

than an agency being considered for funds. The order of agency assignment to the Committee will be published in a TFM Bulletin, when funds are first deposited to the Fund. Decisions of the project selection and approval committee cannot be appealed. Agencies will be notified of any available amounts in the Fund and requirements to apply for such monies through a TFM bulletin.

(c) As provided by 31 U.S.C. 3720, sums in the Fund will be available without fiscal year limitation for the payment of expenses incurred in developing improved methods of collection and deposit and the expenses incurred in carrying out collections and deposits using such methods, including the costs of personal services and the costs of the lease or purchase of equipment and operating facilities.

(d) In addition to all reports required by law and regulation, for each fiscal year during which there is a balance in Fund, the Service will prepare and publish, by the 60th day following the close of the fiscal year, a full report on payments, receipts, disbursements, balances of the Fund, and full disclosure on projects financed by the Fund.

PART 208—MANAGEMENT OF FEDERAL AGENCY DISBURSEMENTS

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AUTHORITY: 5 U.S.C. 301; 12 U.S.C. 90, 265, 266, 1767, 1789a; 31 U.S.C. 321, 3122, 3301, 3302, 3303, 3321, 3325, 3327, 3328, 3332, 3335, 3336, 6503.

SOURCE: 85 FR 25291, May 1, 2020, unless otherwise noted.

§ 208.1 Scope and application.

This part applies to all Federal payments made by an agency. Except as specified in § 208.4, this part requires payments, other than payments made

under the Internal Revenue Code of 1986, to be made by electronic funds transfer.

§ 208.2 Definitions.

The following definitions apply to this part:

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.

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.

Direct Express® card means the prepaid debit card issued to recipients of Federal benefits by a Financial Agent pursuant to requirements established by Treasury.

Disbursement means, in the context of payments delivered to Treasury-sponsored accounts, the performance of the following duties by a Financial Agent acting as agent of the United States:

(1) The establishment of an account for the recipient that meets the requirements of the Federal Deposit Insurance Corporation or the National Credit Union Administration Board for deposit or share insurance;

(2) The maintenance of such an account;

(3) The receipt of Federal payments through the Automated Clearing House system or other electronic means and crediting of Federal payments to the account; and

(4) The provision of recipient access to funds in the account on the terms specified by Treasury.

Electronic benefits transfer (EBT) means the provision of Federal benefit, wage, salary, and retirement payments electronically, through disbursement by a financial institution acting as a Financial Agent. For purposes of this part and Public Law 104–208, EBT includes, but is not limited to, disbursement through a Treasury-sponsored account or a Federal/State EBT program.

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Electronic funds transfer means any transfer of funds, other than a transaction originated by cash, check, or similar paper instrument that is initiated through an electronic terminal, telephone, computer, or magnetic tape, for the purpose of ordering, instructing, or authorizing a financial institution to debit or credit an account. The term includes, but is not limited to, Automated Clearing House transfers, Fedwire transfers, and transfers made at automated teller machines and point-of-sale terminals. For purposes of this part only, the term electronic funds transfer includes a credit card transaction.

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;
- (4) Miscellaneous payments including, but not limited to: Interagency payments; grants; loans; fees; principal, interest, and other payments related to U.S. marketable and non-marketable securities; overpayment reimbursements; and payments under Federal insurance or guarantee programs for loans; and
- (5) Payments under the Internal Revenue Code of 1986 (26 U.S.C.).

Federal/State EBT program means any program that provides access to Federal benefit, wage, salary, and retirement payments and to State-administered benefits through a single delivery system and in which Treasury designates a Financial Agent to disburse the Federal payments.

Federally-insured financial institution means any financial institution, the deposits of which are insured by the Federal Deposit Insurance Corporation under 12 U.S.C. Chapter 16 or, in the case of a credit union, the member accounts of which are insured by the National Credit Union Share Insurance Fund under 12 U.S.C. Chapter 14, Subchapter II.

Financial Agent means a financial institution that has been designated by Treasury as a Financial Agent for the provision of electronic funds transfer or EBT services under any provision of

Federal law, including 12 U.S.C. 90, 265, 266, 1767, and 1789a, and 31 U.S.C. 3122 and 3303, as amended by the Omnibus Consolidated Appropriations Act, 1997, Section 664, Public Law 104-208.

