



FEDERAL RESERVE BANK
OF DALLAS

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FIRST VICE PRESIDENT

DALLAS, TEXAS 75222

October 6, 1986

Circular 86-85

TO: The Chief Executive Officer of
all depository institutions in the
Eleventh Federal Reserve District

SUBJECT

**Regulation J -- Collection of Checks and Other
Items and Wire Transfers of Funds**

DETAILS

The Board of Governors of the Federal Reserve System has published in pamphlet form its revised Regulation J, as amended effective January 1, 1987. The attached pamphlet should be filed in Volume 2 of your Regulations Binders.

ENCLOSURES

The revised Regulation J is enclosed.

MORE INFORMATION

For further information, please contact the following individuals: Robert W. Schultz, (915) 544-4370, at the El Paso Branch; Vernon L. Bartee, (713) 659-4433, at the Houston Branch; John A. Bullock, (512) 224-2141, at the San Antonio Branch; or John Rogers, (214) 651-6228, at the Head Office.

Sincerely yours,

William H. Wallace

Regulation J Collection of Checks and Other Items and Wire Transfers of Funds

12 CFR 210; as amended effective January 1, 1987



Any inquiry relating to this regulation should be addressed to the Federal Reserve Bank of the Federal Reserve District in which the inquiry arises.

August 1986

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Regulation J

Collection of Checks and Other Items and Wire Transfers of Funds

12 CFR 210*; as amended effective January 1, 1987

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 USC 342), section 16 (12 USC 248(o), 360), section 11(i) (12 USC 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" includes a depository institution as defined in section 19 of the Federal Reserve Act (12 USC 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 District¹ ("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.

(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

¹ For purposes of this subpart, the Virgin Islands and Puerto Rico are deemed to be in the Second District, and Guam, American Samoa, and the Northern Mariana Islands 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.

* Code of Federal Regulations, title 12, chapter II, part 210.

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 USC 347d, 3105).

(1) “Depository institution” means a depository institution as defined in section 19(b) of the Federal Reserve Act (12 USC 461(b)).

(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 USC 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 USC 632), or a foreign correspondent or agency referred to in section 14(e) of that act (12 USC 358).

(I) “State” means a state of the United States, the District of Columbia, Puerto Rico, or a territory, possession, or dependency of the United States.

Unless the context otherwise requires, the terms not defined herein have the meanings set forth in the Uniform Commercial Code.

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 depositaries 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.

(e) *Foreign items.* A Reserve Bank also may receive and handle certain items payable outside a Federal Reserve District, as provided in its operating circulars. The handling of such items in a state is governed by this subpart, and the handling of such items outside a state is governed by the local law.

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 (a)(2) does not limit any warranty by a sender or other prior party 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 (or if defense is tendered to) 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 seasonable 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.

The Reserve Bank is not responsible for defending the action or proceeding before using this method of recovery. 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 agent or subagent of the owner 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 have or assume any liability 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 and except as provided in paragraph (b) of this section.

(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.

* Effective January 1, 1990, a new paragraph (c) will be added:

(c) *Time for commencing action against Reserve Bank.* A claim against a Reserve Bank for lack of good faith or failure to exercise ordinary care shall be barred unless the action on the claim is commenced within two years after the claim accrues. A claim accrues on the date when a Reserve Bank's alleged failure to exercise ordinary care or to act in good faith first results in damages to the claimant.

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 clearinghouse 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 an-

other 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.* (1) 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 receives³ 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—

- (i) debit to an account on the Reserve Bank's books;
- (ii) cash; or
- (iii) in the discretion of the Reserve Bank, any other form of payment.

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.

(2) 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 the Reserve Bank by the close of the Reserve Bank's banking day. A paying bank that closes voluntarily on a day that is a banking day for the Reserve Bank shall either pay on that day by the close of the Reserve Bank's banking day for cash items that the Reserve Bank makes available to the paying bank on that day, or compensate the Reserve Bank for the value of the float associated with the items in accordance with procedures provided in its Reserve Bank's operating circular; in such circumstances, the paying bank is not considered to receive the item until its next banking day.

(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 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 clearinghouse 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.

