

FEDERAL RESERVE BANK  
OF NEW YORK

Fiscal Agent of the United States

[ Circular No. 7859 ]  
April 20, 1976

CHECKLESS FEDERAL RECURRING PAYMENTS

Operating Circular No. 11, Revised April 19, 1976

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

In May 1975 we sent you a copy of a new operating circular governing the handling of checkless Air Force payroll credits and indicated that the program was expected to be broadened to include other Federal payments that are made on a recurring basis. As part of the expansion of the program, this Bank is scheduled to begin distribution of Social Security payments by means other than check in 1976.

The Federal Reserve System, in conjunction with the U. S. Department of the Treasury, has adopted a uniform operating circular governing the handling of all such checkless Federal recurring payments. Accordingly, enclosed is a copy of our Operating Circular No. 11, entitled "Federal Recurring Payments," Revised April 19, 1976; it supersedes the edition of the circular dated June 30, 1975, which related only to the Air Force payroll project. An appendix to the new operating circular contains the text of the Treasury Department regulations (31 C.F.R. Part 210) governing the handling of such payments; in addition, printed on the reverse side of this circular is the text of a statement issued by the Treasury in submitting the regulations for publication in the *Federal Register*.

All "financial organizations," as defined in the Treasury regulations, may receive Federal recurring credit payments directly from this Bank. Such payments will be delivered by courier or by mail, or may be picked up at this Bank. Nonmember financial organizations must make arrangements with correspondent banks to enable us to credit an account on our books for the credit payments sent to such nonmember organizations.

In order to participate in the program, in most cases an authorization form should be executed by customers of the financial organization who are recipients of the recurring payments and by the organization itself. The financial organization should then forward the forms to the appropriate Federal agencies responsible for the payments.

This Bank will advise you shortly concerning the procedural details of this program as it specifically applies to Social Security recurring payments. Any questions regarding this program should be directed, at the Head Office, to John C. Houhoulis, Manager, Payment Systems Department (Tel. No. 212-791-5997) or James O. Aston, Assistant Vice President (Tel. No. 212-791-6334), or, at the Buffalo Branch, to Robert J. McDonnell, Assistant Cashier (Tel. No. 716-849-5022) or Peter D. Luce, Cashier (Tel. No. 716-849-5013).

PAUL A. VOLCKER,  
*President.*

(OVER)

## Statement by Treasury Department on Federal Recurring Payments Regulations

On April 14, 1975, there was published in the *Federal Register* (40 FR 16669), a notice of proposed rulemaking to amend Title 31 of the Code of Federal Regulations by the addition of a new Part 210 to govern the making of recurring payments by the Federal Government to recipients by means other than by check. This Part would prescribe a new method for making payments involving the preparation by the Government of magnetic tapes reflecting the necessary data to accomplish payment to recipients who have chosen to be paid by credit to their accounts in financial organizations. Delivery of the data by the Government to the Federal Reserve Bank would constitute an issuance by the Government of orders for the payment of money which would be made available by the Federal Reserve Banks, using Federal Reserve distribution systems, to those financial organizations which have been designated by recipients and which have agreed to participate in this system and to accept payments for the recipients. Federal Reserve Banks would make the dollar amounts of such orders available to the financial organizations which would in turn credit the funds to the recipients' accounts on the books of the financial organizations.

Participation in this program of payments made through financial organizations rather than directly to recipients would be voluntary for recipients and financial organizations, and as applied to recipients and financial organizations would be based on the completion by each of its part of a Standard Authorization Form. However, after execution of such Form, the method of payments, whether by check pursuant to Parts 209<sup>1</sup> and 240 of this title or by means other than check pursuant to this Part, is optional with the Government and the financial organization. The option of payment by Government check directly to recipients would remain with recipients.

Interested parties were given 60 days from the date of publication of the notice to comment on the proposed regulation. Numerous comments were received both during and after the notice period from trade associations representing the financial community, individual financial organizations, interested Federal agencies, and representatives of the Federal Reserve Board and the Federal Reserve Banks. The Treasury Department considered all of the issues raised by these comments, and where appropriate, modified the proposed regulations in order to accommodate suggestions made in those comments.

The principal differences between the final regulation and the proposed regulation are as follows:

1. The definition of "Recurring payment" in proposed § 210.2(h) was amended by the addition of the parenthetical phrase "(or allotment therefrom)" after the phrase "or other payment" to make clear that an allotment from a "recurring payment" is separate and distinct from the payment from which it is deducted and is itself a recurring payment.

<sup>1</sup> The Department of the Treasury will shortly publish a notice of proposed rulemaking to amend Part 209, to provide conformity and consistency with the new Part 210.

2. The definition of "Standard Authorization Form" in proposed § 210.2(j) was amended to provide that only the Treasury Department, as opposed to any program agency, can prescribe a "Standard Authorization Form."

3. Proposed § 210.4(h) provided that any change in the title of an account would terminate a Standard Authorization Form in which that account was designated. Under the final § 210.4(h), only a change in the title of an account which would cause a program agency to review the deposit of a recurring payment to that account terminates the Standard Authorization Form. Further, in situations where the Standard Authorization Form is terminated by a change in the account title, a financial organization can continue to credit payments to that account after a new Standard Authorization Form has been executed (§ 210.7(f)(i)).

4. Proposed § 210.6(c), which provided that the Government could recall a credit payment at any time prior to the payment date, was eliminated from the final regulations as being, in some cases, unduly burdensome to financial organizations. The elimination of this section does not preclude the Government from notifying a financial organization to withhold a credit payment nor relieve the financial organization of the duty of making a reasonable effort to comply with such notice.

5. Proposed § 210.7 was modified, *inter alia*, with the substitution of a new subsection (e). The requirement in the proposed subsection (e)—that the financial organization notify the program agency of "any event actually known by it" which would preclude crediting of an account—was eliminated since it placed the duty of making difficult factual decisions on individual financial organizations. It is believed that § 210.7(f) will provide adequate notice to the Government in such situations. The new subsection (e) was added to more clearly specify what information in the credit payment the financial organization can rely on, and the procedures to be followed if financial organizations are unable to credit the proper account based on this information.

6. Proposed § 210.7(f)(iii) and (iv) were modified, the former since proposed § 210.7(e) was eliminated, and the latter since the only notice of termination to the financial organizations in most cases will be the failure to receive an expected credit payment.

7. Proposed § 210.9 was modified by the addition of a sentence defining the term "knowledge" used in § 210.9(a)(ii). Other modifications were made in this section to clarify the financial organization's (1) duty to recover withdrawn credit payments and (2) responsibilities with respect to funds still in the account.

8. In § 210.10(b) there was added an indemnification of the financial organization by the United States up to the amount of the credit payment in situations where the financial organization is rendered liable because it acted on incorrect information in a credit payment.

Other, less significant changes were made in various other sections of the Part.

**FEDERAL RESERVE BANK  
OF NEW YORK**

Fiscal Agent of the United States

[ **Operating Circular No. 11** ]  
Revised April 19, 1976

**FEDERAL RECURRING PAYMENTS**

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

1. This operating circular, issued pursuant to the provisions of Sections 4, 13, 14(e), and 15 of the Federal Reserve Act and Section 210.3(a) of Title 31 of the Code of Federal Regulations and in conformity with Part 210 of Title 31 of the Code of Federal Regulations (hereinafter referred to as Part 210), prescribes the terms and conditions upon which this Bank will handle and distribute Federal recurring payments. Part 210 and the terms and conditions of this operating circular will apply to the handling of credit payments. (The text of Part 210 is contained in an appendix to this circular.)

2. Section 210.3(a) of Part 210 provides that each Federal Reserve Bank may issue operating circulars not inconsistent with the provisions of that part governing the details of its credit payment handling operations and containing such other matters as are required or permitted by such provisions. Except as otherwise defined below, all terms defined in Part 210 and used herein have the meanings stated in that part.

