



Copyright Office

37 CFR Parts 201 and 202

[Docket No. 2020-1]

Remitter Payment Options and Deposit Account Requirements

AGENCY: U.S. Copyright Office, Library of Congress.

ACTION: Final rule.

SUMMARY: The U.S. Copyright Office is amending certain regulations related to remitter payments for its services and requirements for maintaining a deposit account. This final rule adopts regulatory language set forth in the Office’s February 2022 notice of proposed rulemaking with some modifications in response to public comments. These amendments consolidate regulatory provisions related to payment options and update existing regulations to articulate current Office practices. They also simplify requirements for maintaining a deposit account and clarify procedures related to noncompliant accounts.

DATES: Effective [INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER].

FOR FURTHER INFORMATION CONTACT: Megan Efthimiadis, Assistant to the General Counsel, by email at meft@copyright.gov or telephone at (202) 707-8350.

SUPPLEMENTARY INFORMATION:

I. Background

On February 4, 2022, the Office published a notice of proposed rulemaking (“NPRM”) to amend its regulations governing remitter payments for its services and requirements for maintaining a deposit account.¹ Specifically, the Office proposed to

¹ 87 FR 6452 (Feb. 4, 2022).

consolidate all regulations related to the types of payment methods it will accept for services into a single set of provisions to ensure consistency as it moves to an integrated enterprise information technology (IT) system.² The proposed rule enumerated three methods accepted for remitting a payment: (1) Electronic payments through *Pay.gov*; (2) mailed payments by check or money order; and (3) in-person payments by check, money order, credit or debit card, or currency, by appointment at the Office's Public Information Office.³

Next, the Office proposed simplifying requirements to maintain a deposit account, and set forth rules establishing the procedures for account closures. The proposed rule set forth five substantive amendments. First, the Office recommended eliminating the requirement that a deposit account holder engage in a minimum number of transactions per year.⁴ Second, the Office proposed imposing a service charge of \$25 for each month a deposit account balance fell below \$450.⁵ Third, the NPRM provided for the inactivation of deposit accounts if (1) there has been no activity in the account for 24 months; (2) the account holder overdraws the account; or (3) the account has insufficient funds at the end of the month to pay the service charge for an account balance below \$450.⁶ Fourth, the Office proposed codifying its procedures for closing noncompliant and inactivated deposit accounts, including the circumstances for closure and the process for returning any remaining funds to the account holder.⁷ Finally, the Office recommended eliminating from the regulations references to automatic replenishment of deposit accounts, based on

² *Id.* at 6454.

³ *Id.* at 6454.

⁴ *Id.* at 6454.

⁵ *Id.* at 6454.

⁶ *Id.* at 6454–55.

⁷ *Id.* at 6455.

its understanding at the time the NPRM was prepared that *Pay.gov* lacked the ability to provide such an automatic replenishment feature.⁸

The Office received four relevant comments in response to the NPRM. Author Services, Inc. endorsed the proposed amendments in full, and had no further suggestions.⁹ The Motion Picture Association, Inc. (“MPA”), expressing no objection to the proposed rules regarding deposit accounts, noted that its members valued the automatic-replenishment feature available in other areas of the Office (*e.g.*, the eCo system for registrations), and “urge[d] the Office to ensure that the payment systems in any updated versions of the registration and recordation systems include an automatic replenishment feature as well.”¹⁰ Finally, Copyright Alliance and Marilyn D. Cameron submitted comments that were generally supportive of the amendments in the proposed rule, but contained several concerns that are addressed in more detail below.¹¹

II. Discussion

A. Remitter Payment Options

Most commenters supported the provisions of the proposed rule that consolidate the regulations governing the types of payment methods the Office will accept for services.¹² Accordingly, those provisions are adopted in the final rule without alteration.

In addition to “applaud[ing] the Office’s efforts to modernize and consolidate regulations regarding payment options for Copyright Office services,” Copyright

⁸ 87 FR 6455.

⁹ Author Services, Inc. Comments at 1.

¹⁰ MPA Comments at 2.

¹¹ Copyright Alliance Comments at 1–4; Marilyn D. Cameron Comments at 1.

¹² *See e.g.*, Copyright Alliance Comments at 1. Marilyn D. Cameron requested that “all other rules attached to the announcement and do not have any relevance to Remitter Payment Options and Deposit Account Requirements, for example Section 201.33, be removed from this round of comments and a new Federal Register proposal written for a later date.” Marilyn D. Cameron Comments at 1. Because each of the proposed amendments, including the amendment proposed to § 201.33(e) regarding the fee and method of payment, relate to payment options available to remitters, the Office declines to remove the rule.

