

FEDERAL RESERVE BANK  
OF NEW YORK

[ Circular No. 9276 ]  
[ April 12, 1982 ]

PROPOSED AMENDMENT TO REGULATION J

Weekday Closings and Nonstandard Holidays

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

The Board of Governors of the Federal Reserve System has requested comment on a proposal to amend its Regulation J, "Collection of Checks and Other Items," to require depository institutions that are closed on days on which their Reserve Bank is open to pay that day for checks drawn on the closed institution. The following is quoted from the text of the Board's announcement:

The Board asked for comment by May 20, 1982.

Under the proposed amendment the account at the Federal Reserve of the closed institution would be charged for checks that it would otherwise pay for that day if it were open. The Federal Reserve estimates that this proposed action would reduce daily average Federal Reserve float — checks sent to the Federal Reserve for collection but not yet collected — by approximately \$157 million.

The Board asked also for comment on the question whether the proposed amendment should apply to institutions closed on nonstandard holidays — State or local holidays not observed nationally or regionally — in areas where the institution's Reserve Bank is open.

Printed on the following pages is the text of the proposed amendment to Regulation J. Comments thereon should be submitted by May 20, 1982, and may be sent to James O. Aston, Vice President, Check Processing Function.

ANTHONY M. SOLOMON,  
*President.*

FEDERAL RESERVE SYSTEM

REGULATION J

[12 C.F.R. PART 210]

[Docket No. R-0392]

COLLECTION OF CHECKS AND OTHER ITEMS AND  
WIRE TRANSFER OF FUNDS

Midweek Closings and Nonstandard Holidays

AGENCY: Board of Governors of the Federal Reserve System.

ACTION: Proposed rule.

SUMMARY: The Board proposes to amend subpart A of Regulation J, governing the collection of checks and other items by Federal Reserve Banks, to require a paying bank to pay for cash items made available to it by a Reserve Bank on a weekday that is a banking day for the Reserve Bank but not for the paying bank. Such payment would be required as a condition of Reserve Bank handling of items payable by the paying bank. This amendment would be implemented initially only to require a paying bank to pay for cash items made available on regular weekday closing days. Regular weekday closing days are days on which some depository institutions in certain states choose, but are not required, to close on a regular basis. The amendment would eliminate the float generated when a depository institution regularly closes on a weekday and promote equity with other depository institutions that open on such days. A paying bank would not be required to open or to begin processing a cash letter on such a weekday closing day, because the time for return of the items would not begin to run until the paying bank's next banking day.

List of Subjects in 12 C.F.R. Part 210

Banks, banking; Federal Reserve System

DATE: Comments must be received by May 20, 1982.

ADDRESS: Comments, which should refer to Docket No. R-0392, may be mailed to William W. Wiles, Secretary, Board of Governors of the Federal Reserve System, 20th Street and Constitution Avenue, N.W., Washington, D. C. 20551, or delivered to Room B-2223 between 8:45 a.m. and 5:15 p.m. Comments received may also be inspected at Room B-1122 between 8:45 a.m. and 5:15 p.m., except as provided in section 261.6(a) of the Board's Rules Regarding Availability of Information, 12 C.F.R. § 261.6(a).

FOR FURTHER INFORMATION CONTACT: Gilbert T. Schwartz, Associate General Counsel (202/452-3625), or Joseph R. Alexander, Attorney (202/452-2489), Legal Division; or Lorin S. Meeder, Associate Director (202/452-2738), Division of Federal Reserve Bank Operations, Board of Governors of the Federal Reserve System, Washington, D. C. 20551.

SUPPLEMENTARY INFORMATION: For the past several years, the Federal Reserve System has been actively pursuing methods of reducing float to the lowest possible level by making operational improvements and by improving the transportation of cash items. (Federal Reserve float is the dollar amount that has been credited by Reserve Banks to depository institutions for cash items that have not been provisionally paid by the paying banks.) These float reduction efforts have been quite successful; the level of check collection float has dropped by more than 50% since 1979.

One element of float is generated when a paying bank closes on a day when the Reserve Bank from which it receives items is open; the paying bank thereby avoids paying for items on that day. On such days, credit is passed to depositors for cash letters that include items payable by such closed institutions, and float results. The closing by the paying bank may be on a regular weekday closing day or on a holiday that is not observed by the Reserve Bank, because they are located in different states. The Reserve Banks estimate that regular weekday closings generate \$156.7 million of average daily float, or approximately 3.9% of Federal Reserve daily float. The majority of such float is generated in the Cleveland, Atlanta, Chicago, St. Louis, and Kansas City Federal Reserve Districts. The Reserve Banks also estimate that nonstandard holidays contribute \$110 million or 2.7% of Federal Reserve daily average float.

The Board recognizes that a paying bank that has regularly closed on weekdays may lose the use of funds as a result of this requirement. It may also have to bear the inconvenience of arranging to make payment on a day on when it is closed. Nevertheless, the Board is proposing the amendment for a number of reasons. First, depository institutions that regularly close on weekdays do receive credit on such days for cash items deposited with Reserve Banks. In the interest of equity the Board believes that all depository institutions should be treated similarly. The Board understands that many depository institutions that close regularly on weekdays conduct limited business on those days, e.g., acceptance of customer deposits and ATM transactions, and some institutions actually post checks received on their closed days. Depository institutions are not generally prohibited from paying for items made available to them on such days, regardless of whether they are closed for other purposes. Second, in an explicit pricing environment, all institutions would have to bear the pro rata costs of the additional expense and float generated by weekday closings. This would result in additional inequity, because a large majority of depositors in Reserve Banks would subsidize the float for the small

number of institutions that observe regular weekday closings. Changing depositor availability schedules for the float generated by weekday closings does not appear practical, because it would require the Reserve Banks and collecting banks to undertake the operationally complex task of keeping listings of the institutions that close and the days they close to permit the depositors to compute the credit availability of their cash letters.

The proposed amendment to Regulation J would be implemented by an amendment to the uniform Reserve Bank operating circulars governing the collection of cash items which would specify the cases in which payment would be required if the paying bank chooses to close. The requirement of payment would be imposed only if state law permits the bank to pay for cash items on a regular weekday closing day. Cash items would be made available to the paying banks so that they may begin processing if they desire to do so, but the items would not be considered to be received for purposes of accountability under section 210.9(a) of Regulation J, or for purposes of beginning the running of the time for return under section 210.12(a) of Regulation J, until the institution opens to the public for carrying on substantially all of its banking functions, as provided in section 210.2(d) of Regulation J, and actually receives its cash letter. Accordingly, the proposed amendment would not affect the rights of drawers or owners of items. Nor would the amendment require the paying bank to open on a weekday closing day, since payment will be made through a charge to an account at the Reserve Bank maintained or used by the paying bank.

The proposed amendment to Regulation J would also permit the Reserve Banks to amend their operating circulars at a later time to require payment, as a condition of Reserve Bank handling of items, on a holiday observed by a paying bank but not by its local Reserve Bank, such as regional holidays that are not mandatory upon the paying bank. While the Reserve Banks do not contemplate implementing such an amendment at this time, public comment also is requested on this aspect of the proposed change.

In view of the factors discussed above, the Board believes that requiring a depository institution that closes when other institutions in its area are open to pay for cash items made available to them is a reasonable condition that the Reserve Banks may impose upon the collection of items payable at depository institutions through the national collection system provided by the Reserve Banks.

The following information is supplied pursuant to the Regulatory Flexibility Act, 5 U.S.C. §§ 601-612.

1. Of the 1,327 depository institutions that observe mid-week closings, Board staff estimates that about one-third (approximately 450 institutions) have deposits of \$20 million or less.

2. The proposed amendment will not impose any additional reporting, recording, or other compliance requirements on any institutions.
3. The proposed amendment will not duplicate, overlap, or conflict with any other federal rule.

The most significant economic impact of the proposal on any depository institution will be the reduction of earnings on funds that could have been invested in the federal funds market had the Reserve Bank not charged the institution's account until the next banking day. The amount of such reductions will vary greatly among all of the institutions affected, regardless of an institution's size; therefore any estimate of an average reduction would be meaningless. Nevertheless, the Board recognizes that in some instances the economic impact on an institution may be significant. However, the Board does not believe that alternatives to the proposed amendment designed to lessen this impact, such as exempting small depository institutions from its coverage, would serve the regulatory aims of the Monetary Control Act (such as equal treatment for all depository institutions and reduction of Federal Reserve float).

Pursuant to its authority under section 13 of the Federal Reserve Act (12 U.S.C. § 342), section 16 of the Federal Reserve Act (12 U.S.C. § 248(o), 12 U.S.C. § 360), and section 11(i) of the Federal Reserve Act (12 U.S.C. § 248(i)), and other provisions of law, the Board proposes to amend Regulation J (12 C.F.R. part 210) as follows:

In § 210.9, paragraph (a) is revised to read as follows:

#### SECTION 210.9 — PAYMENT

(a) Cash items. A paying bank becomes accountable for the amount of a cash item received directly or indirectly from a Reserve Bank, at the close of the paying bank's banking day on which it receives<sup>3</sup> the item if it retains the item after the close of that banking day, unless, prior to that time, it pays for the item by:

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<sup>3</sup> A paying bank is deemed to receive a cash item on its next banking day if it receives the item:

- (1) on a day other than a banking day for it; or
- (2) on a banking day for it, but
  - (i) after its regular banking hours;
  - (ii) after a "cut-off hour" established by it in accordance with state law; or
  - (iii) during afternoon or evening periods when it is open for limited functions only.

- (1) debit to an account on the Reserve Bank's books;
- (2) cash; or
- (3) in the discretion of the Reserve Bank, any other form of payment.

The proceeds of any payment shall be available to the Reserve Bank by the close of the Reserve Bank's banking day on the banking day of receipt of the item by the paying bank. If the banking day of receipt is not a banking day for the Reserve Bank, payment shall be made on the next day that is a banking day for the Reserve Bank. A paying bank that chooses to close on a weekday, designated in its Reserve Bank's operating circular, that is banking day for the Reserve Bank, must pay on that day for a cash item made available to it on that day by the Reserve Bank, but the paying bank is not considered to receive the item until its next banking day.

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By Order of the Board of Governors, April 5, 1982.

(signed) William W. Wiles

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William W. Wiles  
Secretary of the Board

[SEAL]