

**FEDERAL RESERVE BANK
OF NEW YORK**

[Circular No. 10332]
[January 10, 1990]

CHECK, NONCASH COLLECTION, AND WIRE TRANSFER
Operating Circular Changes in Timeframes and
Other Procedures, Effective January 1, 1990

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

Enclosed are supplements, effective January 1, 1990, to Operating Circular No. 4 (Collection of Cash Items and Returned Checks), Operating Circular No. 6 (Collection of Noncash Items), and Operating Circular No. 8 (Wire Transfers of Funds). The rules and procedures contained therein are uniform throughout the Federal Reserve System.

These changes reflect amendments to the Board of Governors' Regulation J that establish a two-year time limit on commencing actions against a Reserve Bank for negligence with respect to cash and noncash items and wire transfers. The supplement to Operating Circular No. 4 also reflects the one-year limitation on actions prescribed in Regulation CC, reduces from 30 to 20 banking days the time within which depository institutions may submit photocopies of cash items and returned checks after having been charged back for a lost item or asked for a photocopy, and increases from 15 calendar days to 20 banking days the time within which paying banks may assert timely return after having been charged on the basis of an allegation of late return on a cash item. Also enclosed are revised forms ("Bank's Claim of Late Return" and "Paying Bank's Response to Claim of Late Return") primarily reflecting the increased time period for submitting an allegation of late return.

Appendix A (Government Checks) to Operating Circular No. 4 has been amended to conform to recent Treasury Department regulations limiting (generally to one year after issuance) the time within which Government checks may be paid. It also prescribes a time limit for most claims on paid Government checks.

Finally, paragraph 26 of Operating Circular No. 4 has been amended to clarify that this Bank may commingle items to be presented to a single presentment point for different paying banks unless otherwise requested by one of those banks.

Questions on these changes may be directed to Raleigh M. Tozer, Counsel (Tel. No. 212-720-5033).

E. GERALD CORRIGAN,
President.

**FEDERAL RESERVE BANK
OF NEW YORK**

Second Supplement to
Operating Circular No. 4
(Revised effective September 1, 1988)
Effective January 1, 1990

**COLLECTION OF CASH ITEMS
AND RETURNED CHECKS**

Timeframes; Commingling

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

Effective January 1, 1990, this Bank's Operating Circular No. 4 has been amended as follows:

1. Paragraph 26 has been amended to read as follows:

26. We may commingle cash items delivered to or picked up by the paying bank's agent with other cash items delivered to or picked up by that agent, unless otherwise requested by the paying bank. A cash item is considered presented when received by the paying bank or its agent (other than a payable through bank).

2. Paragraph 31 has been amended (including the insertion of a paragraph heading) to read as follows:

Claims and actions

31. We provide a statement of account to each bank maintaining an account on our books. An account holder must promptly advise us in writing of an objection to an entry in our statement of its account. An account holder that fails to advise us of its objection within one calendar year of the date of the entry (and any bank that has used the account and has handled the cash item or returned check to which the entry relates) is deemed to have approved the entry, and the statement of account is deemed finally adjusted. Reserve Banks generally keep records for only one year. This paragraph does not relieve an account holder from the duty of using due diligence in examining statements of account sent to it and of notifying us immediately on discovery of an error. Further, this paragraph does not relieve a Reserve Bank from liability for breach of warranty on an item to which an entry relates. Section 229.38(g) of Regulation CC requires that any action for a violation of Regulation CC be brought within one year after the date of the occurrence of the violation. Section 210.6(c) of Regulation J requires that action on a claim against a Reserve Bank for failure to exercise ordinary care or act in good faith under Regulation J be commenced within two years after the claim accrues.

3. The period of time for taking the specified action in paragraph 49(b) with regard to returned checks has been changed from fifteen (15) calendar days to "twenty (20) banking days of the Reserve Bank."

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4. Paragraph 69 has been amended to read as follows:

69. We handle a correctly prepared photocopy as a cash item through our adjustment department if we or a prior collecting Reserve Bank receive the photocopy and a copy of the advice of chargeback or request within twenty (20) banking days (of the Reserve Bank) from the day we (or the prior Reserve Bank) charged back the original item or requested the photocopy. The prior Reserve Bank should send the photocopy and advice to us when received.

5. The second sentence of paragraph 76 has been amended to read as follows:

76. . . . If we charged back the returned check to the paying or returning bank under paragraph 75 or requested the photocopy, we (or a prior returning Reserve Bank) must receive the photocopy or notice and a copy of the advice of chargeback or request within twenty (20) banking days (of the Reserve Bank) from the day we (or the prior Reserve Bank) charged back the returned check or requested a photocopy. . . .

6. The following sentence has been added at the end of paragraph 3 of Appendix A (on Government Checks) to the operating circular:

3. . . . The expeditious return and notice of nonpayment requirements of Regulation CC do not apply to a Government check, and the Government is not a paying bank under Regulation CC.

7. Paragraph 4 of Appendix A to the operating circular has been deleted, and the following two paragraphs have been added to Appendix A:

4. The Treasury Department is generally not required to pay a Government check (a) issued on or after October 1, 1989, unless it is negotiated to a financial institution within one year after the date of issue, or (b) issued before October 1, 1989, unless it is negotiated to a financial institution no later than October 1, 1990, as provided in Treasury Department Circular No. 21.

