

## FEDERAL RESERVE SYSTEM

[Docket No. R-0974]

### Enhancement of Federal Reserve Net Settlement Payment Services

**AGENCY:** Board of Governors of the Federal Reserve System.

**ACTION:** Notice of service enhancement.

**SUMMARY:** The Board of Governors has approved enhancements to the net settlement services that the Federal Reserve Banks offer to financial institutions with Federal Reserve accounts that participate in multilateral settlements for private-sector clearing arrangements. The enhanced service combines and improves selected features from the Reserve Banks' existing net settlement services and may be used for either gross or net multilateral settlements. The service is fully automated and provides finality of settlement intraday on the settlement day to participants in clearing arrangements using the service. The service is intended to facilitate improvements in the operational efficiency of clearinghouses and reduce operational and settlement risk for participants.

**EFFECTIVE DATE:** March 29, 1999

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#### SUPPLEMENTARY INFORMATION:

##### I. Background

The Reserve Banks offer net settlement services to depository institutions that participate in clearinghouses and clearing arrangements for checks, as well as Automated Clearing House (ACH), automated teller machine (ATM), point-of-sale (POS) networks, and other transactions. The arrangements are typically organized as groups of three or more participating depository institutions that exchange payment instructions, account for the value exchanged, and settle balances multilaterally. Typically, the agent<sup>1</sup>

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<sup>1</sup> The agent is the party designated by the participants to act on behalf of the

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for the arrangement computes the net amounts owed to or by each participant<sup>2</sup> after netting all the transactions on a multilateral basis. The calculated net amounts represent either a net debit or a net credit for each participant. If the clearinghouse uses the Reserve Banks' net settlement services, the multilateral differences may be settled by transferring funds between the accounts of the settling participants on the books of the Reserve Banks.

Currently, the Reserve Banks offer two basic types of net settlement services. In the traditional model, the clearinghouse agent provides a settlement sheet (in either paper or electronic form) to a Reserve Bank on the settlement date. The Reserve Bank then posts a net debit or a net credit to the Federal Reserve account of each settling participant. Posted credits represent available funds for the purpose of intraday cash management and overnight reserve management.<sup>3</sup> The Reserve Banks, however, do not provide settlement finality until the business day after the settlement day. They reserve the right to reverse settlement debits and credits if a participant is unable to cover its settlement debit. This methodology creates the possibility of a settlement failure by a clearinghouse on the day following the settlement day. Because these dating conventions refer to banking days, reversals may occur on the third or even the fourth calendar day following settlement.

The traditional settlement sheet service offers clearinghouses a familiar and inexpensive mechanism to achieve settlement. This service, however, increases the duration of settlement risk to clearinghouse participants and their customers because settlement entries are provisional until the banking day after the settlement day. Another disadvantage is that some versions of the service lack the security controls needed to ensure the authenticity of settlement information provided to the Reserve Bank and to safeguard the integrity of the settlement. In addition, the design of the traditional service does not include automated risk-management controls for verifying the Federal Reserve account balances of participants with net debit positions. To help control credit risk, the Reserve Banks rely on the right to reverse net settlement entries on the banking day following the settlement day if a participant is not able to cover its net debit obligation. As a result, the traditional service does not provide effective tools for monitoring or controlling risk to the Reserve Banks at the point the risk is incurred.

In 1990, the Board approved an interdistrict net settlement service with settlement-day finality for a national ACH clearinghouse. In this type of service,

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clearinghouse.

<sup>2</sup> A settling participant in a clearinghouse that uses a Reserve Bank net settlement service is a financial institution with a Federal Reserve account that is debited or credited to transfer the funds needed to complete the settlement. In contrast, non-settling participants typically settle through a settling participant.

<sup>3</sup> The posting time for net settlement entries is chosen by each clearinghouse within the requirements of the Board's Daylight Overdraft Transaction Posting Rules.

individual participants with net debit positions send Fedwire funds transfers to a settlement account at a designated Reserve Bank. Once funds transfers have been received into the settlement account to cover all net debits, the clearing arrangement's agent sends Fedwire funds transfers from the settlement account to the accounts of participants in net credit positions. Under normal circumstances, this process is completed on the settlement day. Because the service uses Fedwire funds transfers, settlement payments are final and irrevocable on the settlement day.

