

FEDERAL RESERVE BANK
OF NEW YORK

[Circular No. 9915
September 5, 1985]

NOTIFICATION OF LARGE-DOLLAR RETURN ITEMS

New Requirements, Effective October 1, 1985

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

Beginning October 1, 1985, a payor institution ("paying bank") will be required to notify the institution of first deposit ("depository bank"), by midnight of the second banking day following the return-item deadline, when it returns unpaid a check of \$2,500 or more that has been processed through a Federal Reserve Bank. Earlier this year, the Board of Governors of the Federal Reserve System amended its Regulation J to include this new requirement, which is designed to reduce the financial risk resulting from the current time-consuming procedures for handling returned checks, and thereby to encourage banks to release deposited funds to their customers sooner.

Enclosed is a copy of the Ninth Supplement, effective October 1, 1985, to our Operating Circular No. 4, which contains this new requirement and related provisions. Following is a summary of the principal changes:

(a) The paying bank must notify *the depository bank* (rather than the prior endorser) of the return of an item of \$2,500 or over, if that item was processed through a Federal Reserve Bank.

(b) The notification must be received by the depository bank *by midnight of the second banking day* of the paying bank following the current midnight deadline for return of the item (if that day is also a banking day for the depository bank).

(c) Liabilities are imposed under Regulation J for failing to exercise reasonable care or to act in good faith in providing notification. Liability for the failure to exercise reasonable care will be for the amount of the loss up to the amount of the item; additional liabilities may be incurred for the failure to act in good faith.

Paying banks may provide the required notification themselves, use Fedwire, or elect to have this Bank provide the notification on their behalf. Institutions that elect to have us provide the notification can telephone the appropriate information to us for subsequent transmission to the depository bank. This option is available for all checks, including those collected outside of the Federal Reserve. In addition, for those items that were sent for collection through the Federal Reserve, paying institutions can return the unpaid items to this Bank and have us obtain the information directly from the item itself. Institutions that wish this Bank to provide notification must indicate to us, in the format specified in Exhibit A, which is also enclosed, the method they intend to use, by no later than September 16, 1985.

In order to ensure timely notification, institutions that request this Bank to provide the service should meet the deadlines set forth in paragraph 45R of the enclosed Supplement. It should be noted that those deadlines apply only

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to providing notification. Credit availability for items being returned will continue to be given in accordance with our standard practice.

We are interested in receiving your comments and suggestions on the new procedures. Although the procedures will become effective on October 1, your comments will assist the Federal Reserve in considering possible revisions or enhancements for implementation as early as possible after the effective date. Please send any comments you may have to the attention of Rosanne McGraw, Check Processing Department, Federal Reserve Bank of New York, New York, N.Y. 10045.

Also, an amendment to Regulation J to clarify the impact of holidays on the deadline for notification is contemplated. The amendment will reflect the provisions set forth in the enclosed Supplement.

If you have any questions concerning the new procedures, please contact:

NEW YORK: Steven J. Garofalo
Manager, Check Processing Department
(212-791-5322)

Rosanne McGraw
Check Processing Specialist
(212-791-7780)

BUFFALO: David P. Schwarzmueller
Operations Officer
(716-849-5018)

JERICHO: Anthony N. Sagliano
Regional Manager
(516-997-4500)

CRANFORD: Fred A. Denesevich
Regional Manager
(201-272-9000)

UTICA: Harry A. Curth
Regional Manager
(315-736-8321)

E. GERALD CORRIGAN,
President.

**FEDERAL RESERVE BANK
OF NEW YORK**

[**Ninth Supplement to
Operating Circular No. 4**
(Revised effective November 13, 1980)
Effective October 1, 1985]

COLLECTION OF CASH ITEMS

Return-Item Notification for Items of \$2,500 and Over

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

Effective October 1, 1985, Operating Circular No. 4, as amended by its Fourth Supplement, dated September 20, 1982, is further amended as follows:

