

**FEDERAL RESERVE BANK
OF NEW YORK**

[Circular No. 9962
December 4, 1985]

**NONSTANDARD HOLIDAYS
Proposals to Reduce Check and ACH Float**

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

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

The Federal Reserve Board has issued for comment proposals, including an amendment to Regulation J (Collection of Checks and Other Items and Wire Transfer of Funds), to reduce float generated because of local holiday schedules.

Comment is requested by December 30, 1985.

The proposals would modify check and automated clearing house (ACH) procedures used by Reserve Banks to recover the value of float generated by the closing of depository institutions on local holidays, reduce the financial risk associated with current procedures for handling certain types of ACH float, and establish a uniform holiday schedule to be followed by the Reserve Banks.

Printed on the following pages is the text of the Board's proposals, as published in the *Federal Register* of November 20, 1985. Comments thereon should be submitted by December 30, 1985 and may be sent to Cathy E. Minehan, Vice President.

E. GERALD CORRIGAN,
President.

FEDERAL RESERVE SYSTEM

[Docket No. R-0558]

12 CFR Part 210

Regulation J; Proposals To Reduce Federal Reserve Float

AGENCY: Federal Reserve System.

ACTION: Proposed rule; request for comment.

SUMMARY: The Board is requesting comments on proposals that would: (1) Amend Subpart A of the Board's Regulation J, 12 CFR Part 210, which governs the collection of checks and other items, to require paying banks that close voluntarily on days that are banking days for their Reserve Banks to pay on such days for cash items that Reserve Banks make available to them on such days; (2) modify the procedures used by Reserve Banks to recover the value of float generated in automated clearing house ("ACH") operations due to nonstandard holiday closings; (3) reduce financial risks to the Federal Reserve by changing procedures in handling ACH credit transactions on days that the originator is closed; and (4) establish a uniform holiday schedule to be followed by the Reserve Banks.

DATE: Comments must be submitted by December 30, 1985.

ADDRESSES: Comments, which should refer to Docket No. R-0558, may be mailed to the Board of Governors of the Federal Reserve System, 20th & C Sts., NW., Washington, DC 20551, attention: Mr. William W. Wiles, Secretary. Comments may also be delivered to Room B-2223 between 8:45 a.m. and 5:15 p.m. Comments may be inspected at Room B-1122 between 8:45 a.m. and 5:15 p.m. except as provided in § 261.6(a) of the Board's Rules Regarding Availability of Information, 12 CFR 261.6(a).

FOR FURTHER INFORMATION CONTACT: Florence M. Young, Adviser (202-452-3955) or William S. Brown, Manager (202-452-3760) Division of Federal Reserve Bank Operations; Joseph R. Alexander, Attorney, Legal Division (202-452-2489); or Joy W. O'Connell, Telecommunications Device for the Deaf (202-452-3244).

SUPPLEMENTARY INFORMATION:

Background

The Federal Reserve has made continuing efforts to reduce float in the payments system. Such float arises in the check collection process when a sender receives credit for a deposited

check before the Federal Reserve is able to obtain payment from the paying bank, for example, if the paying bank is closed on a day presentment would normally be made. Similarly, in ACH transactions, float may be created if a party to a transaction is closed on the date a transaction is to be settled. In such cases, the Federal Reserve may not be able to debit the appropriate account at the same time credit is passed.¹

In both check and ACH transactions, some float is generated as a result of nonstandard holidays (state or local holidays not observed on a regional or national basis). On two previous occasions, the Board has considered the issue of nonstandard holiday float in check services. See 48 FR 20802 (1983); 49 FR 4196 (1984). Most recently, the Board decided to permit Reserve Banks to defer credit to senders for cash items drawn on institutions that are closed on nonstandard holidays where operationally feasible. The value of any nonstandard holiday float remaining is added to the cost base for the check collection service. Similar procedures have been adopted for ACH services. These procedures have enabled the Federal Reserve to keep nonstandard holiday float to relatively low levels.² Recent events, however, indicate that these procedures may not be fully effective in the future, and, in the case of ACH services, may expose the Federal Reserve to financial risk.

Check Collection

Changes in banking structure have created the potential for an increase in nonstandard holiday float. For example, the Delaware State Bank Commissioner permits banks located in that state to close on any day they choose provided that they provide the public with advance notice. Banks with affiliates located in other states may take advantage of this fact to close on days their out-of-state affiliates are closed regardless of whether other banks in Delaware are closed on that day and regardless of whether the Philadelphia Reserve Bank is observing the holiday.