Financial institution means:

(1) 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 make application to become an insured bank under section 5 of such Act (12 U.S.C. 1815);

(2) 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 make application to become an insured bank under section 5 of such Act (12 U.S.C. 1815);

(3) 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 make application to become an insured bank under section 5 of such Act (12 U.S.C. 1815);

(4) 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 make application to become an insured credit union under section 201 of such Act (12 U.S.C. 1781);

(5) 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

(6) 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).

Individual means a natural person.

Recipient means an individual, corporation, or other public or private entity that is authorized to receive a Federal payment from an agency.

Secretary means Secretary of the Treasury.

Treasury means the United States Department of the Treasury.

Treasury-sponsored account means a Direct Express card account, a U.S. Debit Card account, or another account established pursuant to § 208.5 or § 208.11.

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U.S. Debit Card means the prepaid debit card issued to recipients of certain Federal payments by a Financial Agent pursuant to requirements established by Treasury.

§ 208.3 Payment by electronic funds transfer.

Subject to § 208.4, and notwithstanding any other provision of law, all Federal payments made by an agency shall be made by electronic funds transfer. This requirement does not apply to payments under the Internal Revenue Code of 1986.

§ 208.4 Waivers.

(a) Payment by electronic funds transfer is not required in the following cases:

(1) Where an individual:

(i) Was born prior to May 1, 1921, and was receiving payment by check on March 1, 2013;

(ii) Receives a type of payment for which Treasury does not offer delivery to a Treasury-sponsored account. In such cases, those payments are not required to be made by electronic funds transfer, unless and until such payments become eligible for deposit to a Treasury-sponsored account. However, if Treasury provides an agency with an option to begin delivering a type of Federal benefit payment to a Treasury-sponsored account, the agency must file a waiver request with Treasury to make Federal benefit payments of that type by any means other than by electronic funds transfer;

(iii) Is ineligible for a Treasury-sponsored account because of suspension or cancellation of the individual's Treasury-sponsored account by the Financial Agent;

(iv) Has filed a waiver request with Treasury certifying that payment by electronic funds transfer would impose a hardship because of the individual's inability to manage an account at a financial institution or a Treasury-sponsored account due to a mental impairment, and Treasury has not rejected the request; or

(v) Has filed a waiver request with Treasury certifying that payment by electronic funds transfer would impose a hardship because of the individual's inability to manage an account at a fi-

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ancial institution or a Treasury-sponsored account due to the individual living in a remote geographic location lacking the infrastructure to support electronic financial transactions, and Treasury has not rejected the request;

(2) Where the political, financial, or communications infrastructure in a foreign country does not support payment by electronic funds transfer;

(3) Where the payment is in a foreign currency and Treasury does not support electronic payment in that currency.

(4) Where the payment is to a recipient within an area designated by the President or an authorized agency administrator as a disaster area. This waiver is limited to payments made within 120 days after the disaster is declared. An agency must file a waiver request with Treasury (which must be approved by Treasury) to extend this waiver beyond 120 days after the disaster is declared.

(5) Where either:

(i) A military operation is designated by the Secretary of Defense in which uniformed services undertake military actions against an enemy; or

(ii) A call or order to, or retention on, active duty of members of the uniformed services is made during a war or national emergency declared by the President or Congress;

(6) Where a threat may be posed to national security, the life or physical safety of any individual may be endangered, or a law enforcement action may be compromised;

(7) Where the agency does not expect to make multiple payments to the same recipient within a one-year period on a regular, recurring basis but only if the payments are made to an individual or a small business concern where "small business concern" has the meaning given the term in section 3 of the Small Business Act at 15 U.S.C. 632 and its implementing regulations; and

(8) Where an agency's need for goods and services is of such unusual and compelling urgency that the Government would be seriously injured unless payment is made by a method other than electronic funds transfer; or, where there is only one source for goods or services and the Government

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would be seriously injured unless payment is made by a method other than electronic funds transfer. An agency must file a waiver request with Treasury (which must be approved by Treasury) to utilize this waiver.

(b) An individual who requests a waiver under paragraphs (a)(1)(iv) and (v) or an agency who requests a waiver under paragraphs (a)(1)(ii), (a)(4), or (a)(8) of this section shall provide, in writing, to Treasury a certification supporting that request, in such form that Treasury may prescribe. The individual shall attest to the certification before a notary public, or otherwise file the certification in such form that Treasury may prescribe. Treasury reserves the right to reject any waiver request it receives.

