

**FEDERAL RESERVE BANK  
OF NEW YORK**

[ Circular No. 10844  
April 3, 1996 ]

**FEDWIRE THIRD-PARTY ACCESS POLICY  
First Supplement to Appendix C of Operating Circular No. 8**

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

Effective February 2, 1996, the Board of Governors of the Federal Reserve System amended its Fedwire third-party access policy to establish additional requirements for third-party access arrangements involving a service provider located outside the United States.

Enclosed is a copy of the First Supplement to Appendix C of our Operating Circular No. 8, reflecting the above changes. Additional, single copies of the First Supplement can be obtained by calling our Circulars Division (Tel. No. 212-720-5215 or 5216).

Questions on this matter should be directed to Andrew Heikaus, Assistant Vice President, Electronic Payments (Tel. No. 212-720-5561).

WILLIAM J. McDONOUGH,  
*President.*

**FEDERAL RESERVE BANK  
OF NEW YORK**

**First Supplement to  
Appendix C to  
Operating Circular No. 8  
Effective April 3, 1996**

**FEDWIRE THIRD-PARTY ACCESS ARRANGEMENTS**

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

Effective February 2, 1996, the Board of Governors of the Federal Reserve System (the "Board") approved modifications to its Fedwire Third-Party Access Policy establishing requirements for third-party access arrangements involving a service provider located outside the United States ("Foreign Service Provider").

Accordingly, Appendix C to Operating Circular No. 8 is amended, effective immediately, as follows:

1. Paragraph 3 is amended by adding "or Exhibit 1A (Foreign Service Providers)" immediately following the phrase "the information described in Exhibit 1".

2. Paragraph 6 is deleted in its entirety.

3. Paragraph 15 is amended by replacing the phrase "(see Exhibit 3 to this Appendix for an acceptable model)" with the following phrase:

(see the Federal Reserve's Guide to the Payment System Risk Policy for an acceptable model.)

4. Paragraph 23 is amended to read as follows:

23. If the Participant and the Service Provider **are not** affiliates and the Service Provider is located within the United States, the Participant and the Service Provider each warrant that the Service Provider is (i) a depository institution, or (ii) an independent company subject to examination pursuant to the Bank Service Corporation Act (12 U.S.C. § 1876), by virtue of providing bank services.

5. Paragraph 24 is amended to read as follows:

24. The Participant shall obtain, and upon request submit to the Reserve Bank, a written affirmation from its primary supervisor(s) that the supervisor(s) does not object to the third party access arrangement.

6. A new section, entitled "Additional Requirements for Arrangements Involving Foreign Service Providers" is added immediately following Paragraph 25 as follows:

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25A. In addition to all other relevant terms stated in this Appendix, a Participant that wants to establish an arrangement involving a Service Provider located outside the United States ("Foreign Service Provider") shall comply with the additional terms listed in paragraphs 25B through 25E.

25B. The Participant and the Foreign Service Provider shall maintain an adequate audit program that addresses Fedwire operations. Such program shall assess, at least on an annual basis, the sufficiency of internal and data security controls, credit-granting processes, operational procedures, contingency arrangements, and compliance with applicable laws and regulations. Audit reports shall be available, in English, to the Reserve Bank and the Participant's primary U.S. supervisor(s).

25C. The Participant and the Foreign Service Provider shall make all policies, procedures, and other documentation relating to Fedwire operations, including those related to internal controls and data security requirements, available to the Reserve Bank and the Participant's primary U.S. supervisor(s) in English.

25D. The Foreign Service Provider shall be subject to the supervision of a home/host country bank supervisor.

25E. The Participant and the Foreign Service Provider shall permit the Participant's primary U.S. supervisor(s) to conduct an on-site review of the Fedwire operations at the Foreign Service Provider at any time upon reasonable notice.

7. Exhibit 1 is amended by changing the last sentence of the second paragraph to read as follows:

*[If the third party access arrangement involves the use of credit limits and board of director approval is required pursuant to Paragraph 15 of the Appendix, note the date on which the Participant's board of directors approved the credit limit(s).]*

8. Exhibit 1A is added as follows:

#### **EXHIBIT 1A**

**[For use in arrangements involving a Service Provider located outside the United States]**

#### **LETTER OF AUTHORIZATION<sup>1</sup>**

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

*Attention: Electronic Payments Officer, [Funds Transfer Department and/or Securities Transfer Department]*

We agree to the terms contained in Appendix C to your Operating Circular No. 8, and have complied with all of its prerequisites to establish a third-party access arrangement with respect to *[wire transfers of funds and/or book-entry securities transfers]*. The third-party access arrangement is more

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1 To be typed on the letterhead of the depository institution holding the Account.



