

the matters raised by the NPR. As such, the FDIC is extending the comment period for the NPR from February 21, 2023, to April 7, 2023.

Federal Deposit Insurance Corporation.

Dated at Washington, DC, on January 27, 2023.

**James P. Sheesley,**

*Assistant Executive Secretary.*

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## DEPARTMENT OF THE TREASURY

### Bureau of the Fiscal Service

#### 31 CFR Part 240

#### RIN 1530-AA22

### Indorsement and Payment of Checks Drawn on the United States Treasury

**AGENCY:** Bureau of the Fiscal Service, Treasury.

**ACTION:** Notice of proposed rulemaking with request for comment.

**SUMMARY:** The Bureau of the Fiscal Service (Fiscal Service) at the Department of the Treasury (Treasury) is proposing to amend its regulations governing the payment of checks drawn on the United States Treasury. Specifically, to prevent Treasury checks from being negotiated after cancellation by Treasury or a payment certifying agency—also known as payments over cancellation (POCs)—Fiscal Service is proposing amendments that would require financial institutions use the Treasury Check Verification System (TCVS), or other similar authorized system, to verify that Treasury checks are both authentic and valid. This proposal also contains conforming amendments, including the addition of a definition of “cancellation” or “canceled.” Finally, the proposal would amend the reasons for which a Federal Reserve Bank must decline payment of a Treasury check to include prior cancellation of the check, so that Fiscal Service may place what is commonly referred to as a “true stop” on a Treasury check and avoid a POC.

**DATES:** Comments on the proposed rule must be received by April 3, 2023.

**ADDRESSES:** Comments on this proposed rule, identified by docket FISCAL-2021-0001, should only be submitted using the following methods:

- *Federal eRulemaking Portal:* [www.regulations.gov](http://www.regulations.gov). Follow the instructions on the website for submitting comments.
- *Mail:* Department of the Treasury, Bureau of the Fiscal Service, Attn: Gary

Swasey, Director, Post Payment Modernization Division, 13000 Townsend Rd., Philadelphia, PA 19154.

The fax and email methods of submitting comments on rules to Fiscal Service have been decommissioned.

**Instructions:** All submissions received must include the agency name (Bureau of the Fiscal Service) and docket number FISCAL-2021-0001 for this rulemaking. In general, comments received will be published on [regulations.gov](http://regulations.gov) without change, including any business or personal information provided. Comments received, including attachments and other supporting materials, are part of the public record and subject to public disclosure. Do not include any information in your comment or supporting materials that you consider confidential or inappropriate for public disclosure. In accordance with the U.S. government’s eRulemaking Initiative, Fiscal Service publishes rulemaking information on [www.regulations.gov](http://www.regulations.gov). [Regulations.gov](http://Regulations.gov) offers the public the ability to comment on, search, and view publicly available rulemaking materials, including comments received on rules.

**FOR FURTHER INFORMATION CONTACT:** Gary Swasey, Director, Post Payment Modernization Division, at (215) 516-8145 or [gary.swasey@fiscal.treasury.gov](mailto:gary.swasey@fiscal.treasury.gov); or Thomas Kearns, Senior Counsel, at (202) 874-6680 or [thomas.kearns@fiscal.treasury.gov](mailto:thomas.kearns@fiscal.treasury.gov).

#### SUPPLEMENTARY INFORMATION:

##### I. Background

Currently, when either Treasury or a payment certifying agency puts a “stop payment” (or “check stop”) on a Treasury check to cancel it, the canceled check may still be negotiated, which leads to a POC. POCs are improper payments that amount to approximately \$98 million each year. Resolving POCs also costs the Federal Government approximately \$1.3 million each year.

Financial institutions often have access to real-time or same-day check verification information to ensure that non-Treasury checks have not been canceled, and soon this will be the case for Treasury checks as well. Fiscal Service’s Treasury Check Verification System (TCVS) provides verification information for Treasury checks, but currently TCVS has a one-day lag. However, Fiscal Service expects to complete enhancements to TCVS that will allow same-day verification by mid-2023.

