

**FEDERAL RESERVE BANK
OF NEW YORK**

[Circular No. 7806]
January 27, 1976]

**COLLECTION OF CHECKS AND OTHER ITEMS
AND TRANSFERS OF FUNDS**

Revised Proposed Amendments to Regulation J

*To All Banks and Other Financial Organizations in the
Second Federal Reserve District, and Others Concerned:*

Our Circular No. 7799, dated January 19, 1976, contained the text of a statement issued by the Board of Governors of the Federal Reserve System announcing revised proposals to amend its Regulation J to deal with clearing and settlement of wire transfers and payment instructions recorded on magnetic tape. Printed below is the text of the revised proposal, as published in the *Federal Register* of January 21.

Comments thereon should be submitted by March 19 and may be sent to our Payment Systems Department.

PAUL A. VOLCKER,
President.

FEDERAL RESERVE SYSTEM

[12 CFR Part 210]

FEDERAL RESERVE BANKS

Collection of Checks and Other Items

Under Section 16 of the Federal Reserve Act (12 U.S.C. 248(o)), the Board of Governors of the Federal Reserve System is authorized to promulgate regulations governing the transfer of funds through Federal Reserve Banks, their branches, and regional facilities. On November 19, 1973, the Board of Governors issued for comment a revision of Regulation J, incorporating two new subparts (see 39 FR 32952). After review and consideration of all comments received, the Board has substantially revised the Subparts and is republishing them for further comment.

The proposed rules, which delineate in regulatory form the rights and responsibilities of financial institutions using existing Federal Reserve facilities for what have become known as "electronic fund transfers," are in the form of an amendment to Regulation J (12 CFR Part 210). Such transfers are already being handled by the Federal Reserve System and consist of (1) large dollar credit items which are transmitted over the Federal Reserve Communications System and are commonly known as "wire transfers," and (2) smaller dollar

amount credit and debit items generally in recurring amounts that are contained on magnetic tape and processed through Federal Reserve clearing and settlement facilities, commonly known as "ACH transactions." The rules regarding such transfers of funds through Federal Reserve facilities would be designated as Subpart B, Credit Items, and Subpart C, Debit Items. The present provisions of Regulation J relating to check collection would become Subpart A of the Regulation.

The Regulation does not establish rules regulating commercial/consumer electronic payment systems, such as point-of-sale systems or customer bank communications terminals, nor does it govern liabilities of parties involved in the Department of Treasury's Federal Recurring Payments Program (for a discussion of that program, see 40 FR 47492). The Regulation does not attempt to establish the rules by which consumers will transfer funds. Regulation J only governs the transfers of funds among financial institutions through existing Federal Reserve facilities. Currently, the rights and liabilities of parties using Federal Reserve System facilities are defined by operating circulars, separate contracts, and other agreements, and this proposal would establish a common regulatory framework for all items received by a Reserve Bank.

SUBPART B

As provided in Subpart B, the originator initiates the action to transfer funds from the originator to the recipient. An originator is defined as a financial institution or government agency eligible to deposit items directly with a Federal Reserve Bank in accordance with Federal Reserve System operating circulars. The originator sends a credit item to the Federal Reserve office with which it maintains or causes to maintain an account in the media specified in the regulation. (But under special arrangements, an originator may directly send items to another Federal Reserve Bank.) Also, under special arrangements, an originator may request by telephone its Reserve office to transfer funds. By sending or requesting a credit item, the originator warrants to the recipient that it has the authority to perform this action. The originator also authorizes the Reserve office to debit its account and to act upon the item by forwarding it to the recipient; the originator indemnifies the Federal Reserve Bank for losses sustained for actions taken by the Reserve Bank within its scope of authority in handling the item.

The recipient, defined as a party authorized by Reserve Bank operating circulars to receive items, authorizes the

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Reserve Bank to handle the item and agrees that it will credit its customer on the day of payment.

Final payment for items occurs when the credit item is sent by the Reserve Bank, but for credit items deposited on magnetic tape, final payment occurs according to the date and time specified in the time schedules in Federal Reserve Bank operating circulars. The duties and liabilities of a Reserve Bank are outlined in several sections and basically impart a duty of reasonable care to the Reserve Banks.

The new proposal is different in a number of aspects from the earlier proposal, as follows:

Section 210.52—Amended to revise and include additional definitions.

Section 210.54—New paragraph to clarify the provisions for telephonic requests for credit items.

Section 210.55—Amended to require the originator to warrant to the recipient that the originator is authorized to send or request the item.

Section 210.56—Amended to provide different procedures should a member bank not be able to credit a customer for the amount of an item.

Section 210.57—Amended to clarify the amount of the balance which a member bank must hold with its Federal Reserve Bank.

Section 210.60—Amended to provide that an originator may receive one advice for the net transfers for that day.

Section 210.61—Amended to modify revocation provisions and clarify return of funds provisions.

Section 210.62—Amended to include that final payment is final upon sending of an item or in the case of items deposited on magnetic tape in accordance with the date of the item and the operating circular.

SUBPART C

As detailed in Subpart C, the originator initiates the action to transfer funds from the recipient to the originator. Reserve Bank operating circulars will outline which depository institutions will be authorized to be originators and recipients. The originator warrants to the recipient that the originator is authorized to issue the debit item. The originator also indemnifies the Reserve Bank for losses sustained by the receiving Reserve Bank resulting from any action taken by such Reserve Bank within its scope of authority. The recipient is debited on the payment date. The debit may be reversed if the item is returned to its Federal Reserve Bank by close of the recipient's business day next following the payment date. The time of payment is effective in accordance with the time schedule specified in Reserve Bank operating circulars. The Reserve Bank liability is basically one of due care.

The new proposal materially changes certain provisions in the earlier proposal as follows:

Section 210.72—Amended to revise and include additional definitions.

Section 210.73—Amended to require

the originator to warrant to the recipient that the originator is authorized to send the debit item.

Section 210.77—Amended to clarify when final payment occurs.

The Reserve Banks will process debit items only if such items are in the form of an ACH transaction.

It should be noted that, as an additional provision in both Subparts, all banks shall maintain adequate safeguards to insure the privacy and confidentiality of all account information.

Operating circulars will be issued by Federal Reserve Banks governing the details of funds transfer operations and will detail which institutions may deliver and receive items directly.

