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***VIA E-MAIL: [regs.comments@federalreserve.gov](mailto:regs.comments@federalreserve.gov)***

July 26, 2004

Ms. Jennifer J. Johnson, Secretary  
Board of Governors of the Federal Reserve System  
20<sup>th</sup> Street and Constitution Avenue, N.W.  
Washington DC 20551

Re: 12 CFR Part 210 – Reg J  
Docket No.: R-1202

Dear Ms. Johnson:

Empire Corporate Federal Credit Union (Empire) is pleased to provide comments to the Federal Reserve Board's proposed regulation (the "Proposal") to amend subpart A of Regulation J to provide for the rights and obligations of sending banks, paying banks, returning banks, and Reserve Banks in connection with collection of substitute checks and items that have been converted to electronic form.

Empire is a wholesale corporate credit union that provides liquidity, item processing, investment and other financial services to over 1,000 member credit unions. Empire has been an active supporter of the Check Clearing for the 21<sup>st</sup> Century Act (the "Check 21 Act") since its inception and commends the Board for its timely issuance of regulations that implement this progressive legislation.

Overall, Empire supports the proposed changes which are intended to ensure the regulation covers the new check processing service options that the Federal Banks plan to offer when the Check 21 Act becomes effective. It is Empire's understanding that the proposed amendments primarily are designed (1) to cover the Reserve Banks' handling of electronic items explicitly under Regulation J, (2) to acknowledge the substitute check warranties and indemnities the Reserve Banks and other banks will make under the

Check 21 Act and subpart D when handling a substitute check or a paper or electronic representation of a substitute check, and (3) to include new warranties and indemnities that will apply when Reserve Banks and other banks send an electronic item that is not otherwise covered by the Check 21 Act and subpart D.

In particular, Empire supports the addition of proposed § 210.5(a). The proposed amendments would supplement the warranties that are given under other law by including new warranties that a sender would give only under Regulation J to each Reserve Bank that handles an electronic item that is not a representation of a substitute check and thus is not subject to the Check 21 Act warranties. Empire supports the conclusion that a recipient of an electronic item that is not subject to the Check 21 Act (i.e., an electronic item created directly from an original check) would not receive the Check 21 Act warranties from the sending bank and believes that such recipient should make the Check 21 Act warranties if the recipient subsequently used the electronic item to create a substitute check that it transferred for value. Empire also supports the one-year statute of limitations for claims on such warranties.

Empire appreciates the opportunity to comment on this important rulemaking. If you have any questions regarding Empire's comments, please do not hesitate to contact me.

Sincerely,

A handwritten signature in black ink that reads "Christiane G. Hyland". The signature is written in a cursive style and is underlined with a single horizontal stroke.

Christiane G. Hyland  
SVP, General Counsel

cc: Mike Canning, Executive Director, ACCU  
Mike Carter, Regulatory Advocacy Coordinator, NYSCUL  
Kimberly Dewey, Associate Director, Regulatory Affairs, NAFCU