TCVS is available at no cost to financial institutions, either for single-item use via a free online web portal or for bulk verification of Treasury checks

via an Application Programming Interface (API). TCVS verifies the authenticity of a Treasury check using the check symbol and serial number (*i.e.*, the 4-digit and 8-digit components, respectively, that together comprise a unique Treasury check number), check date, and payment amount.

Use of TCVS is currently optional. At present, Treasury procedures charge back POCs to the certifying agency, so banks have little incentive to use TCVS to avoid POCs. Only approximately 40% of all Treasury checks are run through TCVS before being negotiated.

After enhancements to Treasury’s systems have been implemented and same-day Treasury check verification is functional, Fiscal Service proposes requiring that a financial institution use its check verification system when negotiating a Treasury check if the financial institution is to avoid liability for accepting a Treasury check that has been canceled. Financial institutions will be notified via a communication from the Federal Reserve’s Customer Relations Support Office, **Federal Register** notice, and/or other appropriate means at least 30 days prior to the date that enhanced TCVS will become available for use and this requirement becomes effective.

Under existing rules, financial institutions are required to use “reasonable efforts” to ensure that a Treasury check is authentic (*i.e.*, not counterfeit) and also are responsible if they accept a Treasury check that has been previously negotiated, but they are not required to ensure that a Treasury check has not been canceled. The definition of “reasonable efforts” found in 31 CFR 240.2 does not currently include a requirement to use Treasury’s check verification system to ensure that a Treasury check is valid (*i.e.*, a payable instrument that has not been canceled and meets the criteria for negotiability). Fiscal Service proposes revising the definition of “reasonable efforts” to include this verification process.

Requiring a financial institution to use TCVS (or a subsequent check verification system built to carry out the same function) has several benefits. It will greatly reduce POCs, as it will allow certifying agencies to place a “true stop” on a Treasury check. It will also help financial institutions reduce instances where a Treasury check (or an item purporting to be a Treasury check) is charged back to the financial institution, by allowing the financial institution to verify that the Treasury check is not counterfeit, that the amount has not been altered, and that the check is not stale-dated (*i.e.*, more than twelve months past the date of issuance and

thus no longer negotiable). Use of Treasury's check verification system will also help financial institutions avoid liability by reducing instances where a financial institution accepts a Treasury check that has been previously negotiated. However, because Treasury often is not informed immediately that a Treasury check has been negotiated, the enhanced check verification system will not eliminate acceptance of duplicate presentations entirely. (The enhancements to TCVS expected in mid-2023 will allow TCVS to provide information on negotiated Treasury checks on the same day Fiscal Service receives that information, but will not speed up Treasury's receipt of that information.) In some cases, TCVS may not have information to provide before the financial institution that accepted the duplicate presentation makes funds available, which it typically does no later than the next business day. As a practical matter, though, often the second presentation of a Treasury check does not occur until after Treasury's records have been updated. In this instance, use of TCVS will allow the financial institution to avoid liability by declining the previously negotiated Treasury check when it is presented.

Additionally, although the required usage of Treasury's check verification system will be limited to verifying the check symbol and check serial numbers, the payment amount, and the negotiation status of the check (e.g., valid, cashed, canceled), the enhanced system may eventually allow for the optional verification of other check information, such as the payee name and ZIP code. These capabilities will better enable financial institutions to identify Treasury checks that have been altered, or counterfeit checks that purport to be Treasury checks, and thus help financial institutions avoid liability for accepting such checks that are not valid.

## II. Summary of Proposed Rule Changes

### A. Amendment to the Definition of, and Guarantee Regarding, "Reasonable Efforts"

Part 240 currently includes a presentment guarantee, made by the guarantor of a check presented to Treasury for payment, that the guarantor has made all reasonable efforts to ensure that the check is an authentic Treasury check and not a counterfeit check. The current definition of "reasonable efforts" focuses on the watermark and/or other security features of a security check, to ensure that the Treasury check is authentic and not counterfeit. We propose to amend the definition of

"reasonable efforts" to include verifying not only the Treasury check's authenticity, but also the check's validity, by requiring use of Treasury's check verification system to ensure that the check has not been canceled. Exceptions to this requirement would exist where Treasury's check verification system is not operating and is thus unavailable.

