

checks are issued and recite that it is not given to carry into effect an assignment of the right to receive payment, either to the attorney-in-fact or to any other person. A special power of attorney is not effective for purposes of negotiating checks issued after the payee is determined to be incompetent, unless the payee has indicated that the special power of attorney is to: (1) Remain effective following a determination that the principal is incompetent (a durable special power of attorney); or (2) become effective following a determination that the principal is incompetent (a springing durable special power of attorney). In no instance may a special power of attorney be used as the basis for negotiation of a check drawn on the United States Treasury more than six months after a determination that the principal is incompetent.

FMS Form 234—Specific Power of Attorney (Corporation). This general power of attorney form may be executed by a corporation to authorize the indorsement by an attorney-in-fact for the classes of payments listed under FMS Form 231. When authority is given to an officer of the corporation to execute a power of attorney authorizing a third person to indorse and collect checks drawn on the United States Treasury in the name of the corporation, the power of attorney on FMS Form 234 should be accompanied by FMS Form 235 (Resolution by Corporation Conferring Authority Upon an Officer to Execute a Power of Attorney for the Collection of Checks Drawn on the Treasurer of the United States), executed by the officer authorized herein to execute such a power.

FMS Form 236—Specific Power of Attorney (Corporation). This specific power of attorney form may be executed by a corporation to authorize the indorsement by an attorney-in-fact of any class of check drawn on the United States Treasury. To be valid, the form must be executed after the issuance of the check and must describe the check in full, including the check serial and symbol numbers, date of issue, amount, and name of the payee. When authority is given to an officer of the corporation to execute a power of attorney authorizing a third person to indorse and collect checks drawn on the United States Treasury in the name of the corporation, the power of attorney on FMS Form 236 should be accompanied by FMS Form 235 (Resolution by Corporation Conferring Authority Upon an Officer to Execute a Power of Attorney for the Collection of Checks Drawn on the Treasurer of the United States), executed by the officer authorized herein to execute such a power.

PART 245—CLAIMS ON ACCOUNT OF TREASURY CHECKS

Sec.

- 245.1 Introductory.
- 245.2 Definitions.
- 245.3 Time limit for check claims.
- 245.4 Advice of nonreceipt or loss.
- 245.5 Recertification of payment.
- 245.6 Claim by an indorser.
- 245.7 Check status inquiry.
- 245.8 Receipt or recovery of original check.
- 245.9 Procedural instructions.
- 245.10 Performance of functions of the Commissioner.

AUTHORITY: R.S. 3646, as amended; 31 U.S.C. 3328; 31 U.S.C. 3331.

SOURCE: 54 FR 35647, Aug. 29, 1989, unless otherwise noted.

§ 245.1 Introductory.

This part governs the issuance of replacement checks for checks drawn on the United States Treasury, when

(a) The original check has been lost, stolen, destroyed or mutilated or defaced to such an extent that it is rendered non-negotiable;

(b) The original check has been negotiated and paid on a forged or unauthorized indorsement, and

(c) The original check has been cancelled pursuant to §204.4 of this chapter.

§ 245.2 Definitions.

For purposes of this part:

(a) *Agency* means each authority of the United States for which the Treasury of the United States issues checks or for which checks drawn on the Treasury of the United States are issued.

(b) *Check* means a check drawn on the United States Treasury.

(c) *Certifying Agency* means an agency for whom a Treasury disbursing officer or a non-Treasury disbursing officer makes payment in accordance with 31 U.S.C. 3325. The responsibilities of a certifying official are set forth at 31 U.S.C. 3528.

(d) *Commissioner* means the Commissioner of the Financial Management Service, Department of the Treasury, 401 14th Street, SW., Washington, DC 20227.

Fiscal Service, Treasury

§ 245.10

(e) *Person* means an individual, a partnership, a corporation, a labor organization, a government or a subdivision or instrumentality thereof, and any other entity to which a check may be issued.

(f) *Replacement check* means a check issued pursuant to the recertification of payment by a certifying official.

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

§ 245.3 Time limit for check claims.

(a) Any claim on account of a Treasury check must be presented to the agency that authorized the issuance of such check within one year after the date of issuance of the check or within one year after October 1, 1989, whichever is later.

(b) Any claim by an indorser under § 245.6 will be considered timely if presented to the Commissioner within one year after the date of issuance of the check or within one year after October 1, 1989, whichever is later.

(c) Nothing in this subsection affects the underlying obligation of the United States, or any agency thereof, for which a Treasury check was issued.

§ 245.4 Advice of nonreceipt or loss.

(a) In the event of the nonreceipt, loss or destruction of a check drawn on the United States Treasury, or the mutilation or defacement of such a check to an extent which renders it nonnegotiable, the claimant should immediately notify the agency that authorized the issuance of such check, describing the check, stating the purpose for which it was issued and giving, if possible, its date, amount, Treasury symbol and number.

(b) In cases involving mutilated or defaced checks, the claimant should enclose the mutilated or defaced check with his communication to the agency.

§ 245.5 Recertification of payment.

Upon receipt of a claim concerning the nonreceipt, loss, destruction, mutilation or defacement of a check, or the cancellation of a check pursuant to § 240.4 of this chapter, the certifying agency may certify a new payment.

§ 245.6 Claim by an indorser.

When one or more Treasury checks are lost, stolen or destroyed in a single incident while in the possession of a person to whom the checks have been negotiated by the payee, and if the checks have not been paid, the Commissioner may issue a replacement check to the person to whom the checks had been negotiated.

§ 245.7 Check status inquiry.

The Commissioner will provide the status and a copy of the check if available, upon request, to the agency which authorized the issuance of the check.

§ 245.8 Receipt or recovery of original check.

(a) If the original check is received or recovered by the claimant after he has requested the agency to issue a replacement check, but before a replacement check has been received, he should immediately advise the agency and hold such check until receipt of instructions with respect to the negotiability of such check.

(b) If the original check is received or recovered by the claimant after a replacement check has been received by him, the original shall not be cashed, but shall be forwarded immediately to the agency that authorized the issuance of such check. Under no circumstances should both the original and replacement checks be cashed.

§ 245.9 Procedural instructions.

The Commissioner of the Financial Management Service may issue procedural instructions, implementing these regulations, in Volume I, Part 4 of the Treasury Financial Manual.

§ 245.10 Performance of functions of the Commissioner.

The Commissioner of the Financial Management Services may authorize any officer of the Treasury Department to perform any of his functions under this part and to redelegate such authority within such limits as the Commissioner may prescribe.

(Approved by the Office of Management and Budget under control number 1510-0058)