3. Unless otherwise stated, all references to "this Bank" will include its Head Office and Buffalo Branch.

4. By its action in maintaining or using an account on the books of this Bank and in receiving credit payments from this Bank, each financial organization shall be deemed to agree to the terms and conditions of this operating circular. A designated correspondent member bank in authorizing a financial organization to utilize such designated correspondent's account on the books of this Bank for the purpose of receiving the amount of a credit payment shall be deemed to agree to the terms and conditions of this operating circular.

**Handling of credit payments**

5. Each financial organization shall designate one office or location acceptable to this Bank where it will receive credit payments, notwithstanding the fact that such financial organization maintains several branches or offices or maintains branches or offices in more than one Federal Reserve territory. However, this Bank, in its sole discretion, may permit a financial organization to designate more than one office or location for the receipt of credit payments. Where eligible, a financial organization may pick up credit payments at this Bank.

6. *Delivery, pickup, and mailing.*—This Bank will deliver credit payments direct to financial organizations and processing centers on

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existing courier routes, if volume warrants. (A processing center is a designated agent that processes credit payments for more than one financial organization—including itself if it is a financial organization.) If credit payments are not so delivered, such credit payments may be picked up by such financial organizations at this Bank, or this Bank may mail such credit payments to such financial organizations. Pickup of credit payments in appropriate circumstances may be made by the designated agent of a financial organization; credit payments will also be mailed to a financial organization's designated agent.

7. Credit payments will be furnished in the format designated by this Bank and on the medium designated to this Bank by a financial organization, and set forth in technical specifications made available by this Bank. Credit payments will be made available by this Bank to a financial organization or its designated agent not later than the close of business for such financial organization on the business day prior to the payment date. Receipt by a designated agent of a credit payment shall be deemed receipt by the financial organization.

8. At its opening of business on the payment date, this Bank will make the amount of all credit payments delivered to a financial organization available for withdrawal or other use by such financial organization or its designated correspondent maintaining an account with this Bank. This Bank will send an advice of credit to such financial organization or designated correspondent. Such advice may be aggregated each day for each financial organization.

9. While this Bank will handle credit payments promptly and it is expected that credit payments will be made available to each financial organization during the business day prior to the payment date, no representation of such availability is made by this Bank. Notice of any significant delay in the handling of a credit payment will be given to the financial organization within a reasonable time after this Bank obtains knowledge of such delay. If a financial organization does not receive a delivery of credit payments within the usual time for such receipt or has reason to believe that such credit payment delivery might be lost or delayed in transit, such financial organization should notify this Bank by collect telephone call of such apparently lost or delayed shipment. (Financial institutions in the Head Office territory can call Tel. No. 212-791-6788 and financial institutions in the Buffalo Branch territory can call Tel. No. 716-849-5051.)

10. Each financial organization receiving a batch of credit payments on a medium other than magnetic tape should act promptly to ensure that the total dollar amount of the credit payments received agrees with the dollar amount stated in the transmittal register accompanying such batch of credit payments. If credit payments are received on magnetic tape, the financial organization should act promptly to ensure that such tape is readable and does not contain format errors and that the total dollar amount of credit payments on such tape agrees with the file total on such tape.

11. As provided in Section 210.7(d) of Part 210, a financial organization receiving a credit payment as provided in paragraph 8 hereof shall credit the amount of such credit payment to the appropriate account of the recipient on its books and shall make the amount of such credit payment available for withdrawal or other use by the recipient not later than the opening of business on the payment date.

12. If the credit payments or any related documentation received by a financial organization from this Bank do not balance, are incomplete, are clearly erroneous on their face, or are incapable of being processed, such financial organization, after assuring itself that neither it nor its agent is responsible for such problem and that it is unable to correct promptly such problem, shall give this Bank immediate notice by collect telephone call of such problem in order that this Bank may deliver or make available corrected material to such financial organization.

