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AUTHORITY: 5 U.S.C. 5525; 12 U.S.C. 391; 31 U.S.C. 321, 3301, 3302, 3321, 3332, 3335, and 3720.

SOURCE: 64 FR 17487, Apr. 9, 1999, unless otherwise noted.

§210.1 Scope; relation to other regulations.

This part governs all entries and entry data originated or received by an agency through the Automated Clearing House (ACH) network, except as provided in paragraphs (a) and (b) of this section. This part also governs reclamations of benefit payments.

(a) Federal tax payments received by the Federal Government through the ACH system that are governed by part 203 of this title shall not be subject to any provision of this part that is inconsistent with part 203.

(b) ACH credit or debit entries for the purchase of, or payment of principal and interest on, United States securities that are governed by part 370 of this title shall not be subject to any provision of this part that is inconsistent with part 370.

§210.2 Definitions.

For purposes of this part, the following definitions apply. Any term that is not defined in this part shall have the meaning set forth in the ACH Rules.

(a) *ACH Rules* means the Operating Rules and the Operating Guidelines published by NACHA—The Electronic Payments Association (NACHA), a national association of regional member clearing house associations, ACH Operators and participating financial institutions located in the United States.

(b) *Actual or constructive knowledge*, when used in reference to an RDFI's knowledge of the death or legal incapacity of a recipient or death of a beneficiary, means that the RDFI received information, by whatever means, of the death or incapacity and has had a reasonable opportunity to act on such information or that the RDFI would have learned of the death or incapacity if it had followed commercially reasonable business practices.

(c) *Agency* means any department, agency, or instrumentality of the United States Government, or a corporation owned or controlled by the Government of the United States. The term agency does not include a Federal Reserve Bank.

(d) *Applicable ACH Rules* means the ACH Rules with an effective date on or before September 18, 2009, as published in Parts IV, V and VII of the “2009 ACH Rules: A Complete Guide to Rules & Regulations Governing the ACH Network” (incorporated by reference, §210.3) except:

(1) ACH Rule 1.1 (limiting the applicability of the ACH Rules to members of an ACH association);

(2) ACH Rule 1.2.2 (governing claims for compensation);

(3) ACH Rules 1.2.4 and 2.2.1.12; Appendix Eight; and Appendix Eleven (governing the enforcement of the ACH Rules, including self-audit requirements);

(4) ACH Rules 2.2.1.10; 2.6; and 4.8 (governing the reclamation of benefit payments);

(5) ACH Rule 9.3 and Appendix Two (requiring that a credit entry be originated no more than two banking days before the settlement date of the entry—see definition of “Effective Entry Date” in Appendix Two);

(6) ACH Rule 2.12.2.3 (requiring that originating depository financial institutions (ODFIs) establish exposure limits for Originators of Internet-initiated debit entries);

(7) ACH Rule 2.18 (requiring reporting and reduction of high rates of entries returned as unauthorized); and

(8) ACH Rule 2.11 (International ACH Transactions), which shall not apply (i) until January 1, 2012 to credit entries other than Federal benefit payments

delivered to Mexico, Canada and Panama through the FedGlobal ACH Payment System; (ii) until June 30, 2013 for debit entries originated by agencies; and (iii) to entries representing the payment of a Federal tax obligation by a taxpayer.

(e) *Authorized payment agent* means any individual or entity that is appointed or otherwise selected as a representative payee or fiduciary, under regulations of the Social Security Administration, the Department of Veterans Affairs, the Railroad Retirement Board, or other agency making Federal payments, to act on behalf of an individual entitled to a Federal payment.

(f) *Automated Clearing House or ACH* means a funds transfer system governed by the ACH Rules which provides for the interbank clearing of electronic entries for participating financial institutions.

(g) *Beneficiary* means a natural person other than a recipient who is entitled to receive the benefit of all or part of a benefit payment.

(h) *Benefit payment* is a payment for a Federal entitlement program or for an annuity, including, but not limited to, payments for Social Security, Supplemental Security Income, Black Lung, Civil Service Retirement, Railroad Retirement annuity and Railroad Unemployment and Sickness benefits, Department of Veterans Affairs Compensation and Pension, and Worker's Compensation.

(i) *Federal payment* means any payment made by an agency. The term includes, but is not limited to:

(1) Federal wage, salary, and retirement payments;

(2) Vendor and expense reimbursement payments;

(3) Benefit payments; and

(4) Miscellaneous payments including, but not limited to, interagency payments; grants; loans; fees; principal, interest, and other payments related to United States marketable and nonmarketable securities; overpayment reimbursements; and payments under Federal insurance or guarantee programs for loans.

(j)(1) *Financial institution* means:

(i) Any insured bank as defined in section 3 of the Federal Deposit Insurance Act (12 U.S.C. 1813) or any bank

which is eligible to apply to become an insured bank under section 5 of such Act (12 U.S.C. 1815);

(ii) Any mutual savings bank as defined in section 3 of the Federal Deposit Insurance Act (12 U.S.C. 1813) or any bank which is eligible to apply to become an insured bank under section 5 of such Act (12 U.S.C. 1815);

(iii) Any savings bank as defined in section 3 of the Federal Deposit Insurance Act (12 U.S.C. 1813) or any bank which is eligible to apply to become an insured bank under section 5 of such Act (12 U.S.C. 1815);

(iv) Any insured credit union as defined in section 101 of the Federal Credit Union Act (12 U.S.C. 1752) or any credit union which is eligible to apply to become an insured credit union pursuant to section 201 of such Act (12 U.S.C. 1781);

(v) Any savings association as defined in section 3 of the Federal Deposit Insurance Act (12 U.S.C. 1813) which is an insured depository institution as defined in such Act (12 U.S.C. 1811 *et seq.*) or is eligible to apply to become an insured depository institution under the Federal Deposit Insurance Act (12 U.S.C. 1811 *et seq.*); and

(vi) Any agency or branch of a foreign bank as defined in section 1(b) of the International Banking Act, as amended (12 U.S.C. 3101).

(2) In this part, a financial institution may be referred to as an Originating Depository Financial Institution (ODFI) if it transmits entries to its ACH Operator for transmittal to a Receiving Depository Financial Institution (RDFI), or it may be referred to as an RDFI if it receives entries from its ACH Operator for debit or credit to the accounts of its customers.

(k) *Government entry* means an ACH credit or debit entry or entry data originated or received by an agency.

(l) *Green Book* means the manual issued by the Service which provides financial institutions with procedures and guidelines for processing Government entries.

(m) *Notice of reclamation* means notice sent by electronic, paper, or other means by the Federal Government to an RDFI which identifies the benefit payments that should have been returned by the RDFI because of the

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death or legal incapacity of a recipient or death of a beneficiary.

(n) *Outstanding total* means the sum of all benefit payments received by an RDFI from an agency after the death or legal incapacity of a recipient or the death of a beneficiary, minus any amount returned to, or recovered by, the Federal Government.

(o) *Recipient* means a natural person, corporation, or other public or private entity that is authorized to receive a Federal payment from an agency.

(p) *Service* means the Financial Management Service, Department of the Treasury.

(q) *Treasury* means the United States Department of the Treasury.

(r) *Treasury Financial Manual* means the manual issued by the Service containing procedures to be observed by all agencies and Federal Reserve Banks with respect to central accounting, financial reporting, and other Federal Government-wide fiscal responsibilities of the Treasury.

[64 FR 17478, Apr. 9, 1999, as amended at 65 FR 18869, Apr. 7, 2000; 66 FR 10580, Feb. 16, 2001; 67 FR 17902, Apr. 11, 2002; 68 FR 33829, June 5, 2003; 70 FR 67366, Nov. 7, 2005; 73 FR 52584, Sept. 10, 2008; 76 FR 59030, Sept. 23, 2011]

§210.3 Governing law.

(a) *Federal law*. The rights and obligations of the United States and the Federal Reserve Banks with respect to all Government entries, and the rights of any person or recipient against the United States and the Federal Reserve Banks in connection with any Government entry, are governed by this part, which has the force and effect of Federal law.

(b) *Incorporation by reference—applicable ACH Rules*. (1) This part incorporates by reference the applicable ACH Rules, including rule changes with an effective date on or before September 18, 2009, as published in Parts IV, V, and VII of the “2009 ACH Rules: A Complete Guide to Rules & Regulations Governing the ACH Network.” The Director of the Federal Register approves this incorporation by reference in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies of the “ACH Rules” are available from NACHA—The Electronic Payments As-

sociation, 13450 Sunrise Valley Drive, Suite 100, Herndon, Virginia 20171. You may inspect a copy at the Financial Management Service, 401 14th Street, SW., Room 400A, Washington, DC 20227 or at the National Archives and Records Administration (NARA). For information on the availability of this material at NARA, visit http://www.archives.gov/federal_register/code_of_federal_regulations/ibr_locations.html or call 202-741-6030.

(2) Any amendment to the applicable ACH Rules that is approved by NACHA—The Electronic Payments Association after January 1, 2009, shall not apply to Government entries unless the Service expressly accepts such amendment by publishing notice of acceptance of the amendment to this part in the FEDERAL REGISTER. An amendment to the ACH Rules that is accepted by the Service shall apply to Government entries on the effective date of the rulemaking specified by the Service in the FEDERAL REGISTER notice expressly accepting such amendment.

(c) *Application of this part*. Any person or entity that originates or receives a Government entry agrees to be bound by this part and to comply with all instructions and procedures issued by the Service under this part, including the Treasury Financial Manual and the Green Book. The Treasury Financial Manual is available for downloading at the Service’s web site at <http://www.fms.treas.gov/> or by calling (202) 874-9940 or writing the Directives Management Branch, Financial Management Service, Department of the Treasury, 3700 East West Highway, Room 500C, Hyattsville, MD 20782. The Green Book is available for downloading at the Service’s web site at <http://www.fms.treas.gov/fmsnews.html> or by calling (202) 874-6540 or writing the Product Promotion Division, Financial Management Service, Department of the Treasury, 401 14th Street, SW., Room 309, Washington, DC 20227.

[64 FR 17478, Apr. 9, 1999, as amended at 65 FR 18869, Apr. 7, 2000; 66 FR 10580, Feb. 16, 2001; 67 FR 17903, Apr. 11, 2002; 68 FR 33830, June 5, 2003; 69 FR 18803, Apr. 9, 2004; 70 FR 67367, Nov. 7, 2005; 73 FR 52584, Sept. 10, 2008; 76 FR 59030, Sept. 23, 2011]