Alliance encouraged the Office to “accommodate the diversity of copyright owners engaging with the Office’s systems” by permitting payment using “prepaid cards and other widely accepted online payment options, like PayPal, Zelle, Venmo, and CashApp.”¹³ The Office appreciates Copyright Alliance’s concern and shares its aim to broaden participation in the copyright system. While payment using prepaid cards is not currently supported by *Pay.gov*, the Office will enable the *Pay.gov* feature to accept Paypal and Amazon digital wallet options to better accommodate a broader range of stakeholders. The Office will continue to consider additional options to improve accessibility as *Pay.gov* expands its capabilities.

B. Deposit Accounts

With respect to the proposed rule simplifying requirements for maintaining deposit accounts, commenters universally endorsed the Office’s amendment to eliminate the minimum-transaction-per-year requirement.¹⁴ Copyright Alliance expressed appreciation for the “Office’s decision to continue allowing stakeholders to use deposit accounts, as well as the decision to eliminate the requirement for a minimum number of transactions per year.”¹⁵

However, some commenters disagreed with the Office’s proposal to assess a service charge of \$25 for each month a deposit account balance fell below \$450. One commenter opposed the fee outright, calling it “[t]oo much” as “many individuals find a minimum deposit amount a challenge, especially during the pandemic.”¹⁶ Copyright Alliance argued that imposing a service charge “without first notifying the account holder that the account has fallen below the minimum balance” “will only exacerbate a

¹³ Copyright Alliance Comments at 1–2.

¹⁴ *See e.g., id.* at 2.

¹⁵ *Id.*

¹⁶ Marilyn D. Cameron Comments at 1.

problem . . . that might otherwise be easily resolved.”¹⁷ Commenters encouraged the Office to “notify the account holder so that they can add the necessary funds” before assessing any service charge¹⁸ and before any account inactivation.¹⁹ Finally, Copyright Alliance probed whether the Office could permit automatic replenishment, advising, “rather than assessing a \$25 service charge if an account falls below the minimum balance, the regulations should permit automatic replenishment of those deposit accounts.”²⁰

As an initial matter, it has been and will remain the Office’s practice to send automatic notifications to account holders when their balances drop below the minimum balance. Similarly, notifications are and will be provided before the Office takes any action to inactivate or close an account. To ensure that these notifications are received, the Office encourages account holders to keep their contact information current.

Regarding the service charge, the Office proposed the fee to incentivize deposit account holders to maintain sufficient funds in deposit accounts and avoid any overdraft of the account, which is subject to a penalty (currently \$285). Ultimately, the Office’s goal is to help account holders maintain sufficient balances to prevent additional penalties and delays. Copyright Alliance’s comment led the Office to consider again the availability of an automatic replenishment option. While our initial inquiry had suggested that this option was not available,²¹ further investigation has determined that an automatic recurring payment option (via ACH transactions) can be used to automatically replenish deposit accounts through *Pay.gov*. Therefore, the Office will test the practical application

¹⁷ Copyright Alliance Comments at 2–3.

¹⁸ *Id.* at 3.

¹⁹ Marilyn D. Cameron Comments at 1.

²⁰ Copyright Alliance Comments at 3.

²¹ 87 FR 6454.

of such a feature for deposit accounts. Once confirmed operable, the Office will announce details on how this feature can be used.

In addition, given commenters' concern regarding the potential financial burden for those account holders who find the minimum balance amount difficult to maintain, we will pause the implementation of any service charge to further assess whether there is a need for measures to incentivize balance maintenance. Accordingly, the final rule omits any reference to the proposed service charge, and instead provides that the Office will automatically notify account holders when their accounts fall below a minimum balance of \$450, as the previous rule prescribed.

Finally, while commenters did not raise specific concerns regarding the NPRM's inactivation and closure procedures beyond objecting to inactivation or closure based on a failure to pay the proposed service charge, the Office acknowledges their general desire for more communication regarding account status issues. Thus, in addition to removing references to the previously proposed service charge, the final rule explains that the Office will automatically notify account holders when their accounts are made inactive due to prolonged inactivity or overdrawal of the account. Reflecting current procedures, the final rule further provides that an inactive deposit account will only be closed 30 days from the date of the inactivation notice if there continues to be no activity or if insufficient funds remain in the account.