#### **Return of credit payments**

13. If, as provided in Section 210.7(e) of Part 210, a financial organization is unable to credit the amount of a credit payment to the appropriate account of the recipient, such financial organization should promptly return that credit payment to this Bank with a statement identifying the reason therefor.<sup>1</sup> A financial organization should also return promptly to this Bank any credit payment to be returned as provided in Section 210.7(f) of Part 210. Upon receipt of any such credit payment, this Bank shall debit the account of such financial organization or its designated correspondent member bank on our books in the amount of such credit payment. Credit payments should be returned to this Bank in the format specified by this Bank and on the medium agreed to by this Bank and such financial organization. Returned credit payments must be accompanied by a transmittal form, in the format specified by this Bank, setting forth the number of credit payments returned, the aggregate amount of such payments and the name and routing number of the designated correspondent member bank whose account on our books was credited with the amounts of such credit payments. Each financial organization returning a credit payment to this Bank for any reason should maintain adequate records to permit the reproduction or tracing of any lost or destroyed credit payment.

#### **Liability**

14. In connection with the matters specified in Part 210 or this operating circular, this Bank shall not have, nor shall it assume, any responsibility to any person other than to the Department of the Treasury. This Bank shall not be liable for the insolvency, neglect, mistake, misconduct, or default of another person or for the loss or destruction of a credit payment in transit or in the possession of others.

15. A recipient or beneficiary of a credit payment, or a financial organization with respect to its designated correspondent, shall have no right of recourse upon, interest in, or right of payment from, any reserve balance, clearing account, deposit account or other funds of the Government, a designated correspondent bank, or, in the case of a recipient or beneficiary, a financial organization, in the possession of this Bank.

#### **Revision of this circular**

16. The right is reserved to withdraw, to add to, or to amend, at any time, as to any or all financial organizations, any of the provisions of this operating circular.

#### **Effect of this circular on previous circular**

17. This circular supersedes Operating Circular No. 11, effective June 30, 1975, entitled "Instructions for the Pilot Project for Checkless Air Force Payroll Credits."

PAUL A. VOLCKER,  
*President.*

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<sup>1</sup> In the case of credit payments issued by the U. S. Air Force, a financial organization should notify the Air Force Accounting and Finance Center.

APPENDIX

Title 31—Money and Finance:Treasury

CHAPTER II—FISCAL SERVICE,  
DEPARTMENT OF THE TREASURY

SUBCHAPTER A—BUREAU OF GOVERNMENT  
FINANCIAL OPERATIONS

PART 210—FEDERAL RECURRING PAYMENTS THROUGH  
FINANCIAL ORGANIZATIONS BY MEANS OTHER THAN BY  
CHECK

Subchapter A, Chapter II, Title 31 of the Code of Federal Regulations is, as of January 1, 1976, amended by the addition of a new Part, designated Part 210, to read as follows:

Sec.

- 210.1 Scope of regulations.
- 210.2 Definitions.
- 210.3 Federal Reserve Banks.
- 210.4 Recipients.
- 210.5 Program agencies.
- 210.6 The Government.
- 210.7 Financial organizations.
- 210.8 Timeliness of action.
- 210.9 Death or legal incapacity of recipients or death of beneficiaries.
- 210.10 Liability of, and acquittance to, the United States.

AUTHORITY: 5 U.S.C. 301; 12 U.S.C. 391; Title 31, U.S.C., and other provisions of law.

§ 210.1 Scope of regulations.

This Part governs the making of recurring payments by the Government, by means other than by check, through Federal Reserve Banks and financial organizations to recipients maintaining accounts at such financial organizations.

§ 210.2 Definitions.

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

(a) "Federal Reserve Bank" means any Head Office or Branch Office of any such Bank, acting as Fiscal Agent of the United States.

(b) "Financial organization" means any bank, savings bank, savings and loan association or similar institution, or Federal or State

chartered credit union, which has affirmatively indicated to a Federal Reserve Bank its preparedness to receive credit payments under this Part.

