

### § 240.3

(y) *Person* means an individual, institution, including a financial institution, or any other type of entity; the singular includes the plural.

(z) *Presenting bank* means:

(1) A financial institution which, either directly or through a correspondent banking relationship, presents checks to and receives provisional credit from a Federal Reserve Bank; or

(2) A depository which is authorized to charge checks directly to Treasury's General Account and present them to Treasury for payment through a designated Federal Reserve Bank.

(aa) *Provisional credit* means the initial credit provided to a presenting bank by a Federal Reserve Bank. Provisional credit may be reversed by Treasury until the completion of first examination or final payment is deemed made pursuant to § 240.6(d).

(bb) *Reasonable efforts* means, at a minimum, verifying the existence of the Treasury watermark on an original check. Based upon the facts at hand, including whether a check is an original check, a substitute check or an electronic check, reasonable efforts may require the verification of other security features.

(cc) *Reclamation* means a demand for the amount of a check for which Treasury has requested an immediate refund.

(dd) *Reclamation date* means the date on which a reclamation is issued by Treasury. Normally, demands are sent to presenting banks or other indorsers within two business days of the reclamation date.

(ee) *Reclamation debt* means the amount owed as a result of Treasury's demand for refund of a check payment, and includes interest, penalties and administrative costs assessed in accordance with § 240.8.

(ff) *Reclamation debtor* means a presenting bank or other indorser of a check from whom Treasury has demanded a refund in accordance with §§ 240.8 and 240.9. The reclamation debtor does not include a presenting bank or other indorser who may be liable for a reclamation debt, but from which Treasury has not demanded a refund.

(gg) *Recurring benefit payment* includes but is not limited to a payment

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of money for any Federal Government entitlement program or annuity.

(hh) *Substitute check* means a paper reproduction of a check drawn on the United States Treasury that meets the definitional requirements set forth at 12 CFR 229.2(aaa).

(ii) *Treasury* means the United States Department of the Treasury, or when authorized, an agent designated by the Secretary of the Treasury or his delegee.

(jj) *Treasury Check Offset* means the collection of an amount owed by a presenting bank in accordance with 31 U.S.C. 3712(e).

(kk) *Truncate* means to remove a paper check from the forward collection or return process and send to a recipient, in lieu of such paper check, a substitute check or an electronic check.

(ll) *U.S. securities* means securities of the United States and securities of Federal agencies and Government corporations for which Treasury acts as the transfer agent.

(mm) *Writing* includes electronic communications when specifically authorized by Treasury in implementing instructions.

### § 240.3 Electronic checks and substitute checks.

(a) *Legal equivalence of electronic checks.* An electronic check for which a presenting bank has provided the guarantees described in § 240.4 is the legal equivalent of an original or substitute check for purposes of this part if the electronic check accurately represents all of the information on the front and back of the check that the presenting bank truncated. If a financial institution presents an electronic check for payment and the check is subject to return, Treasury may effect the return using an electronic check, but this part does not create any right for the presenting bank to return the check to the payee or any other person using an electronic check.

(b) *Safekeeping of original checks.* Any financial institution that creates a substitute check or electronic check shall prevent unauthorized access to the original or substitute check that was truncated by storing the check,

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until it is destroyed, in a manner consistent with federal banking agency guidelines for safeguarding customer information.

### § 240.4 Presentment guarantees.

The guarantors of a check presented to the Treasury for payment are deemed to guarantee to the Treasury all of the following:

(a) *Indorsements.* That all prior indorsements are genuine, whether or not an express guarantee is placed on the check. When the first indorsement has been made by one other than the payee personally, the presenting bank and the indorsers are deemed to guarantee to the Treasury, in addition to other guarantees, that the person who so indorsed had unqualified capacity and authority to indorse the check on behalf of the payee.

(b) *Alterations.* That the check has not been materially altered.

(c) *Drawer's signature.* That the guarantors have no knowledge that the signature of the drawer is forged or unauthorized.

(d) *Authenticity.* That the guarantors have made all reasonable efforts to ensure that a check is an authentic Treasury check, not a counterfeit check.

(e) *Electronic check.* If the check is an electronic check, that—

(1) The check accurately represents all of the information on the front and back of the original or substitute check that was truncated and meets the technical requirements for sending electronic items to a Federal Reserve Bank as set forth in the Federal Reserve Banks' operating circulars;

(2) Treasury will not receive presentment of, or otherwise be charged for, the electronic check, the original check, or a substitute check (or a paper or electronic reproduction of any of the foregoing) such that Treasury will be asked to make payment based on a check it already has paid; and

(3) Treasury's receipt of the electronic check instead of the original or substitute check will not result in the loss of Treasury's ability to determine whether the check contains a material defect or alteration.

(f) *Substitute check.* If the check is a substitute check, that the guarantors

make the warranties set forth at 12 CFR 229.52(a)(1) and (2) and the indemnity set forth at 12 CFR 229.53.

### § 240.5 Limitations on payment; cancellation and distribution of proceeds of checks.

(a) *Limitations on payment.*

(1) Treasury shall not be required to pay any check that is not negotiated to a financial institution within 12 months after the date on which the check was issued.

(2) All checks shall bear a legend, stating "Void After One Year." The legend is notice to payees and indorsers of a general limitation on the payment of checks. The legend, or the inadvertent lack thereof, does not limit, or otherwise affect, the rights of Treasury under the law.

(b) *Cancellation and distribution of proceeds of checks.*

(1) Any check that has not been paid and remains outstanding for more than 12 months after the issue date will be canceled by Treasury.

(2) The proceeds from checks canceled pursuant to paragraph (b)(1) of this section will be returned to the payment certifying or authorizing agency for ultimate credit to the appropriation or fund account initially charged for the payment.

(3) On a monthly basis, Treasury will provide to each agency that authorizes the issuance of checks a list of those checks issued for such agency which were canceled during the preceding month pursuant to paragraph (b)(1) of this section.

### § 240.6 Provisional credit; first examination; declination; final payment.

(a) Any credit issued by a Federal Reserve Bank to a financial institution shall be a provisional credit until Treasury completes first examination of the check, or as provided in paragraph (d) of this section.

(b) Treasury shall have the right as a drawee to complete first examination of checks presented for payment, to reconcile checks, and, when appropriate, to make a declination on any check.

(c) Treasury will decline payment on a check when first examination by Treasury establishes that: