these comments and has decided to adopt the amendments as proposed. Subpart A follows very closely the provisions of the U.C.C. and the Board believes that where possible the terminology used should be the same. Under the U.C.C., nonbank payors must pay or dishonor an instrument before the close of business on the day presentment is made. U.C.C. § 3-506(2). Payor banks, however, are given deferred posting rights by Article 4 of the U.C.C. The Board believes that the best way to implement the congressional intent that nonmember institutions be given access to Federal Reserve services on the same basis as member banks is to amend Regulation J to insure that nonmember institutions be accorded deferred posting and other rights and responsibilities associated with check clearing operations under Article 4. To avoid confusion between Article 4 and Subpart A, the Board has defined nonbank depository institutions as banks for purposes of Regulation J. With this action, however, the Board does not mean to suggest that there are no longer any differences between banks and nonbank depository institutions, and the Board does not intend by this amendment to affect any other laws or regulations which establish distinctions among the various types of depository institutions.

#### Final Regulatory Flexibility Act Analysis

The Board has considered the requirements imposed by the Regulatory Flexibility Act, 5 U.S.C. §§ 601-612, with respect to the impact of the rulemaking on small financial institutions. The Board does not believe that the amended rule will impose additional reporting, recordkeeping, or other compliance burdens on such small businesses, and consequently the Board need not consider alternatives to the rule that would minimize its impact on small businesses. Finally, no other federal regulations duplicate, overlap, or conflict with the amended Regulation J.

Pursuant to its authority under section 13 of the Federal Reserve Act, as amended, 12 U.S.C. § 342; section 16 of the Federal Reserve Act, 12 U.S.C. §§ 248(o), 360; and section 11(i) of the Federal Reserve Act, 12 U.S.C. § 248(i), the Board hereby amends Regulation J (12 C.F.R. pt. 210) as follows:

In section 210.2, new paragraph (b) is added, and existing paragraphs (b) through (k) are redesignated paragraphs (c) through (l) and revised to read as follows:

SECTION 210.2--DEFINITIONS

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

\* \* \* \* \*

- (b) "Bank" includes a depository institution as defined in section 19 of the Federal Reserve Act (12 U.S.C. § 461(b)).
- (c) "Bank draft" means a check drawn by one bank on another bank.
- (d) "Banking day" means a day during which a bank is open to the public for carrying on substantially all its banking functions.
- (e) "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.
- (f) "Check" means a draft, as defined in the Uniform Commercial Code, that is drawn on a bank and payable on demand.
- (g) "Item" means an instrument for the payment of money, whether negotiable or not, that is:
  - (1) payable in a Federal Reserve District<sup>1/</sup> ("District");
  - (2) sent by a sender to a Reserve Bank for handling under this subpart; and

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<sup>1/</sup> 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.

- (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,<sup>2/</sup> or an "item" as defined in section 210.26 that is handled under subpart B.

- (h) "Nonbank payor" means a payor of an item, other than a bank.
- (i) "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.
- (j) "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.
- (k) "Sender" means any of the following that sends an item to a Reserve Bank: a depository institution, a clearing institution, 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 (12 U.S.C. §§ 347d, 3105).
- (l) "Depository institution" means a depository institution as defined in section 19(b) of the Federal Reserve Act. (12 U.S.C. § 461(b))

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<sup>2/</sup> 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) "clearing institution" means:

- (i) an institution that is not a depository institution, but maintains with a Reserve Bank the balance referred to in the first paragraph of section 13 of the Federal Reserve Act (12 U.S.C. § 342); or
- (ii) a corporation that maintains an account with a Reserve Bank in conformity with section 211.4 of this chapter (Regulation K).

(3) "International Organization" means an international organization for which a Reserve Bank is empowered to act as depository or fiscal agent and maintains an account.

(4) "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).

(1) "State" means a State of the United States, the District of Columbia, Puerto Rico, or a territory, possession, or dependency of the United States.

By order of the Board of Governors August 13, 1981.

(signed) William W. Wiles

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William W. Wiles  
Secretary of the Board

[SEAL]