fully described as follows: *[describe how transfers will be handled for the Participant by each Service Provider, including procedures to ensure that a Service Provider cannot permit or initiate a transfer that would exceed an individual customer credit limit without first obtaining the Participant's permission; a description of the Service Provider's operational capability to ensure that the aggregate transfer activity of the Participant does not result in a daylight overdraft over the Participant's cap; procedures and back-up facilities adequate to cover equipment failure or termination of the Service Provider arrangement; and procedures by which the Participant will monitor transfers being made on its behalf.]*

*[Insert, as applicable, name of Service Provider and Substitute or Pass-through Service Provider], the Service Provider(s), [is (are)/is not (are not) an affiliate of this depository institution, as defined in Appendix C to Operating Circular No. 8].<sup>2</sup> [If the Service Provider(s) is (are) not affiliated with the Participant note the date on which Participant's board of directors approved the role and responsibilities of the Service Provider with respect to this third-party access arrangement.]<sup>3</sup> [If the third-party access arrangement involves the use of credit limits and board of director approval is required pursuant to Paragraph 15 of the Appendix, note the date on which the Participant's board of directors approved the credit limit(s).]*

*[Insert, as applicable, name of Service Provider and Substitute or Pass-through Service Provider] is (are) located in [Insert name of the country in which the Service Provider is located] and organized under the laws of [insert name of the country where Service Provider is incorporated or organized]. [Service Provider] is subject to supervision by [name of banking institution or organization which is responsible for the supervision and regulation of the Service Provider.] We understand that approval of this third-party access arrangement is contingent upon a determination by the Federal Reserve System that the [Service Provider]'s home/host country supervision is sufficiently comprehensive.*

The Service Provider(s) shall act as the Participant's agent(s) for the purpose of initiating, transmitting and receiving transfers where the Participant is the transferor or transferee. Any such transfer constitutes an authentic and fully authorized transfer as if it were sent in a writing signed by a duly authorized officer of the Participant.

2 Include here information concerning whether each Service Provider is or is not an affiliate of the Institution.

3 In cases where a U.S. branch of a foreign bank wishes to be a Participant and its board of directors has a more limited role in the bank's management than a U.S. board, the roles and responsibilities of the Service Provider should be reviewed by senior management at the foreign bank's head office that exercises authority over the foreign bank equivalent to the authority exercised by a board of directors over a U.S. depository institution.

This third-party access arrangement will allow *[name of Participant]* to comply with all applicable State and Federal laws and regulations governing it, including retaining and making accessible records in accordance with the Bank Secrecy Act and the regulations promulgated thereunder. We agree to make available to you and *[name of Participant's primary U.S. supervisor]*, in English, all policies, procedures and other documentation relating to Fedwire operations, including those related to internal controls and data security requirements. We further agree to permit *[name of Participant's primary U.S. supervisor]* to conduct on-site reviews of the Fedwire operations at *[name of Service Provider]*. We understand that approval of this third-party access arrangement is also conditioned upon your review of both *[Participant's]* and *[Service Provider's]* Fedwire policies and procedures, as well as *[Service Provider's]* Fedwire-related operations.

This third-party access arrangement is consistent with the principles of corporate separateness and does not violate any State or Federal law restrictions on branching.

The Service Provider(s) may terminate the Agreement by written or telegraphic notice to the Participant and to the Manager of your Funds Transfer Department and/or your Securities Department if book-entry securities transfers are conducted under this arrangement, which notice shall be effective thirty (30) days after receipt. The Participant may terminate the Agreement at any time by written or telegraphic notice to the Service Provider(s) and to the Manager of your Funds Transfer Department and/or your Securities Transfer Department if book-entry securities transfers are conducted under this arrangement, which notice shall be effective as soon as an alternative processing arrangement is in place.

*[Name of Participant]*

BY: \_\_\_\_\_

TITLE: \_\_\_\_\_

DATE: \_\_\_\_\_

*[Name of Pass-Through  
Service Provider]<sup>4</sup>*

BY: \_\_\_\_\_

TITLE: \_\_\_\_\_

DATE: \_\_\_\_\_

*[Name of Service Provider]*

BY: \_\_\_\_\_

TITLE: \_\_\_\_\_

DATE: \_\_\_\_\_

*[Name of Substitute  
Service Provider]<sup>4</sup>*

BY: \_\_\_\_\_

TITLE: \_\_\_\_\_

DATE: \_\_\_\_\_

<sup>4</sup> Only include these signature lines if applicable.

9. The first footnote to Exhibit 2 is amended to read as follows:

This exhibit provides an example of board of director approval that would satisfy the approval requirement set forth in Paragraph 15. A participant is not required to submit this resolution nor is a participant required to use this resolution to obtain board of director approval.

10. Exhibits 3a and 3b are deleted from the Appendix.

11. The first footnote to Exhibit 4 is amended to read as follows:

This exhibit provides an example of board of director approval that would satisfy the approval requirement set forth in Paragraph 15. A participant is not required to submit this resolution nor is a participant required to use this resolution to obtain board of director approval.

WILLIAM J. McDONOUGH,  
*President.*