In regard to access to Federal Reserve facilities used in the above operations, on June 10, 1975, the Board published for comment proposed arrangements for the deposit, delivery, and settlement of ACH transactions—i.e., those payments contained on magnetic tape that would be cleared through Federal Reserve clearing and settlement facilities. The Board proposed on June 10 that only financial organizations with demand deposit powers could deposit magnetic tapes with the Federal Reserve. The Board also proposed that payments would be delivered directly to financial organizations currently serviced by Federal Reserve courier services and to high volume endpoints located along existing courier routes (see 40 FR 25641). The proposal did not apply to access to other System facilities, such as the wire transfer facilities.

The Board, by publication of these proposed regulations, is not finally adopting a policy in regard to access and pricing. In the near future the Board intends to publish a pricing schedule based on the fully allocated costs of providing System check and ACH services. In developing the pricing schedule, consideration would be given to the burden of required reserves maintained by member banks. In the interim, pending the development of a final pricing schedule in respect to so-called ACH transactions, the System will basically maintain its current policy with regard to the processing and handling of such transactions and will, in fact, broaden its services concerning delivery. Such interim policies may be modified at the time a pricing schedule is adopted. During the interim period, the Federal Reserve Banks will handle and process ACH transactions for all member banks and any nonmember financial organization that is a member of an automated clearing house association and that is sending ACH data pursuant to association rules.

The Federal Reserve will deliver ACH items under the following guidelines:

(1) Items for beneficiaries maintaining accounts at a financial institution offering demand deposit accounts may be delivered directly to that institution in the same manner that checks are presented.

(2) Items for beneficiaries maintaining accounts at a financial organization not offering demand deposit accounts may be delivered directly to that institution: *Provided,*

Such institution receives sufficient volume of such items to warrant separate delivery and is located on an existing check courier route.

(3) Items may be delivered to a data processing service bureau: *Provided,* The service bureau receives sufficient volume of such items to warrant separate delivery and is located on an existing check courier route.

(4) Any financial organization may pick up items at the local Federal Reserve office provided that its volume is sufficient to warrant such actions.

(5) Any financial organization may have items delivered to an endpoint that currently receives checks directly from the Federal Reserve office (i.e. the pass-through method).

(6) Items may be mailed to any financial organization by the Federal Reserve regardless of its location.

SETTLEMENT

Settlement for items cleared under the above arrangement will be made by credit and debit entries to reserve accounts of member banks of the Federal Reserve System.

In providing clearing and settlement services for ACH associations, the Board anticipates that these services will be made reasonably available on a comparable basis to depository institutions having need for such services.

The above provisions apply only for the use of Federal Reserve facilities in clearing and settling payments exchanged on magnetic tape. Use of the Federal Reserve communications system for transmitting large dollar credit items will continue to be limited to Federal Reserve member banks and Government agencies. Other financial institutions may utilize this system through facilities of a member bank.

In view of the many changes occurring in the electronic payments area, Federal Reserve policy will be subject to periodic review. In particular, further review would be undertaken as a result of the study by the National Commission on Electronic Fund Transfers. These proposals, if adopted, will provide uniform standards for electronic transactions handled by the System. In such an environment, considerable cost savings to financial institutions, the U.S. Treasury, and the Federal Reserve may be realized and consumers can be afforded greater convenience and security.

This notice is published pursuant to section 553(b) of Title 5, United States Code, and section 262.2(a) of the rules of procedure of the Board of Governors. These regulations are issued pursuant to and under the authority of sections 11(i), 11(j), 13, 16, and 19(f) of the Federal Reserve Act (12 U.S.C. 248(i), 12 U.S.C. 248(j), 12 U.S.C. 342, 12 U.S.C. 248(o), and 12 U.S.C. 464, respectively) and related provisions of the law.

To aid in the consideration of the Regulation J proposal by the Board, interested persons are invited to submit relevant data, views, or arguments. Any such material should be submitted in writing to the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551 to be received not later than March 19, 1976. Such material will be made available for inspection and copying upon request except

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as provided in § 261.6(a) of the Board's rules regarding availability of information.

To implement its proposal, the Board is considering amending Regulation J (12 CFR Part 210) as set forth below.

1. The title of Part 210 would be changed to read: "COLLECTION OF CHECKS AND OTHER ITEMS AND TRANSFERS OF FUNDS."

2. The table of contents of Part 210 would be changed to read as follows:

Subpart A—Collection of Checks and Other Items

210.1	Authority and scope.
210.2	Definitions.
210.3	General provisions.
210.4	Sending of items to Federal Reserve Banks.
210.5	Sender's agreement.
210.6	Status and warranties of Federal Reserve Bank.
210.7	Presentment for payment.
210.8	Presentment of noncash items for acceptance.
210.9	Remittance and payment.
210.10	Time schedule and availability of credits with respect to cash items.
210.11	Availability of proceeds of noncash items.
210.12	Return of cash items.
210.13	Chargeback of unpaid cash items and noncash items.
210.14	Timeliness of action.
210.15	Effect of direct presentment of certain warrants.
210.16	Operating letters.

Subpart B—Transfers of Funds—Credit Items

210.50	Authority and scope.
210.51	General provisions.
210.52	Definitions.
210.53	Approved media for issuance, transmission or recording of credit items.
210.54	Request for credit items.
210.55	Originator's agreement.
210.56	Recipient's agreement.
210.57	Issuance of credit items and requests for credit items.
210.58	Handling of credit items and requests for credit items.
210.59	Time schedules.
210.60	Advices of credit and debit.
210.61	Handling of requests for revocation of credit items and requests for return of funds.
210.62	Final payment, right to withdraw or use funds.
210.63	Timeliness of action.
210.64	Liability of a Federal Reserve Bank.
210.65	Operating circulars.

Subpart C—Transfers of Funds—Debit Items

210.70	Authority and scope.
210.71	General provisions.
210.72	Definitions.
210.73	Originator's agreement.
210.74	Recipient's agreement.
210.75	Issuance of debit items.
210.76	Handling of debit items.
210.77	Payment.
210.78	Time schedule.
210.79	Handling of requests for revocation of debit items.
210.80	Return.
210.81	Chargeback.
210.82	Timeliness of action.
210.83	Liability of a Federal Reserve Bank.
210.84	Operating circulars.

