

FEDERAL RESERVE BANK
OF NEW YORK

[Circular No. 9121
August 4, 1981]

AUTOMATED CLEARING HOUSE ITEMS

New Operating Circular — No. 10

*To All Depository Institutions in the Second
Federal Reserve District, and Others Concerned:*

We are issuing a new operating circular — Operating Circular No. 10, "Automated Clearing House Items" — governing our current handling of and settlement for automated clearing house ("ACH") items. The new circular and its appendix, which are enclosed, became effective August 1, 1981, and also implement pricing of the Bank's ACH services as required by the Monetary Control Act of 1980. Also enclosed is the text of the uniform language of the ACH circulars adopted by the other 11 Reserve Banks, which also took effect on August 1, 1981. The Reserve Bank operating circulars take the place of the proposed Subpart C of Regulation J that the Board of Governors of the Federal Reserve System most recently issued for comment on November 28, 1979 (44 FR 67995). These circulars provide a set of rules governing ACH transactions, so that the ACH service will be safe, reliable, and efficient.

This Bank's ACH operating circular differs from the ACH operating circulars of the other Reserve Banks because of the unique situation in this District. Here the only existing ACH is the New York Automated Clearing House ("NYACH") operated by the New York Clearing House Association. The New York Reserve Bank's role is to send and receive interdistrict ACH items and to make settlement based on a settlement statement prepared by NYACH. We also provide intradistrict delivery for ACH items handled by NYACH. In other Federal Reserve Districts, the Reserve Bank also operates the ACH for the local ACH association and, under the operating circulars in those districts, the Reserve Banks will provide ACH services directly to an institution that is not a member of the local ACH association if the institution agrees to abide by the ACH rules designated as applicable in the operating circular.

The provisions of both the uniform and this Bank's ACH operating circulars are limited to the responsibilities of Reserve Banks, leaving all other aspects of ACH transactions to be governed by the rules of the ACH associations. Also, the new operating circular does not govern the handling of Federal recurring payments, such as Social Security payments, which continue to be governed by 31 C.F.R. Part 210 and our Operating Circular No. 11.

If you have any questions regarding ACH transactions, please contact Raleigh M. Tozer, Assistant Counsel (Tel. No. 212-791-5033), or Carl W. Turnipseed, Manager, Check Adjustment and Return Items Department (Tel. No. 212-791-5292).

ANTHONY M. SOLOMON,
President.

**FEDERAL RESERVE BANK
OF NEW YORK**

[Operating Circular No. 10
Effective August 1, 1981]

AUTOMATED CLEARING HOUSE ITEMS

*To All Depository Institutions in the Second Federal
Reserve District, and Others Concerned:*

General

1. This operating circular and our time schedules govern the handling and settlement of automated clearing house ("ACH") items by this Bank. This circular is issued pursuant to Sections 4, 11A, 13, 16, and 19 of the Federal Reserve Act and related statutes. It is binding on originators, receivers, and other parties interested in an ACH item and on each account holder agreeing to settle for ACH items under this circular. This circular preempts or supersedes agreements or other arrangements among parties to ACH items only to the extent that provisions of those arrangements are inconsistent with this circular.

2. Each Reserve Bank other than this Bank has issued a circular governing ACH transactions and containing uniform provisions concerning interoffice transactions. Copies of the uniform language of the other Reserve Banks' operating circulars are available from our Check Processing Function on request. This Bank's circular governs only this Bank's sending and receiving of interoffice ACH items and settlement of amounts stated on the settlement statements of an ACH association. When we send an item to another Reserve Bank, that Reserve Bank handles the item subject to its operating circular and time schedules.

Definitions

3. As used in this circular, unless the context otherwise requires:

(a) "Account holder" means a Reserve Bank, a depository institution, or other institution maintaining an account with a Reserve Bank.

[Enc. Cir. No. 9121]

(b) "Actually and finally collected funds" means cash or any other form of payment that is, or has become, final and irrevocable.

(c) "Applicable ACH rules" means ACH rules that are designated by a Reserve Bank in its operating circular as applicable to ACH transactions within the region or between ACH regions. "Applicable ACH rules" does not include provisions in ACH rules that are not applicable to transactions under this circular because they are in conflict with regulations and policy guidelines of the Board of Governors of the Federal Reserve System or policy guidelines of the Conference of First Vice Presidents or the Conference of Presidents of the Federal Reserve Banks or applicable law.

(d) "Approved medium" means any of the following writings specified in this circular or in the applicable ACH rules: any form of communication, other than voice, registered on (or in a form suitable for being registered on) magnetic tape, disc, or other medium designed to contain in durable form conventional signals used for electronic communication of messages, or output produced from this form of communication.

(e) "Automated clearing house" or "ACH" means a Reserve Bank or other facility that clears debit and credit items for an originator or recipient.

(f) "ACH association" means an organization that operates an ACH itself or through a Reserve Bank.

(g) "ACH region" means a geographic area within which institutions are eligible to participate under certain ACH rules.

(h) "Automated clearing house rules" means the rules and procedures or agreements provided by a group of institutions, such as an ACH association, that govern the clearing of items among participants in an ACH payments system.

(i) "Banking day" means a day during which a Reserve Bank, an account holder, originator, or receiver is open to the public for carrying on substantially all of its banking functions.

(j) "Credit item" means an ACH item pursuant to which the originator is to receive a debit and the receiver a credit.

(k) "Debit item" means an ACH item pursuant to which the originator is to receive a credit and the receiver a debit.