¹ In ACH transactions, credits and debits resulting from the same transaction would normally be posted on the same day. In credit transactions, the originator's account is debited and the receiver's account is credited; these entries are generally treated as final. In a debit transaction, the originator's account is credited and the receiver's account is debited; these entries are generally treated as provisional.

² In check services, a daily average float of approximately \$15 million results from nonstandard holidays. In ACH services, nonstandard holidays cause a daily average float of approximately \$2.0 million

This situation creates the potential for substantial increases in nonstandard holiday float. Cases like this are likely to increase as interstate banking becomes more prevalent.

Current procedures for deferring credit to senders for cash items drawn on banks observing nonstandard holidays are generally limited to those instances where all banks in a state are closed.³ Where only one or a few institutions are closed, Reserve Banks cannot defer credit to the senders, and in such instances a substantial amount of float could be generated that would have to be added to the cost base for check collection services. The Board believes that it is not equitable to require all users of Federal Reserve check collection services to bear the costs of float generated by institutions that voluntarily choose to close on days when most other banks are open for business.

When the Board last considered a Regulation J amendment to charge banks for checks made available to them on nonstandard holidays on which they are closed, the Board decided not to go forward with the proposal in part because it agreed with commenters that it would be unfair to charge for those nonstandard holidays that state or local law require institutions to close. Because it was unclear which nonstandard holidays were mandatory and which were permissive, the Board elected to treat all nonstandard holidays as mandatory and not charge paying banks for cash items made available to them on such days.

Although the Board still believes that it is not appropriate to charge paying banks for checks made available to them on days that the law requires them to be closed, changing conditions have led the Board to reconsider its 1984 decision to treat all nonstandard holidays as mandatory. Accordingly, the Board proposes that Regulation J be amended to allow Reserve Banks to charge paying banks for checks and other cash items made available to them on any day that is a banking day for the Reserve Bank⁴ and that the law of the

³ A nine digit number inscribed on checks is used to sort checks to paying banks. Collecting institutions often use only the first four digits of this number for sorting checks that are sent to the Federal Reserve. In many cases, these four digits will identify institutions in a particular state. Therefore, institutions uniformly observing nonstandard holidays in a particular state can be readily identified and credit for checks drawn on such institutions can be deferred.

⁴ The Board is also proposing for comment that Reserve Banks follow a uniform holiday schedule. See *infra*.

place where the paying bank is located allows the bank to remain open. If local law requires a paying bank to close on a day that its Reserve Bank is open, the Board proposes that the holiday be treated as mandatory and the paying bank not be charged for items made available on such days. In such cases, Reserve Banks will defer credit to senders where possible; otherwise the value of the float will be added to the cost base for the check collection service.

This provision is not intended to require paying banks to pay for items on days that they are closed because of weather or other emergencies. Section 210.14 provides relief under such conditions provided the bank exercises such diligence as the circumstances require.

The Board has compiled a preliminary list of state holidays that it believes are mandatory, and specifically seeks comment on whether these holidays

should be considered mandatory holidays and whether additional holidays should also be considered mandatory.

MANDATORY NONSTANDARD HOLIDAYS

(Preliminary List)

Holiday	State in which mandatorily observed
Good Friday.....	Connecticut, Maryland, Hawaii.
Lincoln's Birthday (February 12).	Kansas, Connecticut.
February 3rd (Presidents' Day).	Wisconsin.
March 26 (Kuhio Day).....	Hawaii.
June 11 (Kamehameha Day).....	Hawaii.
July 24 (Pioneer Day).....	Utah.
August 16 (Admission Day).....	Hawaii.
October 31 (Nevada Day).....	Nevada.

In addition to the above, Mardi Gras may also be mandatory in many

southern Louisiana parishes and municipalities.

ACH

Nonstandard Holidays: The current procedures for recovering nonstandard holiday float place the entire burden of the recovery on originators of ACH transactions. The National Automated Clearing House Association ("NACHA") has indicated to the Board that it is often difficult for originators to pass float costs back to their customers, and that the current procedures could therefore discourage small and medium size institutions from beginning to originate ACH transactions. Accordingly, NACHA requested a change to the procedures for recovering ACH float arising because one of the parties to the transaction (originator, receiver, or Reserve Bank) is closed. Under this proposal such float would be treated as follows:

PROCEDURES FOR ELIMINATING OR PRICING ACH FLOAT ARISING FROM DEPOSITORY INSTITUTION CLOSINGS AND RESERVE BANK HOLIDAYS

Type of transaction	Midweek closing	Depository institution nonstandard holiday	Reserve bank holiday
Credit origination.....	Debit originator's account on preceding business day. Compensate for early debit with as-of-adjustment. Reject nighttime next day credit transactions.	Debit originator's account on preceding business day. Compensate for early debit with as-of-adjustment. Reject nighttime nextday credit transactions.	Debit originator's account on preceding business day. Compensate for early debit with as-of-adjustment. Reject nighttime nextday credit transactions.
Credit receipt.....	Credit receiver's account as though institution were open.	Credit receiver's account as though institution were open.	Compensate originator for credit float caused by the receiving Reserve office's holiday with as-of adjustments.
Debit originator.....	Credit originator's account as though institution were open.	Credit originator's account as though institution were open.	Compensate originate for credit float with an as-of adjustment.
Debit receipt.....	Debit receiver's account as though institution were open or assess cost of float through explicit charge or as-of adjustment.	Debit receiver's account as though institution were open or assess cost of float through explicit charge or as-of adjustment.	Defer transaction to the originator until the next open business day for the receiving Reserve office.

The Board believes that the proposal may be a more equitable means of addressing ACH float, and is requesting comment on whether it should be adopted.

Financial Risk: When ACH credit transactions are processed, funds flow from the originator of the transaction to the receiver. As a result, when an originator of a credit transaction is closed on the settlement date, float is created because funds are credited to the account of the receiving institution and the originator's account is not charged. Under current procedures, the originator is charged on the next banking day and the value of float is recovered through an as-of adjustment or an explicit fee.

Because ACH credit transactions are generally treated by the Reserve Banks as final payments on the settlement date, the current procedures for recovering this float could expose the Federal Reserve to a possible loss should there be insufficient funds in the

originating institution's reserve or clearing account on the banking day following the settlement date. To address this problem, the Board is proposing that institutions originating credit transactions for settlement on a day that they or their local Federal Reserve office will be closed be debited on the preceding banking day and be compensated for the early debit by means of an as-of adjustment.

Reserve Bank Holiday Schedule

Several commenters to previous proposals on midweek closing and nonstandard holiday float have recommended that the Federal Reserve should observe a standard holiday schedule. These commenters indicated that a standard holiday schedule would reduce the number of occasions when one Federal Reserve office was open and another closed, and, therefore, would reduce the uncertainty as to whether they would or would not be credited for their deposits. The Federal Reserve agrees with these sentiments

and is planning to adopt a uniform holiday schedule for all Reserve Banks beginning in 1987. That schedule is as follows:

- All Saturdays,
- All Sundays,
- New Year's Day (January 1),
- Martin Luther King's Birthday (third Monday in January),
- Washington's Birthday (third Monday in February),
- Memorial Day (last Monday in May),
- Independence Day (July 4),
- Labor Day (first Monday in September),
- Columbus Day (second Monday in October),
- Veterans' Day (November 11),
- Thanksgiving Day (fourth Thursday in November), and
- Christmas Day (December 25).

If a fixed holiday (such as Christmas) falls on a Saturday, the holiday will be observed on the previous Friday; if it falls on a Sunday, it will be observed on the following Monday.

Because this is a change in service arrangements that could have significant longer-run effects on the nation's payments system, the Board is requesting public comment on the proposed standard holiday schedule.

The Board does not anticipate that any of these proposals will result in any significant economic impact on a substantial number of small entities.

List of Subjects in 12 CFR Part 210

Banks, Banking, Federal Reserve System.

PART 210—[AMENDED]

Pursuant to its authority under § 13 of the Federal Reserve Act, 12 U.S.C. 342,

section 16 of the Federal Reserve Act, 12 U.S.C 248(o) and 360, section 11(i) of the Federal Reserve Act, 12 U.S.C. 248(i), and other provisions of law, the Board hereby proposes to amend 12 CFR Part 210 as follows:

1. The authority citation for Part 210 continues to read as follows:

Authority: Federal Reserve Act, sec. 13, 12 U.S.C. 342; sec. 11(i), 12 U.S.C. 248(i), sec. 16, 12 U.S.C. 248(o) and 360, and sec. 19(f), 12 U.S.C. 464.

2. The last sentence of § 210.9(a)(2) is revised to read as follows:

§ 210.9 Payment.

* * * * *

(a) * * *

(2) * * * A paying bank that closes

voluntarily on a day that is a banking day for the Reserve Bank shall either pay on that day by the close of the Reserve Bank's banking day for cash items that the Reserve Bank makes available to the paying bank on that day, or compensate the Reserve Bank for the value of the float associated with the items in accordance with procedures provided in its Reserve Bank's operating circular; in such circumstances, 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 of the Federal Reserve System, November 15, 1985.

William W. Wiles,

Secretary of the Board.

[FR Doc. 85-27710 Filed 11-19-85; 8:45 am]