



FEDERAL RESERVE BANK
OF DALLAS

TONY J. SALVAGGIO
FIRST VICE PRESIDENT

DALLAS, TEXAS
75265-5906

January 11, 1994

Notice 94-09

TO: The Chief Operating Officer of
each financial institution in the
Eleventh Federal Reserve District

SUBJECT

**Request for Public Comment on Proposed
Amendments to Regulation J (Collection of Checks and
Wire Transfers of Funds)**

DETAILS

The Board of Governors of the Federal Reserve System is requesting comment on proposed amendments to Subpart A of Regulation J, which governs collection of checks and other items by Federal Reserve Banks. The proposed amendments, in general, conform the warranties and various other provisions of Regulation J to recent amendments to Regulation CC or to the Uniform Commercial Code.

The Board must receive comments by January 31, 1994. Comments should be addressed to William W. Wiles, Secretary, Board of Governors of the Federal Reserve System, 20th Street and Constitution Avenue, N.W., Washington, D.C. 20551. All comments should refer to Docket No. R-0821.

ATTACHMENT

A copy of the Board's notice (Federal Reserve System Docket No. R-0821) is attached.

MORE INFORMATION

For more information, please contact Terry Campbell at (214) 922-6603. For additional copies of this Bank's notice, please contact the Public Affairs Department at (214) 922-5254.

Sincerely,

A handwritten signature in cursive script that reads "Tony J. Salvaggio".

FEDERAL RESERVE SYSTEM
12 CFR Part 210
[Regulation J; Docket No. R-0821]
Collection of Checks and Other Items by Federal Reserve Banks
and Funds Transfers Through Fedwire

AGENCY: Board of Governors of the Federal Reserve System.

ACTION: Proposed rule.

SUMMARY: The Board is requesting comment on proposed amendments to subpart A of its Regulation J, governing collection of checks and other items by Federal Reserve Banks. The proposed amendments, in general, conform the warranties and various other provisions of Regulation J to recent amendments to Regulation CC or to the Uniform Commercial Code.

DATES: Comments must be submitted on or before January 31, 1994.

ADDRESSES: Comments, which should refer to Docket No. R-0821, may be mailed to Mr. William W. Wiles, Secretary, Board of Governors of the Federal Reserve System, 20th Street and Constitution Avenue, N.W., Washington, D.C. 20551. Comments addressed to Mr. Wiles also may be delivered to the Board's mail room between 8:45 a.m. and 5:15 p.m. and to the security control room outside of those hours. Both the mail room and the security control room are accessible from the courtyard entrance on 20th Street between Constitution Avenue and C Street, N.W. Comments may be inspected in Room MP-500 between 9:00 a.m. and 5:00 p.m.

FOR FURTHER INFORMATION CONTACT: Oliver I. Ireland, Associate General Counsel (202/452-3625), or Stephanie Martin, Senior Attorney (202/452-3198), Legal Division; for the hearing impaired only: Telecommunications Device for the Deaf, Dorothea Thompson (202/452-3544).

SUPPLEMENTARY INFORMATION: Subpart A of the Board's Regulation J (12 CFR part 210) governs the collection of checks and other items by Federal Reserve Banks. Regulation J sets out the warranties made by institutions that send items for collection through the Federal Reserve as well as warranties made by Reserve Banks.^{1/} Regulation J also covers liability for breach of warranty, presentment of and settlement for cash items and returned checks, and other related issues.

In October 1992, the Board published amendments to its Regulation CC (12 CFR part 229) that require paying banks to make same-day settlement for certain checks presented by private-sector banks, effective January 3, 1994. As part of these amendments, the Board revised the Regulation CC warranties to require private-sector collecting, returning, and presenting banks to warrant the accuracy of cash letter totals and check encoding. Revised Regulation CC also gives the paying bank a right to set off adjustments owed to the paying bank by the presenting bank against settlement amounts owed by the paying bank to the presenting bank. The proposed changes to Regulation J would clarify that the Reserve Banks and institutions that send items to Reserve Banks also make the Regulation CC warranties, although with some variation. For example, the Regulation J

^{1/}As used in this docket, sender means any institution that sends a check to a Reserve Bank for collection, and bank includes all depository institutions, such as commercial banks, savings institutions, and credit unions.

proposal would provide that paying banks may not set off other claims against settlement for checks presented by a Reserve Bank.