(c) "Government" means the Government of the United States, the Department of the Treasury, a Federal disbursing office, and a program agency which has made arrangements with the Department of the Treasury to make payments under this Part, or any of them.

(d) "Credit payment" means an order for the payment of money issued by the Government under this Part to pay a recurring payment. A credit payment may be contained on (1) a letter, memorandum, telegram, computer print out or similar writing, or (2) any form of communication other than voice, which is 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.

(e) "Payment date" means the date specified for a credit payment. Such date is the date on which the funds specified in the credit payment are to be available for withdrawal from the recipient's account with the financial organization specified by such recipient, and on which such funds are to be made available to the financial organization by the Federal Reserve Bank with which the financial organization maintains or utilizes an account. If the payment date is not a business day for the financial organization receiving a credit payment, or for the Federal Reserve Bank from which it received such payment, then the next succeeding business day for both shall be deemed to be the payment date.

(f) "Recipient" means a person entitled to receive recurring payments from the Government.

(g) "Beneficiary" means a person other than a recipient who is entitled to receive the benefit of all or part of a recurring payment from the Government.

(h) "Recurring payment" means any Federal Government benefit, annuity, or other payment (or allotment therefrom), including any payment of salary, wages, or pay and allowances, which is made at regular intervals.

(i) "Program agency" means any agency which makes recurring payments, and includes any department, agency, independent establishment, board, office, commission, or other establishment in the executive, legislative, or judicial branch of the Government, any

wholly-owned or controlled Government corporation, and the municipal government of the District of Columbia.

(j) "Standard Authorization Form" means the authorization form prescribed by the Department of the Treasury for the recurring payment for execution by (1) a recipient, and (2) a financial organization maintaining an account for such recipient.

### § 210.3 Federal Reserve Banks.

(a) Each Federal Reserve Bank as Fiscal Agent of the United States shall receive credit payments from the Government and shall make available and pay such credit payments to financial organizations, and shall otherwise carry out the procedures and conduct the operations contemplated under this Part. Each Federal Reserve Bank may issue operating circulars (sometimes referred to as operating letters or bulletins) not inconsistent with this Part, governing the details of its credit payment handling operation and containing such provisions as are required and permitted by this Part.

(b) The Government by its action of issuing and sending any credit payment contained in the media specified in § 210.2(d) hereof shall be deemed to authorize the Federal Reserve Banks (1) to pay such credit payment to the debit of the general account of the United States Treasury on the payment date, and (2) to handle and act upon such credit payment.

(c) Upon receipt of a credit payment, a Federal Reserve Bank shall, if the credit payment is directed to a financial organization which maintains or utilizes an account on the books of another Federal Reserve Bank, forward such credit payment to such other Federal Reserve Bank. The Federal Reserve Bank on whose books the financial organization or its designated correspondent maintains an account shall deliver or make available such credit payment to such financial organization not later than the close of business for such financial organization on the business day prior to the payment date on the medium as agreed to by such Federal Reserve Bank and financial organization.

(d) A financial organization by its action in maintaining or utilizing an account at a Federal Reserve Bank shall be deemed to authorize that Federal Reserve Bank to credit the amount of the credit payment to the account on its books of such financial organization or its designated correspondent maintaining an account with the Federal Reserve Bank.

(e) A Federal Reserve Bank receiving a credit payment from the Government shall make the amount of such credit payment available



for withdrawal from the account on its books, referred to in §210.3(d) above, at the opening of business on the payment date.

(f) Each Federal Reserve Bank shall be responsible only to the Department of the Treasury and shall not be liable to any other party for any loss resulting from such Federal Reserve Bank's actions under this Part.

#### §210.4 Recipients.

(a) In order for a recipient to receive a recurring payment by means of direct deposit of the amounts of credit payments under this Part, at a financial organization of the recipient's choosing and to an account the title of which includes the recipient's name, the recipient shall execute the applicable portion and deliver to such financial organization the Standard Authorization Form prescribed by the Department of the Treasury for such recurring payments. A recipient shall be responsible for any inaccuracy in the data entered by such recipient on such Standard Authorization Form.

(b) In executing a Standard Authorization Form, a recipient (1) designates the financial organization and the account on the books of such financial organization to which the amounts of the credit payments shall be credited, (2) is deemed to agree to the provisions of this Part, and (3) authorizes the program agency to terminate any previously executed Standard Authorization Form or any other inconsistent payment instructions applicable to the relevant recurring payment.

(c) A recipient shall execute a separate Standard Authorization Form for each type of recurring payment made hereunder. If a recipient wishes to direct a recurring payment to a different account or financial organization, the recipient shall execute a new Standard Authorization Form.

(d) A recipient may at any time authorize the program agency to terminate a Standard Authorization Form by notifying such program agency.

(e) The death or legal incapacity of a recipient or the death of a beneficiary shall terminate a Standard Authorization Form issued with respect to a recurring payment.

(f) A recipient of a recurring payment may request only that a credit payment be in the full amount of such recurring payment and be credited to one account on the books of a financial organization. Except as authorized by law or other regulations, the procedures set forth in this Part shall not be used for effectuating an assignment of a recurring payment.

(g) A recipient may be required by local law or by financial organization procedures to have the execution of a Standard Authorization Form notarized.

(h) A change in the title of an account on the books of a financial organization which (1) removes the name of the recipient, (2) removes or adds the name of a beneficiary, or (3) alters the interest of the beneficiary in the account shall terminate any Standard Authorization Form in which that account is designated, and shall require the execution of a new Standard Authorization Form before further credit payments may be credited to that account.

#### § 210.5 Program agencies.

The program agency will maintain the data necessary for authorization of credit payments and shall make such data available for the issuance of such credit payments in sufficient time for the Government, in performing its disbursing function, to carry out its responsibilities under this Part. Such data shall be certified by the program agency's certifying officer in accordance with 31 U.S.C. 82c.

#### § 210.6 The Government.

(a) In performance of its disbursing functions, the Government will, in accordance with the provisions of this Part, issue and direct credit payments to the Federal Reserve Bank on whose books the financial organization named therein maintains or utilizes an account in sufficient time for the Federal Reserve Bank to carry out its responsibilities under this Part.

(b) Procedural instructions for the guidance of the Government and Federal Reserve Banks in the implementation of these regulations will be issued by the Department of the Treasury.

#### § 210.7 Financial organizations.

(a) A financial organization's execution of a Standard Authorization Form shall constitute its agreement to the terms of this Part with respect to each credit payment received by it pursuant to such Standard Authorization Form. Regardless of whether it has executed a Standard Authorization Form, a financial organization's acceptance and handling of a credit payment issued pursuant to this Part shall constitute its agreement to the provisions of this Part.

(b) A financial organization in executing a Standard Authorization Form shall be responsible for (1) the completeness and accuracy of the data entered by it in its portion of the Standard

Authorization Form, and (2) verifying that the depositor account number entered by the recipient on the Standard Authorization Form corresponds to an account bearing the name of the recipient.

(c) A financial organization wishing to terminate the agreement evidenced by a Standard Authorization Form shall do so by giving written notice to the recipient. Such termination shall become effective thirty days after the financial organization has sent such notice to the recipient.

(d) A financial organization receiving a credit payment shall credit the amount of such credit payment to the designated account of the recipient on its books, and it shall make such amount available for withdrawal or other use by the recipient not later than the opening of business on the payment date. If the credit payments or any related documentation received by the financial organization from a Federal Reserve Bank do not balance, are incomplete, are clearly erroneous on their face, or are incapable of being processed, the financial organization, after assuring itself that neither it nor any of its agents is responsible, shall immediately notify such Federal Reserve Bank in order that it may deliver corrected material to such financial organization.

