

**DEPARTMENT OF THE TREASURY****Fiscal Service****31 CFR Part 210****RIN 1510-AA93****Federal Government Participation in the Automated Clearing House****AGENCY:** Financial Management Service, Fiscal Service, Treasury.**ACTION:** Proposed rule with request for comment.

**SUMMARY:** We are proposing to amend our regulation at 31 CFR part 210, which governs the use of the Automated Clearing House (ACH) system by Federal agencies (agencies). Part 210 adopts, with some exceptions, the ACH rules (ACH Rules) developed by NACHA—The Electronic Payments Association (NACHA) as the rules governing the use of the ACH system by agencies.

The proposed rule addresses the circumstances in which checks presented or delivered to agencies may be converted to ACH debit entries. The proposed rule also addresses issues relating to the reclamation of Federal benefit payments and the receipt of misdirected Federal payments. We are requesting comment on all aspects of the proposed rule.

**DATES:** Comments on the proposed rule must be received by October 20, 2003.

**ADDRESSES:** You can download the proposed rule at the following World Wide Web address: <http://www.fms.treas.gov/ach>. You may also inspect and copy the proposed rules at: Treasury Department Library, Freedom of Information Act (FOIA) Collection, Room 1428, Main Treasury Building, 1500 Pennsylvania Ave., NW., Washington, DC 20220. Before visiting, you must call (202) 622-0990 for an appointment.

You may send comments on the proposed rule electronically to the following address:

[210comments@fms.treas.gov](mailto:210comments@fms.treas.gov). You may also mail your comments to Stephen M. Vajs, Director, Risk Management Division, Financial Management Service, U.S. Department of the Treasury, Room 423, 401 14th Street, SW., Washington, DC 20227.

**FOR FURTHER INFORMATION CONTACT:** John Galligan, Program Advisor, at (202) 874-6657 or [john.galligan@fms.treas.gov](mailto:john.galligan@fms.treas.gov); Natalie H. Diana, Senior Counsel, at (202) 874-6680 or [natalie.diana@fms.treas.gov](mailto:natalie.diana@fms.treas.gov); or Donald J. Skiles, Senior Financial Program Specialist, at (202) 874-6994 or [donald.skiles@fms.treas.gov](mailto:donald.skiles@fms.treas.gov).

**SUPPLEMENTARY INFORMATION:****I. Background**

Part 210 governs the use of the ACH system by agencies. The ACH system is a nationwide electronic fund transfer (EFT) system that provides for the inter-bank clearing of credit and debit transactions and for the exchange of information among participating financial institutions. Part 210 incorporates the ACH Rules adopted by NACHA, with certain exceptions.

We are issuing a proposed rule to amend part 210 in order to address the circumstances in which checks presented or delivered to agencies may be converted to ACH debit entries. In addition, the proposed rule amends several provisions of part 210 that address the reclamation of Federal benefit payments issued to deceased recipients and the receipt of misdirected Federal payments. We are requesting comment on the proposed rule.

**II. Summary****A. Check Conversion**

On April 11, 2002, we published a final rule that amended part 210 by permitting agencies that receive checks at points-of-purchase, dropboxes and via the mail to convert those checks to ACH debit entries. 67 FR 17895. The rule modified the ACH Rules governing check conversion to provide that presentment to an agency of a completed and signed check, following notice that the check will be converted, constitutes authorization for the conversion of the check to an ACH debit entry. The rule, which permits the conversion of both consumer and business checks, requires that agencies provide standard disclosures in connection with point-of-purchase and accounts receivable check conversion.

Since we published the final rule, we have continued to develop and implement initiatives to promote check conversion. These initiatives have demonstrated that point-of-purchase and accounts receivable check conversion can result in substantial cost-savings and efficiencies for the Federal government. However, we have identified certain barriers that our current rule poses for the wider use of check conversion by agencies. We are therefore proposing several amendments to part 210 to eliminate these barriers. The proposed amendments support the continuation of the efforts of the Financial Management Service (Service) and agencies to move to an all-electronic environment for the processing of payments and collections.

**1. Revised Accounts Receivable Disclosure**

Currently agencies that receive checks via the mail or at a dropbox may convert those checks to debit entries if the notice set forth at Appendix C to part 210 has been provided to the check writer. A number of agencies have indicated that the standard disclosure set forth in Appendix C is too lengthy to be included on many invoices and remittance documents. We recognize that there are space constraints on agency forms, which in many cases preclude the addition of several paragraphs of disclosure. We also believe that as check conversion and the use of electronic debits become more common, there is less of a need for very detailed disclosure. At the same time, it is important that consumers understand what is happening to their checks, particularly since an individual who sends a check to an agency is deemed to have authorized its conversion to an ACH debit on the basis of having been provided with prior notice of its conversion. We are requesting comment on whether the proposed disclosure strikes the appropriate balance between the need for a shorter notice and the need to ensure that consumers understand what is happening to their checks. We are also soliciting comment on whether the wording of the proposed notice is clear and understandable.

**2. Expanded Accounts Receivable Check Conversion Applications**

Currently, part 210 permits agencies to originate ACH debit entries using checks received at points-of-purchase, dropboxes and via the mail. However, agencies accept or cash checks in a broad array of circumstances that fall outside typical commercial settings, e.g., retail sales locations and lockboxes. We have been asked to address a number of situations in which agencies accept or cash checks in circumstances that do not fall within the generally understood meanings of "point-of-purchase," "dropbox," or "lockbox." For example, Army pay officers sometimes travel to remote, off-base locations in order to cash checks for soldiers. In those situations, pay officers cannot bring along the necessary equipment to scan and convert the check. Similarly, some National Park Service rangers collect park entrance fees at park entrances where check conversion equipment cannot be set up because there is not electric power or adequate enclosed and protected space. Additionally, in some situations checks are collected by agency representatives as an incident to their performance of ceremonial duties,