The National Conference of Commissioners on Uniform State Laws and the American Law Institute approved new versions of Articles 3 and 4 of the Uniform Commercial Code (U.C.C.) in 1990. Articles 3 and 4 govern negotiable instruments and bank deposits and collections, respectively. (All U.C.C. references in this docket are to the 1990 version.) The proposed amendments would conform certain Regulation J provisions to the new U.C.C., as well as clarify the interaction of Regulation J, Regulation CC, and the U.C.C.

The Board has established procedures for assessing the competitive impact of changes that have a substantial effect on payments system participants.^{2/} Under these procedures, the Board assesses whether the proposed regulatory changes would have a direct and material adverse effect on the ability of other service providers to compete effectively with the Federal Reserve in providing similar services due to differing legal powers or constraints or due to a dominant market position of the Federal Reserve deriving from such legal differences. The proposed Regulation J amendments are largely technical, clarifying, or conform Regulation J to the rules applicable to private-sector banks under Regulation CC and the U.C.C. The Board believes that

^{2/}These procedures are described in the Board's policy statement "The Federal Reserve in the Payments System" (55 FR 11648, March 29, 1990).

the proposals would not have a direct and material adverse effect on the ability of others to compete effectively with the Federal Reserve Banks.

Section-by-section analysis

Section 210.2(q)

The Board proposes to amend the terminology of the definition of "item" in keeping with the definition of "item" in U.C.C. § 4-104(a)(9). Under the proposal, "item" would expressly include promises or orders, such as certain bonds or other investment securities, that are handled through the bank collection system.

Section 210.2(p)

The Board proposes to add a definition of "Uniform Commercial Code" that conforms to the definition in Regulation CC (12 CFR 229.2(ii)).

Section 210.3(a)

The Board proposes to amend this section to set forth more accurately the scope of the Federal Reserve Banks' operating circulars, which include provisions for service terms and adjustments. The proposed amendment would specify that the operating circulars may include provisions for adjustments of amounts, waiver of expenses, and payment of interest by as-of adjustment.

Both private-sector banks and Reserve Banks may vary the terms of subpart C of Regulation CC by agreement among

parties that specifically assent (12 CFR 229.37). Section 4-103 of the U.C.C. allows variation of the U.C.C.'s provisions by agreement. Reserve Bank operating circulars and private-sector clearing house rules constitute "agreements" under U.C.C. 4-103(b) whether or not specifically assented to by all interested parties. Although individual bank agreements cannot bind third parties absent specific consent, groups of banks may do so through clearing house rules. Thus, the ability of Reserve Banks to bind third parties through their operating circulars would not appear to have a direct and material adverse effect on the ability of private-sector banks to compete effectively with the Reserve Banks.

Section 210.3(f)

The Board proposes to add a new paragraph to § 210.3 to clarify that Regulation J supersedes the U.C.C., other state laws, and Regulation CC to the extent of any inconsistency. This provision parallels § 229.41 of Regulation CC, which provides that Regulation CC supersedes the U.C.C. and other state law to the extent of the inconsistency. The competitive effect of this provision depends on the effect of each separate Regulation J provision, as discussed under the appropriate section in this analysis.

Section 210.5(a)

The Board proposes to amend § 210.5(a) to conform the warranties made by banks that send items to Reserve Banks to the

transfer and presentment warranties in U.C.C. §§ 4-207 and 4-208. A sender would warrant that it was (or acted on behalf of a person who was) entitled to enforce the item. The U.C.C. substituted the concept of "person entitled to enforce" for "person with good title" in recognition that the right to enforce an instrument is not limited to holders. In addition, the proposal would require the sender to warrant that the item was not altered, dropping the adverb "materially." The U.C.C. formerly incorporated the concept of a "material" alteration as one that changed the contract of the parties in any respect. The revised U.C.C. refers to such a change simply as an alteration. Finally, the proposal would clarify that the sender also makes the warranties set forth in Regulation CC and that the Regulation J warranties may not be disclaimed and are made regardless of whether the sender's indorsement appears on the item.