(c) *Notification of nonpayment.* (1) A paying bank that receives a cash item in the amount of \$2,500 or more directly or indirectly from a Reserve Bank and determines not to pay it shall provide notice to the first bank to which the item was transferred for collection ("depository bank") that the paying bank is returning the item unpaid. If the depository bank is not located in a state, the paying bank shall provide the notice to the bank located in a state that first handled the item for collection.

(2) The paying bank shall provide the notice such that it is received as specified by the operating circular of the paying bank's Reserve Bank by the depository bank by midnight of the second banking day of the paying bank following the deadline for return of the item as specified in paragraph (a) of this section. If the day the paying bank is required to provide notice to the depository bank is not a banking day for the depository bank, receipt of notice on the depository bank's next banking day shall constitute timely notice under this paragraph. Notice may be provided through any means, including return of the cash item, so long as the cash item is received by the depository bank within the time limits specified in this subparagraph.

(3) The information contained in the notice shall include the name of the paying bank, the name of the payee, the amount of the item, the reason for return, the date of the indorsement of the depository bank, the account number of the depositor, the branch at which the item was first deposited, and the trace number on the item of the depository bank, and should otherwise be in accordance with uniform standards and procedures specified by the operating circular of the paying bank's Reserve Bank. A paying bank is not required to provide any information in the notice that it, after exercising ordinary care and acting in good faith, is not able to determine with reasonable certainty from the item itself.

(4) A paying bank is not required to, but may voluntarily, provide notice to the department of the depository bank or other entity specified by the depository bank to receive the notice.

(5) If a paying bank provides a notice pursuant to subparagraph (1) of this paragraph and subsequently determines to pay the item, the paying bank shall provide to the depository bank a second notice as soon as reasonably possible. This second notice should indicate that it is a second notice that is cancelling a previous notice and should contain sufficient information to enable the depository bank to match the second notice with the previous notice.

(6) A paying bank that fails to exercise ordinary care in meeting the requirements of this paragraph shall be liable to the depository bank for losses incurred by the depository bank, up to the amount of the item, reduced by the amount of the loss that the depository bank would have incurred even if the paying bank had used ordinary care. A paying bank that fails to act in good faith in meeting the requirements of this paragraph may be liable for other damages, if any, suffered by the depository bank as a proximate consequence. If the paying bank or the depository bank prevails in litigation involving the requirements of this paragraph, it may recover its court costs and reasonable attorneys' fees. A paying bank shall not be liable for mistake, neglect, negligence, misconduct, insolvency or default

of any other bank or other person in connection with providing notice under this paragraph.

(7) Notwithstanding the provisions of section 210.6 of this subpart, a Reserve Bank that fails to exercise ordinary care in undertaking to provide the notice required in this paragraph on a paying bank's behalf shall be liable to the depository bank for losses incurred by the depository bank, up to the amount of the item, reduced by the amount of the loss that the depository bank would have incurred even if the Reserve Bank had used ordinary care. A Reserve Bank that fails to act in good faith in undertaking to provide the notice required in this paragraph on a paying bank's behalf may be liable for other damages, if any, suffered by the depository bank as a proximate consequence. If the Reserve Bank or the depository bank prevails in litigation involving the requirements of this paragraph, it may recover its court costs and reasonable attorneys' fees. A Reserve Bank shall not be liable for mistake, neglect, negligence, misconduct, insolvency or default of any other bank or other person, including the paying bank, in connection with providing notice under this paragraph.

(8) Notwithstanding the provisions of section 210.6 of this subpart, a Reserve Bank that undertakes to provide the notice required in this paragraph on a paying bank's behalf shall indemnify the paying bank for any claim brought against it by the depository bank that results from the Reserve Bank's failure to exercise ordinary care or failure to act in good faith in providing the notice. The paying bank shall indemnify a Reserve Bank that undertakes to provide the notice required in this paragraph on the paying bank's behalf for any claim brought against the Reserve Bank by the depository bank that results from the paying bank's failure to exercise ordinary care or failure to act in good faith in connection with the provision of the notice.

(9) This paragraph does not apply to an item drawn on the account of the U.S. Treasury or to an item indorsed by, or for credit to, the U.S. Treasury.