The Fedwire-based net settlement service provides intraday finality on the settlement day, thereby reducing the duration of credit risk to clearinghouse participants. It also offers Reserve Banks significantly greater control over credit risk because of the use of Fedwire and the associated real-time verification of Federal Reserve account balances performed through the Account Balance Monitoring System (ABMS). Fedwire funds transfers initiated by clearinghouse participants that would cause overdrafts beyond established parameters can be rejected. These capabilities permit Reserve Banks to perform automated intraday risk management on the settlement day, when settlement information becomes available and before settlement entries are posted to Federal Reserve accounts.

Relying on the initiation of individual Fedwire funds transfers to conduct multilateral settlement, however, increases the logistical complexity of settlement for certain clearing arrangements. For example, a settlement for a clearinghouse with a large number of participants could involve coordinating hundreds of individual Fedwire funds transfers that have to be sent and received within narrow time frames in order to complete scheduled settlements.

## **II. The June 1997 Proposal**

In June 1997, the Board requested comments on a proposal that Reserve Banks offer an enhanced net settlement service to depository institutions that participate in clearinghouse arrangements (62 FR 32118, June 12, 1997). The proposed service would combine and improve selected features from the Reserve Bank's existing net settlement services. Under the proposal, the Reserve Banks would offer a fully automated settlement service with finality of settlement intraday on the settlement day. The agent for the clearinghouse would submit an electronic file containing the settlement information for each settling participant. The enhanced service would accept and process settlement files during a predefined settlement period. The service would include edits and controls to ensure the authenticity and validity of the settlement file. Once all initial edits have been completed, the service would check the account balance of settling participants that fall within established risk parameters in the ABMS and that have debit settlement positions. If the debit participants have available account balances<sup>4</sup> sufficient to cover their

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<sup>4</sup> The available account balance is defined as the institution's Federal Reserve account

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settlement obligations, their Federal Reserve accounts would be debited and funds would be transferred to a settlement account held on the books of a designated Reserve Bank. The transfer of funds from the account of a participant with a debit position would be treated as a final and irrevocable transaction. When all funds have been transferred from the account of the debit participants to the settlement account, the enhanced service would transfer final funds out of the settlement account and credit the Federal Reserve account of each participant with a credit position.

If a participant with a debit position did not have an available account balance sufficient to cover its settlement obligation, the Federal Reserve would notify the participant and the agent. The agent would then be expected to take action as determined by the rules of the clearing organization. For example, the organization could choose to fund the settlement account to complete the settlement by drawing on a preestablished line of credit. Alternatively, the agent might request that the Reserve Bank cancel the settlement and return all funds in the settlement account to the participants with debit positions. After a defined period, if the organization had not been able to complete or cancel the settlement, the Reserve Bank would return all the funds in the settlement account to the participants with debit positions. The terms of the enhanced service would permit the agent to submit a revised settlement file in the event of a settlement failure.

### **III. Enhanced Settlement Service**

The Board is approving an enhanced settlement service that retains the essential characteristics described in the proposal issued for comment in 1997. First, by providing settlement-day finality, the enhanced service will reduce the duration of credit risk to private-sector clearinghouse participants relative to the Federal Reserve's traditional net settlement service. Second, the enhanced service will improve operational efficiency and reduce operational risk for clearinghouse participants by offering a settlement mechanism that does not require the origination of individual Fedwire funds transfers to achieve settlement-day finality. In addition, the enhanced service enables the Reserve Banks to manage and limit risk by incorporating risk controls that are as robust as those used currently in the Fedwire-based net settlement service.