Sections 210.5(d) and 210.12(i)

The Board proposes to add new paragraph (d) to § 210.5 and new paragraph (i) to § 210.12 to give a Reserve Bank a security interest in a sender's or prior collecting or returning bank's assets held by the Reserve Bank. The security interest would attach when a warranty is breached or other obligation is incurred. The proposed provisions are based on similar provisions in subpart B of Regulation J, which gives a Reserve Bank a security interest in the assets of a sender of a payment order to secure overdrafts and other obligations (§ 210.28(b)(3

and (4)). The Board believes that private-sector banks in the check collection and return process could exercise similar set-off rights against assets of banks that breach warranties or incur other obligations. Thus, the Board does not believe this amendment would have a direct and material adverse effect on the ability of private-sector banks to compete effectively with Reserve Banks.

Section 210.6(b)

The Board proposes to amend § 210.6(b) to conform the Reserve Bank warranties to the transfer and presentment warranties in U.C.C. §§ 4-207 and 4-208. (See discussion of § 210.5(a).) The proposal would also clarify that the Reserve Banks make the warranties set out in § 229.34 of Regulation CC.

Section 210.6(c)

Section 210.6(c) currently provides a 2-year statute of limitations for claims against Reserve Banks for lack of good faith or failure to exercise ordinary care. The Board proposes to amend this section to clarify that the Regulation CC limitation period of one year would apply to any claims against a Reserve Bank for breach of a Regulation CC warranty (see 12 CFR 229.34 and 229.38(g)). This amendment would clarify that claims against Reserve Banks for breaches of Regulation CC warranties are subject to the same time limitations as those against private-sector banks.

Section 210.9(a)(5)

Section 210.9(a)(5) provides that paying banks must settle for checks presented by Reserve Banks by "autocharge" (i.e. a debit to an account at a Reserve Bank), cash, or other means agreed to by the Reserve Bank. The Board proposes to amend this section to clarify that a Reserve Bank may, in its discretion, elect to obtain settlement by autocharging the account of the paying bank for the amount of a cash letter. Virtually all Reserve Bank presentments are settled via autocharge. This amendment restates the autocharge provisions that currently are set out in the Reserve Banks' uniform cash item operating circular.

The Board also proposes to amend this section to provide that paying banks that receive presentment from Reserve Banks may not set off other claims against the amount of settlement owed to the Reserve Bank. Paying banks may set off against private-sector presenting banks under § 229.34(c)(4) of Regulation CC. The Regulation CC set-off provision was designed to protect paying banks under the same-day settlement rule, which requires paying banks to accept presentment from and settle with all presenting banks, some of which may be in poor financial condition. If a paying bank overpays a cash letter in reliance on a cash letter total or check encoding warranted by the presenting bank, it could face the risk that the presenting bank would be unable to settle for adjustments. Protection against insolvency risk would not be necessary against a Reserve Bank.

In addition, as banks generally settle with Reserve Banks via autocharge, set-off against a Reserve Bank would be impractical. Therefore, the Board does not believe this amendment would have a direct and material adverse effect on the ability of private-sector banks to compete effectively with Reserve Banks.

Section 210.12(a)

Section 210.12(a) currently provides that a paying bank that has settled for a check presented by a Reserve Bank may return the check in accordance with Regulation CC, the U.C.C., and the Reserve Bank's operating circular. The Board proposes to amend this section to clarify that the paying bank may also return a check prior to settlement in accordance with § 210.9(a) of Regulation J and the Reserve Bank's operating circular. This amendment would clarify that a paying bank would have the same return rights under Regulation J as under Regulation CC and the U.C.C.

Section 210.12(c)

Section 210.12(c) currently sets out the warranties and agreements made by a bank that sends a returned check to a Reserve Bank. The Board proposes to amend this section to clarify that, in addition to the warranties set forth in § 229.34 of Regulation CC, the sender also makes any applicable warranty under state law. For example, the proposed amendment would clarify that a depository bank that settled for a returned check could recover the amount paid plus expenses and lost interest

from a prior bank that breached a transfer warranty, in accordance with U.C.C. § 4-208(d). In addition, similar to the proposed amendments to § 210.5(a), the revisions to this paragraph would clarify that the Regulation J warranties may not be disclaimed and are made regardless of whether the sender's indorsement appears on the item. These proposed amendments restate provisions that are already applicable to private-sector banks under Regulation CC and the U.C.C.

Section 210.12(d)

The Board proposes to add a new paragraph (d) to § 210.12 to clarify that when a Reserve Bank transfers and receives settlement for a returned check, it makes the warranties set out in § 229.34 of Regulation CC. In addition, the new paragraph would parallel proposed § 210.6(b) (governing Reserve Bank warranties for cash items) by providing a limitation of the Reserve Bank's liabilities, other than those allowed for in Regulation J, to the Reserve Bank's own lack of good faith or failure to exercise ordinary care. (The proposed amendments would redesignate current §§ 210.12(d) through (g) as §§ 210.12(e) through (h).)

Section 210.12(e) (current 210.12(d)) and section 210.5(b)

The U.C.C. (§ 3-119) and Regulation CC (§ 229.34(e)) provide that a bank that receives a tender of defense may in turn tender defense to a prior bank in the collection or return chain. Unless the prior bank comes in and defends, it is bound by the

determination of fact common to the current litigation and any subsequent litigation.

Section 210.5(b) of Regulation J provides that, when a Reserve Bank tenders defense to a sender as a result of a tender to it, the Reserve Bank need not be a defendant in the suit in order to recover from the sender any losses that it incurs because of the judgment, so long as the judgment addresses the fact issue of breach of warranty. The Board adopted this provision in 1986 in order to reduce litigation and provide a more efficient way of handling forged indorsement cases (51 FR 21740, June 16, 1986). Due to an oversight, when the Board amended § 210.12 to provide a similar rule for returned checks, the language did not match that of § 210.5(b) and could have been interpreted to apply only when a Reserve Bank is a defendant (53 FR 21983, June 13, 1988). The Board is proposing to amend § 210.12(e) to conform it to § 210.5(b). (The proposed amendments would redesignate current § 210.12(d) as § 210.12(e) and add a new paragraph (d) as discussed above.) The Board is also correcting a typographical error in § 210.5(b).

Section 210.12(h) (current 210.12(g))

This section currently provides that a depository bank must settle for returned checks received from a Reserve Bank in the same manner as it settles for cash items presented by the Reserve Bank. The Board proposes to amend this section to clarify that settlement for returned checks also must be made by

the same time as settlement for cash items, as provided in § 210.9(a).

Section 210.13(a)

Section 210.13(a) currently authorizes a Reserve Bank that does not receive payment for an item to charge back the account of the sender, paying bank, or returning bank from which the item was received. The Board proposes to amend this section to clarify that a Reserve Bank also may charge the account of a prior collecting bank through which the item was received. This proposed amendment is consistent with § 229.35(b) of Regulation CC, which allows a bank that handles a check or returned check to recover from any prior indorser in the event that the bank does not receive payment for the check from a subsequent bank in the collection or return chain. In the event of such a recovery by a Reserve Bank, current § 229.13(a) provides that no bank or person in the forward collection or return chain would have an interest in any funds in the Reserve Bank's possession of the bank that failed to pay. The proposed amendment would clarify that, when a Reserve Bank charges back an item, this limitation of interest applies only when a bank or person seeks payment of the amount of the item out of funds or property held by the Reserve Bank.

Section 210.13(b)

Section 210.13(b) currently provides that a Reserve Bank will not debit an institution's reserve account for drafts or other orders on the account after receiving notice that the

institution has been closed. The Board proposes to amend this section to clarify that Reserve Banks will not charge an account as authorized by § 210.9(a)(5) after receiving notice the institution is closed. The amendment also clarifies that this section applies only to charges to reserve accounts to settle for items (including returned checks) and does not affect the Reserve Bank's security interest under proposed §§ 210.5(d) and 210.12(i).

Section 210.14

Section 210.14 currently describes those circumstances under which the time limits for acting on an item may be extended, such as interruption of communication facilities, suspension of payments by a bank, and other emergency conditions. The Board proposes to amend this section to clarify that computer and equipment failure would constitute emergency conditions. This amendment is consistent with the emergency provisions in § 229.38(e) of Regulation CC and U.C.C. § 4-109(b).

Initial Regulatory Flexibility Analysis

The Regulatory Flexibility Act (5 U.S.C. 601-612) requires an agency to publish an initial regulatory flexibility analysis with any notice of proposed rulemaking. Two of the requirements of an initial regulatory flexibility analysis (5 U.S.C. 603(b)), a description of the reasons why action by the agency is being considered and a statement of the objectives of, and legal basis for, the proposed rule, are contained in the

supplementary material above. The proposed rules require no additional reporting or recordkeeping requirements, and the overlap with other federal rules (i.e., Regulation CC) is discussed above.

Another requirement for the initial regulatory flexibility analysis is a description of and, where feasible, an estimate of the number of small entities to which the proposed rule will apply. The proposal will apply to all depository institutions that receive items from or send items to Federal Reserve Banks, regardless of size. The proposed amendments generally clarify rights and duties of banks and do not impose any substantial economic burden on small entities.

List of Subjects in 12 CFR Part 210

Banks, banking, Check collection.

For the reasons set out in the preamble, 12 CFR part 210 is proposed to be amended as follows:

PART 210--REGULATION J (COLLECTION OF CHECKS AND OTHER ITEMS BY FEDERAL RESERVE BANKS AND FUNDS TRANSFERS THROUGH FEDWIRE)

1. The authority citation for part 210 is revised to read as follows:

AUTHORITY: 12 U.S.C. 248(i), (j), and (o), 342, 360, 464, and 4001-4010.

2. In § 210.2, paragraph (g) introductory text is revised and a new paragraph (p) is added immediately before the concluding text to read as follows:

§ 210.2 Definitions.

* * * * *

(g) Item means an instrument or a promise or order to pay money, whether negotiable or not, that is: * * *

* * * * *

(p) Uniform Commercial Code means the Uniform Commercial Code as adopted in a state.

* * * * *

3. In § 210.3, the last sentence of paragraph (a) is revised and a new paragraph (f) is added to read as follows:

§ 210.3 General provisions.

(a) * * * The circulars may, among other things, classify cash items and noncash items, require separate sorts and letters, provide different closing times for the receipt of different classes or types of items, set forth terms of services, and establish procedures for adjustments on a Reserve Bank's books, including amounts, waiver of expenses, and payment of interest by as-of adjustment.

* * * * *

(f) Relation to other law. The provisions of this subpart supersede any inconsistent provisions of the Uniform Commercial Code, of any other state law, or of part 229 of this title, but only to the extent of the inconsistency.

4. In § 210.5, paragraph (a) introductory text and paragraph (a)(2) are revised, in paragraph (b)(3) the phrase

"judgment or decree of the tender of defense" is revised to read "judgment or decree or the tender of defense", and a new paragraph (d) is added to read as follows:

§ 210.5 Sender's agreement; recovery by Reserve Bank.

(a) Sender's agreement. The warranties, authorizations, and agreements made pursuant to this paragraph may not be disclaimed and are made whether or not the item bears an indorsement of the sender. By sending an item to a Reserve Bank, the sender:

* * * * *

(2) Warrants to each Reserve Bank handling the item that: (i) The sender is a person entitled to enforce the item or authorized to obtain payment of the item on behalf of a person entitled to enforce the item; and

(ii) The item has not been altered; but this paragraph (a)(2) does not limit any warranty by a sender or other prior party arising under state law or under subpart C of part 229 of this title; and

* * * * *

(d) Security interest. To secure any obligation due or to become due to a Reserve Bank by a sender or prior collecting bank under this subpart or subpart C of part 229 of this title, the sender and prior collecting bank, by sending an item directly or indirectly to the Reserve Bank, grant to the Reserve Bank a security interest in all of the sender's or prior collecting

bank's assets in the possession of, or held for the account of, the Reserve Bank. The security interest attaches when a warranty is breached or any other obligation to the Reserve Bank is incurred. The Reserve Bank may take any action authorized by law to recover the amount of an obligation, including, but not limited to, the exercise of rights of set off, the realization on any available collateral, and any other rights it may have as a creditor under applicable law.

5. In § 210.6, paragraphs (b)(1) and (b)(2) are revised, a new first sentence is added to paragraph (b) concluding text, and a new last sentence is added to paragraph (c) to read as follows:

§ 210.6 Status, warranties, and liability of Reserve Bank.

* * * * *

(b) * * *

(1) That the Reserve Bank is a person entitled to enforce the item (or is authorized to obtain payment of the item on behalf of a person who is either (i) entitled to enforce the item or (ii) authorized to obtain payment on behalf of a person entitled to enforce the item); and

(2) That the item has not been altered.

The Reserve Bank also makes the warranties set forth in § 229.34(c) of this title, subject to the terms of part 229 of this title. * * *

(c) * * * This paragraph does not lengthen the time limit for claims under § 229.38(g) of this title (which

include claims for breach of warranty under § 229.34 of this title).