1. Paragraphs 41 through 45 are deleted.
2. The following paragraphs are added, after paragraph 40:

Notice of nonpayment

41. A paying bank that determines not to pay a cash item in the amount of \$2,500 or more received from or through this Bank must provide notice of nonpayment directly to the first bank to which the item was transferred for collection ("depository bank"), under Section 210.12(c) of Regulation J. The paying bank must ensure that the notice is received, as defined below, by the depository bank by midnight of the second banking day of the paying bank following the deadline for return of the item set forth in Section 210.12(a) of Regulation J. If the paying bank's second banking day is not a banking day for the depository bank, the notice must be received by the depository bank during its next banking day. The following days shall not be considered banking days for purposes of the deadline for notice of nonpayment: Saturdays and Sundays; New Year's Day (January 1); the third Monday in January; the third Monday in February; the last Monday in May; Independence Day (July 4); the first Monday in September; the second Monday in October; Veterans' Day (November 11); the fourth Thursday in November; and Christmas Day (December 25).

42. A paying bank may provide the required notice of nonpayment through any means, including:
- (a) return of the cash item itself to the depository bank,
 - (b) telephone call to the depository bank,

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- (c) telex, Fedwire, or other form of telegraph to the depositary bank,
- (d) return of the cash item to this Bank with a request that we provide notice of nonpayment, as provided below, and
- (e) telephone call to this Bank with a request that we forward notice of nonpayment, as provided below.

Content of notice of nonpayment

43. Notice of nonpayment must include the:
- (a) name and routing number of the paying bank,
 - (b) name of the payee(s),
 - (c) amount,
 - (d) date of the depositary bank's indorsement,
 - (e) account number of the depositor(s) in the depositary bank,
 - (f) branch name of the depositary bank from its indorsement,
 - (g) trace number associated with the indorsement of the depositary bank, and
 - (h) reason for return.

The notice of nonpayment need not include information that cannot be determined from the item itself through the exercise of ordinary care and good faith. If the paying bank is not sure of a piece of information, it is encouraged but not required to include the information and identify it with question marks. If the paying bank cannot determine which of two or more banks with the same or illegible dates in their indorsements is the depositary bank, it is authorized but not required to give notice to each bank indicating that it questions which is the depositary bank so that each bank may determine whether it is the depositary bank. A notice of nonpayment need not be given if neither the name nor the routing number of the depositary bank can be determined at all.

44. The paying bank is encouraged but not required to provide in the notice of nonpayment:

- (a) the name(s) and account number of the drawer (maker),
- (b) the item number,
- (c) the date of the item, and
- (d) any other information that might be useful, such as the name of the last indorser, other than a bank, if different from the payee, or an obsolete routing number of the depositary bank used on the item.

Receipt of notice by depositary bank

45. Notice is considered received by the depositary bank by the deadline for receipt under the following circumstances:

Telephone notice

- (a) Telephone notice is received: if a telephone call is made to (i) the general purpose number of the head office of the depositary bank, (ii) the general purpose number of the branch named in

the depositary bank's indorsement, (iii) the number of the return item unit of the depositary bank (or branch), or (iv) the number of the depositary bank or its processor held out by the depositary bank for receipt of notice of nonpayment; *and* if the telephone is answered and the notice is accepted by the depositary bank.

- (b) The paying bank must exercise good faith and ordinary care in ensuring that notice is received. Unless the paying bank has reason to believe that a depositary bank will receive telephone notice after 5:00 p.m. local time of the depositary bank, the paying bank should call prior to that time.
- (c) If the depositary bank's telephone (i) is not answered, or (ii) is answered but the individual answering refuses to accept the notice or transfer the call, or does not appear to understand the nature of the call, then notice will be considered timely if it is received during the morning of the depositary bank's next banking day.

