US Treasury Checks: What you need to know

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US Treasury Checks: What do I need to know?

- Presentment Guarantees
  - 31 CFR 240.4
  - Reg CC 229.10

- Next day availability requirement
  - Reg CC 229.10

- Exempt from Expeditious Return requirements
  - Reg CC 229.42

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

(a) Indorsements- all indorsements are genuine
(b) Alterations- the check has not been materially altered
(c) Drawer’s Signature- no knowledge that the signature is forged or unauthorized
(d) Authenticity- that “reasonable efforts” have been made to ensure the Treasury check is authentic

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

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. 31CFR 240.2
How Can I Verify a US Treasury Check?

Treasury Check Information System

- Tcva.fiscal.treasury.gov/ibi_apps/WFServlet

US Treasury Check Security Features


https://tcva.fiscal.treasury.gov/ibi_apps/WFServlet
31 CFR 240.4 Presentment Guarantees: Electronic Check

(e) 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.
Returned Check Warranties 229.34(d)

Each paying bank or returning bank that transfers a returned check and receives a settlement or other consideration for it warrants to the transferee returning bank, to any subsequent returning bank, to the depositary bank, and to the owner of the check, that—

(i) The paying bank, or in the case of a check payable by a bank and payable through another bank, the bank by which the check is payable, returned the check within its deadline under the UCC or §229.31(g) of this part.

(2) These warranties are not made with respect to checks drawn on the Treasury of the United States, U.S. Postal Service money orders, or checks drawn on a state or a unit of general local government that are not payable through or at a bank.

Next Day Availability Reg CC 229.10(c)

Certain Check Deposits

General rule. A depositary bank shall make funds deposited in an account by check available for withdrawal not later than the business day after the banking day on which the funds are deposited, in the case of—

(i) A check drawn on the Treasury of the United States and deposited in an account held by a payee of the check;

(ii) A U.S. Postal Service money order deposited in an account held by a payee of the money order;

(iv) A check drawn by a state or a unit of general local government and deposited in an account held by a payee of the check in a depositary bank located in the state that issued the check, or the same state as the unit of general local government that issued the check.
Deposit Review: what and why?

Indorsement: Presentment Guaranty: 31 CFR 240.2
- Multiple payees?
- Payee present?
- Payee Identification?
- Credited to payee’s account?

What kind of check? Availability: Reg CC 229.10-13
- Personal or payroll?
- Cashier’s Check?
- Treasury/Gov’t check?

Altered? Presentment Guaranty: 31 CFR 240.2
- Washed?
- Different inks and handwriting?
- Character and legal amounts match?

Payee account relationship
- Chargeback risk

UCC 3-204: Indorsement

(a) "Indorsement" means a signature, other than that of a signer as maker, drawer, or acceptor, that alone or accompanied by other words is made on an instrument for the purpose of:
(i) negotiating the instrument,
(ii) restricting payment of the instrument
(iii) Incurring indorser’s liability for the instrument

If the payee’s name is misspelled, can it still be negotiated?
- (d) If an instrument is payable to a holder under a name that is not the name of the holder, indorsement may be made by the holder in the name stated in the instrument or in the holder’s name or both, but signature in both names may be required by a person paying or taking the instrument for value or collection.
Types of Indorsements

- **Special**: Scarlett O'Hara, pay to Ashley Wilkes
- **Blank**: Scarlett O'Hara
- **Anomalous**: Rhett Butler, CFO
- **Restrictive**: Scarlett O'Hara, for mobile deposit only

UCC 3-110 Multiple Payees

(d) If an instrument is payable to two or more persons **alternatively**, it is payable to any of them and may be negotiated, discharged, or enforced by any or all of them in possession of the instrument.

For example: **Payable to Scarlett O'Hara or Melanie Hamilton**

If an instrument is payable to two or more persons **not alternatively**, it is payable to all of them and may be negotiated, discharged, or enforced only by all of them.

For example: **Payable to Scarlett O'Hara and Rhett Butler**

If an instrument payable to two or more persons is ambiguous as to whether it is payable to the persons alternatively, the instrument is payable to the persons alternatively.