(l) "Depository institution" means a depository institution as defined in § 19(b) of the Federal Reserve Act (12 U.S.C. 461(b)).

(m) "Interoffice transaction" means a transaction involving an ACH item sent by an originator in one ACH region to a receiver in a different region.

(n) "Intraoffice transaction" means a transaction involving an ACH item sent by an originator in one ACH region to a receiver in the same region.

(o) "Item" or "ACH item" means a writing in an approved medium that evidences a right to the payment of money and that is handled by an ACH. "Item" does not include: (1) an "item" as defined in § 210.2 of Regulation J that is handled under Subpart A governing the collection of checks and other items; (2) an "item" as defined in § 210.26 of Regulation J that is handled under Subpart B governing wire transfers of funds; (3) a credit payment subject to 31 Code of Federal Regulations, Part 210, governing Federal recurring payments by means other than by check; or (4) a wire transfer of securities by this Bank. An item is deemed to be the same item even if its medium changes during handling of the item. "Item" may include a prenotification or other notice, or a return item, adjustment or notice in accordance with paragraphs 27, 28, or 29.

(p) "Originator" means a depository institution or other authorized institution, whether or not a member of an ACH association, that sends an ACH item to an ACH.

(q) "Originator's account" or "receiver's account" means the account at a Reserve Bank that the originator or receiver maintains or uses for settlement under an operating circular governing ACH items.

(r) "Originator's Reserve Bank" means the first Reserve Bank to which an originator directly or indirectly sends an item in accordance with the Reserve Bank's operating circular.

(s) "Receiver" means a depository institution or other authorized institution, whether or not a member of an ACH association, that is designated in an item to receive the item.

(t) "Receiver's Reserve Bank" means the Reserve Bank from which the receiver directly or indirectly receives an item.

(u) "Settlement statement" means an instruction to this Bank by an ACH association showing the amounts to be debited or credited to the accounts maintained or used by settling participant members of the association as the result of ACH items.

Sending and receiving credit and debit items

4. An ACH association that has made prior arrangements with us may deliver credit and debit items and related data to this Bank for transmission to automated clearing houses operated by other Reserve Banks and may pick up such items and data regarding members of the association that we have received by transmission from other automated clearing houses.

5. Items must be in the format prescribed by applicable ACH rules. We may handle an item on the basis of any routing number or other designation of a receiver appearing in any form on the item when we receive it. We are not responsible for any delay resulting from our acting on any designation of a receiver whether or not the designation is consistent with any other designation on the item.

Originator's agreement

6. By sending an interoffice ACH item directly or indirectly to this Bank, a member of an ACH association:

- (a) agrees to comply with the applicable ACH rules and agrees that such rules shall govern the relationships among the originator, the receiver, and other parties interested in the item and covered by the applicable ACH rules;
- (b) authorizes this Bank and the receiver's Reserve Bank to handle the item in accordance with the Reserve Banks' operating circulars;
- (c) agrees to indemnify each Reserve Bank handling or settling for the item for any loss or expense sustained (including attorneys' fees and expenses of litigation) resulting from any action taken by the Reserve Bank in accordance with the Reserve Bank's applicable operating circular.

7. The agreements, authorizations, and indemnities in paragraph 6 do not limit any other agreement, authorization, or indemnity, not inconsistent with paragraph 6, made by an originator to a receiver, a Reserve Bank, or another party.

Applicable ACH rules

8. For participating bank members of the New York Automated Clearing House the applicable ACH rules are the Operating Rules of the National Automated Clearing House Association. These rules, as amended from time to time, are applicable to interoffice transactions involving originators or receivers located in this Federal Reserve District.

9. If applicable ACH rules for a local ACH region provide for remote origination by originators located outside the local ACH region, such a remote originator may send items to the Reserve Bank used by originators located in the ACH region, subject to agreement by that Reserve Bank as provided in paragraph 4 of this

circular, and subject to the applicable ACH rules for transactions within the local ACH region.

10. Except as otherwise specifically provided in this circular, we do not have or assume any responsibility for determining whether an originator or receiver complies with applicable ACH rules.

Handling of items

11. We handle an interoffice transaction as follows: We transmit items we receive from a local ACH to the receiver's Reserve Bank. The receiver's Reserve Bank sends or makes available the item it receives to the receiver. A local ACH picks up items we receive from the originator's Reserve Bank. The ACH sends or makes available the item to the receiver.

12. This Bank may, in its discretion, deliver ACH items for a local ACH association to the receiver or to any other person designated by the receiver to receive ACH items or deliver ACH items from an originator to the ACH.

Time schedules and extensions of time limits

13. The time schedule made a part of this circular (Appendix A) shows the cutoff hours for receipt by us from an ACH of ACH items. If we receive items from an ACH after a cutoff hour, we handle them on our next banking day unless, in emergency or other circumstances, we decide to handle them on the day of receipt.

14. The time schedule also shows the time certain operations are scheduled to occur. We act in a timely manner if we take proper action within the times shown in our time schedule. If, because of circumstances beyond our control, we are delayed in acting beyond applicable time limits, the time for acting is extended for the time necessary to complete the action, if we exercise such diligence as the circumstances require.

Settlement and availability of credit

15. Each banking day on which we receive a settlement statement from an ACH association, we settle the debit or credit balances on the statement by debiting or crediting the accounts maintained or used by the members of the ACH association. The ACH association

settlement agreement with this Bank in the form of Exhibit I below. The settlement agreement must provide that in consideration of the handling of items and settlement of balances by the Reserve Bank for the originator or receiver, and for other originators and receivers, the account holder agrees to the applicable Reserve Bank operating circulars governing ACH items, and to applicable ACH rules, each as amended from time to time, for the benefit of all parties interested in the items. A settlement agreement with this Bank executed by an account holder, if any, in effect on August 1, 1981, providing for settlement of ACH items is considered to comply with this paragraph upon the origination or receipt by such an institution of items on or after such date, unless such originator or receiver ceases to be a member of an ACH association.

Receiver's agreements

22. A receiver designated in an item, by accepting an interoffice ACH item directly or indirectly from this Bank:

- (a) agrees to comply with applicable ACH rules and agrees that such rules shall govern the relationships among the originator, the receiver, and other parties interested in the item and covered by the applicable ACH rules;
- (b) agrees to handle the item in accordance with this operating circular;
- (c) agrees to indemnify each Reserve Bank handling or settling for the item for any loss or expense sustained (including attorneys' fees and expense of litigation) resulting from a breach of the foregoing agreements or from any action taken by the Reserve Bank holding the receiver's account in accordance with the foregoing authorization.

23. The agreements and indemnities in paragraph 22 do not limit any other agreement, authorization or indemnity, not inconsistent with paragraph 22, made by a receiver to an originator, a Reserve Bank, or another party.

Revocation of items

24. No originator or prior party has a right to revoke an item after it has been received by a Reserve Bank, except as provided for in applicable ACH rules.

25. We may, on our own initiative, cease acting on or settling for a credit item if the originator's Reserve Bank judges that there may not be sufficient funds in the originator's account on the settlement date to cover the item. We promptly notify the ACH to which we have sent the item of nonpayment of the item.

26. We may initiate a reversing batch of items in accordance with applicable ACH rules, if we discover that we caused a duplicate or erroneous batch of items to be sent. We notify the ACH association and the Reserve Bank to which the items were sent accordingly.

Return of items and funds

27. We accept, from a local ACH association, return of an ACH item that we handled originally. We deliver the item, as instructed by the ACH association, to the originator's Reserve Bank. The ACH association must include the debit or credit for return of the item on a supplemental settlement statement.

28. We deliver to a local ACH association an item that has been returned to us from an ACH in another Federal Reserve District. The local ACH association must include the debit or credit for return of the item on a supplemental settlement statement. If the debits and credits on the supplemental statement are in balance for members of the local ACH association and other ACHs, this Bank makes the appropriate entries. If not, this Bank returns the supplemental settlement statement to the local ACH association.

29. We handle a rejection of prenotification or notification of change or other similar notices as items, except that no funds are transferred.

30. We do not have or assume any responsibility for determining whether the action taken by a receiver was timely.

Advices to account holders

31. We provide, in a statement, advice of credit or debit to our account holders for amounts on settlement statements for which they have agreed to settle. An advice of credit indicates that credit has been given, subject to the provisions of this circular. Unless our account holder sends to us prompt written objection to an advice of debit, it is deemed to approve the debit.

Records

32. Originators and receivers should keep records that permit them to resolve questions with their ACH that arise concerning the handling of items. We do not keep any copies of items handled by an ACH. We discard our copy of a settlement statement one year from the date of the settlement statement, and no claim except one based on alleged fraud by this Bank, may be made against us after that time.

33. We disclose our records of transmission, settlement, and delivery if the person requesting the information is a party to the transaction. Otherwise, we do not disclose our records of items handled except in response to valid grand jury subpoenas or court orders.

Pricing

34. Our fee schedule (Appendix A) shows the charges we impose for our ACH services. We make the charges as shown in the schedule to the local ACH association or its designated correspondent's account.

Reserve Bank liability

35. *Limitations on liability.* This Bank is responsible or liable only to an originator, a receiver, or another Reserve Bank, and only for its own lack of good faith or failure to exercise ordinary care. This Bank does not act as the agent or subagent of another bank or person and is not liable for the insolvency, neglect, misconduct, mistake, or default of another bank or person. This Bank does not make any warranty with respect to an item it handles or settles for under this circular.

36. *Measure of damages.* The measure of damage for our failure to exercise ordinary care with respect to an item is the amount of the item reduced by an amount that could not have been realized by the use of ordinary care. Where there is a lack of good faith, the measure of damages includes other damages, if any, suffered by the party as a proximate consequence.

37. *Reserve Bank indemnity.* A Reserve Bank handling or settling for an item agrees to indemnify another Reserve Bank that

handles or settles for an item for any loss or expense sustained (including attorneys' fees and expenses of litigation) as a result of the former Reserve Bank's failure to exercise ordinary care or to act in good faith.

38. *Limitation on claims.* No claim may be made by any person against a Reserve Bank for loss resulting from the Reserve Bank's handling of or settling for an item after one year from the settlement date of the item.

39. *Recovery by Reserve Bank.* If an action or proceeding is brought against a Reserve Bank that has handled or settled for an item, based on:

- (a) the alleged breach of, or the alleged failure to have the authority to make, any of the warranties, authorizations and agreements referred to in paragraphs 6, 22, and 37 of this circular or the alleged breach of applicable ACH rules, by the originator, the receiver or another Reserve Bank; or
- (b) any action by the Reserve Bank in accordance with its operating circular,

the Reserve Bank may, upon the entry of a final judgment or decree, recover from the originator, the receiver, or the other Reserve Bank, as the case may be, any amount the Reserve Bank is required to pay under the judgment or decree, together with interest, as well as the amount of attorneys' fees and other expenses of litigation incurred.

40. *Methods of recovery.* The Reserve Bank may recover the amount stated in paragraph 39 of this circular by charging the originator's or receiver's account (or if the item was received from, sent to, or settled through another Reserve Bank, by charging the other Reserve Bank through the Inter-District Settlement Fund), if

- (a) the Reserve Bank has made seasonable written demand on the originator, receiver, or other Reserve Bank to assume defense of the action or proceeding; and
- (b) no other arrangement for payment acceptable to the Reserve Bank has been made.

A Reserve Bank that has been charged through the Inter-District Settlement Fund may recover from the originator or receiver in the

manner and under the circumstances set forth in this paragraph. A Reserve Bank's failure to avail itself of the remedy provided in this paragraph does not prejudice its enforcement in any other manner of the indemnity agreements referred to in paragraphs 6, 22, and 37.

Right to amend

41. We reserve the right to amend this circular at any time.

ANTHONY M. SOLOMON,
President

EXHIBIT I

SETTLEMENT AGREEMENT

As provided in paragraph 21 of Operating Circular No. 10, the Federal Reserve Bank of New York ("Reserve Bank") makes settlement for a settlement statement received from an ACH association under the terms of this Agreement. The account holder agrees to these terms by executing a letter in the following form:

[To Be Typed on Account Holder's Letterhead]

[Date]

Federal Reserve Bank of New York
33 Liberty Street
New York, New York 10045

Attention: Vice President, Check Processing Function

Gentlemen:

In accordance with your Operating Circular No. 10, we agree to the terms of applicable Reserve Bank operating circulars governing ACH items, and to applicable ACH rules, each as amended from time to time, for the benefit of all parties interested in an ACH item.

We authorize you to settle on your books our bank's daily net credit or debit balance by posting to our account the balance as certified to you by the

[Name of ACH association]

(the "ACH association") arising out of the operations of the Should at any time our daily debit balance

[Name of ACH]

exceed the balance we have on deposit with you, we agree to promptly put you in funds available for immediate use. It is understood that, if, because any of the institutions settling in this manner are, in your sole judgment, unable to cover the daily debit balance certified

to you, you will not settle any of the balances certified to you and that you will return the certified settlement sheet to the ACH association.

Very truly yours,

.....
[Name of account holder]

By:
[Name and title]

By:
[Name and title, if two
signatures are required.]

**FEDERAL RESERVE BANK
OF NEW YORK**

Appendix A to
Operating Circular No. 10
Effective August 1, 1981

TIME AND FEE SCHEDULE

Automated Clearing House Services

*To All Depository Institutions in the Second
Federal Reserve District, and Others Concerned:*

Delivery schedule

The schedule below shows the cut-off hours for receipt by us of ACH files:

	<u>Day Cycle</u> (Monday through Friday)	<u>Night Cycle</u> (Sunday through Thursday)
<u>Interoffice ACH Service</u>		
Cut-off receipt of ACH files for Interregional Transmission	8:00 a.m.	11:00 p.m.
<u>Intra-Office ACH Service</u>		
Cut-off for receipt of ACH files for local courier delivery	5:00 p.m.	4:00 a.m.

Settlement statement schedule

This schedule shows cut-off hours for receipt by us from a local ACH association of settlement statements:

<u>Type of Settlement</u>	<u>Receipt Deadline</u> (Day of Settlement)
Day Cycle	11:00 a.m.
Night Cycle	11:00 a.m.
Supplemental	3:00 p.m.

[Enc. Cir. No. 9121]

(OVER)

Fee schedule

We charge a local ACH association the following fees for our ACH services. The fees are charged per item. For ACH items, we charge the local ACH association only for debit items originated, and credit items received, by members of the ACH association.

Intra-ACH

0.3 cents per item

Inter-ACH

1.2 cents per item

ANTHONY M. SOLOMON,
President.

FEDERAL RESERVE BANK OF NEW YORK

Uniform ACH Circular

Reproduced on the following pages is the text of the uniform language of the operating circular on Automated Clearing House Items adopted by each of the 11 Reserve Banks other than the Federal Reserve Bank of New York. Under paragraph 2 of this Bank's Operating Circular No. 10, when we send an ACH item to another Reserve Bank, that Reserve Bank handles the item subject to its operating circular and time schedules.

AUTOMATED CLEARING HOUSE ITEMS

To the Depository Institutions in
the _____
Federal Reserve District and
Others Concerned:

General

1. This operating circular and our time schedules govern the clearing and settlement of automated clearing house, ACH, items by this Bank. This circular is issued pursuant to Sections 4, 11A, 13, 16 and 19 of the Federal Reserve Act and related statutes. It is binding on originators, receivers, and other parties interested in an item and on each account holder agreeing to settle for items under this circular. This circular preempts or supersedes agreements or other arrangements among parties to automated clearing house items only to the extent that provisions of those arrangements are inconsistent with this operating circular.

2. Each Reserve Bank has issued a circular substantially similar to this one, containing uniform provisions concerning interoffice transactions, except that the Federal Reserve Bank of New York has issued a circular providing only for delivery and settlement of ACH items on behalf of members of an ACH association. When we send an item to another Reserve Bank, that Reserve Bank handles the item subject to its operating circular and time schedules. We give credit to or charge the originator or recipient for the item in accordance with

our time schedules.