(e) A financial organization receiving a credit payment shall credit the amount of such credit payment to the account indicated by the depositor account number information specified in the credit payment. If the financial organization is unable to credit the account indicated in the credit payment based upon the depositor account number information specified, and is further unable to credit the account designated by the recipient based upon other information contained in the credit payment, it shall promptly return the credit payment to the Federal Reserve Bank with a statement identifying the reason therefor.

(f) A financial organization shall promptly return to the Government through the Federal Reserve Bank any relevant credit payment received by such financial organization:

(1) After termination of a Standard Authorization Form pursuant to § 210.4(h) and before the execution of a new Standard Authorization Form;

(2) After termination of a Standard Authorization Form pursuant to § 210.7(c) has become effective;

(3) After the death or legal incapacity of the recipient or death of the beneficiary; or

(4) After the closing of the recipient's account.

(g) A financial organization to which a credit payment is sent under this Part does not thereby become a Government depository and shall not advertise itself as one because of that fact.

(h) Each financial organization by its action of handling a credit payment shall be deemed to warrant to the Government that it has handled such credit payment in accordance with this Part. In addition to the liability which may be imposed pursuant to § 210.9, if the foregoing warranty is breached, the financial organization shall indemnify the Government for any loss sustained by the Government, but only to the extent that such loss was the result of such breach. Except as provided in this section, and § 210.9, a financial organization shall not be liable under this Part to any party for its handling of a credit payment.

§ 210.8 Timeliness of action.

If, because of circumstances beyond its control, the Government, a Federal Reserve Bank, or a financial organization shall be delayed beyond the applicable time limits (including the payment date) provided by this Part, the operating circulars of the Federal Reserve Banks, or applicable law in taking any action with respect to a credit payment, 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 the Government, the Federal Reserve Bank, or the financial organization exercises such diligence as the circumstances require.

§ 210.9 Death or legal incapacity of recipients or death of beneficiaries.

(a) When, because of the death or legal incapacity of a recipient or the death of a beneficiary, one or more credit payments should have been returned to the Government, a financial organization shall be accountable to the Government for the total amount of any such credit payments: Provided, however, That if:

(1) Such amount, or any part thereof, is not available in the recipient's account; and

(2) The financial organization did not have, at the time of the deposit and withdrawal, knowledge of the recipient's death or legal incapacity, or the beneficiary's death, and

(3) The financial organization has made every practicable administrative effort to recover the amount which is not available in the recipient's account;

the financial organization shall be accountable only for:

(i) The amount available in the recipient's account and the amount recovered by it, plus

(ii) The amount not recovered by it, or an amount equal to the credit payments received by it within 45 days after the death or legal incapacity of the recipient or the death of the beneficiary, whichever is the lesser amount.

(b) A financial organization shall be deemed to have knowledge of the death or legal incapacity of a recipient or the death of a beneficiary when such information is brought to the attention of an individual in the financial organization who handles credit payments, or when such information would have been brought to such individual's attention if the financial organization had exercised due diligence. The financial organization will be considered to have exercised due diligence only if it maintains procedures for immediately communicating such information to the appropriate individuals, and complies with such procedures.

#### § 210.10 Liability of, and acquittance to, the United States.

(a) The United States shall be liable to a recipient for the failure to credit the proper amount of a recurring payment to the appropriate account of the recipient as required by this Part. Such liability shall be limited to the amount of such recurring payment.

(b) The United States shall be liable to the financial organization, up to the amount of the credit payment, for a loss sustained by the financial organization as a result of its crediting the amount of the credit payment to the account specified in the credit payment, if the financial organization has handled such credit payment in accordance with this Part. The foregoing does not extend to credit payments received by the financial organization after the death or legal incapacity of the recipient or death of the beneficiary, in which event § 210.9 shall govern.

(c) The crediting of the amount of a credit payment to the appropriate account of a recipient on the books of the appropriate financial organization shall constitute a full acquittance to the United States for the amount of such payment.