AUTHORITY: Secs. 11(i), 11(j), 13, 16, and 19(f), Federal Reserve Act (12 U.S.C. 248(i), 12 U.S.C. 248(j), 12 U.S.C. 342, 12 U.S.C. 248 (a), and 12 U.S.C. 464).

3. Part 210 would be amended by inserting immediately before § 210.1 a heading reading: "Subpart A—Collection of Checks and Other Items."

4. Paragraph (a) of § 210.2 would be amended, but without change in footnotes, to read as follows:

§ 210.2 Definitions.

(a) The term "item" means any instrument for the payment of money, whether negotiable or not, which is payable in a Federal Reserve district; is sent by a sender or a nonbank depositor to a Federal Reserve Bank for handling under this Part; and is collectible in funds acceptable to the Federal Reserve Bank of the district in which the instrument is payable; except that the term does not include any check which cannot be collected at par¹ nor does it include any item as defined in § 210.51(a).

5. Part 210 would be amended to change the words "this part" wherever they occur in §§ 210.1–210.16 to read "this subpart."

6. Part 210 would be amended by adding after § 210.16 the following:

Subpart B—Transfer of Funds—Credit Items

§ 210.50 Authority and scope.

Pursuant to the provisions of paragraph 1 of section 13 of the Federal Reserve Act, as amended (12 U.S.C. 342), paragraph (f) of section 19 of the Federal Reserve Act, as amended (12 U.S.C. 464), paragraph 14 of section 16 of the Federal Reserve Act, as amended (12 U.S.C. 248(o)), paragraphs (i) and (j) of section 11 of the Federal Reserve Act, as amended (12 U.S.C. 248(i) and (j)), and other provisions of law, the Board of Governors of the Federal Reserve System has promulgated this subpart governing the handling by Federal Reserve Banks of credit items and requests for credit items.

§ 210.51 General provisions.

In order to afford a direct, expeditious, and economical system for the transfer of funds, each Federal Reserve Bank, in accordance with the terms and conditions set forth in this subpart, shall receive, process and act upon credit items and requests for credit items and, where appropriate, shall itself issue credit items. The provisions of this Subpart and the operating circulars of the Federal Reserve Bank shall be binding upon depositors, originators, and recipients.

§ 210.52 Definitions.

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

(a) The term "item" means any instrument for the payment of money issued, transmitted, or received in accordance with this Subpart.

(b) The term "credit item" means either (1) an item issued by an originator (other than a Federal Reserve Bank) to a Federal Reserve Bank for debit to an account of a depositor in such Federal Reserve Bank and for credit, directly or indirectly, to a recipient named in such

item, (2) an item issued by a Federal Reserve Bank to another Federal Reserve Bank for credit to such other Federal Reserve Bank or, directly or indirectly, to any other recipient, or (3) an item issued by a Federal Reserve Bank at the request of an originator for credit, directly or indirectly, to a recipient.

(c) The term "instrument for the payment of money" means any writing contained in or on any medium approved by § 210.53 for the issuance, transmission, or recording of credit items, addressed by one person to another and evidencing a right to the payment of money.

(d) The term "depositor" means a member bank, a corporation that maintains an account with a Federal Reserve Bank in conformity with the requirements of § 211.7 of Part 211 of this chapter (Regulation K), a Federal Reserve Bank, an international organization, a foreign correspondent, or other institution maintaining an account with a Federal Reserve Bank.

(e) The term "originator" means a depositor authorized by a Federal Reserve Bank, or any institution authorized by a Federal Reserve Bank in an operating circular issued pursuant to this subpart, to issue and send a credit item to that Federal Reserve Bank or to request that Federal Reserve Bank to issue a credit item and that has agreed that the amount of any such credit item or request shall be debited to the account maintained or used by such depositor or institution on the books of that Federal Reserve Bank.

(f) The term "recipient" means a depositor or any institution authorized by a Federal Reserve Bank in an operating circular issued pursuant to this subpart to receive, directly or indirectly, credit items from that Federal Reserve Bank and that has agreed that the amount of any such credit item shall be credited to the account maintained or used by the recipient on the books of that Federal Reserve Bank.

(g) The term "beneficiary" means a person (other than the recipient) designated in a credit item to receive the amount thereof by credit to an account maintained with the recipient or otherwise from the recipient.

(h) The term "international organization" means an international organization for which the Federal Reserve Banks are empowered to act as depositaries or fiscal agents subject to regulation by the Board of Governors of the Federal Reserve System and for which a Federal Reserve Bank has opened and is maintaining an account.

(i) The term "foreign correspondent" means any of the following for which a Federal Reserve Bank has opened and is maintaining an account: a foreign bank or banks; a foreign state as defined in section 25(b) of the Federal Reserve Act, as amended (12 U.S.C. 632); or a foreign correspondent or agency referred to in section 14(e) of that Act (12 U.S.C. 358).

(j) The terms "Federal Government originator" and "Federal Government recipient," respectively, mean any department, agency, instrumentality, inde-

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pendent establishment, or office of the United States that maintains or uses an account with a Federal Reserve Bank. The term "Federal Government depositor" means any department, agency, instrumentality, independent establishment, or office of the United States that maintains an account with a Federal Reserve Bank. Except as may otherwise be provided by any applicable statutes of the United States or regulations issued or arrangements made thereunder, the provisions of this Subpart and of the operating circulars of the Federal Reserve Banks applicable to an originator, a recipient, or a depositor, as the case may be, are applicable, respectively, to a Federal Government originator, a Federal Government recipient, and a Federal Government depositor.

(k) The term "business day" means any day during which an institution is open to the public for carrying on substantially all its business functions.

(l) The term "Federal Reserve Bank" includes any Head Office, Branch Office, or any other office of a Federal Reserve Bank.

§ 210.53 Approved media for issuance, transmission or recording of credit items.

An originator may issue and send a credit item in any one of the following media:

(a) A letter, memorandum, or other similar writing;

(b) A telegram (including TWX, TELEX, and any similar form of communications); and

(c) Any form of communication, other than voice, that is registered upon, or is in form suitable for being registered upon magnetic tape, disc, or any other medium designed to capture and contain in durable form conventional signals used for the electronic communication of messages.

§ 210.54 Request for credit items.

An originator that is a depositor may, under special arrangement and in accordance with the provisions of the operating circular of the Federal Reserve Bank with which it maintains an account, request its Federal Reserve Bank by telephone to issue a credit item and transfer funds to a recipient or to issue and send a credit item to another Federal Reserve Bank. Such telephone messages may be recorded by such Federal Reserve Bank.

