

FEDERAL RESERVE BANK
OF NEW YORK

[Circular No. 8140]
June 29, 1977

ADDITION TO REGULATION J
Wire Transfer of Funds Between Member Banks
(Effective September 1, 1977)

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

Following is the text of a statement issued June 16 by the Board of Governors of the Federal Reserve System:

The Board of Governors of the Federal Reserve System today amended its Regulation J—which currently deals with check collection—by adding a new section concerning the wire transfer of funds between member banks.

The new part of Regulation J is designated Subpart B. It codifies rules and procedures evolved by the Federal Reserve System since it began wire transfer of funds in 1915, and puts the rules into regulatory form. The existing Regulation J rules for check collection remain unchanged, and become Subpart A of the Regulation.

The wire transfer service of the Federal Reserve utilizes the System's computerized communications network linking the Board and all Federal Reserve Banks and their offices, to allow member banks to transfer funds almost instantly from their reserve balances to the reserve accounts of other member banks, for their own account or for a customer. The most frequent use of this service is the transfer of excess reserves of member banks to banks needing additional reserves, and the transfer of funds for corporations.

The use of wire transfer has risen during the past 10 years from \$6.6 trillion in 1967 to \$35 trillion in 1976. The greatly increased use of the System's wire transfer services led the Board to conclude that it should put rules now contained in Reserve Bank operating circulars into regulatory form clarifying the duties and responsibilities of participants using the System's wire transfer facilities.

Subpart B covers only wire transfer of funds, and does not touch on other electronic payments such as those processed through automated clearing houses (where payments instructions recorded on magnetic tape, rather than on checks, are cleared) or point-of-sale transactions (in which electronic means are used for verification of checks, or to charge customers' bank accounts for their purchases of goods or services).

The wire transfer rules adopted by the Board are a revision from proposed wire transfer rules the Board published in November 1973 and republished in revised form in January 1976. The rules adopted today reflect Board consideration of hundreds of comments received on its proposals.

A third subpart to Regulation J is in preparation. It would deal with the processing of payments recorded on magnetic tape using Federal Reserve facilities. The Board included such draft rules in its January 1976 proposal concerning electronic payments.

Printed on the reverse side of this circular is an excerpt from the *Federal Register* of June 23, 1977, containing the text of an explanatory notice issued by the Board of Governors regarding the amendment to Regulation J. In addition, enclosed is a copy of the amendment, effective September 1, 1977, which also has been reprinted from the *Federal Register* of June 23, 1977. Questions thereon may be directed to our Collection Department (Tel. No. 212-791-5079).

PAUL A. VOLCKER,
President.

(OVER)

Title 12—Banks and Banking
CHAPTER II—FEDERAL RESERVE SYSTEM
SUBCHAPTER A—BOARD OF GOVERNORS OF
THE FEDERAL RESERVE SYSTEM

[Reg. J; Docket No. R-0013]

PART 210—COLLECTION OF CHECKS AND
OTHER ITEMS BY FEDERAL RESERVE
BANKS

Wire Transfers of Funds

AGENCY: Federal Reserve System.

ACTION: Final rule.

SUMMARY: This regulation is necessary to set forth the duties and liabilities of those parties transferring funds over the Federal Reserve Communications System for what have become known as "wire transfers of funds."

EFFECTIVE DATE: September 1, 1977.

FOR FURTHER INFORMATION, CONTACT:

Allen L. Raiken, Assistant General Counsel, Legal Division, Board of Governors of the Federal Reserve System, Washington, D.C. 20551 (202-452-3625).

SUPPLEMENTARY INFORMATION: The Board of Governors of the Federal Reserve System has adopted Subpart B of Regulation J (12 CFR Part 210). This subpart is necessary to define the rights and responsibilities of member banks using the Federal Reserve Communications System for what have become known as "wire transfers of funds." The subpart, as it pertains to wire transfers, is in substantially the same form as proposed in January 1976 it should put rules now contained in Reserve Bank operating circulars into regulatory form clarifying the duties and responsibilities of participants using the System's wire transfer facilities.

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The Board's order in this matter is attached.

RESPONSIBILITIES UNDER THE REGULATION

The regulation uses terminology used in the November 1973 Regulation J proposal (see 38 FR 32952) inasmuch as the party initiating the transfer of funds is the "transferor," and the party receiving those funds is the "transferee." The January 1976 proposal deemed such parties the "originator" and the "recipient," but the duties and liabilities of the transferor and transferee are substantially the same as the duties and liabilities of the originator and recipient. Both a transferor and transferee are defined as a member bank or other institution authorized by that Federal Reserve Bank to participate in such transfers. The transferor sends a transfer item to the Federal Reserve office with which it maintains an account. Under special arrangement, a transferor may, by telephone, request the Reserve Bank with which it maintains an account to transfer funds. By sending the item to the Federal Reserve the transferor authorizes the Federal Reserve to debit the transferor's account and have the Federal Reserve handle and act upon the item in accordance with the subpart.

The transferee agrees to accept the credit and to promptly pass on funds to its customer, the beneficiary. The transferee may use the funds upon final payment, which is defined generally as the time that the Federal Reserve sends the item or advice of credit as may be appropriate. The Federal Reserve is responsible for sending advices or statements to the transferor and the transferee, in order to assist those parties in maintaining accurate records regarding wire transfer transactions. Under Subpart B as adopted, the Federal Reserve is required to exercise good faith and ordinary care.

COMMENTS SUGGESTING ALTERNATIVE
LANGUAGE AND STANDARDS

Many alternatives were presented by the respondents during the last comment period that were not adopted. The most common comments were as follows:

1. Some commented that the standards of Federal Reserve liability are indefinite, in that key provisions such as Federal Reserve liability for delay, provisions for revocation, etc., used such terms as "reasonable" time. The Board adopted standards such as "reasonable" because such provisions as are found in many areas of Articles 3 and 4 of the Uniform Commercial Code, dealing with checks. Inasmuch as the wire transfer of funds and the collection of checks are analogous to each other, it was believed these general standards of duty, which are similar to those adopted by member banks, were appropriate.

2. Some commented that the Federal Reserve should accept a stricter standard of care, i.e., rather than the proposed duty of reasonable care to the transferor alone, the Federal Reserve should be absolutely liable to all parties for amounts including proximate damages to beneficiaries and transferees. Some respondents have proposed that the Federal Reserve Banks act as guarantors of the wire transfer system and assume liabilities inconsistent with the standard of responsibility assumed in other payments mechanism functions. Liability to the initiator, the transferor, is viewed as the proper role for the Reserve Banks.

3. Some commented that the operating circulars of the Reserve Banks should be issued for comment. Reserve Banks will distribute operating circulars in advance of its effective date. Operating circulars are continual offers on the part of Reserve Banks, however, and not regulations subject to public comment.

CHANGES IN THE ADOPTED VERSION
VERSUS THE PROPOSED

A number of technical changes have been made in the adopted version versus the version proposed in January 1976. These changes result from the fact that provisions relating to ACH transactions have been deleted, however, and are not due to changes in the rights and responsibilities of the parties involved in the transfer of funds.