5. If the Treasury determines that a Government check has been paid over a forged or unauthorized indorsement, the Treasury may reclaim the amount of the check from the presenting bank or prior indorser within one year after the date of credit by this Bank, as provided in Treasury Department Circular No. 21. This period is extended by 180 days if a timely claim is made against the Government under 31 U.S.C. 3702. Under 31 U.S.C. 3702, a claim on a Government check must be made to the issuing agency within one year after the date of issuance, or within one year after October 1, 1989, whichever is later. Under 31 U.S.C. 3712, an action by the Government to enforce liability on a forged or unauthorized signature or indorsement on, or a change in, a Government check generally must be commenced within one year after presentment of the check. This period is extended by three years if the Government gives written notice of a claim one year after presentment of the check.

E. GERALD CORRIGAN,
President.

**FEDERAL RESERVE BANK
OF NEW YORK**

Second Supplement to
Operating Circular No. 6
(Revised effective October 1, 1987)
Effective January 1, 1990

**COLLECTION OF NONCASH ITEMS
Timeframe For Action Against Reserve Banks**

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

Effective January 1, 1990, the heading and text of paragraph 30 of this Bank's Operating Circular No. 6 has been amended to read as follows:

Claims and actions

30. We provide a statement of account to each bank maintaining an account on our books. An account holder must promptly advise us in writing of an objection to an entry in our statement of its account. An account holder that fails to advise us of its objection within one calendar year from the date of the entry (and any sender, collecting bank, or paying bank that has used the account and has handled the item to which the entry relates) is deemed to have approved the entry, and the statement of account is deemed finally adjusted. Reserve Banks generally keep records for only one year. This paragraph does not relieve an account holder from the duty of using due diligence in examining statements of account sent to it and of notifying us immediately on discovery of an error. Further, this paragraph does not relieve a Reserve Bank from liability for breach of warranty on an item to which an entry relates. Section 210.6(c) of Regulation J also requires that action on a claim against a Reserve Bank for failure to exercise ordinary care or act in good faith be commenced within two years after the claim accrues.

E. GERALD CORRIGAN,
President.

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**FEDERAL RESERVE BANK
OF NEW YORK**

First Supplement to
Operating Circular No. 8
(Revised June 29, 1988)
Effective January 1, 1990

**WIRE TRANSFERS OF FUNDS
Timeframe For Action Against Reserve Banks**

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

Effective January 1, 1990, paragraph 17 of this Bank's Operating Circular No. 8 has been amended to read as follows:

17. We provide an advice of debit to a transferor maintaining or using an account with us. The transferor should carefully examine the advice on receipt, and promptly report any exception. The transferor is deemed to approve a debit if it fails to send written objection within ten (10) calendar days after it receives the advice of debit to the office of this Bank with which it maintains or uses an account. Section 210.38(b)(2) of Regulation J also requires that action on a claim against a Reserve Bank for failure to exercise ordinary care or act in good faith be commenced within two years after the claim accrues.

E. GERALD CORRIGAN,
President.

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BANK'S CLAIM OF LATE RETURN*

Date:

TO: Federal Reserve Bank of New York
Check Processing Department
(Buffalo Branch) (..... Office)

The returned check ("item") described below and attached hereto is being delivered to you:

- 1. Amount \$.....**
- 2. Dated.....
- 3. Paying bank
- 4. Paying bank R/T No.
- 5. Paying bank location
- 6. Drawn by (drawer)
- 7. Payable to (payee)
- 8. Check No.....

We sent this item to, in a cash letter dated, totaling \$....., tape total \$....., listed between items for \$..... and \$.....

This item was apparently returned by the paying bank on

We received the item from on, in a return item letter dated, totaling \$....., tape total \$....., listed between items for \$..... and \$.....

We claim that, according to our records and the data on the item, the paying bank did not take all action necessary to recover its payment within the deadline in Regulations J and CC, and we certify that, as to notice of non-payment of the item, we received:

(Check One)

Advice by on
(Method)

No advice other than the returned check.

This late return caused us to incur financial loss. Please provisionally credit our account and advise.

.....
Bank

By:.....
Officer's Signature

*This form may be submitted only with respect to the first time the item was sent for collection and must be sent in duplicate within two (2) months after the date you received the item as a returned check. In addition, the item must have been collected and/or returned through the Federal Reserve check collection system.

Knowingly making a false statement to influence the action of a Federal Reserve Bank may subject the signing party to criminal penalties under federal and/or state law.

** \$100.00 or more.

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PAYING BANK'S RESPONSE TO CLAIM OF LATE RETURN*

Date:

TO: Federal Reserve Bank of New York
Check Processing Department
(Buffalo Branch) (..... Office)

With your advice of debit dated, you forwarded to us a claim of late return with respect to a returned check ("item") in the amount of \$

We certify that our records indicate that this item was received by us or our processor from

as a cash item on (banking day)
in a cash letter dated
in the amount of \$
tape total \$
listed between items for \$ and \$

and that the item was returned to in our return item letter dated

in the amount of \$
tape total \$
listed between items for \$ and \$

Notice of non-payment of this item was given to by on
(Enter "none" if no notice was given. If notice was given, enter method and date.)

If the number of banking days between the banking day of receipt and the date of return exceeds one banking day, the explanation for the delay is as follows:

.....
.....
.....

We took all action necessary to entitle us to recover our payment within the deadline in Regulations J and CC. Please credit our account and advise.

.....
Paying Bank

By:
Officer's Signature

* Prepare and submit in duplicate. If you fail to return the check and this completed form to us within twenty (20) banking days after the date we send the check and the Bank's Claim of Late Return form to you, the provisional credit given the claimant and our debit to your account will become final. In that case, you may be able to recover the amount of the item from the claimant if your return of the item was in fact timely, but you must deal directly with the claimant.

Knowingly making a false statement to influence the action of a Federal Reserve Bank may subject the signing party to criminal penalties under federal and/or state law.

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