A corresponding amendment to the presentment guarantees found in the regulations would change the guarantee of Treasury check's authenticity to include a presentment guarantee regarding the check's validity as well, as described below.

### B. Adding a Definition of "Validity"

Currently, part 240 does not define "validity." We propose adding a definition of "validity" or "valid check."

The proposed definition describes a valid Treasury check as a payable instrument (i.e., not a counterfeit check, as defined in the existing regulations) that meets the criteria for negotiability (i.e., it has not been previously negotiated or canceled). A corresponding amendment to the presentment guarantees would add a new presentment guarantee regarding the check's validity.

### C. Adding a Definition of "Cancellation" or "Canceled"

Currently, part 240 does not define "cancellation" or "canceled" with regard to a Treasury check. We propose adding a definition of "cancellation" or "canceled."

This definition describes a canceled Treasury check as one that was once a valid and negotiable instrument, but is no longer due to a reason other than the Treasury check's negotiation. A Treasury check may be canceled because it has limited payability (i.e., it is older than one year past its issuance date and thus stale-dated), or because Treasury or the certifying agency has placed a "stop payment" (as defined below) on it.

### D. Adding a Definition of "Stop Payment"

Currently, the regulations do not define a "stop payment" with regard to a Treasury check. We propose adding a definition of this term.

This proposed definition describes the situation where Treasury or the certifying agency has indicated in its systems that an authentic Treasury check should not be paid. Reasons for issuing a stop payment on a Treasury check include that the Treasury check has been reported lost or stolen, it has

been issued to a deceased payee, or it was discovered to be improper. Once a stop payment has been placed on a Treasury check, the check has been canceled and is no longer a valid Treasury check (even though it is an authentic Treasury check).

### E. Amendment to the Processing of Checks, Declination, and the Reasons for Refusal

Current Treasury regulations require that a Federal Reserve Bank cash a Treasury check presented to it, except in certain circumstances where the Federal Reserve Bank must instead refuse to pay the Treasury check. The check must be refused if (1) the check bears a material defect or alteration, (2) the check was presented more than one year later than the check's date of issuance, or (3) the Federal Reserve Bank has been notified by Treasury, pursuant to Treasury regulations, that a check was issued to a deceased payee. We propose adding a fourth circumstance in which a Federal Reserve Bank must refuse to pay a Treasury check: if the Federal Reserve Bank has been notified by Treasury that a Treasury check is not valid.

As noted above, under the proposed definition, a Treasury check is not valid if the Treasury check is counterfeit, previously negotiated, or canceled.

A corresponding amendment to the regulation regarding Treasury's right of first refusal will include the instruction for Treasury to decline payment of a Treasury check when Treasury is being requested to make payment on a check that is not valid.

The Fiscal Service invites comments on the proposed regulation to require financial institutions to verify that a Treasury check has not been canceled, to prevent payments over cancellation (POCs). We invite commenters' views on all aspects of the proposed rule, which would permit Treasury to place a "true stop" on Treasury checks to avoid POCs, including whether the proposed definitions (e.g., "reasonable efforts" "cancellation" "canceled" "valid") are reasonable and appropriate.

## III. Section-by-Section Analysis

### A. Section 240.2—Definitions

We propose to amend the definitions section of part 240, found at 31 CFR 240.2, by removing the lettering within that section (the list letters (a), (b), (c), etc.), and simply listing the terms in alphabetical order within the section. This comports with the Office of the Federal Register's recommendation for a list of definitions found in regulations, as stated in Section 2–13 of the Document Drafting Handbook. This

change also removes the need to re-letter the list of definitions when new definitions are added to the list.

For the reasons set forth above, we propose amending § 240.2 to revise the definition of “reasonable efforts”; add the definition of “cancellation” or “canceled”; add the definition of “stop payment” or “check stop” or “stop”; and add the definition of “validity” or “valid check.” These four definitions are the only substantive changes to the rule’s definitions section; the other terms are listed without substantive change, for purposes of removing the lettering system only, as described above.

These proposed new definitions and amendments to existing definitions will help effectuate and clarify the requirement for financial institutions to use Treasury’s check verification system when negotiating Treasury checks in order to avoid liability for accepting a Treasury check that is not valid due to cancellation. They will allow help effectuate and clarify that the use of Treasury’s check verification system will assist financial institutions in avoiding liability for accepting Treasury checks that have already been negotiated or have been altered, as well as for accepting counterfeit checks that purport to be Treasury checks.

#### *B. Section 240.4—Presentment Guarantees*

We propose amending the presentment guarantees to include a guarantee that the guarantor has made reasonable efforts to ensure that the check is an authentic Treasury check and that it is valid at the time of acceptance.

#### *C. Section 240.6—Provisional Credit; First Examination; Declination; Final Payment*

We propose amending the reasons that Treasury will decline a Treasury check upon first examination to include the fact that the check has been canceled, in addition to when the check has already been paid.

#### *D. Section 240.12—Processing of Checks*

We propose amending the reasons that a Federal Reserve Bank must refuse payment of a Treasury check to include circumstances where the Federal Reserve Bank has been notified that the Treasury check has been canceled or is otherwise not valid.

### **IV. Procedural Analysis**

#### *Request for Comment on Plain Language*

Executive Order 12866 requires each agency in the Executive branch to write regulations that are simple and easy to

understand. We invite comment on how to make the proposed rule clearer. For example, you may wish to discuss: (1) whether we have organized the material to suit your needs; (2) whether the requirements of the rule are clear; or (3) whether there is something else we could do to make the rule easier to understand.

#### *Regulatory Planning and Review*

The proposed rule does not meet the criteria for a “significant regulatory action” as defined in Executive Order 12866. Therefore, the regulatory review procedures contained therein do not apply.

#### *Regulatory Flexibility Act Analysis*

It is hereby certified that the proposed rule will not have a significant economic impact on a substantial number of small entities. The proposed rule could potentially impose a significant additional burden or cost on three to seven small entities, out of a total of approximately 8,000 financial institutions that qualify as small entities.

The proposed rule only adds a simple query to the list of reasonable steps that banks take when determining the validity of a Treasury check. Treasury offers a free verification tool for bulk verification of Treasury checks via an Application Programming Interface (API) or for single-item use via a free online web portal. Use of the web portal requires no purchase of special equipment by financial institutions and requires only a standard internet connection. Banks should be able to complete a single-check search using this free web portal in approximately 30 seconds to one minute per search. An analysis of the 100 largest FDIC-insured institutions under \$600 million in assets and the 100 largest federally insured credit unions under \$600 million in assets shows that all but one of these financial institutions accepted fewer than 9,500 Treasury checks in 2020. The median for these 200 institutions was approximately 2,974 Treasury checks cashed in 2020, and the average was approximately 3,105. At an estimated 30 seconds per verification, 3,105 items would amount to approximately 26 staff hours per year. Congress has stated, by means of example, that additional recordkeeping requirements of 175 staff hours per year would constitute a significant impact on a small business entity. See 126 Cong. Rec. part 16, S10,938 (Aug. 6, 1980). Even assuming a full minute for the use of the TCVS web portal to query an individual Treasury check, these figures are well below the 10,500 checks that it would

take to constitute 175 staff hours in a year (and the 21,000 checks needed with 30-second searches).

Additionally, an analysis of all the approximately 9,000 financial institutions that negotiated Treasury checks in 2020 shows that only 325 of them negotiated over 21,000 Treasury checks. Of those 325, only three are identifiable as small businesses with assets under \$600 million. Even using the one-minute allotment for each use of the Treasury web portal, which translates into 10,500 negotiated Treasury checks, this figure increases to just seven small financial institutions (*i.e.*, those with assets under \$600 million) receiving more than that number of Treasury checks.

Finally, it is worth noting that at approximately 90.3 million checks, Treasury check volume in 2020 was considerably higher than for other recent years, largely due to an increased quantity of check payments made under the Coronavirus Aid, Relief, and Economic Security (CARES) Act. By means of comparison, in the previous three calendar years (2019, 2018, and 2017), Treasury issued 54.2 million, 55.9 million, and 58.4 million Treasury checks, respectively. In years with fewer Treasury checks issued, it is reasonable to expect that financial institutions will be presented with a correspondingly lower Treasury check volume. Treasury estimates that with the possible exception of three to seven entities as mentioned above, financial institutions considered small entities will spend substantially fewer than 175 staff hours per year verifying the validity of Treasury checks through the manual use of TCVS; smaller financial institutions that receive fewer Treasury checks would likely spend significantly less time. Additionally, any financial institution manually processing a large enough quantity of Treasury checks that it might experience a significant economic impact, due to the staff-hours required for such manual processing, would have the option instead to use an API to access Treasury’s check verification system for use with bulk files. As with manual access, bulk access to the verification tool is free of charge to financial institutions.