§ 210.55 Originator's agreement.

(a) An originator other than a Federal Reserve Bank by its actions of issuing and sending to the Federal Reserve Bank with which it maintains or uses an account any credit item contained in any of the media specified in § 210.53, or requesting by telephone the issuance of a credit item as provided in § 210.54, shall be deemed (1) to warrant to the recipient designated in the item that such originator is authorized to issue and send or request such credit item and (2) to authorize (i) said Federal Reserve Bank to

handle and act upon such credit item or request, and (ii) the Federal Reserve Bank at which the recipient maintains or uses an account to handle and act upon a credit item, in accordance with the provisions of this Subpart and the operating circulars of such Federal Reserve Banks. Such originator shall be deemed to agree that the provisions of this subpart and the Federal Reserve Bank operating circulars shall, insofar as they are made applicable thereto, govern the relationships between such originator and such Federal Reserve Banks and shall also be deemed to agree to maintain reasonable procedures designed to protect the confidentiality of information related to such credit item or request.

(b) The originator shall be deemed to agree to indemnify each Federal Reserve Bank handling a credit item for any loss or expense sustained (including but not limited to attorneys' fees and expenses of litigation) resulting from any action taken by the Federal Reserve Bank within the scope of its authority in handling the credit item.

(c) Whenever any action or proceeding is brought in any court against a Federal Reserve Bank, based upon any act done by the Federal Reserve Bank within the scope of its authority in handling such a credit item, the Federal Reserve Bank may, upon the entry of a final judgment or decree in such action or proceeding, recover from the originator the amount of attorneys' fees and other expenses of litigation actually incurred, and, in addition, any amount required to be paid by the Federal Reserve Bank under such judgment or decree, together with interest thereon, by charging the amount thereof to any account maintained or used by the originator on the books of the Federal Reserve Bank (or if the originator is another Federal Reserve Bank, by entering a charge therefor against such other Federal Reserve Bank): *Provided only*, (1) That the Federal Reserve Bank shall have made seasonable demand on the originator in writing to assume the defense of the action or proceeding, and (2) that the originator shall not have made any other provision acceptable to the Federal Reserve Bank for the payment of such amount. A Federal Reserve Bank against which any such charge has been entered may recover the amount thereof by debiting the account maintained or used by such originator, in any case herein provided, even though the action or proceeding had been brought against another Federal Reserve Bank. The failure of any Federal Reserve Bank to avail itself of the remedy provided by this paragraph shall not prejudice the enforcement by it in any other manner of the indemnity agreement referred to in paragraph (b) of this section.

§ 210.56 Recipient's agreement.

(a) A recipient, other than a Federal Reserve Bank, designated in a credit item to receive the amount thereof, by its action in maintaining or using an account at a Federal Reserve Bank, shall be deemed to authorize that Federal Re-

serve Bank to credit the amount of such item to such account.

(b) A recipient, other than a Federal Reserve Bank, receiving directly or indirectly from a Federal Reserve Bank the amount of credit item designated for a beneficiary, shall be deemed to agree that it will credit said beneficiary's account or otherwise make the amount of the credit item available to the beneficiary for withdrawal or other use on the business day the credit item is finally paid, or return the amount of such item to the originator in accordance with the provisions of this Subpart and the operating circulars issued hereunder. Such a recipient shall be deemed to agree to maintain reasonable procedures designed to protect the confidentiality of information related to such credit item.

§ 210.57 Issuance of credit items and requests for credit items.

(a) Any originator, other than a Federal Reserve Bank, may, in accordance with the provisions of this Subpart and the operating circulars of the Federal Reserve Bank with which it maintains or uses an account, issue and send credit items to that Federal Reserve Bank or request that Federal Reserve Bank by telephone to issue credit items for the transfer of funds to recipients for their own use or the use of beneficiaries, or where the originator and recipient do not maintain or use accounts at the same office of a Federal Reserve Bank, and where permitted or required by the Federal Reserve Bank with which the originator maintains or uses an account, issue and send any credit item direct to the Federal Reserve office at which the recipient maintains or uses an account: *Provided*, That, at the end of a Federal Reserve Bank's business day, an originator shall maintain or cause to be maintained a balance of actually and finally collected funds sufficient to cover the amounts of credit items debited to such account at the Federal Reserve Bank during that day and, if such balance is not sufficient to cover the amounts debited to such account during that day, that Federal Reserve Bank shall have a security interest in any or all assets of the depositor maintaining such account in the possession or held for the account of the Federal Reserve Bank's business day such depositor suspends payment or is closed and does not have a balance sufficient to cover the amounts so debited to its account, such Federal Reserve Bank shall have a security interest in any or all assets of such depositor in the possession or held for the account of such Federal Reserve Bank. Notwithstanding the foregoing, a Federal Reserve Bank, may, in its discretion, refuse to act upon a credit item at any time when such Federal Reserve Bank has reason to believe that the balance maintained or used by such originator is not sufficient to cover such item.

(b) With respect to any credit item sent direct by an originator (other than

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a Federal Reserve Bank) maintaining or using an account at one Federal Reserve office to another Federal Reserve office at which the recipient maintains or uses an account, in accordance with paragraph (a) of this section, the relationships and the rights and liabilities existing between the originator, the Federal Reserve office with which it maintains or uses an account and the Federal Reserve office to which the item is sent will be the same, and the provisions of this subpart will apply, as though the originator had sent such item to the Federal Reserve office with which it maintains or uses an account and such Federal Reserve office had issued a credit item to the other Federal Reserve office.

(c) Any Federal Reserve Bank may, in accordance with the provisions of this Subpart, issue and send credit items to another Federal Reserve Bank or request that Federal Reserve Bank by telephone to issue credit items for its own use or the use of any other recipient or any beneficiary.

(d) The Federal Reserve Banks may, from time to time, establish in their operating circulars the minimum or maximum dollar amounts, or both, of items that will be transferred, may impose service charges for the handling of credit items, and may impose specific format requirements for the receipt and handling of credit items.

(e) No Federal Reserve Bank shall be responsible to the originator of any credit item for any delay resulting from the action taken by the Federal Reserve Bank in handling the item on the basis of (1) any routing number of the recipient appearing thereon or (2) any other form of designation of a recipient appearing thereon, whether or not consistent with the routing number.

§ 210.58 Handling of credit items and requests for credit items.

(a) Where the originator and the recipient maintain or use accounts at the same office of a Federal Reserve Bank, such office receiving a credit item shall execute a transfer of funds, or receiving a request for a credit item shall issue a credit item and execute a transfer of funds, by making corresponding debit and credit entries to those accounts.

(b) Where the originator and the recipient do not maintain or use accounts at the same office of a Federal Reserve Bank, the office first receiving the credit item or request for a credit item shall debit the account maintained or used by the originator in the amount to be transferred in accordance with the terms of the item and shall, as an originator, issue a credit item to the Federal Reserve office at which the recipient maintains or uses an account; and the latter office shall execute a transfer of funds to the recipient by making corresponding debit and credit entries, respectively, to the account of such Federal Reserve Bank and to the account maintained or used by the recipient.

(c) After receiving a credit item or request for a credit item, the Federal Reserve Bank with which the recipient

maintains or uses an account shall send or make available to the recipient the credit item in any of the media specified in § 210.53.

(d) With the concurrence of the office of the Federal Reserve Bank with which the recipient maintains or uses an account, another Federal Reserve office at which the originator maintains or uses an account may send a credit item or make it available to such recipient; the provisions of this subpart will apply as though such other Federal Reserve office had issued a credit item to the Federal Reserve office with which the recipient maintains or uses an account and that Federal Reserve office had sent a credit item or made it available to such recipient.

(e) When a Federal Reserve Bank has received a credit item, or request for a credit item, and subsequently obtains knowledge that, for whatever reason, it will be unable to effectuate a transfer of funds to the recipient in accordance with the originator's instructions, said Federal Reserve Bank shall, within a reasonable time thereafter, notify the originator of the delay.

§ 210.59 Time schedules.

(a) Each Federal Reserve Bank shall include in its operating circulars a schedule of the time limits showing, with respect to interdistrict, interoffice, and intraoffice transfer of funds, the hours of each business day during which it will receive and handle credit items and requests for credit items.

(b) Unless otherwise agreed, each Federal Reserve Bank taking proper action on the day of receipt of a credit item or request for a credit item acts seasonably; taking proper action within a reasonably longer time may be seasonable but the Federal Reserve Bank has the burden of so establishing. In order for action to be taken on the day of receipt, such item or request must reach the Federal Reserve Bank not later than the time shown in its schedule of time limits. No representation shall be made by a Federal Reserve Bank to the effect that transfers of funds will be consummated on the day requested.

(c) In emergency or other unusual circumstances, a Federal Reserve Bank may, in its discretion, receive credit items and requests for credit items after the hours shown in its schedule of time limits. The transfer of funds in the case of an interoffice or interdistrict transfer shall be discretionary with the office at which the recipient maintains or uses an account.

§ 210.60 Advices of credit and debit.

(a) The Federal Reserve Bank with which the recipient maintains or uses an account shall, when the originator or recipient has so requested and when such Federal Reserve Bank deems such action appropriate, give to the recipient advice of credit by telegraph, telephone, or any other means deemed appropriate by such Federal Reserve Bank.

(b) After receiving a credit item or request for a credit item, the Federal Reserve Bank with which the originator

maintains or uses an account shall send an advice of debit to the originator or to the depositor whose account is used by the originator in any of the media specified in § 210.53. Such advice may be given for each credit item or, if so provided in its operating circulars, for several credit items. If, within 45 calendar days after the originator or depositor receives an advice of debit, the originator or depositor fails to send to said Federal Reserve Bank written objection to such debit, the originator or depositor shall be deemed to have approved the debit.

§ 210.61 Handling of requests for revocation of credit items and requests for return of funds.

(a) A Federal Reserve Bank, upon receipt from the originator of a request for the revocation of an item, may cancel such item provided that the request for revocation is received at such time and in such manner as to afford that Federal Reserve Bank a reasonable opportunity to act. If the item is not so cancelled, a Federal Reserve Bank may, in its sole discretion, upon request from the originator (1) where the originator and recipient maintain or use accounts at the same Federal Reserve Bank, send a request to the recipient to return the funds previously transferred or (2) where the originator and recipient do not maintain or use accounts at the same Federal Reserve Bank, send a request to the Federal Reserve Bank with which the recipient maintains or uses an account to request the recipient to return funds previously transferred.

(b) In the case of an erroneous or otherwise irregular transfer of funds, a Federal Reserve Bank may, upon its own initiative or at the request of another Federal Reserve Bank, request the recipient to return funds previously transferred.

§ 210.62 Final payment, right to withdraw or use funds.

A credit item is finally paid by a Federal Reserve Bank and funds transferred to the account maintained or used by the recipient become available for withdrawal at the time the Federal Reserve sends the credit item or telephones the advice of credit to the recipient, whichever occurs first: *Provided*, That a Federal Reserve Bank may, with respect to items in a particular format, provide in its operating circular that a credit item is finally paid, funds become available for withdrawal, and corresponding debits and credits to the accounts will be made on the date specified in the credit item, in accordance with the time specified in the Federal Reserve Bank's operating circular.

§ 210.63 Timeliness of action.

If, because of circumstances beyond its control, a Federal Reserve Bank shall be delayed beyond applicable time limits provided in this subpart or in the operating circulars of the Federal Reserve Banks or by law in taking any action with respect to a credit item or request for a credit item, the time within which such action shall be completed

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shall be extended for such time after the cause of the delay ceases to operate as shall be necessary to take or complete the action, provided the Bank exercises such diligence as the circumstances require.

§ 210.64 Liability of a Federal Reserve Bank.

(a) A Federal Reserve Bank, in connection with matters specified in this subpart or its operating circulars, shall not have, nor shall it assume, any responsibility to a recipient, a beneficiary, or any other person interested in the credit item, except its immediate originator, nor shall a Federal Reserve Bank have or assume any liability except for its own or another Federal Reserve Bank's lack of good faith or failure to exercise ordinary care, and, except as herein provided, a Federal Reserve Bank shall not be liable for the insolvency, neglect, misconduct, mistake, or default of another person, including an originator. No Federal Reserve Bank shall make or be deemed to make any warranty with respect to any credit item handled under this subpart.

(b) Subject to the limitations on liability stated above, where a Federal Reserve Bank's conduct, notwithstanding its exercise of good faith and ordinary care, results in a failure to credit the amount of a credit item to the account maintained or used by a recipient in accordance with the originator's instructions, unless otherwise instructed at the time notice is given pursuant to § 210.58(e), the Federal Reserve Bank shall complete the transfer on the next business day with debits and credits posted to the appropriate accounts as of the day the transfer was to have been consummated.

(c) Subject to the limitations on liability stated above, if the failure to credit the amount of the credit item to the account maintained or used by the recipient resulted from a failure on the part of any Federal Reserve Bank to exercise ordinary care or to act in good faith, the originator shall have the right to recover from the Federal Reserve Bank with which it maintains or uses an account any damages proximately caused by such failure: *Provided, however*, That whether any consequential damages are proximately caused by the Federal Reserve Bank's failure to exercise ordinary care or lack of good faith is a question of fact to be determined in each case.

(d) The Federal Reserve Bank at which the recipient maintains or uses an account shall be deemed to agree to indemnify the Federal Reserve Bank at which the originator maintains or uses an account for any loss or expense sustained (including but not limited to attorneys' fees and expenses of litigation) as a result of the failure of the recipient's Federal Reserve Bank to exercise ordinary care or to act in good faith with respect to a credit item issued to it by the originator's Federal Reserve Bank at the request of the originator.

§ 210.65 Operating circulars.

Each Federal Reserve Bank shall issue operating circulars (sometimes referred to as operating letters or bulletins), not inconsistent with this Subpart, governing the details of its funds transfer operations and containing such provisions as are required or permitted by this subpart.

Subpart C—Transfers of Funds—Debit Items

§ 210.70 Authority and scope.

Pursuant to the provisions of section 13 of the Federal Reserve Act, as amended (12 U.S.C. 342), paragraph (f) of section 19 of the Federal Reserve Act, as amended (12 U.S.C. 464), section 16 of the Federal Reserve Act, as amended (12 U.S.C. 248(a)), paragraphs (i) and (j) of section 11 of the Federal Reserve Act, as amended (12 U.S.C. 248(i) and (j)), and other provisions of law, the Board of Governors of the Federal Reserve System has promulgated this subpart governing the handling by Federal Reserve Banks of debit items.

§ 210.71 General provisions.

In order to provide for the efficient and economical transfer of bank balances on the books of the Federal Reserve Banks and as a means of improving the nation's payments mechanism, the Board of Governors of the Federal Reserve System has promulgated this subpart. Each Federal Reserve Bank, in accordance with the terms and conditions set forth in this subpart, shall receive, process and act upon debit items and the provisions of this subpart and applicable operating circulars of the Federal Reserve Banks shall be binding upon depositors, originators and recipients.

§ 210.72 Definitions.

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

(a) The term "item" means any instrument for the payment of money issued, transmitted, or received in accordance with this Subpart.

(b) The term "debit item" means any item issued by an originator in accordance with this subpart for payment by the recipient.

(c) The term "instrument for the payment of money" means any writing contained in or on any medium approved by § 210.53 of Subpart B of this part for the issuance, transmission or recording of debit items and that requests or orders the payment of money.

(d) The term "depositor" means a member bank, a corporation that maintains an account with a Federal Reserve Bank in conformity with the requirements of § 211.7 of Part 211 of this chapter (Regulation K), a Federal Reserve Bank, an international organization, a foreign correspondent, or other institution maintaining an account with a Federal Reserve Bank.

(e) The term "originator" means a depositor authorized by a Federal Reserve Bank, or any institution authorized by a Federal Reserve Bank in an operating circular issued pursuant to this subpart, to issue and send a debit

item to that Federal Reserve Bank and which has agreed that the amount of any such debit item shall be credited to the account maintained or used by the originator on the books of that Federal Reserve Bank.

(f) The term "recipient" means a depositor authorized by a Federal Reserve Bank, or any institution authorized by a Federal Reserve Bank in an operating circular issued pursuant to this subpart, to receive, directly or indirectly, debit items from that Federal Reserve Bank and that has agreed that the amount of any such debit item shall be debited to the account maintained or used by the recipient on the books of that Federal Reserve Bank.

(g) The term "Federal Reserve Bank" includes any Head Office, Branch Office, or any other office of a Federal Reserve Bank.

(h) The term "business day" means any day during which an institution is open to the public for carrying on substantially all its business functions.

(i) The term "foreign correspondent" means any of the following for which a Federal Reserve Bank has opened and is maintaining an account: a foreign bank or bankers; a foreign state as defined in section 25(b) of the Federal Reserve Act, as amended (12 U.S.C. 632); or a foreign correspondent or agency referred to in section 14(e) of that Act (12 U.S.C. 358).

(j) The term "international organization" means an international organization for which the Federal Reserve Banks are empowered to act as depositaries or fiscal agents subject to regulation by the Board of Governors of the Federal Reserve System and for which a Federal Reserve Bank has opened and is maintaining an account.

(k) The terms "Federal Government originator" and "Federal Government recipient," respectively, mean any department, agency, instrumentality, independent establishment, or office of the United States that maintains or uses an account with a Federal Reserve Bank. The term "Federal Government depositor" means any department, agency, instrumentality, independent establishment, or office of the United States that maintains an account with a Federal Reserve Bank. Except as may otherwise be provided by any applicable statutes of the United States or regulations issued or arrangements made thereunder, the provisions of this subpart and of the operating circulars of the Federal Reserve Banks applicable to an originator, a recipient, or a depositor, as the case may be, are applicable, respectively, to a Federal Government originator, a Federal Government recipient, and a Federal Government depositor.

§ 210.73 Originators agreement.

(a) An originator by its action of issuing and sending to the Federal Reserve Bank with which it maintains or uses an account any debit item shall be deemed (1) to warrant to the recipient designated in the item that such originator is authorized to issue or send such

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debit item and (2) to authorize (1) said Federal Reserve Bank to handle and act upon such debit item, and (ii) the Federal Reserve Bank at which the recipient maintains or uses an account to handle and act upon a debit item, in accordance with the provisions of this Subpart and the operating circulars of such Federal Reserve Bank. Such originator shall be deemed to agree that the provisions of this subpart and the Federal Reserve Bank operating circulars shall, insofar as they are made applicable thereto, govern the relationships between such originator and such Federal Reserve Banks and shall also be deemed to maintain reasonable procedures designed to protect the confidentiality of information related to such debit item.

(b) The originator shall be deemed to agree to indemnify each Federal Reserve Bank handling a debit item for any loss or expense sustained (including but not limited to attorneys' fees and expenses of litigation) resulting from any action taken by the Federal Reserve Bank within the scope of its authority in handling the debit item.

(c) Whenever any action or proceeding is brought in any court against a Federal Reserve Bank, based upon any act done by the Federal Reserve Bank within the scope of its authority in handling such a debit item, the Federal Reserve Bank may, upon the entry of a final judgment or decree in such action or proceeding, recover from the originator the amount of attorneys' fees and other expenses of litigation actually incurred, and, in addition, any amount required to be paid by the Federal Reserve Bank under such judgment or decree, together with interest thereon, by charging the amount thereof to any account maintained or used by the originator on the books of the Federal Reserve Bank (or if the originator is another Federal Reserve Bank, by entering a charge therefor against such other Federal Reserve Bank): *Provided only*, (1) That the Federal Reserve Bank shall have made reasonable demand on the originator in writing to assume the defense of the action or proceeding, and (2) that the originator shall not have made any other provision acceptable to the Federal Reserve Bank for the payment of such amount. A Federal Reserve Bank against which any such charge has been entered may recover the amount thereof by debiting the account maintained or used by the originator, in any case herein provided, even though the action or proceeding had been brought or entered against another Federal Reserve Bank. The failure of any Federal Reserve Bank to avail itself of the remedy provided by this paragraph shall not prejudice the enforcement by it in any other manner of the indemnity agreement referred to in paragraph (b) of this section.

§ 210.74 Recipient's agreement.

A recipient, designated in a debit item, by its action in receiving any item from a Federal Reserve Bank, shall be deemed to agree to maintain reasonable procedures designed to protect the confidentiality of

information related to such debit item.

§ 210.75 Issuance of debit items.

(a) An originator may, in accordance with the provisions of this subpart and the applicable operating circulars of the Federal Reserve Bank with which it maintains or uses an account, issue and send debit items to that Federal Reserve Bank, or, where the originator and recipient do not maintain or use accounts at the same office of a Federal Reserve Bank, and where permitted or required by the Federal Reserve Bank with which the originator maintains or uses an account, issue and send any debit item direct to the Federal Reserve office at which the recipient maintains or uses an account.

(b) With respect to any debit item sent direct by an originator (other than a Federal Reserve Bank) maintaining or using an account at one Federal Reserve office to another Federal Reserve office at which the recipient maintains or uses an account, in accordance with paragraph (a) of this section, the relationships and the rights and liabilities existing between the originator, the Federal Reserve office with which it maintains or uses an account and the Federal Reserve office to which the item is sent will be the same, and the provisions of this subpart will apply, as though the originator had sent such item to the Federal Reserve office with which it maintains or uses an account and such Federal Reserve office had transferred the debit item to the other Federal Reserve office.

(c) A debit item may be contained in any of the media approved by § 210.53 of Subpart B of this part that is acceptable to the Federal Reserve Bank handling the debit item and shall be deemed to be the same debit item notwithstanding that the medium in which it is contained may change during its handling or return under this subpart.

(d) The Federal Reserve Banks may, from time to time, establish in their operating circulars the minimum or maximum dollar amounts, or both, of items which will be transferred, may impose service charges for debit items, and may impose specific format requirements for the receipt of debit items.

(e) No Federal Reserve Bank shall be responsible to the originator of any debit item for any delay resulting from the action taken by the Federal Reserve Bank in handling the item on the basis of (1) any routing number of the recipient appearing thereon or (2) any other form of designation of a recipient appearing thereon, whether or not consistent with the routing number.

§ 210.76 Handling of debit items.

(a) Where the originator and recipient maintain or use accounts at the same office of a Federal Reserve Bank, the office receiving the debit item will send it or make it available to the recipient.

(b) Where the originator and recipient do not maintain or use accounts at the same office of a Federal Reserve Bank, the office first receiving the debit item will transfer it to the office at which the

recipient maintains or uses an account and that office will send the debit item or make it available to the recipient.

(c) With the concurrence of the office of the Federal Reserve Bank with which the recipient maintains or uses an account, another Federal Reserve office at which the originator maintains or uses an account may send a debit item or make it available to such recipient; the provisions of this subpart will apply as though such other Federal Reserve office had transferred the debit item to the Federal Reserve office with which the recipient maintains or uses an account and that Federal Reserve office had sent the debit item or made it available to such recipient.

(d) When a Federal Reserve Bank has received a debit item, and subsequently obtains knowledge that, for whatever reason, it will be unable to effectuate a transfer of funds to the originator in accordance with the instructions in the item, the Federal Reserve Bank shall, within a reasonable time thereafter, notify the originator of the delay.

§ 210.77 Payment.

A recipient becomes accountable for the amount of each debit item received by it from a Federal Reserve Bank at the close of such recipient's business day on which the debit item was so received¹ if it retains such item after the close of such business day, unless prior to such time, it otherwise pays for the item: *Provided*, That, a Federal Reserve Bank may, with respect to items in a particular format, provide in its operating circulars that a recipient receiving such a debit item from a Federal Reserve Bank becomes accountable for the amount of such debit item if the recipient retains such item after the close of its business on the date specified for payment in the debit item and the Federal Reserve Bank's operating circular, unless prior to such close of business such recipient pays for the item.

§ 210.78 Time schedule.

(a) Each Federal Reserve Bank shall include in its operating circulars a schedule of time limits showing, with respect to interdistrict, interoffice, and intraoffice transfers of funds, the hours on each business day during which it will receive and handle debit items. Such schedule shall also show when the amount of any debit item received by a Federal Reserve Bank may be counted as reserve for the purposes of Part 204 of this chapter (Regulation D) and become available for withdrawal or other use by a depositor. Either immediate or deferred credit will be given in the account maintained or used by the originator according to such time schedule. Notwithstanding the pro-

¹ A debit item received by a recipient shall be deemed to have been received by it on its next business day if the item is received under one of the following circumstances: (1) On a day other than a business day for it, or (2) on a business day for it, but after a "cut-off hour" established by the Federal Reserve Bank of the district in which the recipient is located.

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visions of its time schedule, a Federal Reserve Bank may, in its discretion, refuse at any time to permit the withdrawal or other use of credit given for any debit item for which the Federal Reserve Bank has not yet received payment in actually and finally collected funds.

(b) Unless otherwise agreed, each Federal Reserve Bank taking proper action on the day of receipt of a debit item acts seasonably; taking proper action within a reasonably longer time may be seasonable but the Federal Reserve Bank has the burden of so establishing. In order for action to be taken on the day of receipt, such item must reach the Federal Reserve Bank not later than the time shown in its schedule of time limits. No representation shall be made by a Federal Reserve Bank to the effect that transfers of funds will be consummated on the day designated in the debit item.

(c) In emergency or other unusual circumstances, a Federal Reserve Bank may, in its discretion, receive debit items after the hours shown in its schedule of time limits. In the case of an interoffice or interdistrict transfer, the transfer of funds shall be discretionary with the office at which the recipient maintains or uses an account.

§ 210.79 Handling of requests for revocation of debit items.

(a) A Federal Reserve Bank, upon receipt from the originator of a request for the revocation of an item, may cancel such item provided that the request for revocation is received at such time and in such manner as to afford that Federal Reserve Bank a reasonable opportunity to act. Where the originator and recipient do not maintain or use accounts at the same Federal Reserve Bank and the originator requests revocation, and the item is not so cancelled, a Federal Reserve Bank may, in its sole discretion, send a request for revocation to the Federal Reserve Bank with which the recipient maintains or uses an account.

(b) In the case of an erroneous or otherwise irregular debit item, a Federal Reserve Bank may, upon its own initiative, request another Federal Reserve Bank to revoke the item.

§ 210.80 Return.

(a) A recipient that receives a debit item from a Federal Reserve Bank and that pays for such debit item as provided in this Subpart shall have the right to recover any payment so made if, before it has finally paid the debit item, it returns the debit item before midnight of the business day next following the business day of receipt. In accordance with the provisions of this subpart and the applicable operating circulars of the Federal Reserve Banks, debit items shall be returned to the Federal Reserve Bank from which they were received in a form acceptable to such Federal Reserve Bank, and in the same medium in which they

were received by the recipient unless the recipient obtains the written authority of such Federal Reserve Bank to return debit items in another medium specified in § 210.53 of Subpart B of this part.

(b) Any recipient that receives a credit or obtains a refund for the amount of any payment made by it in respect of a debit item received by it from a Federal Reserve Bank shall be deemed (1) to warrant to such Federal Reserve Bank, to any other Federal Reserve Bank handling the item and to the originator that it took all action necessary to entitle it to recover such payment within the time or times limited thereby by the provisions of this subpart, in the operating circulars of the Federal Reserve Banks, and in any agreement between the recipient and the originator, and (2) to agree to indemnify any such Federal Reserve Bank for any loss or expense sustained (including but not limited to attorneys' fees and expenses of litigation) resulting from its action in giving such credit or making such refund, or in making any charge to, or obtaining any refund from, the originator. No Federal Reserve Bank shall have any responsibility for determining whether the action hereinabove referred to was timely.

§ 210.81 Chargeback.

If a Federal Reserve Bank does not receive payment in actually and finally collected funds for any debit item for which it gave credit, the amount of such item shall be charged back to the account maintained or used by the originator. If such a chargeback is made to the account maintained or used by the originator, such originator shall not have any right of recourse upon, interest in, or right of payment from, any reserve account or other funds or property of the recipient in the possession of a Federal Reserve Bank. No authorization to charge any reserve account or other funds or property in the possession of a Federal Reserve Bank, issued for the purpose of paying for any debit item handled under the terms of this subpart, will be acted upon after receipt by such Federal Reserve Bank of notice of suspension or closing of the recipient or the member bank the account of which is used by the recipient for the payment of such item.

§ 210.82 Timeliness of action.

If, because of circumstances beyond its control, a Federal Reserve Bank shall be delayed beyond the applicable time limits provided in this subpart, or in the operating circulars of the Federal Reserve Banks or by law in taking any action with respect to a debit item, the time within which such action shall be completed shall be extended for such time after the cause of the delay ceases to operate as shall be necessary to take or complete the action, provided that the Federal Reserve Bank exercises such diligence as the circumstances require.

§ 210.83 Liability of a Federal Reserve Bank.

(a) A Federal Reserve Bank, in connection with matters specified in this subpart or its operating circulars, shall not have, nor shall it assume, any responsibility to any person interested in a debit item, except an originator, nor shall a Federal Reserve Bank have or assume any liability except for its own lack of good faith or failure to exercise ordinary care, and, except as herein provided, a Federal Reserve Bank shall not be liable for the insolvency, neglect, misconduct, mistake, or default of another person, including an originator. No Federal Reserve Bank shall make or be deemed to make any warranty under this subpart.

(b) A Federal Reserve Bank will act only as agent of its originator, or of a Federal Reserve Bank transmitting debit items to it, with respect to the handling of debit items under this subpart. A Federal Reserve Bank will not act as the agent or subagent of any other person.

(c) Subject to the limitations on liability stated above, if the failure to credit the amount of the debit item to the account of the originator resulted from a failure on the part of any Federal Reserve Bank to exercise ordinary care or to act in good faith, the originator shall have the right to recover from the Federal Reserve Bank with which it maintains or uses an account any damages proximately caused by such failure: *Provided, however,* That whether any consequential damages are proximately caused by the Federal Reserve Bank's failure to exercise ordinary care or lack of good faith is a question of fact to be determined in each case.

(d) The Federal Reserve Bank at which the recipient maintains or uses an account shall be deemed to agree to indemnify the Federal Reserve Bank at which the originator maintains or uses an account for any loss or expense sustained (including but not limited to attorneys' fees and expenses of litigation) as a result of the failure of the recipient's Federal Reserve Bank to exercise ordinary care or to act in good faith with respect to a debit item issued to it by the originator's Federal Reserve Bank.

§ 210.84 Operating circulars.

Each Federal Reserve Bank shall issue operating circulars (sometimes referred to as operating letters or bulletins), not inconsistent with this subpart, governing the details of its debit item operation and containing such provisions as are required or permitted by this subpart.

By order of the Board of Governors.
January 12, 1976.

[SEAL] THEODORE E. ALLISON,
Secretary of the Board.

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