Service Availability and Features - The enhanced service will be available to financial institutions with Federal Reserve accounts that participate in multilateral settlements for private-sector clearing arrangements. The enhanced service will provide clearing arrangements with the capability to settle the obligations that result from their payments exchange on either a net or gross basis. In addition, the service approved by the Board incorporates the following features:

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balance plus any available intraday credit.

1. The Federal Reserve will provide settlement services during a business day beginning at 8:30 a.m. Eastern Time (ET) and concluding before 6:00 p.m. ET (the settlement window). A file-submission deadline will be established approximately thirty to sixty minutes before the end of the settlement window (the file-submission window) to ensure that all files received by the file-submission window can be processed before the close of the settlement window. The specific hours of operation of the service, however, will be reviewed periodically and may be modified to reflect changes in the operating hours of the Fedwire system or the business needs of settlement participants.
2. Agents will submit settlement files electronically during the predefined file-submission window. The initial release of the application software will support file submission using a standard Fedline terminal or computer interface bulk data connection. Preformatted Fedline screens will also be provided for clearinghouse arrangements that wish to key in the settlement information. In addition, internet browser capability for file submission and access to the service is being considered for a future release.
3. Agents may transmit any number of settlement files per settlement day. The service will process the settlement files for a particular settlement arrangement one at a time in the order they are received. Files received after the close of the settlement window will be held in a queue to be processed in the order received at the opening of the following day's settlement window, as long as the settlement date on the file corresponds with the following settlement date.
4. Controls and edits in the application will ensure, among other things, that the file has been transmitted by an agent authorized by the participants in the clearing arrangement, that the file has been transmitted from an authorized terminal, that the file contains settlement entries from authorized participants only, and that the sum of all the settlement debits equals the sum of all the settlement credits.
5. Settlement debit entries will be passed to the ABMS for posting to each settling participant's Federal Reserve account. The ABMS will check the available account balance of all participants that fall within established risk parameters to determine if the settlement debits can be covered. If the available account balance is sufficient to cover the participant's settlement debit, the participant's account will be debited and an offsetting credit will be posted immediately to a settlement account held on the books of a Reserve Bank. The debit to the Federal Reserve account will be a final and irrevocable transaction. When all settlement debits have been covered and the arrangement's settlement account has been fully funded, credit settlement balances will be passed to the ABMS for posting to the relevant participants' Federal Reserve accounts. The credit entries will also be final and irrevocable transactions.

The ABMS account balance report available to institutions via Fedline will include a new line that will show the net settlement debit or credit entries that have been posted to the participants' Federal Reserve accounts. For purposes of measuring the

daylight overdraft positions of participants, the net debit and net credit entries will be posted to participants' Federal Reserve accounts on a flow basis, as they are processed.

**Exception Processing** - If a settlement cannot be completed because a participant with a debit position is unable to cover its settlement obligation, the Federal Reserve will notify the participant and the agent for the clearing arrangement. The participant with the insufficient balance will be notified immediately. The agent will be notified on either an immediate or a delayed basis, depending on the notification option that the settlement arrangement has selected. If the clearinghouse chooses immediate notification, the Federal Reserve will automatically transmit a notification of the failed debit to the agent. If the deferred option is chosen, the Federal Reserve will defer notifying the agent for a brief interval after the participant's debit is rejected. This brief interval will be defined by the Federal Reserve, initially the interval will be approximately thirty to forty-five minutes long. The interval is intended to allow the participant some time to provide funding before the agent is notified. The length of the interval may be reviewed periodically based on perceived business needs. If the participant is unable to provide sufficient funds in its account before the end of the deferral interval, the Federal Reserve will automatically send a notification to the agent. When notified of the failed debit, the agent may choose to initiate actions to complete the settlement as determined by the rules of the clearing arrangement. Pending action by the agent, the settlement will remain open and the collected funds will remain in the settlement account. The enhanced service will provide settlement agents with the capability to:

1. Instruct the Federal Reserve to retry the failed debit. That is, the agent would notify Reserve Bank staff that the participant in question has received the funds needed to fulfill its settlement obligation. The Federal Reserve would then retry debiting the participant's account and crediting the settlement account once more.
2. Fund the settlement account from an alternative source, such as a preestablished line of credit.
3. Instruct the Federal Reserve to cancel the settlement and allow the agent to submit a revised or "recast" settlement file that excludes the transactions of the participant in question and provides recalculated settlement positions for the remaining participants.
4. Instruct the Federal Reserve to cancel the settlement. If the agent selects this option, the funds in the settlement account will be returned to the Federal Reserve accounts of the debit participants that had covered their settlement obligations.

