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to payments under the Internal Revenue Code of 1986 (26 U.S.C.).

§ 208.2 Definitions.

(a) *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.

(b) *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.

(c) *Disbursement* means, in the context of electronic benefits transfer, 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 access to funds in the account on the terms specified by Treasury.

(d) *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, EBT includes disbursement through an ETASSM and through a Federal/State EBT program.

(e) *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,

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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.

(f) *ETASSM* means the Treasury-designated electronic transfer account made available by a Federally-insured financial institution acting as a Financial Agent in accordance with § 208.5 of this part.

(g) *Federal payment* means any payment made by an agency.

(1) The term includes, but is not limited to:

(i) Federal wage, salary, and retirement payments;

(ii) Vendor and expense reimbursement payments;

(iii) Benefit payments; and

(iv) 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.

(2) For purposes of this part only, the term "Federal payment" does not apply to payments under the Internal Revenue Code of 1986 (26 U.S.C.).

(h) *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.

(i) *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.

(j) *Financial Agent* means a financial institution that has been designated by Treasury as a Financial Agent for the provision of 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

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Omnibus Consolidated Appropriations Act, 1997, Section 664, Public Law 104-208.

(k) *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).

(l) *Individual* means a natural person.

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

(n) *Secretary* means Secretary of the Treasury.

(o) *Treasury* means the United States Department of the Treasury.

§ 208.3 Payment by electronic funds transfer.

Subject to § 208.4, and notwithstanding any other provision of law, effective January 2, 1999, all Federal pay-

ments made by an agency shall be made by electronic funds transfer.

§ 208.4 Waivers.

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

(a) Where an individual determines, in his or her sole discretion, that payment by electronic funds transfer would impose a hardship due to a physical or mental disability or a geographic, language, or literacy barrier, or would impose a financial hardship. In addition, the requirement to receive payment by electronic funds transfer is automatically waived for all individuals who do not have an account with a financial institution and who are eligible to open an ETASM under § 208.5, until such date as the Secretary determines that the ETASM is available;

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

(c) 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;

(d) Where either:

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

(2) 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;

(e) 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;

(f) Where the agency does not expect to make more than one payment to the same recipient within a one-year period, i.e., the payment is non-recurring, and the cost of making the payment via electronic funds transfer exceeds the cost of making the payment by check; and

(g) Where an agency's need for goods and services is of such unusual and compelling urgency that the Government would be seriously injured unless