

**FEDERAL RESERVE BANK
OF NEW YORK**

[Circular No. **7682**]
August 1, 1975

AMENDMENT TO REGULATION Q

Preauthorized Transfers of Funds from Savings Accounts

*To All Member Banks, and Others Concerned,
in the Second Federal Reserve District:*

Following is the text of a statement issued July 28 by the Board of Governors of the Federal Reserve System:

The Board of Governors of the Federal Reserve System today authorized member banks to offer a bill-paying service to their customers through the preauthorized transfer of funds from the customer's savings account. The action is effective September 2.

At present, a bill-paying service of this type can be made only for the payment of the principal, interest or other charges related to a real estate loan or mortgage.

The new authorization, in the form of an amendment to the Board's Regulation Q governing the payment of interest on deposits, permits a savings depositor to authorize the transfer of funds to third parties for payments of any type, except bank overdrafts.

The amendment as adopted was substantially the same as proposed by the Board on April 7, with three modifications:

- It specifies that transfers from savings accounts may not be made to cover overdrafts or the use of a checking account line of credit.
- The amendment makes it clear that it does not permit a member bank to agree to transfer funds automatically—i.e., without specific instructions—from a customer's savings account to the customer's checking account.
- The amendment indicates that withdrawal orders or authorizations for payment to third parties may be received by a member bank only from a depositor.

The Board has previously invited public comment on proposed arrangements for access to Federal Reserve clearing and settlement facilities connected with automated clearing houses. Pending further consideration of this matter, such Federal Reserve facilities may not be used to clear the third party transfers from savings accounts now authorized. Rules presently in effect regarding the clearing and settling of negotiable orders of withdrawal (NOWs) are not affected by the amendment of Regulation Q announced today.

The amendment gives member banks broad, general authority to design and offer bill-paying services using funds in savings accounts. The amendment does not, however, specify the form of such services. The Board therefore offered the following hypothetical outline of a possible bill-paying service:

"In most cases, a bill-paying service will be based upon a written contract between the bank and the depositor . . . The transfer . . . may be accomplished by means of an internal bank transaction or by sending a bank check to the transferee or the transferee's bank.

"The depositor will give the bank the names of those organizations or individuals to whom funds are to be transferred, indicating either the specific amount to be paid to each, or a maximum amount and the frequency of payment . . .

"Subsequent additions to the list of transferees or changes in instructions may be communicated to the bank in person, in writing or by telephone.

"If the depositor uses a written withdrawal form to convey transfer instructions to the bank, such form must contain language in boldface type that it is not negotiable or transferable."

The System will monitor the development of bill-paying services, and it is possible that additional regulations, or guidelines may be issued in the future. Member banks were advised to maintain data on accounts subject to third party payment authorizations in a manner which will facilitate identification of such deposits for reporting purposes.

The Federal Deposit Insurance Corporation has proposed similar changes in its regulations.

In submitting the amendments for publication in the *Federal Register*, the Board of Governors made the following additional statement:

On April 7, 1975, the Board invited public comments to be received by June 6, 1975, on a proposed amendment to its Regulation Q which would permit member banks to offer a service for making third party

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payments through preauthorized transfers of funds from depositors' savings accounts (40 *Federal Register* 16685-6). After review and consideration of all comments received, the Board has adopted the proposed amendment in substantially the same form as proposed.

Previously, Regulation Q permitted member banks to make withdrawals from customers' savings accounts only to effect the payment of installments of principal, interest, or other charges (including taxes or insurance premiums) due on a real estate loan or mortgage. This amendment will permit banks to provide a full range of bill payment services without regard to the nature of the payment. The amendment authorizes member banks to honor withdrawal orders or authorizations received from the depositor for recurrent or occasional payments from his/her savings deposit. A member bank shall not honor any such withdrawal order or authorization received from a third party. The term "withdrawal order or authorization" means the depositor's agreement with the bank to effect withdrawals for payment to third parties. The term does not refer to notice received from third parties providing information as to amounts to be paid.

As amended, § 217.5(c) will permit a savings depositor to authorize his/her bank to transfer funds to third parties (whether or not the payment is in satisfaction of a debt), or to the depositor's bank to repay any indebtedness to the bank *except* that incurred through overdrafts or use of a checking account line of credit.

The amendment adopted by the Board gives member banks authority to offer bill paying services and does not specify the form of such services. However, member banks desiring to offer their depositors this service may find the following examples useful. The authorization given to the bank by the depositor may take different forms, as explained below.

1. In most cases, the depositor will sign a contract outlining the rights and duties of both bank and depositor. Such contract will constitute the depositor's authorization to the bank to honor the depositor's instructions to transfer funds from his/her account.

2. The depositor's authorization to the bank also may be in the form of written withdrawal orders or authorizations supplied to the depositor by the bank and forwarded to the bank by the depositor requesting transfer of his/her funds. Such withdrawal orders or authorizations must bear language in boldface type that they are not negotiable or transferable.

The transfer of funds may be accomplished by means of an internal bookkeeping transfer or by the member bank sending payment to the transferee or the transferee's bank. The depositor will give the bank the names of those organizations or individuals to whom funds are to be transferred, indicating either the specific amount to be paid to each or a maximum amount and the frequency of payment. The depositor also may authorize the bank to make withdrawals from his/her savings account in amounts stated on bills or other notices delivered periodically or occasionally by the third party to the depositor's bank. The depositor may be required to supply the bank with the transferee's address and/or bank account number. Subsequent additions to the list of transferees or changes in instructions may be communicated to the bank in person, in writing, or by telephone.

The Board recently invited public comment on proposed access arrangements for utilizing Federal Reserve facilities in clearing and settling magnetically encoded payment instructions (40 *Federal Register* 25641). The amendment announced today does not affect the proposal regarding access. This amendment does not authorize member banks to send items recorded on magnetic tape originating from savings accounts directly to Federal Reserve clearing facilities.

Member banks should maintain data on accounts subject to third party payment authorizations in a manner which will facilitate identification of such deposits for reporting purposes.

Four textual changes have been made in the amendment. The first change is the insertion of the phrase "including the bank (except as prohibited by subparagraph 2)" in the first sentence of the amended § 217.5(c)(1)(vii) to indicate that funds withdrawn from a savings account under authority of that section may be transferred to the account of the depositor's bank for repayment of any indebtedness *except* that incurred through overdrafts or the use of a checking account line of credit.

The second textual change is the insertion of the words "automatically or" in § 217.5(c)(2). This change is designed to indicate that a member bank may not offer or agree to transfer funds automatically from a depositor's savings account to the depositor's checking account either to cover overdrafts or to replenish the depositor's checking account balance.

The third change is the insertion in the first sentence of § 217.5(c)(1)(vii) of the words "received from a depositor by a member" to indicate that withdrawal orders or authorizations may be paid only if received by a member bank from a depositor. This change and the fourth change, the insertion of the word "withdrawal" before "order(s) or authorization(s)" wherever it appears in the regulation are intended to emphasize the nontransferable nature of such withdrawal orders or authorizations permitted by this amendment.

After review and consideration of all comments received, pursuant to its authority under section 19 of the Federal Reserve Act (12 U.S.C. 461) to define the terms used in that section and to prescribe such regulations as it may deem necessary to effectuate the purposes of that section, the Board has decided to adopt the amendment in substantially the form proposed.

Enclosed is a copy of the amendment to Regulation Q. Any questions regarding this matter may be addressed to our Bank Regulations Department. Additional copies will be furnished upon request.

PAUL A. VOLCKER,
President.