

institution (e.g., traveler's checks, cashier's checks, official checks, money orders, etc.); and checks drawn on a state or local government. The new definition is used in proposed § 210.6(g) and (h) in order to permit agencies to use these instruments as source documents in originating ACH debit entries.

#### *Section 210.6(g)*

We are proposing to amend § 210.6(g) in order to permit the origination of ACH debit entries at agency points-of-purchase using as source documents instruments included under the new definition of "business check" set forth at proposed § 210.2(i).

#### *Section 210.6(h)*

We are proposing to revise § 210.6(h) in order to provide that agencies may originate ACH debit entries using checks that are (1) received via the mail; (2) received at a dropbox; and (3) delivered in person in circumstances in which it is impossible or impractical for the agency to image and return the check at the time the check is delivered. In all cases, the disclosure set forth at Appendix C must be provided to the Receiver before the check is delivered. In situations in which the check is being delivered in person, the disclosures must be posted or handed to the Receiver. Proposed § 210.6(h) uses the new term "business check," as defined in proposed § 210.2(i), in order to permit the conversion of certain instruments that agencies currently are not permitted to convert.

#### *Section 210.6(i)*

We are proposing to revise § 210.6(i) in order to permit agencies to originate ACH debit entries to collect one-time service fees in connection with RCK entries if prior notice of the fee is given. Section 210.6(i) would override the requirement in the ACH Rules that a Receiver authorize, in writing, the collection of a service fee and instead require that, prior to accepting the Receiver's check or source document, the agency disclose to the Receiver that a service fee may be collected. This provision does not create for agencies the authority to impose a service fee; rather, it permits an agency that has the authority to impose such a fee to collect the fee by ACH debit without a written authorization.

#### *Section 210.8(d)*

We are proposing to add a new subsection to § 210.8 in order to require an RDFI to promptly notify an agency if the RDFI becomes aware that the agency has originated an ACH credit entry to an

account that is not owned by the payee whose name appears in the ACH payment information. "Promptly" will normally mean no later than two business days after the error has come to the RDFI's attention. An RDFI that fails to provide the notice may be liable to the Federal government for loss resulting from its failure to notify the paying agency pursuant to the general liability provision of 210.11(d).

This subsection does not impose any duty on RDFIs to verify the account numbers on incoming payments against the receiver names. It does, however, require that if such an error is brought to the attention of an RDFI, the RDFI must notify the agency that originated the payment.

#### *Section 210.10*

We are proposing to revise paragraph (a) of § 210.10 to require that an RDFI use return reason code R15 (Beneficiary or Account Holder Deceased) or R14 (Representative Payee Deceased), as appropriate, to return any benefit payments received after the RDFI becomes aware of the death of a recipient or beneficiary. We are also proposing to add a sentence stating that the use of an R15 or R14 code will satisfy the RDFI's obligation to notify the agency after learning of the death of a recipient or beneficiary from a source other than notice from the agency.

We are proposing to revise § 210.10(c) to provide that an RDFI is not liable for a benefit payment received after the death of a recipient or beneficiary if the agency that certified the disbursement of the payment determines that the recipient or beneficiary is entitled to the post-death payment. It is the responsibility of the agency certifying the payment to make a determination regarding its legal obligation or authority to recover a post-death benefit payment. The Service will act in accordance with the agency's direction, as set forth at § 210.9(b). ("In processing reclamations pursuant to this subpart, the Service shall act pursuant to the direction of the agency that certified the benefit payment(s) being reclaimed.")

We are proposing to revise § 210.10(d) in order to amend the limitation on the age of payments that an agency may reclaim. Section 210.10(d) currently prohibits, subject to one exception, an agency from reclaiming any post-death or post-incapacity payment made more than six years prior to the most recent payment made by the agency to the recipient's account. Proposed § 210.10(d) would prohibit agencies from reclaiming any payment that was made more than seven years prior to the date of the notice of reclamation. The

only exception to this limitation would be in a situation in which the account balance exceeds the total amount of the payments that the agency would otherwise be permitted to reclaim.

Additional wording changes have been made to proposed § 210.10(d). The first sentence of § 210.10(d) currently provides that an agency must initiate a reclamation within 120 calendar days after it receives notice of the death or legal incapacity of a recipient or death of a beneficiary. We are proposing to revise the wording of that sentence in order to provide that the 120 day period begins when an agency receives "actual or constructive knowledge" of the death or legal incapacity. This is the standard to which financial institutions are subject as a condition of limiting their liability for a reclamation under § 210.11. In addition, the second sentence of proposed § 210.10(d)(1) has been reworded in order to make it more clear that a notice of reclamation applies only to the type of payments which are the subject of the notice, and does not preclude reclamation actions by other agencies that may have issued payments to the recipient or by the same agency with respect to a different type of payment issued to the recipient. For example, the Social Security Administration issues two different types of benefit payments: Social Security Federal Old-Age, Survivors, and Disability Insurance (SSA) payments and Supplemental Security Income (SSI) payments. Some recipients receive both of these types of benefit payments. A notice of reclamation regarding SSA payments is separate from, and does not affect the potential liability of a financial institution under, a notice of reclamation for SSI payments issued to the same recipient.

#### *Section 210.11*

We are proposing to revise § 210.11 to limit the information that an RDFI is required to provide in order to limit its liability in a reclamation. First, the information regarding withdrawers and co-owners is limited to the name and address of these individuals. Second, the information is to be provided only in cases involving the reclamation of Social Security Federal Old-Age, Survivors, and Disability Insurance benefit payments, or benefit payments certified by the Railroad Retirement Board or Department of Veterans' Affairs.

#### *Section 210.13*

We are proposing to revise § 210.13 to provide that an RDFI must promptly (rather than "immediately," as currently