Telegraphic notice

- (d) Telegraphic notice is received if it is delivered to (i) the principal telex, TWX or other telegraphic address of the depositary bank, (ii) the return item unit of the depositary bank, or (iii) the address of the depositary bank or its processor held out by the depositary bank for receipt of notice of nonpayment. Telegraphic notice by Fedwire must be received by us by our cut-off hour for such notice as provided in paragraph 45F.
- (e) The paying bank must exercise good faith and ordinary care in ensuring that notice is received. Unless the paying bank has reason to believe that a depositary bank will receive telegraphic notice after 5:00 p.m. local time of the depositary bank, the paying bank should give notice prior to that time.
- (f) If the paying bank knows that a telegraphic notice is not received by the depositary bank, then the paying bank should deliver a confirming notice, indicating that it is a confirming notice, to the depositary bank during the morning of its next banking day.

Return of item itself

- (g) A cash item itself is received for purposes of notice of nonpayment if it is delivered to (i) the principal address of the head office of the depositary bank, (ii) the address of the branch named in the depositary bank's indorsement, (iii) the address of the depositary bank normally used for return of cash items, (iv) the address of the depositary bank or its processor held out by the depositary bank for receipt of notice of nonpayment, or (v) a messenger of the depositary bank.

Responsibilities of depositary bank

45A. (a) The depositary bank must exercise good faith and ordinary care in accepting notice of nonpayment by telephone or telegraph, and may not instruct operators to refuse to accept notices. The depositary bank may transfer calls, offer to return a call, or use a recording device. The depositary

bank must exercise diligence in bringing a notice to the attention of responsible individuals. Telephone notice accepted by any person at the depository bank who reasonably appears to the paying bank to understand the nature of the notice is considered received by the depository bank. A depository bank that uses an electronic link with this Bank must manage its link so as to permit us to send notices to it during its day.

(b) Depository banks should recognize that notice cannot be given if their indorsements are illegible. Depository banks and other collecting banks are encouraged but not required to comply with the indorsement standard of the American National Standards Institute and to use only valid routing numbers.

Provision of notice by this Bank (Physical Item Service)

45B. A paying bank may request this Bank to provide notice of nonpayment on its behalf by signing and delivering to this Bank a letter in the form attached as Exhibit A requesting the service. The request shall apply to all cash items in the amount of \$2,500 or more received from or through this Bank for which notice of nonpayment is required, and returned by the paying bank to this Bank, provided such items are separately sorted and identified as to items for which notice is desired ("applicable items"). If we receive applicable items by our cut-off hour for physical item notice, as set forth in our time schedule, on the paying bank's next banking day following its deadline for return, we undertake to provide notice of nonpayment to the depository bank by the paying bank's deadline for notice of nonpayment. A paying bank should not include with applicable items other items that it did not receive from or through this Bank, unless otherwise agreed by us.

45C. Upon our acceptance of such a request, beginning on an agreed effective date, this Bank will provide notice of nonpayment for applicable items received by our cut-off hour on behalf of the paying bank under the terms set forth in Sections 210.12(c)(7) and (8) and 210.14 of Regulation J. We will otherwise handle applicable return items as provided elsewhere in Regulation J and this circular, and shall assume no responsibility for determining whether the paying bank returned the item timely. We will provide notice of nonpayment for applicable items received after our cut-off hour for notice of nonpayment as if the items had been received prior to our cut-off hour on our next banking day, and shall have no responsibility for loss caused by the failure of the paying bank to meet our cut-off hour. The paying bank shall remain responsible for loss resulting from its lack of good faith or failure to exercise ordinary care in providing the item timely to this Bank under Section 210.12(c)(6) of Regulation J. The paying bank should itself provide notice of nonpayment to the depository bank if the paying bank learns that applicable items have not been received by our cut-off hour and should indicate to the depository bank that the notice may be duplicated by us. This Bank assumes no responsibility for a paying bank's failure to indicate on an applicable item the reason for return of the item. The paying bank may terminate its request that we provide notice of nonpayment by prior written notice to this Bank.

