

Fiscal Service, Treasury

§210.8

received via the mail or at a dropbox, or that is delivered in person in circumstances in which the agency cannot contemporaneously image and return the check. The notice and authorization requirements of ACH Rules 2.1.4 and 3.6.1 shall be met for an ARC entry only if an agency has provided the Receiver with the disclosure set forth at appendix C to this part.

(2) Conversion of business checks. An agency may originate an ACH debit using a business check that is received via the mail or at a dropbox, or that is delivered in person in circumstances in which the agency cannot contemporaneously image and return the check. The agency shall use the CCD SEC code for such entries, which shall be deemed to meet the requirements of ACH Rule 2.1.2 if the agency has provided the disclosure set forth at appendix C to this part. For purposes of ACH Rules 3.10 and 4.1.1, authorization shall

(i) *Returned item service fee.* An agency may originate an ACH debit entry to collect a one-time service fee in connection with an ACH debit entry originated pursuant to paragraph (g) or (h) of this section that is returned due to insufficient funds. An entry originated pursuant to this paragraph shall meet the requirements of ACH Rules 2.1.2 and 3.4 if the agency has complied with the disclosure requirements of paragraph (g) or (h), as appropriate. For purposes of ACH Rule 3.10 and 4.1.1, authorization shall consist of a copy of the notice provided under paragraph (g) or (h), as applicable, and a copy of the Receiver's source document.

[64 FR 17487, Apr. 9, 1999, as amended at 67 FR 17903, Apr. 11, 2002; 69 FR 13189, Mar. 19, 2004]

§210.7 Federal Reserve Banks.

(a) *Fiscal Agents.* Each Federal Reserve Bank serves as Fiscal Agent of the Treasury in carrying out its duties as the Federal Government's ACH Operator under this part. As Fiscal Agent, each Federal Reserve Bank shall be responsible only to the Treasury and not to any other party for any loss resulting from the Federal Reserve Bank's action, notwithstanding Section 11.5 and Article 8 of the ACH Rules. Each Federal Reserve Bank may issue operating circulars not inconsistent with

this part which shall be binding on financial institutions.

(b) *Routing numbers.* All routing numbers issued by a Federal Reserve Bank to an agency require the prior approval of the Service.

§210.8 Financial institutions.

(a) *Status as a Treasury depository.* The origination or receipt of an entry subject to this part does not render a financial institution a Treasury depository. A financial institution shall not advertise itself as a Treasury depository on such basis.

(b) *Liability.* Notwithstanding ACH Rules 2.2.3, 2.4.5, 2.5.2, 4.2, and 7.7.2, if the Federal Government sustains a loss as a result of a financial institution's failure to handle an entry in accordance with this part, the financial institution shall be liable to the Federal Government for the loss, up to the amount of the entry, except as otherwise provided in this section. A financial institution shall not be liable to any third party for any loss or damage resulting directly or indirectly from an agency's error or omission in originating an entry. Nothing in this section shall affect any obligation or liability of a financial institution under Regulation E, 12 CFR part 205, or the Electronic Funds Transfer Act, 12 U.S.C. 1693 *et seq.*

(1) An ODFI that transmits a debit entry to an agency without the prior written or similarly authenticated authorization of the agency, shall be liable to the Federal Government for the amount of the transaction, plus interest. The Service may collect such funds using procedures established in the applicable ACH Rules or by instructing a Federal Reserve Bank to debit the ODFI's account at the Federal Reserve Bank or the account of its designated correspondent. The interest charge shall be at a rate equal to the Federal funds rate plus two percent, and shall be assessed for each calendar day, from the day the Treasury General Account (TGA) was debited to the day the TGA is recredited with the full amount due.

(2) An RDFI that accepts an authorization in violation of §210.4(a) shall be liable to the Federal Government for all credits or debits made in reliance on the authorization. An RDFI that