Definitions

3. As used in this circular, unless the context otherwise requires:

- (a) "Account holder" means a Reserve Bank, a depository institution, or other institution maintaining an account with a Reserve Bank.
- (b) "Actually and finally collected funds" means cash or any other form of payment that is, or has become, final and irrevocable.
- (c) "Applicable ACH rules" means ACH rules, copies of which are reasonably available to all originators and receivers within an ACH region, that are designated by a Reserve Bank in its operating circular as applicable to ACH transactions within the region or between ACH regions. "Applicable ACH rules" does not include provisions in ACH rules that are not applicable to transactions under this circular because they are in conflict with regulations and policy guidelines of the Board of Governors of the Federal Reserve System or policy guidelines of the Conference of First Vice Presidents or the Conference of Presidents or applicable law, and provisions (i) limiting the rules' application to members of an ACH association, (ii) requiring dues or fees (other than a reasonable fee for copies of the ACH rules), and (iii) requiring execution of agreements (such as settlement or indemnity agreements); but such provisions may bind members of the ACH association. The

circular may designate ACH rules from another ACH region as applicable to a local region, in the absence of applicable ACH rules for the local region.

- (d) "Approved medium" means any of the following writings specified in this circular or in the applicable ACH rules: any form of communications, other than voice, registered on (or in form suitable for being registered on) magnetic tape, disc, or other medium designed to contain in durable form conventional signals used for electronic communication of messages, or output produced from this form of communication.
- (e) "Automated clearing house" or "ACH" means a Reserve Bank or other facility that clears debit and credit items for depository institutions. An ACH association may use more than one ACH.
- (f) "ACH region" means a geographic area within which depository institutions are eligible to participate under certain ACH rules.
- (g) "Automated clearing house rules" or "ACH rules" means the rules and procedures or agreements provided by a group of depository institutions, such as an automated clearing house association, that comprehensively govern the clearing of items among participants in an automated clearing house payment system.
- (h) "Banking day" means a day during which a Reserve Bank, an account holder, originator, or receiver is open to the public for carrying on substantially all its banking functions.
- (i) "Credit item" means an item sent to a Reserve Bank by an

originator for debit to the originator's account and for credit to a receiver's account.

(j) "Debit item" means an item sent to a Reserve Bank by an originator for credit to the originator's account and for debit to a receiver's account.

(k) "Depository institution" means a depository institution as defined in § 19(b) of the Federal Reserve Act (12 U.S.C. 461(b)).

(l) "Effective date window" means the minimum and maximum number of days following receipt of an item by a Reserve Bank, within which the date specified for settlement of the item must fall for a Reserve Bank to settle for the item based on the specified date.

(m) "Interoffice transaction" means a transaction between an originator and receiver that are domiciled in different ACH regions.

(n) "Intraoffice transaction" means a transaction between an originator and receiver that are domiciled in the same ACH region.

(o) "Item" means a writing contained in an approved medium that evidences a right to the payment of money and that is sent to this Bank for clearing and settlement under this circular.

"Item" does not include: (1) an "item" as defined in § 210.2 of Regulation J that is handled under Subpart A governing the collection of checks and other items; (2) an "item" as defined in § 210.26 of Regulation J that is handled under Subpart B governing wire transfers of funds; (3) a credit payment subject

to 31 Code of Federal Regulations, Part 210, governing federal recurring payments by means other than by check; or (4) a wire transfer of securities by this Bank. An item is deemed to be the same item even if the medium in which it is contained changes during handling of the item. "Item" may include a pre-notification or notice in accordance with paragraph 8 or a return item, adjustment or notice in accordance with paragraphs 34 or 35.

- (p) "Originator" means a depository institution or other authorized institution, whether or not a member of an ACH association, that sends an ACH item to a Reserve Bank.
- (q) "Originators' account" or "receiver's account" means the account at a Reserve Bank the originator or receiver, respectively, maintains or uses under an arrangement between the Reserve Bank and an account holder, for settlement under an operating circular governing ACH items.
- (r) "Originator's Reserve Bank" means the Reserve Bank office to which an originator sends an item in accordance with the Reserve Bank's operating circular.
- (s) "Receiver" means a depository institution or other authorized institution, whether or not a member of an ACH association, that is designated in an item to receive the item from a Reserve Bank.
- (t) "Receiver's Reserve Bank" means the Reserve Bank office from which the receiver directly or indirectly receives an item.
- (u) "Settlement date" means the date for settlement of an item as provided in this circular.

Sending credit and Debit Items

4. An originator domiciled in the territory of, or authorized by arrangement with, [an office of] this Bank and maintaining or using an account with a Reserve Bank for settlement under a circular governing credit and debit items, may send an item to [that office] [this Bank].

5. An originator may send an item to us by electronic means under arrangements with us, or in the following approved media: [

].

The originator must authenticate items sent to us by codes or procedures we prescribe.

6. Items must be in the format prescribed by applicable ACH rules. We may handle an item on the basis of any routing number or other designation of a receiver appearing in any form on the item when we receive it. We are not responsible for any delay resulting from our acting on any designation of a receiver whether or not the designation is consistent with any other designation on the item.

7. Members of an ACH association desiring to originate or receive items should arrange for the association to certify to us in a medium and format prescribed by us the association's membership, with prompt notice of any change of membership.

8. An originator shall send to us a prenotification of an item as required by applicable ACH rules. We handle a prenotification or other notice as an item, except that no funds are transferred. If the receiver does not maintain or use an account for settlement under an operating circular governing ACH items, we return the prenotification to the originator.

Originator's Agreements

9. By sending an item to a Reserve Bank, the originator:

- (a) agrees to comply with the applicable ACH rules and that such rules shall govern the relationships among the originator, the receiver, and other parties interested in the item and covered by the applicable ACH rules;
- (b) authorizes its Reserve Bank and the receiver's Reserve Bank to handle the item in accordance with the Reserve Banks' operating circulars;
- (c) authorizes the Reserve Bank holding the originator's account to debit or credit, as appropriate, the amount of the item to the originator's account on the settlement date; and
- (d) agrees to indemnify each Reserve Bank handling or settling for the item for any loss or expense sustained (including attorneys' fees and expenses of litigation) resulting from any action taken by the Reserve Bank in accordance with the Reserve Bank's applicable operating circular.

10. The agreement, authorizations, and indemnity in paragraph 9 do not limit any other agreement, authorization, or indemnity, not inconsistent with paragraph 9, made by an originator to a receiver, a Reserve Bank, or another party.

11. By sending a credit item to a Reserve Bank, the originator agrees to have in its account on the settlement date, a balance of actually and finally collected funds sufficient to cover the amounts of credit items to be debited to the account during that day. In addition to other remedies, the originator's Reserve Bank and the Reserve Bank holding the originator's account have a security interest in the assets of the originator, and of the account holder whose account the originator uses for settlement, in the possession of, or held for the account of, the Reserve Bank if:

- (a) the balance in the originator's account at the end of the Reserve Bank's banking day on the settlement date is not sufficient to cover the amounts debited to the account during that day in connection with credit and debit items; or
- (b) the originator suspends payment or is closed at any time during the Reserve Bank's banking day on the settlement date, and does not have a balance sufficient to cover the amounts debited to its account in connection with credit and debit items.

Applicable ACH Rules

12. The following ACH rules, as amended from time to time, are applicable to transactions involving originators and receivers located in this Federal Reserve District.

- (a) For transactions between an originator and receiver, both of which are located in [describe ACH region], whether or not

either is a member of an ACH association, the applicable ACH rules are the Operating Rules of [specify ACH association].

- (b) For transactions between an originator and receiver, only one of which is located in [the] [a specific] ACH region described above, the other being located in another ACH region in [this or] another Federal Reserve District, whether or not either is a member of an ACH association, the applicable ACH rules are the Operating Rules of the National Automated Clearing House Association.

13. If applicable ACH rules for a local ACH region provide for remote origination by originators located outside the local ACH region, such a remote originator may send items to the Reserve Bank [office] used by originators located in the local ACH region, subject to agreement by that Reserve Bank as provided in paragraph 4, and subject to the applicable ACH rules for transactions within the local ACH region.

14. Except as otherwise provided in this circular, we do not have or assume any responsibility for determining whether an originator or receiver complies with applicable ACH rules.

Handling of Items

15. We process and edit ACH items in accordance with applicable ACH rules. We handle an intraoffice transaction by sending or making available an

item we receive to the receiver. We handle an interoffice transaction as follows: The originator's Reserve Bank sends an item it receives to the receiver's Reserve Bank. The receiver's Reserve Bank sends or makes available the item it receives to the receiver.

16. This Bank sends items to a receiver, or to a location in the same Federal Reserve territory as that where the receiver is located at the receiver's request, in the following manner:

- (a) By the same means and to the same location used for sending cash items to the receiver, or to others, under Subpart A of Regulation J;
- (b) By courier to a location not receiving cash items, if the delivery point is on a Federal Reserve courier route and, in our opinion, results in savings through consolidation of payment files;
- (c) By electronic means under arrangements with us;
- (d) By the receiver's picking up the items; or
- (e) By mail.

The person to whom delivery is made as requested or who picks up the items is considered to be the receiver's agent.

17. This Bank sends items to a location in a different Federal Reserve territory from that where the receiver is located at the receiver's request and expense where, in our judgement, it is appropriate to do so. A receiver that wants such delivery should submit a request to us.

18. If we expect that an item will not be delivered to a receiver by the date scheduled for settlement, we may notify the receiver by telephone of the information on the item and settle the item accordingly. A receiver should

promptly advise us by telephone if it does not receive a shipment of items by the settlement date.

Time Schedules, Settlement Dates and Extensions of Time Limits

19. The time schedule made a part of this circular shows the cutoff hours for receipt by us of credit and debit items of various classes. Items or their accompanying media should specify a settlement date that is within the effective date window shown for that class of item. If we receive an item after a cutoff hour, we handle it on our next banking day unless, in emergency or other circumstances, we decide to handle it on the day of receipt. If the specified settlement date is later than the effective date window, we will not handle the item. Non-accounting entries, such as prenotifications or notices of changes, are handled without regard to settlement date if any is specified.

20. Our time schedule also shows the settlement date for items:

- (a) that specify no settlement date;
- (b) that specify a date that is not a banking day for the account holder whose account either the originator or the receiver uses for settlement or for a Reserve Bank involved with the transaction; or
- (c) that specify a settlement date earlier than the date limitation shown in the time schedule for those items.

21. The time schedule made part of this circular also shows the time certain operations are scheduled to occur. We act in a timely manner if we take proper action within the time shown in our time schedule. If, because of circumstances beyond our control, we are delayed in acting on an item beyond applicable time limits, the time for acting is extended for the time necessary to complete the action, if we exercise such diligence as the circumstances require.