Treasury anticipates that no more than three to seven small financial institutions, out of approximately 8,000 such entities, may potentially be subject to a significant impact as a result of this proposed rule. This translates into substantially less than 1% of all small financial institutions (between 0.04% and 0.1%). Thus, the proposed rule will not have a significant impact on a substantial number of small financial

institutions. Accordingly, a regulatory flexibility analysis under the Regulatory Flexibility Act (5 U.S.C. 601 et seq.) is not required. Treasury invites comments on the potential impacts this proposed rule would have on small entities.

#### *Unfunded Mandates Act of 1995*

Section 202 of the Unfunded Mandates Reform Act of 1995, 2 U.S.C. 1532 (Unfunded Mandates Act), requires that the agency prepare a budgetary impact statement before promulgating any rule likely to result in a Federal mandate that may result in the expenditure by State, local, and tribal governments, in the aggregate, or by the private sector, of \$100 million or more in any one year. If a budgetary impact statement is required, section 205 of the Unfunded Mandates Act also requires the agency to identify and consider a reasonable number of regulatory alternatives before promulgating the rule. We have determined that the proposed rule will not result in expenditures by State, local, and tribal governments, in the aggregate, or by the private sector, of \$100 million or more in any one year. Accordingly, we have not prepared a budgetary impact statement or specifically addressed any regulatory alternatives.

#### **List of Subjects in 31 CFR Part 240**

Authenticity, Canceled, Cancellation, Check, Check stop, Declination, Financial institutions, Presentment, Presentment guarantees, Processing, Reasonable efforts, Stop, Treasury check, Treasury check verification system, Valid check, Validity, Verification.

For the reasons set out in the preamble, the Bureau of the Fiscal Service proposes to amend 31 CFR part 240 as follows:

#### **PART 240—INDORSEMENT AND PAYMENT OF CHECKS DRAWN ON THE UNITED STATES TREASURY**

■ 1. The authority citation for part 240 continues to read as follows:

**Authority:** 5 U.S.C. 301; 12 U.S.C. 391; 31 U.S.C. 321, 3327, 3328, 3331, 3334, 3343, 3711, 3712, 3716, 3717; 33 U.S.C. 234 (1947); 318 U.S.C. 363 (1943).

■ 2. Revise § 240.2 to read as follows:

##### **§ 240.2 Definitions.**

*Administrative offset* or *offset*, for purposes of this section, has the same meaning as defined in 31 U.S.C. 3701(a)(1) and 31 CFR part 285.

*Agency* means any agency, department, instrumentality, office, commission, board, service, or other establishment of the United States

authorized to issue Treasury checks or for which checks drawn on the United States Treasury are issued.

*Cancellation* or *canceled* means that a Treasury check is no longer a valid instrument, due to the one-year limitation on negotiability and payment described in § 240.5(a), or the placement of a stop payment on the check by Treasury or the certifying agency.

*Certifying agency* means an agency authorizing the issuance of a payment by a disbursing official in accordance with 31 U.S.C. 3325.

*Check* or *checks* means an original check or checks; an electronic check or checks; or a substitute check or checks.

*Check payment* means the amount paid to a presenting bank by a Federal Reserve Bank.

*Counterfeit check* means a document that purports to be an authentic check drawn on the United States Treasury, but in fact is not an authentic check.

*Days* means calendar days. For purposes of computation, the last day of the period will be included unless it is a Saturday, Sunday, or Federal holiday; the first day is not included. For example, if a reclamation was issued on July 1, the 90-day protest period under § 240.9(b) would begin on July 2. If the 90th day fell on a Saturday, Sunday or Federal holiday, the protest would be accepted if received on the next business day.