6. In § 210.9, paragraph (a)(5) is revised to read as follows:

§ 210.9 Settlement and Payment.

(a) * * *

(5) Settlement with a Reserve Bank under paragraphs (a)(1) through (4) of this section shall be made by debit to an account on the Reserve Bank's books, cash, or other form of settlement to which the Reserve Bank agrees, except that the Reserve Bank may, in its discretion, obtain settlement by charging the paying bank's reserve or clearing account. A paying bank may not set off against the amount of a settlement under this section the amount of a claim with respect to another cash item, cash letter, or other claim under § 229.34(c) of this title or other law.

* * * * *

7. In § 210.12, a new sentence is added after the first sentence of paragraph (a), paragraph (c) introductory text and paragraph (c)(2) are revised, paragraphs (d) through (g) are redesignated as paragraphs (e) through (h), respectively, new paragraphs (d) and (i) are added, and newly-designated paragraph (e) concluding text and newly-designated paragraph (h) are revised to read as follows:

§ 210.12 Return of cash items and handling of returned checks.

(a) * * * A paying bank that receives a cash item directly or indirectly from a Reserve Bank also may return the item prior to settlement, in accordance with § 210.9(a) and its Reserve Bank's operating circular. * * *

* * * * *

(c) Paying bank's and returning bank's agreement. The warranties, authorizations, and agreements made pursuant to this paragraph may not be disclaimed and are made whether or not the returned check bears an indorsement of the paying bank or returning bank. By sending a returned check to a Reserve Bank, the paying bank or returning bank--

* * * * *

(2) Makes the warranties set forth in § 229.34 of this title (but this paragraph does not limit any warranty by a paying or returning bank arising under state law); and

* * * * *

(d) Warranties by Reserve Bank. By sending a returned check and receiving settlement or other consideration for it, a Reserve Bank makes the returning bank warranties as set forth in § 229.34 of this title, subject to the terms of part 229 of this title. The Reserve Bank shall not have or assume any other liability to the transferee returning bank, to any subsequent returning bank, to the depository bank, to the owner of the check, or to any other person, except for the Reserve Bank's own

lack of good faith or failure to exercise ordinary care as provided in subpart C of part 229 of this title.

(e) * * *

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

* * * * *

(h) Settlement. A subsequent returning bank or depository bank shall settle for returned checks in the same manner and by the same time as for cash items presented for payment under this subpart.

(i) Security interest. To secure any obligation due or to become due to a Reserve Bank by a paying bank, returning bank, or prior returning bank under this subpart or subpart C of part 229 of this title, the paying bank, returning bank, and prior returning bank, by sending a returned check directly or indirectly to the Reserve Bank, grant to the Reserve Bank a security interest in all of the paying bank's, returning bank's, and prior returning bank's assets in the possession of, or held for the account of, the Reserve Bank. The security interest attaches when a warranty is breached or any other obligation to the Reserve Bank is incurred. The Reserve Bank may take any

action authorized by law to recover the amount of an obligation, including, but not limited to, the exercise of rights of set off, the realization on any available collateral, and any other rights it may have as a creditor under applicable law.

8. Section 210.13 is revised to read as follows:

§ 210.13 Unpaid items.

(a) Right of recovery. If a Reserve Bank does not receive payment in actually and finally collected funds for an item, the Reserve Bank shall recover by charge-back or otherwise the amount of the item from the sender, prior collecting bank, paying bank, or returning bank from or through which it was received, whether or not the item itself can be sent back. In the event of recovery from such a party, no party, including the owner or holder of the item, shall, for the purpose of obtaining payment of the amount of the item, have any interest in any reserve balance or other funds or property in the Reserve Bank's possession of the bank that failed to make payment in actually and finally collected funds.

(b) Suspension or closing of bank. A Reserve Bank shall not pay or act on a draft, authorization to charge (including a charge authorized by § 210.9(a)(5)), or other order on a reserve balance or other funds in its possession for the purpose of settling for items under § 210.9 or § 210.12 after it receives notice of suspension or closing of the bank making the settlement for that bank's own or another's account.

9. Section 210.14 is revised to read as follows:

§ 210.14 Extension of time limits.

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

By order of the Board of Governors of the Federal Reserve System, December 14, 1993.

(Signed)

William W. Wiles
Secretary of the Board