(10) The following days shall not be con-

sidered banking days for purposes of the deadline for notice of nonpayment: Saturdays and Sundays, January 1, the third Monday in January, the third Monday in February, the last Monday in May, July 4, the first Monday in September, the second Monday in October, November 11, the fourth Thursday in November, and December 25. If January 1, July 4, November 11, or December 25 fall on a Sunday, the next following Monday shall not be considered a banking day for purposes of this subsection.

(11) A claim for failure to comply with the requirements of this paragraph (c) is barred unless the action on the claim is commenced within two years after the date upon which the notice was required to be received by the depository bank.

(d) 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 USC 342), paragraph (f) of section 19 (12 USC 464), paragraph 14 of section 16 (12 USC 248(o)), paragraphs (i) and (j) of section 11 (12 USC 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 of-

fice 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 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. A Reserve Bank's liability for such a failure to credit is limited to damages that are attributable directly and immediately to the failure to credit, but does not include damages that are attributable to the consequences of the failure to credit, even if such consequences were foreseeable at the time of such failure.*

(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.

* Effective January 1, 1990, paragraph (b) will be redesignated subparagraph (b)(1), and a new subparagraph (b)(2) will be added:

(2) A claim against a Reserve Bank for failure to exercise ordinary care or to act in good faith shall be barred unless the action on the claim is commenced within two years after the claim accrues. A claim accrues on the date a Reserve Bank's alleged failure to exercise ordinary care or to act in good faith first results in damages to the claimant.

Statutory Provisions

FEDERAL RESERVE ACT

SECTION 13—Powers of Federal Reserve Banks

Any Federal reserve bank may receive from any of its member banks or other depository institutions, and from the United States, deposits of current funds in lawful money, national-bank notes, Federal reserve notes, or checks, and drafts, payable upon presentation, or other items and also, for collection, maturing notes and bills; or solely for purposes of exchange or of collection, may receive from other Federal reserve banks deposits of current funds in lawful money, national-bank notes, or checks upon other Federal reserve banks, and checks and drafts, payable upon presentation within its district, or other items, and maturing notes and bills payable within its district; or, solely for the purposes of exchange or of collection, may receive from any nonmember bank or trust company or other depository institution deposits of current funds in lawful money, national-bank notes, Federal reserve notes, checks and drafts payable upon presentation or other items, or maturing notes and bills: *Provided*, Such nonmember bank or trust company or other depository institution maintains with the Federal reserve bank of its district a balance in such amount as the Board determines taking into account items in transit, services provided by the Federal Reserve Bank, and other factors as the Board may deem appropriate; *Provided further*, That nothing in this or any other section of this Act shall be construed as prohibiting a member or nonmember bank or other depository institution from making reasonable charges, to be determined and regulated by the Board of Governors of the Federal Reserve System, but in no case to exceed 10 cents per \$100 or fraction thereof, based on the total of checks and drafts presented at any one time, for collection or payment of checks and drafts and remission therefor by exchange or otherwise; but no such charges shall be made against the Federal reserve banks.

[12 USC 342.]

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SECTION 16—Note Issues

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Every Federal reserve bank shall receive on deposit at par from depository institutions or from Federal Reserve banks checks and other items, including negotiable orders of withdrawal and share drafts and drafts drawn upon any of its depositories, and when remitted by a Federal reserve bank, checks and other items, including negotiable orders of withdrawal and share drafts and drafts drawn by any depositor in any other Federal reserve bank or depository institution upon funds to the credit of said depositor in said reserve bank or depository institution. Nothing herein contained shall be construed as prohibiting a depository institution from charging its actual expense incurred in collecting and remitting funds, or for exchange sold to its patrons. The Board of Governors of the Federal Reserve System shall, by rule, fix the charges to be collected by the member banks from its patrons whose checks are cleared through the Federal reserve bank and the charge which may be imposed for the service of clearing or collection rendered by the Federal reserve bank.

[12 USC 360.]

The Board of Governors of the Federal Reserve System shall make and promulgate from time to time regulations governing the transfer of funds and charges therefor among Federal reserve banks and their branches, and may at its discretion exercise the functions of a clearing house for such Federal reserve banks, or may designate a Federal reserve bank to exercise such functions, and may also require each such bank to exercise the functions of a clearing house for depository institutions.

[12 USC 248(o).]

SECTION 11—Powers of Board of Governors of Federal Reserve System

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The Board of Governors of the Federal Reserve System shall be authorized and empowered:

* * * * *

(i) To require bonds of Federal reserve agents, to make regulations for the safeguarding of all collateral, bonds, Federal reserve notes, money or property of any kind deposited in the hands of such agents, and said board shall perform the duties, functions, or services specified in this Act, and make all rules and regulations necessary to enable said board effectively to perform the same.

[12 USC 248(i).]

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SECTION 14—Open Market Operations

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Every Federal reserve bank shall have power:

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(e) To establish accounts with other Federal reserve banks for exchange purposes and, with the consent or upon the order and direction of the Board of Governors of the Federal Reserve System and under regulations to be prescribed by said board, to open and maintain accounts in foreign countries, appoint correspondents, and establish agencies in such countries wheresoever it may be deemed best for the purpose of purchasing, selling, and collecting bills of exchange, and to buy and sell, with or without its indorsement, through such correspondents or agencies, bills of exchange (or acceptances) arising out of actual commercial transactions which have not more than ninety days to run, exclusive of days of grace, and which bear the signature of two or more responsible parties, and, with the consent of the Board of Governors of the Federal Reserve System, to open and maintain banking accounts for such foreign correspondents or agencies, or for foreign banks or bankers, or for foreign states as defined in section 25(b) of this Act. Whenever any such ac-

count has been opened or agency or correspondent has been appointed by a Federal reserve bank, with the consent of or under the order and direction of the Board of Governors of the Federal Reserve System, any other Federal reserve bank may, with the consent and approval of the Board of Governors of the Federal Reserve System, be permitted to carry on or conduct, through the Federal reserve bank opening such account or appointing such agency or correspondent, any transaction authorized by this section under rules and regulations to be prescribed by the board.

[12 USC 358.]

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SECTION 25(b)—Jurisdiction of Suits

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For the purposes of this section, * * * (2) the term "foreign state" includes any foreign government, or any department, district, province, county, possession, or other similar governmental organization or subdivision of a foreign government, and any agency or instrumentality of any such foreign government or of any such organization or subdivision; (3) the term "central bank" includes any foreign bank or banker authorized to perform any one or more of the functions of a central bank; * * *

[12 USC 632.]

BRETTON WOODS AGREEMENTS ACT

SECTION 6—Federal Reserve Banks as Depositories

Any Federal Reserve bank which is requested to do so by the Fund or the Bank shall act as its depository or as its fiscal agent, and the Board of Governors of the Federal Reserve System shall supervise and direct the carrying out of these functions by the Federal Reserve banks.

[22 USC 286d.]

**INTER-AMERICAN
DEVELOPMENT BANK ACT****SECTION 6—Federal Reserve Banks as
Depositories**

Any Federal Reserve bank which is requested to do so by the Bank shall act as its depository or as its fiscal agent and the Board of Governors of the Federal Reserve System shall supervise and direct the carrying out of these functions by the Federal Reserve banks.

[22 USC 283d.]

**INTERNATIONAL FINANCE
CORPORATION ACT****SECTION 6—Federal Reserve Banks as
Depositories**

Any Federal Reserve bank which is requested to do so by the Corporation shall act as its depository or as its fiscal agent, and the Board of Governors of the Federal Reserve System shall supervise and direct the carrying out of these functions by the Federal Reserve banks.

[22 USC 282d.]

**INTERNATIONAL DEVELOPMENT
ASSOCIATION ACT****SECTION 6—Federal Reserve Banks as
Depositories**

Any Federal Reserve bank which is requested to do so by the Association shall act as its depository or as its fiscal agent, and the Board of Governors of the Federal Reserve System shall supervise and direct the carrying out of these functions by the Federal Reserve banks.

[22 USC 284d.]

ASIAN DEVELOPMENT BANK ACT**SECTION 6—Federal Reserve Banks as
Depositories**

Any Federal Reserve bank which is requested to do so by the Bank shall act as its depository or as its fiscal agent, and the Board of Governors of the Federal Reserve System shall supervise and direct the carrying out of these functions by the Federal Reserve banks.

[22 USC 285d.]