*Declination* means the process by which Treasury refuses to make final payment on a check, *i.e.*, declines payment, by instructing a Federal Reserve Bank to reverse its provisional credit to a presenting bank.

*Declination date* means the date on which the declination is issued by Treasury.

*Disbursing official* means an official, including an official of the Department of the Treasury, the Department of Defense, any Government corporation (as defined in 31 U.S.C. 9101), or any official of the United States designated by the Secretary of the Treasury, authorized to disburse public money pursuant to 31 U.S.C. 3321 or another law.

*Drawer's signature* means the signature of a disbursing official placed on the front of a Treasury check as the drawer of the check.

*Electronic check* means an electronic image of a check drawn on the United States Treasury, together with information describing that check, that meets the technical requirements for sending electronic items to a Federal Reserve Bank as set forth in the Federal Reserve Banks' operating circulars.

*Federal Reserve Bank* means a Federal Reserve Bank or a branch of a Federal Reserve Bank.

*Federal Reserve Processing Center* means a Federal Reserve Bank center that images Treasury checks for archiving check information and transmitting such information to Treasury.

*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 financial institution outside of the United States if it has been designated by the Secretary of the Treasury as a depository of public money and has been permitted to charge checks to the General Account of the United States Treasury.

*First examination* means Treasury's initial review of a check that has been presented for payment. The initial review procedures, which establish the authenticity and integrity of a check presented to Treasury for payment, may include reconciliation; retrieval and inspection of the check or the best available image thereof; and other procedures Treasury deems appropriate to specific circumstances.

*Forged or unauthorized drawer's signature* means a drawer's signature that has been placed on the front of a Treasury check by a person other than:

- (1) A disbursing official; or
- (2) A person authorized to sign on behalf of a disbursing official.

*Forged or unauthorized indorsement* means:

- (1) An indorsement of the payee’s name by another person who is not authorized to sign for the payee; or
- (2) An indorsement of the payee’s name made by another person who has been authorized by the payee, but who has not indorsed the check in accordance with § 240.4 and §§ 240.13 through 240.17; or
- (3) An indorsement added by a financial institution where the financial institution had no authority to supply the indorsement; or
- (4) A check bearing an altered payee name that is indorsed using the payee name as altered.

*Guarantor* means a financial institution that presents a check for payment and any prior indorser(s) of a check.

*Master Account* means the record of financial rights and obligations of an account holder and the Federal Reserve Bank with respect to each other, where opening, intraday, and closing balances are determined.

*Material defect or alteration* means:

- (1) The counterfeiting of a check; or
- (2) Any physical change on a check, including, but not limited to, a change in the amount, date, payee name, or other identifying information printed on the front or back of the check (but not including a forged or unauthorized drawer’s signature); or
- (3) Any forged or unauthorized indorsement appearing on the back of the check.

*Minor* means the term minor as defined under applicable State law.

*Monthly statement* means a statement prepared by Treasury which includes the following information regarding each outstanding reclamation:

- (1) The reclamation date;
- (2) The reclamation number;
- (3) Check identifying information; and
- (4) The balance due, including interest, penalties, and administrative costs.

*Original check* means the first paper check drawn on the United States Treasury with respect to a particular payment transaction.

*Payee* means the person that the certifying agency designated to receive payment pursuant to 31 U.S.C. 3528.

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

*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.

*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).

*Reasonable efforts* means, at a minimum, confirming the validity of a check, using Treasury’s check verification system or other similar authorized system, whenever such system is available, as well as the authenticity of the check such as by verifying the existence of the Treasury watermark on an original check. Acceptance of a check by electronic image or other non-physical means does not impact reasonable efforts requirements. 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.

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

*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.

*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.

*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.

*Recurring benefit payment* includes but is not limited to a payment of money for any Federal Government entitlement program or annuity.

*Stop payment* means that Treasury or a certifying agency has indicated that a Treasury check should not be paid and instead should be canceled. A stop payment could be placed on a Treasury check for reasons including that the

check was reported lost or stolen; the check was determined to have been issued improperly; the payee was deceased prior to the issuance of the check; or any other allowable reason.

*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).

*Treasury* means the United States Department of the Treasury, or when authorized, an agent designated by the Secretary of the Treasury or their delegatee.