Telephone notice to this Bank (Telephone Notice Service)

45D. A paying bank may request this Bank to forward to the depository

bank notice of nonpayment given by telephone to this Bank by signing and delivering to this Bank a letter in the form attached as Exhibit A requesting the service. The request shall apply to all items for which notice of nonpayment is telephoned to this Bank. If we receive telephone notice by our cut-off hour for telephone notice, as set forth in our time schedule, on the paying bank's next banking day following its deadline for return, we undertake to provide notice of nonpayment to the depository bank by the paying bank's deadline for notice of nonpayment.

45E. Upon our acceptance of such a request, beginning on an agreed effective date, this Bank will forward notice of nonpayment received by our cut-off hour on behalf of the paying bank under the terms set forth in Sections 210.12(c)(7) and (8) and 210.14 of Regulation J. We will forward notice of nonpayment received after our cut-off hour as if the telephone notice had been received prior to our cut-off hour on our next banking day, but shall have no responsibility for loss caused by the failure of the paying bank to meet our cut-off hour. The paying bank shall remain responsible for loss resulting from its lack of good faith or failure to exercise ordinary care in providing accurate and timely telephone notice to this Bank under Section 210.12(c)(6) of Regulation J, and should itself provide notice of nonpayment to the depository bank if the paying bank is unable to meet our cut-off hour. The paying bank may terminate its request that we forward notice of nonpayment by prior written notice to this Bank.

Fedwire notice to depository bank (Fedwire System Service)

45F. A paying bank may request this Bank to forward to the depository bank notice of nonpayment given by Fedwire in proper format by signing and delivering to this Bank a letter in the form attached as Exhibit A requesting the service. If we receive Fedwire notice by our cut-off hour for Fedwire notice, as set forth in our time schedule, on the paying bank's second banking day following its deadline for return, we undertake to provide notice of nonpayment to the depository bank by the paying bank's deadline for notice of nonpayment. We handle Fedwire notice under the terms set forth in Sections 210.12(c)(7) and (8) and 210.14 of Regulation J. We will forward notice of nonpayment received after our cut-off hour as if the Fedwire notice had been received prior to our cut-off hour on our next banking day, but shall have no responsibility for loss caused by the failure of the paying bank to meet our cut-off hour. The paying bank shall remain responsible for loss resulting from its lack of good faith or failure to exercise ordinary care in providing accurate and timely Fedwire notice to this Bank under Section 210.12(c)(6) of Regulation J, and should itself provide notice of nonpayment to the depository bank if the paying bank is unable to meet our cut-off hour.

Other provisions

45G. Notice of nonpayment should not be given for a cash item drawn on the account of the U.S. Treasury or for an item indorsed by, or for credit to, the U.S. Treasury.

45H. If the depository bank is not located in a state of the United States, the District of Columbia, Puerto Rico, or a territory, possession, or depend-

ency of the United States, the paying bank shall provide the notice to the bank located in such an area that first handled the item for collection.

45I. If a paying bank provides or requests us to forward a notice and subsequently determines to pay an item, the paying bank shall provide to the depositary bank a second notice as soon as reasonably possible. The second notice shall indicate that it is a second notice cancelling a previous notice and shall contain all the information in the original notice to enable the depositary bank to match the second notice with the original notice.

45J. A depositary bank may request this Bank in writing to provide notice of nonpayment, given by us on behalf of a paying bank, to a single specified department of the depositary bank or its processor. This Bank will attempt to comply with the request, but such request shall not be binding on the paying bank. A depositary bank that uses an electronic link with this Bank to provide notice of nonpayment is deemed to authorize this Bank to provide notice to it by means of an electronic link to this Bank, unless the depositary bank requests otherwise. We are not responsible for a delay in sending a notice, if the delay results from the depositary bank's failure to manage its link so as to permit us to send notices to it before the close of Fedwire.