If processing of a settlement file has not been completed by the close of the settlement window because a participant is unable to cover its settlement obligation, the settlement will be cancelled by the Federal Reserve and all funds in the settlement account will be returned to the relevant participants. Extensions of the settlement window might be granted to accommodate operational disruptions or temporary funding problems.

These occurrences, however, are expected to be rare and not to extend beyond the operating hours of the Fedwire funds transfer service.

Implementation and Conversion Schedule - Early in 1999, the Reserve Banks will conduct a pre-implementation pilot of the enhanced settlement service with two or three settlement arrangements. The pilot will be conducted in a test environment designed to simulate the production environment. The pilot will provide an opportunity for both Reserve Banks and participating arrangements to test the enhanced service and to refine operating procedures prior to implementation. The Reserve Banks will begin phased implementation of the enhanced settlement service on March 29, 1999.

The current Fedwire-based net settlement service used by a few national clearinghouses will continue to be offered in conjunction with the enhanced settlement service as long as a reasonable level of demand for the Fedwire-based service exists. The traditional settlement sheet service, however, will be phased out gradually. Clearinghouses and settlement arrangements that currently use the traditional net settlement service will be able to work with the Federal Reserve to develop a migration plan that is not in conflict with other critical efforts that the clearinghouses and participants may have under way. Specifically, because conversion to the enhanced settlement service may require clearinghouses to implement internal software changes, it may not be possible or desirable to address the required changes until after year 2000 system efforts have been completed. The Board expects that clearinghouses and settlement arrangements that currently use the traditional service will be able to convert to the enhanced settlement service by the end of 2001. The Board will consider extending the conversion deadline on a case-by-case basis for systems that can demonstrate significant resource demands due to other critical efforts.

Service Pricing - The planned price structure for the enhanced service has been designed to recognize both the fixed costs of providing a settlement service and the variable costs associated with the number of settlement transactions processed. This will be accomplished by assessing a charge for each settlement file transmitted by an arrangement and a charge for each settlement entry in the file. The actual price for the service will be announced in the fourth quarter of 1998 as part of the Federal Reserve's 1999 fee schedule.

#### **IV. Summary of Comments**

The Board received twenty public comment letters on its proposed enhanced settlement service.<sup>5</sup> The commenters included nine clearinghouse organizations and associations, six commercial banking organizations, four trade associations, and one retail payment network.

General Comments - Most commenters supported the proposed enhancements to the Federal Reserve's net settlement services. Over half of the commenters that supported the proposed service requested that the Board provide a pricing structure for the proposed service or specify the risk management policy to which institutions would be required to adhere in order to use this service. One commenter proposed that the Board convene a meeting of clearing arrangement operators to review these issues. On December 15, 1997, Federal Reserve staff held a meeting with private-sector organizations in order to answer questions and provide additional details regarding the enhanced settlement service. All organizations that submitted comment letters and other interested organizations were invited to the meeting.

A few commenters expressed concerns regarding the schedule for implementation of the proposed service. One commenter stated that if the Federal Reserve were going to require clearing and settlement arrangements to use the new service, then such a requirement should not be imposed on participants until after the year 2000. In light of the resources devoted to year 2000 issues, the Board will not require clearing and settlement arrangements to use the new service before the year 2000.