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

*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.

*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.

*Validity or valid check* means an authentic Treasury check that is a payable instrument and has not been previously negotiated or canceled.

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

■ 3. Amend § 240.4 by revising paragraph (d) to read as follows:

**§ 240.4 Presentment guarantees.**

\* \* \* \* \*

(d) *Authenticity and Validity.* That the guarantors have made all reasonable efforts to ensure that a check is both an authentic Treasury check (*i.e.*, it is not a counterfeit check) and a valid Treasury check (*i.e.*, it has not been previously negotiated or canceled).

\* \* \* \* \*

■ 4. Amend § 240.6 by revising paragraph (c)(3) to read as follows:

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

\* \* \* \* \*

(c) \* \* \*

(3) Treasury has already received presentment of a substitute check, electronic check, or original check relating to the check being presented, such that Treasury is being requested to make payment on a check it has already paid; or Treasury is being requested to make payment on a check that is not valid due to a stop payment or other cancellation.

\* \* \* \* \*

■ 5. Amend § 240.12 by revising paragraphs (a)(1)(ii) and (iii), and adding paragraph (a)(1)(iv) to read as follows:

**§ 240.12 Processing of checks.**

(a) \* \* \*

(1) \* \* \*

(ii) A check was issued more than one year prior to the date of presentment;

(iii) The Federal Reserve Bank has been notified by Treasury, in accordance with § 240.15(c), that a check was issued to a deceased payee; or

(iv) The Federal Reserve Bank has been notified by Treasury that a check is not valid.

\* \* \* \* \*

**David A. Lebryk,**

*Fiscal Assistant Secretary.*

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**BILLING CODE 4810-AS-P**

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**POSTAL REGULATORY COMMISSION**

**39 CFR Part 3050**

[Docket Nos. RM2023-1; RM2023-3; Order No. 6430]

**Periodic Reporting**

**AGENCY:** Postal Regulatory Commission.

**ACTION:** Order denying request and notice of proposed rulemaking.

**SUMMARY:** The Commission is acknowledging a recent filing requesting the Commission consider a motion for reconsideration or, in the alternative, petition regarding appropriate analytical principles for retiree health benefit costs. This document informs the public of the filing, invites public comment, and takes other administrative steps.

**DATES:** *Comments are due:* February 8, 2023.

**ADDRESSES:** Submit comments electronically via the Commission's Filing Online system at <http://www.prc.gov>. Those who cannot submit comments electronically should contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section by telephone for advice on filing alternatives.

**FOR FURTHER INFORMATION CONTACT:** David A. Trissell, General Counsel, at 202-789-6820.

**SUPPLEMENTARY INFORMATION:**

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**I. Introduction**

On December 9, 2022, the Commission issued Order No. 6363, which, in relevant part, identified how the accepted analytical principles would apply to the treatment of retiree health benefit normal costs in fiscal year (FY) 2022.<sup>1</sup> The Commission stated that should any party “desire the Commission rely on a different analytical principle with regard to the . . . normal cost payments . . . , [it] may petition the Commission for a change pursuant to 39 [CFR] part 3050.” Order No. 6363 at 11. On December 19, 2022, the National Postal Policy Council, the Alliance of Nonprofit Mailers, the American Catalog Mailers Association, the Association for Postal Commerce, the Major Mailers Association, the National Association of Presort Mailers, and N/MA—The News/Media Alliance (Mailers) filed a motion requesting reconsideration of Order No. 6363, or in the alternative, adoption of a petition to change the analytical principles applied to the FY 2022 retiree health benefit normal costs.<sup>2</sup> For the reasons discussed below, the Commission reaffirms the applicable findings in Order No. 6363 and provides notice of its intent to consider the Mailers' petition to change the analytical principles applied to the FY 2022 retiree health benefit normal costs.

**II. Background**

In its annual periodic reports to the Commission, the Postal Service is permitted to use only accepted analytical principles. 39 CFR 3050.10. Accepted analytical principles refer to the analytical principles that were applied by the Commission in its most recent Annual Compliance

<sup>1</sup> Docket No. RM2023-1, Order Granting Petition, In Part, for Reconsideration, December 9, 2022, at 10 (Order No. 6363). The Postal Service has separately appealed Order No. 6363. See *U.S. Postal Serv. v. Postal Regul. Comm'n*, No. 23-1003 (D.C. Cir. Jan. 6, 2023), ECF Document No. 1980503, at 1-3.

