

Fiscal Service, Treasury

§ 240.9

§ 240.8 Offset.

(a) If an item, and/or accrued interest relating to that item, remains unpaid for 120 days after the reclamation date and the presenting bank has been sent at least one monthly interest billing statement informing it that Treasury intends to collect that item by offset, Treasury may refer the matter to any Federal agency and request that agency to offset the indebtedness and other applicable charges against amounts otherwise owed by the Federal agency to the presenting bank. Monthly interest billing statements will be annotated to identify those specific items that are to be referred to an agency for offset.

(b) If a bank wishes to make payment on an item referred to an agency for offset, it should contact Treasury at the address listed in § 240.7(b) to reduce the possibility of a double collection. If an agency to which an indebtedness is referred in accordance with this paragraph is unable to effect offset in whole or in part, Treasury may then refer the debt to any other agency and request offset in accordance with this paragraph. Treasury designates each agency acting under this paragraph as its designee for the sole purpose of effecting offset. No such designee shall be liable to any party for any loss resulting from its action under this paragraph.

(c) If Treasury is unable to collect an amount owed by use of the offset described in paragraph (a) of this section, Treasury shall take such action against the presenting bank as may be necessary to protect the interests of the United States, including referral to the Department of Justice.

(d) If Treasury effects offset under this section and it is later determined that the presenting bank paid the amount of the reclamation and accrued interest thereon, or that a presenting bank which had timely filed a protest was not liable for the amount of the reclamation, Treasury shall promptly refund to the presenting bank the amount of its payment.

§ 240.9 Processing of checks.

(a) *Federal Reserve Banks.* (1) Federal Reserve Banks shall cash checks for Government disbursing officers when

such checks are drawn by the disbursing officers to their own order. Payment of such checks shall not be refused except for alteration or counterfeiting of the check, or forged signature of the drawer.

(2) Federal Reserve Banks shall not be expected to cash Government checks presented directly to them by the general public.

(3) As a depository of public funds, each Federal Reserve Bank shall:

(i) Receive checks from its member banks, nonmember clearing banks, or other depositors, when indorsed by such banks or depositors who guarantee all prior indorsements thereon;

(ii) Give immediate credit therefore in accordance with their current Time Schedules and charge the amount of the checks cashed or otherwise received to the account of the Treasury, subject to examination and payment by the United States Treasury;

(iii) Forward payment records and copies of checks to Treasury; and

(iv) Release the original checks to a designated Federal Records Center upon notification from Treasury. The Treasury shall return to the forwarding Federal Reserve Bank a photocopy of any check the payment of which is refused upon first examination. Federal Reserve Banks shall give immediate credit therefor in the United States Treasury's account, thereby reversing the previous charge to the account for such check. The Treasury authorizes each Federal Reserve Bank to release the original check to the endorser when payment is refused in accordance with § 240.3(a).

(b) *Depositaries outside of the mainland of the United States.* Banks outside of the mainland of the United States designated as depositaries of public money and permitted to charge checks to the General Account of the United States Treasury shall be governed by the operating instructions contained in the letter of authorization to them from Treasury and shall assume the obligations of presenting banks set forth in §§ 240.5 and 240.6. Checks charged to the General Account of the United States Treasury along with the supporting credit voucher shall be shipped to the Federal Reserve Bank of Richmond.

§ 240.10

The Treasury shall return to the presenting depository bank a photocopy of any check the payment of which is refused upon first examination. The depository bank shall give immediate credit therefor in the General Account of the United States Treasury, thereby reversing the previous charge to the Account for such check. Treasury authorizes the Federal Reserve Bank of Richmond to return to the presenting depository bank the original check when payment is refused in accordance with § 240.3(a).

§ 240.10 Release of original checks.

An original check may be released to a responsible indorser upon receipt of a properly authorized request showing the reason it is required and that the request is in conformity with all applicable law including the Privacy Act.

INDORSEMENT OF CHECKS

§ 240.11 Indorsement by payees.

(a) *General requirements.* Checks shall be indorsed by the payee or payees named, or by another on behalf of such payees as set forth in this part.

(b) *Checks indorsed by the payee or payees named.* When a check is indorsed by the payee or payees named, the forms of indorsement shall conform to those recognized by general principles of law and commercial usage for negotiation, transfer or collection of negotiable instruments.

(c) *Checks indorsed by another on behalf of the named payee or payees—(1) Acceptable indorsement.* The only acceptable indorsement of a check by another on behalf of the named payee or payees (except when a check is indorsed by a financial institution under the payee's or payees' authorization) is one which indicates that the person indorsing is doing so on behalf of the named payee or payees. Such an acceptable indorsement shall include the signature of the indorser and sufficient wording to indicate that the indorser is indorsing on behalf of the named payee or payees, pursuant to authority expressly conferred by or under law or other regulation. An example would be: "John Jones by Mary Jones." This example states the minimum indication acceptable. However, §§ 240.12(a)(1),

31 CFR Ch. II (7-1-01 Edition)

240.13(a)(1), and 240.15(d) specify the addition of an indication in specified situations of the actual capacity in which the person other than the named payee is indorsing. Checks indorsed "for collection" or "for deposit only to the credit of the within named payee or payees," are acceptable without any signature. However, in the absence of a signature, the presenting bank will be deemed to guarantee its good title to such checks to all subsequent indorsers and to Treasury.

(2) *Unacceptable indorsement.* The indorsement by another on behalf of the named payee or payees, which consists of the name(s) of the payee(s), whether as purported signature(s) or otherwise, and *not* the signature of the person other than named payee or payees indorsing the check, regardless of the relationship between the indorser and the named payee or payees, will be rebuttably presumed to be a forgery and is unacceptable. The indorsement by a person who purports to indorse for the named payee(s) with an indorsement consisting of the name(s) of the payee(s), whether as purported signature(s) or otherwise, and the indorsing person's signature and no indication of the indorsing person's representative capacity, will create a rebuttable presumption that the indorsing person was not authorized to indorse for the named payee(s). In these circumstances it is the responsibility of the individual or institution accepting a check from a person other than the named payee(s) to determine that such person is authorized and has the capacity to indorse and negotiate the check. Evidence of the basis for such a determination may be required by the Treasury in the event of a dispute.

(d) *Indorsement of checks by a financial institution under the payee's authorization.* When a check is credited by a financial institution to the payee's account under the payee's or payees' authorization, the financial institution may use an indorsement substantially as follows: "Credit to the account of the within-named payee in accordance with the payee's or payees' instructions, XYZ." A financial institution using this form of indorsement will be deemed to guarantee to all subsequent indorsers and to the Treasury that it is