For example: **Payable to Stuart Tarleton, Brent Tarleton, Ashley Wilkes, Rhett Butler**

Absence of the word or symbol “and” implies “OR”
Indorsement Risk Considerations

Restrictive?
- Ensure check is negotiated according to the terms of the indorsement
  - For Deposit Only
  - Deposited into appropriate account

Multiple Payees?
- Ensure all Payees’ indorsements are present
- Ensure credit is provided to all Payees
  - i.e. Joint account

Special?
- Ensure all Payee indorsements

To Whom is the check payable?

- Captain Von Trapp and Maria T. Nun
- Max Detweiler or T. Baroness
- Liesl Von Trapp/Kurt VonTrapp/Gretl Von Trapp
- Marta Von Trapp, Brigitta Von Trapp, Louisa Von Trapp, Kurt Von Trapp
  - Both
  - Either
  - Any
What happens when a Guarantee is breached?

If the bank breaches a guarantee under 31 CFR section 240.4, the Treasury has a remedy under 31 C.F.R. section 240.8, including the right to reclaim the amount of the check from any guarantor for approximately one year from the date the check is processed for payment by a Federal Reserve processing Center.

Reclamation Procedures 31 CFR 240.9

(1) Treasury will send a “NOTICE OF DIRECT DEBIT (RECLAMATION)” to the reclamation debtor in accordance with § 240.8(a). This notice will advise the reclamation debtor of the amount demanded and the reason for the demand. Treasury will provide notice to the reclamation debtor that:

(i) If the reclamation debt is not paid within 30 days after the reclamation date, Treasury intends to collect the amount outstanding by instructing the appropriate Federal Reserve Bank to debit on the 31st day the Master Account used by the reclamation debtor. The Federal Reserve Bank will provide advice of the debit to the reclamation debtor.
Reclamation Protests 31 CFR 240.9

(ii) The reclamation debtor has an opportunity to inspect and copy Treasury's records with respect to the reclamation debt;

(iii) The reclamation debtor may, by filing a protest in accordance with 240.9(b), request Treasury to review its decision that the reclamation debtor is liable for the reclamation debt. If such a protest is filed within 30 days after the reclamation date, Treasury will not instruct the appropriate Federal Reserve Bank to debit the Master Account used by the reclamation debtor while the protest is still pending.

See full text for more info at https://www.law.cornell.edu/cfr/text/31/240.9
RDC BOFD Risk

No physical review, but the guarantees remain the obligation of the BOFD
- Item is not altered
- Indorsements are genuine
- Check is Authentic
- No duplicate presentment
- Electronic Check guarantees
  - 31 CFR 240.4

BOFD is “truncating bank”
Reg CC 229.2 (eee)
- Removes the original check from forward collection
- Paper is controlled by depositor, not BOFD
- Risk of paper being re-deposited or cashed

RDC Indemnity  (Reg CC 229.34(f))

Purpose of Indemnity:
- To protect subsequent depositary bank that received deposit of paper check without a restrictive indorsement from loss because check is returned or adjusted as unpaid due to RDC item having already been paid
- To encourage RDC banks to implement good RDC deposit practices

Addresses Risk:
- Customer retains original check and may intentionally or mistakenly deposit paper check in another bank
- RDC bank’s potential liability arises when it permits customer to truncate check and deposit image
RDC Customer Risk Management

Review customer qualifications for RDC deposit
- Length of relationship
- History of account activity
- Credit history, etc.

Consider enforcing restrictive indorsement requirement
- e.g., “for mobile deposit only to XYZ Bank”

Establish controls to review submitted RDC items
- Indorsement review
- Prohibited items
  - Treasury/Government Checks, Cashier’s Checks, IRDs, etc.

Establish daily/weekly deposit limits
- Item limit
- Deposit limit

Understand Obligations and Risks of Treasury Check

Educate frontline staff and RDC operations on
- Presentment Guarantees
- Availability Requirements

Educate operations staff on
- Reclamations
- Protests

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