<sup>2</sup> Docket Nos. RM2023-1 and RM2023-3, Motion for Reconsideration or, in the Alternative, Petition to Initiate a Proceeding Regarding the Appropriate Analytical Principle for Retiree Health Benefit Normal Costs, December 19, 2022 (Mailers' Motion and Petition). The Mailers initially designated their petition as Proposal Eight. In Order No. 6382, the Commission redesignated the petition as NPPC et al. Proposal One to distinguish it from proposals initiated by the Postal Service. Docket Nos. RM2023-1 and RM2023-3, Order Granting Motion for Extension of Time, December 21, 2022, at 2 n.2 (Order No. 6382). This change continues to be reflected in the caption for Docket No. RM2023-3 and is how the Commission will reference the Mailers' petition in this proceeding.

Determination (ACD) unless different analytical principles subsequently were accepted by the Commission in a final rule. 39 CFR 3050.1(a).

Retiree health benefit normal costs represent the present value of the estimated retiree health benefits attributable to active employees' current year of service.<sup>3</sup> Between FY 2017 and FY 2021, the Postal Service was required to pay retiree health benefit normal costs and amortization payments for the unfunded portion of the Postal Service Retiree Health Benefit Fund (PSRHBF) obligation as calculated by the Office of Personnel Management (OPM).<sup>4</sup> On April 6, 2022, President Joseph Biden signed the Postal Service Reform Act (PSRA) into law.<sup>5</sup> Section 102 of the PSRA repealed former 5 U.S.C. 8909a(d), thus eliminating the required annual retiree health benefit payments. Under the requirements of the PSRA, the Postal Service will instead be required to pay into the PSRHBF for current retiree health care costs equal to the excess of the cost of annual claims over premiums. The Postal Service will not, however, be required to make these payments until OPM computes whether “top up” payments are due (which will occur not later than June 30, 2026) or the PSRHBF is exhausted. Thus, no retiree health benefit payments were due in FY 2022.

After several letters and filings concerning how the Postal Service should address the changed retiree health benefit payment requirements (in addition to other changes to costs) caused by the PSRA,<sup>6</sup> the Commission

<sup>3</sup> Docket No. ACR2021, *Financial Analysis of United States Postal Service Financial Results and 10-K Statement*, May 18, 2022, at 7 n.9.

<sup>4</sup> Former 5 U.S.C. 8909a(d)(3)(B). As explained in detail in Section IV.A., *infra*, these requirements replaced different retiree health benefit funding requirements that were in place between FY 2007 and FY 2016.

<sup>5</sup> Postal Service Reform Act of 2022, Public Law 117-108, 136 Stat. 1127 (2022).

<sup>6</sup> See Letter from Richard T. Cooper, Managing Counsel, Corporate and Postal Business Law to Erica A. Barker, Secretary and Chief Administrative Officer, August 12, 2022, available at <https://www.prc.gov/docs/122/122469/Ltr%20re%20PSRA%20Effects%20ACR%20CRA.pdf>; Letter from Erica A. Barker, Secretary and Chief Administrative Officer to Richard T. Cooper, Managing Counsel, Corporate and Postal Business Law, October 7, 2022, available at <https://www.prc.gov/docs/123/123096/Response%20Letter.pdf>; Docket No. RM2023-1, Petition for Reconsideration and Initiation of Proceeding, November 4, 2022; Letter to Erica A. Barker, Secretary and Chief Administrative Officer, October 13, 2022, styled Motion for Reconsideration of Response to the Postal Service's Proposed Changes to Accepted Analytical Principles, available at [https://www.prc.gov/docs/123/123145/Motion%20for%20Reconsideration\\_PropChange\\_.pdf](https://www.prc.gov/docs/123/123145/Motion%20for%20Reconsideration_PropChange_.pdf); Docket No. RM2023-1, Response of the United States Postal Service in Opposition to GCA Petition

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