

## Fiscal Service, Treasury

## § 208.11

that Treasury may prescribe. The individual shall attest to the certification before a notary public, or otherwise file the certification in such form that Treasury may prescribe.

[63 FR 51502, Sept. 25, 1998, as amended at 75 FR 80334, Dec. 22, 2010]

### § 208.5 Availability of the ETA<sup>SM</sup>.

An individual who receives a Federal benefit, wage, salary, or retirement payment shall be eligible to open an ETA<sup>SM</sup> at any Federally-insured financial institution that offers ETAs<sup>SM</sup>. Any Federally-insured financial institution shall be eligible, but not required, to offer ETAs<sup>SM</sup> as Treasury's Financial Agent. A Federally-insured financial institution that elects to offer ETAs<sup>SM</sup> shall, upon entering into an ETA<sup>SM</sup> Financial Agency Agreement with the Treasury, be designated as Treasury's Financial Agent for the offering of the account pursuant to Public Law 104-208. Treasury shall make publicly available required attributes for ETAs<sup>SM</sup> and any ETA<sup>SM</sup> offered by a Federally-insured financial institution shall comply with such requirements. The offering of an ETA<sup>SM</sup> shall constitute the provision of EBT services within the meaning of Public Law 104-208.

### § 208.6 Availability of the Direct Express<sup>®</sup> Card.

An individual who receives a Federal benefit, wage, salary, or retirement payment shall be eligible to open a Direct Express<sup>®</sup> card account. The offering of a Direct Express<sup>®</sup> card account shall constitute the provision of EBT services within the meaning of Public Law 104-208.

[75 FR 80335, Dec. 22, 2010]

### § 208.7 Agency responsibilities.

An agency shall put into place procedures that allow recipients to provide the information necessary for the delivery of payments to the recipient by electronic funds transfer to an account at the recipient's financial institution or a Direct Express<sup>®</sup> card account.

[75 FR 80335, Dec. 22, 2010]

### § 208.8 Recipient responsibilities.

Each recipient who is required to receive payment by electronic funds transfer shall provide the information necessary to effect payment by electronic funds transfer.

[75 FR 80335, Dec. 22, 2010]

### § 208.9 Compliance.

(a) Treasury will monitor agencies' compliance with this part. Treasury may require agencies to provide information about their progress in converting payments to electronic funds transfer.

(b) If an agency fails to make payment by electronic funds transfer, as prescribed under this part, Treasury may assess a charge to the agency pursuant to 31 U.S.C. 3335.

### § 208.10 Reservation of rights.

The Secretary reserves the right, in the Secretary's discretion, to waive any provision(s) of this regulation in any case or class of cases.

### § 208.11 Accounts for disaster victims.

Treasury may establish and administer accounts at any financial institution designated as a financial agent for disaster victims in order to allow for the delivery by electronic funds transfer of one or more Federal payments. Such accounts may be established upon terms and conditions that the Secretary considers appropriate or necessary in light of the circumstances. Treasury may deliver payments to these accounts notwithstanding any other payment instructions from the recipient and without regard to the requirements of §§ 208.4 and 208.7 of this part and § 210.5 of this chapter. For purposes of this section, "disaster victim" means an individual or entity located within an emergency area, or an individual or entity that has relocated or been displaced from an emergency area as a result of a major disaster or emergency. "Emergency area" means a geographical area in which there exists an emergency or disaster declared by the President pursuant to the National Emergencies Act (50 U.S.C. 1601 *et seq.*) or the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 *et seq.*). The maintenance of

accounts and the provision of account-related services under this section shall constitute reasonable duties of a financial agent of the United States.

[71 FR 44585, Aug. 7, 2006, as amended at 75 FR 80335, Dec. 22, 2010]

## PART 210—FEDERAL GOVERNMENT PARTICIPATION IN THE AUTOMATED CLEARING HOUSE

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AUTHORITY: 5 U.S.C. 5525; 12 U.S.C. 391; 31 U.S.C. 321, 3301, 3302, 3321, 3332, 3335, and 3720.

SOURCE: 64 FR 17487, Apr. 9, 1999, unless otherwise noted.

#### § 210.1 Scope; relation to other regulations.

This part governs all entries and entry data originated or received by an agency through the Automated Clearing House (ACH) network, except as provided in paragraphs (a) and (b) of this section. This part also governs reclamations of benefit payments.

(a) Federal tax payments received by the Federal Government through the ACH system that are governed by part 203 of this title shall not be subject to any provision of this part that is inconsistent with part 203.

(b) ACH credit or debit entries for the purchase of, or payment of principal and interest on, United States securities that are governed by part 370 of this title shall not be subject to any

provision of this part that is inconsistent with part 370.

#### § 210.2 Definitions.

For purposes of this part, the following definitions apply. Any term that is not defined in this part shall have the meaning set forth in the ACH Rules.

(a) *ACH Rules* means the Operating Rules and the Operating Guidelines published by NACHA—The Electronic Payments Association (NACHA), a national association of regional member clearing house associations, ACH Operators and participating financial institutions located in the United States.

(b) *Actual or constructive knowledge*, when used in reference to an RDFI's knowledge of the death or legal incapacity of a recipient or death of a beneficiary, means that the RDFI received information, by whatever means, of the death or incapacity and has had a reasonable opportunity to act on such information or that the RDFI would have learned of the death or incapacity if it had followed commercially reasonable business practices.

(c) *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. The term agency does not include a Federal Reserve Bank.

(d) *Applicable ACH Rules* means the ACH Rules with an effective date on or before September 18, 2009, as published in Parts IV, V and VII of the “2009 ACH Rules: A Complete Guide to Rules & Regulations Governing the ACH Network” (incorporated by reference, §210.3) except:

(1) ACH Rule 1.1 (limiting the applicability of the ACH Rules to members of an ACH association);

(2) ACH Rule 1.2.2 (governing claims for compensation);

(3) ACH Rules 1.2.4 and 2.2.1.12; Appendix Eight; and Appendix Eleven (governing the enforcement of the ACH Rules, including self-audit requirements);

(4) ACH Rules 2.2.1.10; 2.6; and 4.8 (governing the reclamation of benefit payments);