

inspections or other responsibilities. These individuals may not have the authority to process payments, or it may not be appropriate to process the payments when they are received in light of the nature of the circumstances. In all of these situations, it is not possible to scan and return the voided check as required under the point-of-purchase check conversion rules (31 CFR 210.6(g)), and we therefore have been asked whether these checks can be converted under the accounts receivable check conversion rules (31 CFR 210.6(h)).

It is unclear whether situations such as those described above are more in the nature of a point-of-purchase or a dropbox transaction. The ACH Rules define a Point-of-Purchase (POP) entry as a debit entry initiated pursuant to a single entry authorization and a source document, provided to the Originator¹ by the Receiver² at the point-of-purchase to effect a transfer of funds. See ACH Rule 13.1.42. When we amended 31 CFR 210.6(g) to address point-of-purchase check conversion, we stated that the term "point-of-purchase" was intended to mean "any location where an agency accepts checks as payment in connection with a contemporaneous transaction or any location where an agency cashes checks for employees or the public." 67 FR 17901.

The ACH Rules define an Accounts Receivable (ARC) entry as a "debit entry initiated pursuant to a source document provided to the Originator by the Receiver via the U.S. mail or at a dropbox location." When we amended 31 CFR 210.6(h) to address accounts receivable check conversion, we stated, "A dropbox is similar to a lockbox except that a payor delivers a payment to a dropbox in person rather than mailing the payment." 67 FR 17901.

When we amended part 210 to address check conversion, we envisioned check conversion as occurring at on-site agency locations—either agency locations where, in the usual course of business, checks are cashed or goods or services are sold (points-of-purchase) or locations where payments for accounts receivable are routinely received. We did not

necessarily intend to preclude the conversion of checks in scenarios that do not precisely fit one of these two models; rather, we had not been presented with other potential scenarios at that time.

Because it is not possible to comply with the point-of-purchase rules in converting checks in the situations discussed above, whereas it is possible to comply with the accounts receivable check conversion rules, we believe that the most reasonable approach to these situations is to treat them as accounts receivable check conversion. Under this approach, these checks would be converted using an ARC code (for consumer checks) or a Cash Concentration or Disbursement (CCD) code (for business checks), and the checks would be destroyed rather than returned to the check writer. We believe that the check writer's interests would be adequately protected by applying the accounts receivable rules because the check writer will receive prior written notice in the form of Appendix C to part 210 (with minor alterations, as appropriate) and because the physical check will be destroyed. We are requesting comment on this approach.

3. Conversion of Additional Instruments

Part 210 incorporates the restrictions imposed under ACH Rules 3.6.2 and 3.7.1 on the kinds of source documents that can be used to originate ARC and POP entries. In contrast to the ACH Rules, part 210 does permit agencies to convert business checks received at points-of-purchase, dropboxes and via the mail. However, agencies currently are not permitted to originate ACH debit entries using as a source document various other kinds of payment instruments, such as money orders, traveler's checks, certified bank checks, and credit card checks. A number of agencies routinely receive these kinds of payment instruments in addition to personal and business checks. In these instances it becomes a significant operational burden to sort these payments and process them separately. Some agencies have elected not to participate in check conversion for this reason. We are proposing to amend part 210 to eliminate the regulatory prohibition against converting to ACH debit entries certain types of payment instruments that are commonly received at lockboxes and points-of-purchase.

We recognize that there are significant operational barriers that currently prevent the conversion of money orders and similar instruments, including debit blocks or filters on the accounts on which these items are drawn. However, removing regulatory obstacles to the

conversion of these instruments will enable agencies to be positioned to convert these instruments once it becomes operationally feasible to do so without the need to undertake an additional rulemaking process. Until conversion of these instruments is possible, we may use stored item images to create paper drafts of any items returned due to debit blocks or similar mechanisms and process these drafts through the check processing system. In most cases, the use of a paper draft makes possible many of the same efficiencies as check conversion (*i.e.*, elimination of paper to process and deposit, enhanced reporting, archiving of documentation, increased speed of presentment and deposit of funds). In this regard, although we are not proposing to include U.S. Treasury checks among the items eligible for conversion, legislation currently in Congress would, if enacted, treat paper drafts created from images of U.S. Treasury checks as legally equivalent to the original checks.

We are aware that authorization issues can arise in connection with converting these instruments because an individual presenting such an item to an agency does not have authority to act with respect to the account on which the check is drawn and therefore cannot authorize conversion of the item. However, we believe that the ACH Rules incorporated in part 210 provide an adequate framework to enable a Receiver to pursue recovery of an unauthorized debit to the Receiver's account.

4. Re-Presented Check Entry Service Fees

Under the ACH Rules incorporated in part 210, agencies may use a Re-presented Check (RCK) entry to electronically re-present, via the ACH Network, a consumer check that has been returned unpaid due to insufficient funds. Some agencies that originate RCK entries also wish to use the ACH Network to collect a service fee from the issuer of the returned item. To collect such a fee, agencies must obtain the consumer's explicit authorization for the debit and must initiate a separate debit entry to the consumer's account. (Part 210 and the ACH Rules prohibit the addition of any service fee to the amount of the RCK entry.) Agencies often do not find it cost effective or customer friendly to obtain a written authorization from every check writer to collect a service fee electronically because only a small percentage of checks are returned unpaid.

Regulation E, 12 CFR part 205, is the Federal Reserve's regulation governing

¹ In an ACH debit transaction, the Originator is the person or entity originating the debit entry to the account of the payor. In the transactions discussed in this section of the notice, the Originator is the agency collecting payment.

² In an ACH debit transaction, the Receiver is the person or entity making the payment (*i.e.*, the payor) by authorizing a debit to an account. In this document, we may refer to a person or entity making a payment to a Federal agency as a payor, a Receiver, a customer, or a consumer, as appropriate.