

FEDERAL ELECTION COMMISSION

[Notice 1999-22]

11 CFR Part 9036**Matching Credit Card and Debit Card Contributions in Presidential Campaigns: Documentation****AGENCY:** Federal Election Commission.**ACTION:** Final rule; announcement of effective date.

SUMMARY: On August 5, 1999, the Commission published the text of revised regulations addressing the documentation required to allow contributions made by credit or debit card, including contributions made over the Internet, to be matched under the Presidential Primary Matching Payment Account Act. 64 FR 42584. The Commission announces that these rules are effective retroactive to January 1, 1999.

EFFECTIVE DATE: January 1, 1999.

FOR FURTHER INFORMATION CONTACT: Ms. Rosemary C. Smith, Acting Assistant General Counsel, or Ms. Rita A. Reimer, Attorney, 999 E Street, N.W., Washington, D.C. 20463, (202) 694-1650 or toll free (800) 424-9530.

SUPPLEMENTARY INFORMATION: The Commission is announcing the effective date of new regulations at 11 CFR 9036.1(b) and 9036.2(b) that set out the documentation requirements that must be met before contributions made by credit or debit card, including contributions made over the Internet, may be matched under the Presidential Primary Matching Payment Account Act ("Matching Payment Act"), 26 U.S.C. 9031 *et seq.* "Matchable contributions" are those which, when received by candidates who qualify for payments under the Matching Payment Act, are matched by the Federal Government. The new rules require candidates to provide sufficient documentation to the Commission to insure that each contribution submitted for matching was made by a lawful contributor who manifested an intention to make the contribution to the campaign committee that submits it for matching fund payments. They further note that additional information on the documentation required to accompany such contributions will be found in the Commission's Guideline for Presentation in Good Order ("PIGO").

Section 9039(c) of Title 26, United States Code, requires that any rules or regulations prescribed by the Commission to implement Title 26 of the United States Code be transmitted to the Speaker of the House of

Representatives and the President of the Senate thirty legislative days prior to final promulgation. The revisions to 11 CFR 9036.1 and 9036.2 were transmitted to Congress on August 2, 1999. Thirty legislative days expired in the Senate and the House of Representatives on October 19, 1999.

In the Explanation and Justification that accompanied the final rules, the Commission explained that, since many presidential campaigns will have engaged in substantial fundraising by the time these rules take effect, it would retroactively match credit and debit card contributions made on January 1, 1999 and thereafter, if these requirements are met. 64 FR at 42584. Accordingly, these new rules are effective retroactive to January 1, 1999.

Announcement of Effective Date: Amended 11 CFR 9036.1 and 9036.2, as published at 64 FR 42584, are effective retroactive to January 1, 1999.

Dated: October 29, 1999.

Scott E. Thomas,*Chairman, Federal Election Commission.*

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FEDERAL RESERVE SYSTEM**12 CFR Part 229**

[Regulation CC; Docket No. R-1034]

Availability of Funds and Collection of Checks**AGENCY:** Board of Governors of the Federal Reserve System.**ACTION:** Final rule.

SUMMARY: The Board is adopting amendments to Subpart C of Regulation CC, which contains rules governing the collection and return of checks. The amendments to the regulation and Commentary are intended to provide further clarification as to the extent to which depository institutions and others may vary the terms of the regulation by agreement for the purpose of instituting electronic return systems.

EFFECTIVE DATE: December 15, 1999.**FOR FURTHER INFORMATION CONTACT:**

Louise Roseman, Director, Division of Reserve Bank Operations and Payment Systems (202/452-2789); Oliver I. Ireland, Associate General Counsel (202/452-3625), Stephanie Martin, Managing Senior Counsel (202/452-3198), Legal Division. For the hearing impaired *only*, contact Diane Jenkins, Telecommunications Device for the Deaf (TDD) (202/452-3544), Board of Governors of the Federal Reserve

System, 20th and C Streets, NW, Washington, D.C. 20551.

SUPPLEMENTARY INFORMATION:**Background**

In February 1999, the Board requested comment on options for amending provisions in Regulation CC governing when paying or returning banks may send notices instead of returning the original checks.¹ The purpose of the proposal was to explore whether more flexibility is needed to enable check system participants to experiment with methods to return checks electronically.

The collection and return of checks is governed by both Regulation CC and state law (Articles 3 and 4 of the Uniform Commercial Code (U.C.C.)). When a paying bank decides to return a check, the U.C.C. and Regulation CC require it to send the check or a notice within certain deadlines.² The U.C.C. and Regulation CC differ on when a bank can return a notice rather than the check itself. If a check is "unavailable for return," U.C.C. 4-301(a) allows a paying bank to charge back the check by revoking its provisional settlement with the presenting bank based on a notice of dishonor or nonpayment. The Official Comment to U.C.C. 4-301 states that a check may be considered unavailable for return if, under a collecting bank check retention plan, presentment is made by a presentment notice and the check is retained by the collecting bank. Presumably, therefore, the U.C.C. would allow a paying bank to return a notice when a check has been truncated. (It is not clear whether a check would be deemed unavailable for return under the U.C.C. if the paying bank, rather than the collecting bank, retains it.)

Regulation CC (§§ 229.30(f) and 229.31(f)) establishes a "notice in lieu of return," which substitutes for the original check and carries value. The notice-in-lieu provisions of Regulation CC provide that the paying (or returning) bank must return the original check unless the check is unavailable, in which case the bank may return a notice that meets certain information requirements. The Regulation CC Commentary states that notice is permitted in lieu of return only when a bank does not have and cannot obtain possession of the check or must retain possession of the check for protest. The Commentary explains that a check is not unavailable for return if it is merely

¹ 64 FR 9105, Feb. 24, 1999.

² The paying bank must initiate the return by midnight of the banking day following the day the check was presented (U.C.C. 4-301). The paying bank must return the check so that it reaches the depository bank expeditiously, in accordance with § 229.30(a) of Regulation CC.