Settlement and Availability of Credit

22. The Reserve Bank holding the originator's account, on the settlement date debits or credits the originator's account in the amount of the item, and credits or debits in the same amount the receiver's account, or the account of the appropriate Reserve Bank.

23. The Reserve Bank holding the receiver's account on the settlement date credits or debits the receiver's account in the amount of the item and debits or credits in the same amount the originator's account, or the account of the appropriate Reserve Bank.

24. A Reserve Bank may, at any time until its opening of business on the banking day following the settlement date, refuse to permit the use of credit given for a debit item for which the Reserve Bank has not received actually and finally collected funds. A Reserve Bank that does not receive actually and finally collected funds in settlement of a debit item, at or before the opening of business on the banking day following the settlement date, reverses the debit and credit previously made in settlement of the item and promptly notifies the originator and the receiver, or their Reserve Banks.

25. Credit given by a Reserve Bank to a receiver for a credit item is available for use on the settlement date, subject to the Reserve Bank's right to apply the funds to an obligation owed to it by the receiver.

26. A Reserve Bank does not settle for an item after it receives notice of the suspension or closing of the originator or the receiver. In the event of the suspension or closing of an account holder whose account the originator or receiver uses for settlement, settlement is made to another account designated by the originator or receiver.

27. Subject to paragraphs 24 and 25, credit given by us at once qualifies as reserve for purposes of Regulation D of the Board of Governors of the Federal Reserve System.

Settlement Agreements

28. Prior to originating or receiving items, an originator or receiver, and an account holder whose account the institution desires to use for settlement of the items, must execute a settlement agreement with a Reserve Bank that maintains an account for the institution or account holder. The settlement agreement must provide that in consideration of the clearing and settlement of items by the Reserve Bank for the originator or receiver, and for other originators and receivers, the institution and account holder agree to the applicable Reserve Bank operating circulars governing ACH items, and to applicable ACH rules, each as amended from time to time, for the benefit of all parties interested in the items. A settlement agreement with this Bank executed by an originator or receiver and an account holder, if any, in effect on _____, providing for settlement of ACH items is considered to comply with this paragraph upon the origination or receipt by such an institution of items on or after such date, unless such originator or receiver ceases to be a member of an ACH association.

Receiver's Agreements

29. A receiver designated in an item, by maintaining or using an account with a Reserve Bank for settlement of credit and debit items and by accepting an item from this Bank:

- (a) agrees to comply with applicable ACH rules and that such rules shall govern the relationships among the originator, the receiver, and other parties interested in the item and covered by the applicable ACH rules;

- (b) agrees to handle the item in accordance with this operating circular;
- (c) authorizes the Reserve Bank holding the receiver's account to credit or debit, as appropriate, the amount of the item to the receiver's account on the settlement date; and
- (d) agrees to indemnify each Reserve Bank handling or settling for the item for any loss or expense sustained (including attorneys' fees and expense of litigation) resulting from a breach of the foregoing agreements or from any action taken by the Reserve Bank holding the receiver's account in accordance with the foregoing authorization.

30. The agreements, authorization and indemnity in paragraph 29 do not limit any other agreement, authorization or indemnity, not inconsistent with paragraph 29, made by a receiver to an originator, a Reserve Bank, or another party.

Revocation of Items

31. No originator or prior party has a right to revoke an item after it has been received by a Reserve Bank, except as provided for in applicable ACH rules.

32. We may, on our own initiative, cease acting on or settling for a credit item if the originator's Reserve Bank judges that there may not be sufficient funds in the originator's account on the settlement date to cover the item. We promptly notify the originator and a receiver to which we have sent an item, or their Reserve Banks, of nonpayment of the item.

33. We may initiate a reversing batch of items in accordance with applicable ACH rules, if we discover that we sent a duplicate or erroneous batch

of items. We notify the originator and its Reserve Bank accordingly.

Return of Items and Funds

34. A receiver has the right to reversal of credits and debits made under paragraphs 22 or 23 of this circular by returning the item to its Reserve Bank in accordance with applicable ACH rules. The receiver's Reserve Bank sends a returned item or adjustment to the originator, or, in an interoffice transaction, to the originator through the originator's local Reserve Bank. The Reserve Bank(s) holding the originator's and receiver's account(s) reverse the debit and credit previously made in settlement of the item.

35. A receiver may send a rejection of prenotification or notification of change to its Reserve Bank in accordance with applicable ACH rules. Reserve Banks handle these notices or other notices as items, except that no funds are transferred.

36. We do not have or assume any responsibility for determining whether the action taken by a receiver was timely.

Advices to Account Holders

37. We provide, in a statement, advices of credit and debit to account holders for items for which they have agreed to settle. Advices of credit indicate that credit has been given, subject to the provisions of this circular. Unless our account holder sends to us prompt written objection to an advice of debit, it is deemed to approve the debit on its own behalf and on behalf of an originator or receiver using the account for settlement.

Records

38. Originators and receivers should keep records that permit them to resolve questions that arise concerning the handling of items. We do not keep any copies of items handled after one year from the settlement date, and no

claim except one based on alleged fraud by this Bank, may be made against us after that time. In addition, after 60 banking days, we destroy transaction data on individuals contained in our records of items handled.

39. We disclose our records of any item handled, if the person requesting the information is a party to the transaction. Otherwise, we do not disclose records of items handled except in response to valid grand jury subpoenas or court orders.

Pricing

40. Our fee schedule shows the charges imposed for clearing and settlement of ACH items. We may make the charge as shown in the schedule to the originator's account or the receiver's account or to a correspondent account designated by the originator or receiver, unless the originator or receiver is a member of an ACH association, the association has requested that settlement of fees be made through it, and the originator or receiver has not requested settlement of fees be made otherwise.

Reserve Bank Liability

41. Limitations on liability. This Bank is responsible or liable only to an originator, a receiver or another Reserve Bank, and only for its own lack of good faith or failure to exercise ordinary care. This Bank does not act as the agent or subagent of another bank or person and is not liable for the insolvency, neglect, misconduct, mistake, or default of another bank or person. This Bank does not make any warranty with respect to an item it handles or settles for under this circular.

42. Measure of damages. The measure of damage for our failure to exercise ordinary care with respect to an item is the amount of the item reduced

by an amount that could not have been realized by the use of ordinary care. Where there is a lack of good faith, the measure of damages includes other damages, if any, suffered by the party as a proximate consequence.

43. Reserve Bank indemnity. A Reserve Bank handling or settling for an item agrees to indemnify another Reserve Bank that handles or settles for an item for any loss or expense sustained (including attorneys' fees and expenses of litigation) as a result of the former Reserve Bank's failure to exercise ordinary care or to act in good faith.

44. Limitation on claims. No claim may be made by any person against a Reserve Bank for loss resulting from the Reserve Bank's handling of or settling for an item after one year from the settlement date of the item.

45. Recovery by Reserve Bank. If an action or proceeding is brought against a Reserve Bank that has handled or settled for an item, based on:

- (a) the alleged breach of, or the alleged failure to have the authority to make, any of the warranties, authorizations and agreements referred to in paragraphs 9, 29 and 43 of this circular or the alleged breach of applicable ACH rules, by the originator, the receiver or another Reserve Bank; or
- (b) any action by the Reserve Bank in accordance with its operating circular,

the Reserve Bank may, upon the entry of a final judgment or decree, recover from the originator, the receiver or the other Reserve Bank, as the case may be, any amount the Reserve Bank is required to pay under the judgment or decree, together with interest, as well as the amount of attorneys' fees and other expenses of litigation incurred.

46. Methods of recovery. The Reserve Bank may recover the amount stated in paragraph 45 of this circular by charging the originator's or receiver's account (or if the item was received from, sent to, or settled through another Reserve Bank, by charging the other Reserve Bank through the Inter-District Settlement Fund), if

- (a) the Reserve Bank has made seasonable written demand on the originator, receiver, or other Reserve Bank to assume defense of the action or proceeding; and
- (b) no other arrangement for payment acceptable to the Reserve Bank has been made.

A Reserve Bank that has been charged through the Inter-District Settlement Fund may recover from the originator or receiver in the manner and under the circumstances set forth in this paragraph. A Reserve Bank's failure to avail itself of the remedy provided in this paragraph does not prejudice its enforcement in any other manner of the indemnity agreements referred to in paragraphs 9, 29 and 43.

Right to Amend

47. We reserve the right to amend this circular at any time.

TIME SCHEDULE

AUTOMATED CLEARING HOUSE FILES

Cut Off Hours

This time schedule shows the cut-off hours for receipt by us of ACH formatted files containing debit and/or credit items of various classes.

CLOSING HOURS

<u>Day Cycle</u> <u>(Debits & Credits)</u> <u>Monday Through Friday</u>	<u>Night Cycle</u> <u>(Restricted Debits)*</u> <u>Sunday Through Thursday</u>
---	---

INTER & INTRA - REGIONAL

Items for any participating institution. Allows time for remakes of bad files.

Items for any participating financial institution. Does not allow time for remakes of bad files.

INTRA-REGIONAL

Items for financial institutions having routing symbols insert routing symbols for your local receivers.

Allows time for remakes of bad files.

Items for financial institutions having routing symbols insert routing symbols for your local receivers.

Does not allow time for remakes of bad files.

*Cash Concentration Debits only - Corporate cash concentration debits are originated by or for a corporation or government entity typically to collect funds from the proceeds of the day's business deposited at accounts at receiving financial institutions by the corporation's or government entity's branches, franchises, or agents. These payments do not include the collection of bill payments or other corporate obligations nor any type of consumer payments.

Effective Date Windows

Items should specify a settlement date within the following effective date windows, computed from the banking day of receipt and processing by us:

<u>Class</u>	<u>Effective Date Window</u>
Credit Items	One (1) to Two (2) Days
Debit Items	One Day Only
NACS* Debits	Same Day

Items with an effective entry date greater than that allowed by the effective date windows will be returned to the originator.

Settlement Dates

If a settlement date is not specified, or if an item specifies a settlement date equal to or earlier than the banking day of receipt and processing by us, the settlement date is the banking day following receipt by us.

If an item specifies a settlement date that is not a banking day for the account holder whose account either the originator or the receiver uses for settlement, or for a Reserve Bank involved in the transaction, settlement is effected, with respect to that party, on the next day that is a banking day for both the account holder and the Reserve Bank maintaining its account.

Delivery schedule

This delivery schedule shows the time frame for the operation of the interregional exchange and the times output files will be available for pick up or delivery to the receiver.

	<u>Day Cycle</u> <u>Monday through Friday</u>	<u>Night Cycle</u> <u>Sunday through Friday</u>
Interregional Exchange	8 A.M.-12Noon ET	11PM - 1AM ET
Output files available for pickup by local receivers	_____	_____
Output files delivered to local receivers	_____	_____

*National Association for Check Safekeeping