45K. A paying bank should keep records to show compliance with notice-of-nonpayment requirements. We may record telephone calls.

45L. This Bank has no responsibility for giving or correcting notice of nonpayment if notice is not properly given by the paying bank except to the extent provided above with respect to notice we provide or forward on behalf of the paying bank. As provided in Section 210.12(b) of Regulation J, this Bank assumes no responsibility for determining whether the paying bank took all action necessary to recover its payment for an item within the time limits of Regulation J.

Uniform instructions on protest

45M. All Reserve Banks and collecting and paying banks shall handle cash items in accordance with the following uniform instructions regarding protest, except as provided in Paragraph 45N and except that Government checks shall not be protested. All Reserve Banks and collecting and paying banks shall disregard any contrary or special instructions on protest noted on cash letters or otherwise transmitted with cash items.

(a) PROTEST a dishonored item of \$2,500 or over: (i) that appears on its face to have been drawn at a place not within a State,⁶ unless the item bears on its face the American Bankers Association no-protest symbol of a Reserve Bank or a preceding bank indorser; or (ii) that bears on its face the legend, "PROTEST REQUIRED", of a Reserve Bank or a preceding bank indorser.

(b) DO NOT PROTEST any other item.

45N. DO NOT PROTEST a cash item indorsed by or for credit to the United States Treasury, or bearing on its face or in an indorsement the leg-

⁶ Under Section 210.2 of Regulation J, "State" means a State of the United States, the District of Columbia, Puerto Rico, or a territory, possession or dependency of the United States.

end "This check is in payment of an obligation to the United States and must be paid at par. N.P. Do not wire nonpayment." or words of similar import.

45O. A sender may instruct a Reserve Bank to handle an item (other than a Government check, postal money order, or food coupon) under instructions differing from these uniform instructions, only if the sender sends the item to us for collection and credit as an individual noncash item with the instructions noted in the letter of transmittal.

45P. The paying bank is responsible for making any protest, except as otherwise provided by the rules or practices of any clearinghouse through which the item is presented or by agreement between us and the paying bank.

45Q. This Bank assumes no responsibility for:

- (a) determining whether another bank has made a protest; or
- (b) making a protest if a required protest has not been made by another bank.

Time schedule for this Bank's notification-of-nonpayment services

45R. The deadlines for receipt by us of the item, telephoned information, or Fedwire message in connection with our notification-of-nonpayment services are set out below. These deadlines are for items being returned to any depository bank.

<i>Service</i>	<i>Deadline</i>
Physical Item	Noon local time following deadline for return of the item
Telephone Notice	Noon local time following deadline for return of the item
Fedwire System	Noon ET on paying bank's second banking day following deadline for return of the item

3. Paragraph 45A, in the Fourth Supplement to Operating Circular No. 4, is renumbered 45S.

E. GERALD CORRIGAN,
President.

Exhibit A

PAYING BANK'S NOTIFICATION AGREEMENT

[Letterhead of Paying Bank]

[Date]

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

or

[Buffalo Branch
Federal Reserve Bank
of New York
P.O. Box 961
Buffalo, New York 14240]

or

[Cranford Office
Federal Reserve Bank
of New York
Two Jackson Drive
Cranford, New Jersey 07016]

or

[Jericho Office
Federal Reserve Bank
of New York
113 South Service Road
Jericho, New York 11753]

or

[Utica Office
Federal Reserve Bank
of New York
Oneida County Airport
Oriskany, New York 13424]

Attention: Check Processing Department

Gentlemen:

We request that, in accordance with your Operating Circular No 4, you provide notice of nonpayment for large-dollar cash items that we decide not to pay. We elect to provide the information required by (select service(s) desired) [returning the physical item to you] [telephone notification to you] [Fedwire].

We authorize you to charge or credit the account maintained or used by us on your books and to make other appropriate adjustments in connection with this service.

.....
[Name of Paying Bank]

By:
[Authorized Signature]

.....
[Title]