(c) If application of an agency's waiver, together with any waiver request previously granted under paragraphs (a)(1)(ii), (a)(4), or (a)(8), would, in Treasury's determination, lead to the agency initiating an unusually large number or proportion of payments by means other than electronic funds transfer, Treasury reserves the right to nullify the waiver in this class of cases and require the agency to work with Treasury to identify and implement ways to make the payments by electronic funds transfer.

[85 FR 25291, May 1, 2020, as amended at 89 FR 12960, Feb. 21, 2024; 89 FR 18543, Mar. 22, 2024]

§ 208.5 Accounts for disbursement of Federal payments.

Treasury may designate a Financial Agent to establish and administer Treasury-sponsored accounts for individuals for the disbursement of Federal payments, including benefit, retirement, salary, miscellaneous, vendor, expense reimbursement and tax payments. Such accounts may be established upon terms and conditions that the Secretary considers appropriate or necessary and shall be made available at a reasonable cost and with the same consumer protections provided to other account holders at the financial institution. Treasury may deliver payments to such accounts and the maintenance of accounts and the provision of account-related services under this section shall constitute reasonable duties

of a Financial Agent of the United States.

§ 208.6 Availability of Treasury-sponsored accounts.

An individual who receives a Federal payment shall be eligible to open a Treasury-sponsored account under terms and conditions established by Treasury.

§ 208.7 Agency responsibilities.

(a) An agency shall put into place procedures that allow recipients to provide the information necessary for the delivery of payments to the recipient by electronic funds transfer to an account at the recipient's financial institution or a Treasury-sponsored account.

(b) Upon request from Treasury, an agency shall provide Treasury with a list of the employer identification numbers (EINs) assigned to the agency that the agency has used to make or receive a Federal intragovernmental payment during the 12-month period preceding the request from Treasury as well as a list of the EINs for all Federal agencies to whom the agency has made a Federal intragovernmental payment during the same 12-month period.

[89 FR 12960, Feb. 21, 2024]

§ 208.8 Recipient responsibilities.

Each recipient who is required to receive payment by electronic funds transfer shall provide the information necessary to effect payment by electronic funds transfer. For recipients who do not designate a bank account for the receipt of payments, Treasury may disburse payments to a Treasury-sponsored account or to an account to which the recipient is receiving other Federal payments.

§ 208.9 Compliance.

(a) Treasury will monitor agencies' compliance with this part. Treasury may require agencies to provide information about their progress in converting payments to electronic funds transfer.

(b) If an agency fails to make payment by electronic funds transfer as prescribed under this part, Treasury will consider that payment to be not

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timely pursuant to 31 U.S.C. 3335, as electronic funds transfer payments are processed, disbursed, and settled more quickly than checks and, accordingly, Treasury may assess a charge to the agency pursuant to 31 U.S.C. 3335.

[85 FR 25291, May 1, 2020, as amended at 89 FR 12960, Feb. 21, 2024]

§ 208.10 Reservation of rights.

The Secretary reserves the right, in the Secretary's discretion, to waive any provision(s) of this part in any case or class of cases.

§ 208.11 Accounts for disaster victims.

Treasury may establish and administer accounts at any financial institution designated as a Financial Agent for disaster victims in order to allow for the delivery by electronic funds transfer of one or more Federal payments. Such accounts may be established upon terms and conditions that the Secretary considers appropriate or necessary in light of the circumstances. Treasury may deliver payments to these accounts notwithstanding any other payment instructions from the recipient and without regard to the requirements of §§ 208.4 and 208.7 and § 210.5 of this chapter. For purposes of this section, "disaster victim" means an individual or entity located within an emergency area, or an individual or entity that has relocated or been displaced from an emergency area as a result of a major disaster or emergency. "Emergency area" means a geographical area in which there exists an emergency or disaster declared by the President pursuant to the National Emergencies Act (50 U.S.C. 1601 *et seq.*) or the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 *et seq.*). The maintenance of accounts and the provision of account-related services under this section shall constitute reasonable duties of a Financial Agent of the United States.

PART 210—FEDERAL GOVERNMENT PARTICIPATION IN THE AUTOMATED CLEARING HOUSE

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210.2 Definitions.

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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 2021 Operating Rules & Guidelines, including Supplement #1–2021, (both incorporated by reference, see § 210.3(b)) published by