Issues Discussed at the December 15, 1997 Meeting - At the December meeting, Federal Reserve staff gave an overview of the proposed risk management policy that would apply to certain multilateral settlement systems regardless of whether they use Federal Reserve settlement services. A final policy was adopted by the Board in its Policy Statement on Privately Operated Multilateral Settlement Systems (63 FR 34888, June 26, 1998) and will become effective on January 4, 1999. In adopting that policy statement, the Board also emphasized that compliance with the policy does not require use of the Federal Reserve's enhanced settlement service. The planned pricing structure for the enhanced settlement service was also discussed with the private-sector representatives.

The Federal Reserve staff also briefly described pilot testing and the likely transition to the enhanced settlement service. As noted above, a pre-production pilot of the service will be conducted early in 1999. Phased implementation of the service will begin by the end of the first quarter of 1999.

One private-sector representative expressed concern regarding the proposed method of posting debits and credits to participants' Federal Reserve accounts on a flow basis, as they are processed, for purposes of measuring daylight overdraft positions. The representative felt that such a procedure would cause inequities among

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<sup>5</sup> This total does not include comment letters from Federal Reserve Banks.

participants because participants would be debited or credited based on where the entry was located in the settlement file. The Board believes that, in most instances, debits and credits will be posted almost simultaneously, as soon as the settlement entries are processed. Delays in the posting of all debits and credits in a settlement file may occur if a participant is unable to cover its settlement obligation. These situations and the related consequences should be addressed in the clearinghouse rules.

A few representatives wanted to know whether daylight overdrafts could be used to support a debit position by a settling participant. One of these representatives also requested clarification on how these debits and credits would affect a participant's daylight overdraft position. In general, a settling participant will normally be able to use its available account balance, which includes any authorized intraday credit, to fund its debit position. In addition, settlement debits and credits will be posted to the account of participants on a flow basis, as they occur.

Specific Issues on which the Board Sought Comment - The Board also sought comment on a number of other issues discussed below:

A. Continuation of Traditional Settlement Sheet Service with Next-Day Finality.

Nine of the thirteen respondents to this question believed that the Federal Reserve should continue to offer its existing net settlement service with next-day finality. One commenter felt that the time and equipment investment necessary for the proposed service might prove to be a financial burden for small-volume clearinghouses. Two commenters indicated that some clearing arrangements might prefer the simplicity and low cost of the existing next-day finality service. Three commenters felt that the Federal Reserve should not continue to offer its existing net settlement service with next-day finality if the proposed service were offered. One of the commenters noted that "there are no reasons, operational or otherwise, to allow ongoing and unnecessary temporal risk in the payments system as a result of next-day finality."

The Board believes that the benefits to clearinghouse participants and the Federal Reserve provided by the enhanced service are significant. The enhanced service not only offers increased efficiency and security, but also significantly reduces settlement risk. The Board believes that the benefits of providing a more efficient and secure service that incorporates better risk controls outweigh the potential cost increase to the users of the traditional Federal Reserve net settlement service. In addition, it would not be cost effective to the Reserve Banks to continue to provide and support the current traditional settlement sheet service in addition to the enhanced service. As a result, the Board intends to phase out the traditional settlement sheet service with next-day finality. To be sensitive to the commenters' concerns regarding potential costs and resources that may have to be invested to convert to the enhanced service, the Board is adopting a flexible migration plan. Clearinghouses and their participants will have until the end of 2001 to convert to the enhanced service.

B. Continuation of the Fedwire-based Service.

Nine of the fourteen commenters believed that the Federal Reserve should continue to offer the Fedwire-based net settlement service with same-day finality. One commenter felt that the Fedwire-based service provides greater opportunities for the settlement agent to manage the settlement actively and reduce the risk of a settlement failure.

Two commenters felt that the Federal Reserve should not continue to offer its Fedwire-based net settlement service because there would be no demand for this service with the introduction of the enhanced service. The commenters viewed the reduction in operational complexity from the Fedwire-based service as the justification for eliminating it.

The Board will continue to offer the Fedwire-based service as long as a reasonable level of demand for the service exists. The Fedwire-based service has robust risk management features. Because finality is granted when the settlement entries are posted via the use of Fedwire funds transfers, the Fedwire-based service also reduces settlement risk to private-sector participants.

C. Length of Settlement Window and Provision of a Warehousing Mechanism.

There was no consensus among respondents as to whether the period between 8:30 a.m. and 4:00 p.m. ET would be adequate to support current and future needs of potential users of the service. Two commenters expressed a preference for the service to begin processing settlement files during the very early morning hours, with 12:30 a.m. suggested by one of the commenters. Two other commenters felt that, at a minimum, a 6:00 p.m. ET closing deadline should be implemented.

The Board recognizes that the Fedwire funds transfer service is the primary alternative for orderly and efficient settlement of bilateral obligations in case a settlement arrangement is unable to complete its multilateral settlement through the enhanced service. As a result, the Board has determined that settlement file processing should generally be completed before 6:00 p.m. to allow at least a thirty minute period before the standard close of the Fedwire funds transfer system. To ensure that processing of the settlement files is completed by the close of the settlement window, the Federal Reserve will establish a cut-off time for submission of settlement files that is approximately thirty to sixty minutes in advance of the settlement window deadline. Extensions of the settlement deadlines may be permitted under extenuating circumstances. Experience gained during the pilot period will be used to review and, if necessary, redefine settlement deadlines. At this time, the Board does not believe that a compelling business need has been expressed to start processing settlement files before 8:30 a.m. ET. This issue may be reviewed as experience is gained with the operation of the enhanced service.

With respect to the warehousing option, seven of the eleven commenters felt that this feature should be offered. One commenter claimed that settlement files

should be received in a “flow processing mode” twenty-four hours a day, seven days a week. Four commenters did not support a warehousing option because they thought such an option would not be useful or thought warehousing should be handled by the clearing association’s settlement agent rather than the Federal Reserve.

The enhanced settlement service will queue settlement files received after the close of the settlement window for processing at the opening of the following day’s settlement window, provided the settlement date on the file corresponds with the following business date. More sophisticated warehousing capabilities will not be offered in the initial release due to cost and time constraints.

D. Submission of Settlement Data through an Electronic Mechanism.

All but one of the fifteen commenters that responded to this question felt it would be reasonable to require clearing arrangements or settlement agents to use an electronic mechanism to submit settlement data. The commenters felt that such an electronic mechanism would ensure that data are sent and received by authorized persons and not tampered with during transmission. One commenter, while agreeing that electronic devices should be used, recommended that the Federal Reserve be able to receive valid settlement data and enter the data manually into the settlement system in emergencies. One commenter did not believe that it would be reasonable to require the electronic submission of data and encouraged the Federal Reserve to offer a manual procedure for submitting data.

The Board shares the concerns of the commenters and will provide an electronic mechanism for settlement data transmission to increase the efficiency and security of the settlement process. Settlement files may be transmitted via a standard Fedline terminal or a computer interface bulk data connection. Preformatted Fedline screens for settlement data input will also be provided.

Clearing and settlement systems are encouraged to have contingency arrangements to reduce the risk of a failed settlement resulting from operational problems. The Reserve Banks will be able to accept and process non-electronic files on behalf of a settlement agent in situations in which an arrangement is experiencing severe operational disruptions and is unable to access the enhanced service directly or through its contingency channels.

E. Providing Monitoring Capabilities to the Agent.

All but one of the fourteen commenters that responded to this question felt it would be appropriate to offer a monitoring capability that would allow the settlement agent to determine whether settlement entries for individual participants had been successfully posted. One commenter felt that this service should be offered to settlement agents because they represent their member financial institutions as unbiased facilitators in all aspects of the settlement process. Another commenter believed that the settlement

agent must have access to information that will allow it to determine whether individual participants have fulfilled their settlement obligations.

The enhanced service will provide the agent with the capability to view the settlement account balance by using the ABMS. Automated inquiries for monitoring the progress and the status of a settlement file by the agent will be provided in a later release of the application.

F. Value-added Services that Provide Non-settling Participant Information.

Eight of the ten respondents to this question did not believe that the Federal Reserve should offer a value-added service that would provide non-settling participant information. The general consensus was that such services are more appropriate for the settlement agent to offer to its participants. One commenter stated that it does not see a need for the Federal Reserve to provide these services, as the settlement agent would have this information in order to calculate the settling participant's aggregate position. The settlement agent should, therefore, be able to communicate this information to the settling participants and any non-settling participants. Two commenters felt that the value-added services should be offered by the Federal Reserve because such information would be of assistance to settling and non-settling participants in analyzing their daily obligations.

The Board agrees that, in most cases, the agent can provide the non-settling participant information more efficiently. As a result, the enhanced service will not include these value-added features in the near term.

G. Provision of a Retry Feature.

The fourteen respondents that addressed this issue felt that a retry feature should be included in the proposed net settlement service. Eight of these respondents believed that the service should include a retry feature that automatically attempts to debit the account of a participant following a predefined interval after the participant fails to cover its debit obligation. The respondents also requested a retry feature that could be controlled by the agent. Four respondents felt that only an automatic retry feature should be available, whereas two others felt that only a retry feature that can be controlled by the agent should be offered. A proponent of the controlled retry feature claimed that such a system would provide the greatest flexibility and maximum operational effectiveness because a retry would be attempted only when the settlement agent felt that the settlement was likely to succeed.

A retry feature will be available in the enhanced settlement service. In cases where an arrangement has selected the deferred notification option, the Federal Reserve will retry the failed debit after a predefined interval before the Federal Reserve notifies the agent that a participant is unable to cover the debit. Once the agent has been notified, it will be able to instruct the Federal Reserve to retry a debit entry to a

participant's account. Further automation of the retry function may be included in a future release of the application software.

H. Length of the Retry Window and Maximum Number of Retries.

There was no consensus among the thirteen respondents that commented on this question as to how long the retry window should be. Four commenters suggested a period of anywhere from one hour up to three hours. One commenter felt that the retry capability should have no time limits other than being restricted to the operating hours of the net settlement service. Two others believed that the retry window time limit should be left to the discretion of the clearing arrangements.

In the event that a settlement account cannot be fully funded because the initial attempt to post a settlement debit to a participant's account has failed, the Federal Reserve may retry the debit after a short predefined interval. The interval is likely to be approximately thirty to forty-five minutes after the failed debit occurred. If the debit continues to remain unfunded, the agent will automatically be notified. A relatively short interval to retry a debit will give the agent as much time as possible to take alternative action to avoid unnecessary settlement failures if the retry fails. The length of the interval will be reviewed periodically based on perceived business needs. Further, retry instructions from settlement agents will be honored at any time during which the settlement service is open.

There was no consensus among the respondents as to the maximum number of retries that should be allowed. Five respondents stated that there should be a limited number of attempts but did not specify a number. Two commenters felt that a maximum of two retries should be made. Two commenters believed that the maximum number of retries allowed should be decided by the clearing arrangements.

If the clearing arrangement chooses the delayed notification option, the Federal Reserve will automatically retry the debit once following a short interval after the initial debit failed. The Federal Reserve will review periodically after the initial release whether, for clearing arrangements choosing the delayed notification option, the service should provide more than one automated retry following an initial failure to post a settlement debit. The Board has imposed no formal limit on the number of times that a settlement agent can request that a failed debit be retried.

I. Legal Status of the Debit and Credit Settlement Entries.

Of the eleven commenters that responded to this question, seven believed that the debit and credit entries to the Federal Reserve accounts of the settling participants should not be considered funds transfers under Regulation J (12 CFR part 210) and other laws applicable to funds transfers. One respondent stated that the proposed service does not use Fedwire funds transfers and thus cannot rely on the same legal basis. Many suggested that the Federal Reserve amend Regulation J to address the status of the entries

posted by the enhanced settlement service. One commenter suggested that debit and credit entries to the reserve accounts of the settling participants be considered funds transfers under Regulation J and pertinent sections of Article 4A of the Uniform Commercial Code. Another felt that although Regulation J did not apply to the debit and credit entries of the proposed service, Article 4A did apply.

