



OHIO CREDIT  
UNION LEAGUE

December 19, 2011

Via email to: [regs.comments@federalreserve.gov](mailto:regs.comments@federalreserve.gov)

Ms. Jennifer J. Johnson, Secretary  
Board of Governors of the Federal Reserve System  
20<sup>th</sup> Street & Constitution Ave., NW  
Washington, DC 20551

RE: Docket No. R-1434 and RIN 7100 AD 84: Proposed amendments to Regulation J; Collection of Checks and Other Items by Federal Reserve Banks and Funds Transfers Through Fedwire: Elimination of "As-of Adjustments" and Other Clarifications

Dear Ms. Johnson,

The Ohio Credit Union League (OCUL) appreciates the opportunity to comment on the Federal Reserve Board's proposed changes to Regulation J.

The comments reflected in this letter represent the recommendations of the Ohio Credit Union League. The Ohio Credit Union League (OCUL) is the trade association for credit unions in Ohio and advocates on behalf of 382 credit unions serving 2.7 million members in the state of Ohio. We appreciate the opportunity to provide suggestions and feedback to the Federal Reserve Board (FRB) prior to adoption of any rules as proposed.

### **Background**

The proposal would implement certain changes to Regulation J that become necessary if corresponding parts of proposed changes to Regulation D regarding "as-of adjustments" are implemented. Additionally, the proposal would amend subpart A of Regulation J to clarify the circumstances when a financial institution's Administrative Reserve Bank is deemed to have accepted deposit of an item. Finally, the proposed rule would clarify that subpart B of Regulation J continues to apply to Fedwire funds transfers even if the funds transfer also meets the definition of "remittance transfer" under the FRB's "remittance transfer" proposal issued in May, 2011.

### **Analysis & Commentary**

In general, OCUL supports the proposed changes as necessary clarifications and adjustments to better coordinate the operation of Regulation J with other recent regulatory changes. However, given the current stresses on the financial industry presented by the number of regulatory changes pending, OCUL respectfully requests that the implementation of the these proposed changes be delayed by an appropriate amount of time, at least nine months, to allow financial institutions to effectively manage implementation. In addition, OCUL also respectfully requests that the implementation of the three changes be staggered to further ease current regulatory burdens.



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Proposed changes to Regulation D would eliminate a Reserve Bank's use of as-of adjustments related to deposit revisions and replaces the use of other as-of adjustments with payment of direct compensation. The proposed changes to Regulation J eliminate references throughout Regulation J regarding a Reserve Bank's use of as-of adjustments in connection with a Fedwire funds transfer. The proposed change to Regulation J is necessary in order for the two regulations to be consistent. Further, the changes would permit a Reserve Bank to continue to directly compensate depository institutions for errors or delays in processing of payment orders by the Reserve Bank.

The amendment of subpart A of Regulation J clarifies that when an institution sends a check or other item for collection to a Reserve Bank, the institution's Administrative Reserve Bank is deemed to have accepted deposit of the item even if the item was sent directly to another Reserve Bank. This is a useful clarification recognizing current practice by Reserve Banks.

Finally, the amendment clarifies that subpart B of Regulation J would continue to apply to a Fedwire Transfer, even if the funds transfer also meets the definition of "remittance transfer" under Section 919 of the Electronic Funds Transfer Act (EFTA). In the case of an inconsistency between subpart B of Regulation J and Section 919, under the pending proposal defining "remittance transfer", Section 919 would prevail. This resolution of an inconsistency is premature because the authority for defining a "remittance transfer" and implementing regulations on the subject has been transferred to the Consumer Financial Protection Bureau (CFPB). Although OCUL agrees that a Fedwire funds transfer should continue to be governed by subpart B of Regulation J, OCUL recommends that the FRB coordinate with the CFPB in resolving outstanding issues on this subject, such as the preemption between Section 919 and Article 4A of the Uniform Commercial Code.

## Conclusion

OCUL supports these clarifications to better align Regulation J with recent regulatory changes, with the caveat that the proposed changes to subpart B, although beneficial, are premature given the outstanding confusion regarding preemption between EFTA Section 919 and Article 4A of the Uniform Commercial Code. However, OCUL respectfully recommends that the FRB give depository institutions ample time, not less than nine months, to implement the proposed changes and further, that their implementation be staggered to alleviate the regulatory burden currently placed on credit unions and other financial institutions.

OCUL appreciates the opportunity to present comments on behalf of Ohio's credit unions regarding the Federal Reserve Board's proposed changes to Regulation J. Thank you for your consideration of the comments presented. If you have any questions, please contact me at (614)923-9766 or [jkozlowski@ohiocul.org](mailto:jkozlowski@ohiocul.org)

Sincerely,



John F. Kozlowski  
General Counsel



David J. Shoup  
Director, Compliance & Information

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cc: Mary Dunn, SVP and Deputy General Counsel, CUNA  
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Jennifer Ferguson, Chair, OCUL Government Affairs Committee