The Board has not amended Regulation J to cover explicitly debit and credit entries associated with the enhanced settlement service. Although certain provisions of Article 4A may apply to the debit and credit entries, the extent to which these entries would be considered “payment orders” under Article 4A is not clear. Therefore, the Reserve Bank operating circulars will establish the rules governing the debit and credit entries to the Federal Reserve accounts of the settling participants, including when those debits and credits will become final.

J. Capability to Transfer Funds into the Settlement Account.

All but one of the twelve commenters that responded to this question indicated that it would be beneficial for the service to provide the capability for a participant or another institution to transfer additional funds into the settlement account in order to complete the settlement. One commenter stated that such a feature could facilitate quick resolution of problems and prevent temporary problems from becoming permanent defaults.

Only one commenter thought that the Federal Reserve should not offer the capability for another participant or depository institution to transfer funds into the settlement account to complete the settlement process. This commenter stated that a failed debit for a settling participant should be resolved by that participant and that the settling participants can set up bilateral funding arrangements if they so choose.

The enhanced settlement service will allow another settling participant or depository institution to transfer additional funds into the settlement account in order to complete the settlement. The agent or another authorized depository institution will be able to transfer funds into the settlement account to complete settlement in accordance with the clearinghouse association rules.

K. Clearing Arrangements that should be Eligible for the Enhanced Settlement Service.

Seven out of the twelve respondents that addressed this issue felt that the Federal Reserve should offer the proposed service to any type of clearing arrangement. Three of these commenters wanted to clarify that direct settlement participants would have to be entities that are eligible for Federal Reserve accounts. Another commenter stated that the proposed service should “accommodate any type of clearing arrangement” because of the rapidly changing payment systems environment and the increasing need for new services in the industry.

Two commenters believed that the proposed service should be available only to small-dollar clearing arrangements. One of these respondents felt that large-dollar clearing arrangements, such as CHIPS, should not have access to the new service because the settlement agents should have a very active role in managing the settlements for large-dollar systems, and the Fedwire-based settlement is best suited for these purposes.

The Board is confident that the enhanced service offers an efficient and secure settlement service with strong risk management features. As a result, the Federal Reserve will make the enhanced settlement service available to financial institutions with Federal Reserve accounts that participate in multilateral settlements for private-sector clearing arrangements.

## **V. Competitive Impact Analysis**

The Board has established procedures for assessing the competitive impact of rule or policy changes that have a substantial impact on payments system participants.<sup>6</sup> Under these procedures, the Board will assess whether a change would have a direct and material adverse effect on the ability of other service providers to compete effectively with the Federal Reserve in providing similar services due to differing legal powers or constraints or due to a dominant market position of the Federal Reserve deriving from such differences. If no reasonable modifications would mitigate the adverse competitive effects, the Board will determine whether the expected benefits are significant enough to proceed with the change despite the adverse effects.

The Board's proposed enhancements to the net settlement service are intended to improve the clearance and settlement process for payments by increasing the efficiency of the services currently offered by the Federal Reserve and by reducing the uncertainty and disruption to private-sector participants from the potential reversal of settlement on the following business day. From this standpoint, the enhanced settlement service should help reduce risk as well as operational burden for private-sector settlement arrangements. In addition, risk controls that would be developed in order to provide finality of settlements to clearinghouse participants on the settlement date would help protect the Federal Reserve from the risk of loss. As a result, the Board believes that the proposed enhancements to the Federal Reserve's net settlement services would enable depository institutions to continue to take advantage of the benefits of netting, while increasing operational efficiency and reducing credit risk to the private sector.

By order of the Board of Governors of the Federal Reserve System,  
November 2, 1998.

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<sup>6</sup> These procedures are described in the Board's policy statement "The Federal Reserve in the Payments System," as revised March 1990. (55 FR 11648, March 29, 1990).

(Signed) Jennifer J. Johnson

Jennifer J. Johnson  
Secretary of the Board.