C. Technical Changes

Lastly, the final rule includes a few non-substantive technical revisions to clarify certain phrases and terms.

List of Subjects

37 CFR Part 201

Copyright, General provisions.

37 CFR Part 202

Copyright, Preregistration and registration of claims to copyright.

Final Regulations

For the reasons set forth in the preamble, the Copyright Office amends 37 CFR parts 201 and 202 as follows:

PART 201—GENERAL PROVISIONS

1. The authority citation for part 201 continues to read as follows:

Authority: 17 U.S.C. 702.

Section 201.10 also issued under 17 U.S.C. 304.

2. Amend § 201.6 by:

- a. Revising paragraphs (a) and (b); and
- b. Removing the parenthetical authority citation at the end of the section.

The revisions read as follows:

§ 201.6 Payment and refund of Copyright Office fees.

(a) *In general*—(1) *Electronic payments*. All fees for online applications and services must be paid by electronic payment through Pay.gov.

(2) *Mailed payments*. All fees mailed to the Copyright Office should be in the form of a money order or check payable to the U.S. Copyright Office. Currency will not be accepted; any payment received in currency will be refunded via check, and the registration or other service request will not be processed. Where the statutory fee is submitted in the form of a check, the registration of the copyright claim or other record made by the Office is provisional until the funds associated with the check are received. In the event the fee is not paid, the provisional registration or other record shall be expunged.

(3) *In-person payments*. All fees for services rendered in person at the Copyright Office Public Information Office must be paid by cash, money order, check, or credit or debit card.

(4) *Foreign remittances.* Foreign remittances must be redeemable without service or exchange fees through a United States institution, must be payable in United States dollars, and must be imprinted with American Banking Association routing numbers.

Postal money orders that are negotiable only at a post office are not acceptable.

International checks and money orders must be drawn from a United States bank and payable in United States dollars for the full amount of the fee required. Uncertified checks are accepted subject to collection.

(5) *Other.* In addition to the payment options in paragraphs (a)(1) through (3) of this section, payment for any application or service can be made using a Copyright Office deposit account.

(b) *Deposit accounts—(1) Establishment.* Persons or firms may prepay copyright expenses by establishing a deposit account.

(2) *Minimum balance.* The Office will automatically notify the deposit account holder when the account goes below a minimum balance of \$450.

(3) *Contact information.* (i) Deposit account holders are responsible for keeping contact information with the Copyright Office current.

(ii) If the Copyright Office is unable to correspond with the deposit account holder (e.g., due to returned/undeliverable postal or e-mail), the Office will deem the deposit account undeliverable.

(4) *Inactivation.* (i) The Copyright Office will inactivate a deposit account if there has been no activity in the account for 24 months.

(ii) The Copyright Office will inactivate a deposit account if the deposit account holder overdraws his or her account.

(iii) The Copyright Office will automatically notify the deposit account holder when the account has been inactivated.

(5) *Closure.* (i) An inactive deposit account will be closed no sooner than 30 days from the date of the inactivation notice if there continues to be no activity in the account or if insufficient funds remain in the deposit account after the deposit account holder overdraws the account.

(ii) The Copyright Office may permanently close a deposit account if the deposit account holder overdraws his or her account twice in any calendar year.

(iii) An undeliverable deposit account as defined in paragraph (b)(3)(ii) of this section will be closed after the Copyright Office has made at least three unsuccessful attempts, including at least one attempt by phone if a deposit account holder provided a telephone number, to correspond with the deposit account holder. Attempts at corresponding with the deposit account holder may be considered unsuccessful if the postal or e-mail correspondence is returned as undeliverable.

(iv) Any funds remaining in a closed deposit account will be applied to any pending or processed service request(s) for which payment is due. If there are insufficient funds to cover the total of all fees due for any service, the service request(s) will not be processed.

(v) Any balance remaining in a closed deposit account will be refunded to the account holder in accordance with Copyright Office policies. Unredeemed refunds will be handled in accordance with Library of Congress and U.S. Treasury rules and policies.

(vi) The Copyright Office may refer any overdraft in a closed deposit account for collections.

(6) *Further information.* For information on deposit accounts, see Circular 5 on the Copyright Office's website, or request a copy at the address specified in § 201.1(b).

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3. Amend § 201.33 by revising paragraph (e) to read as follows:

§ 201.33 Procedures for filing Notices of Intent to Enforce a restored copyright under the Uruguay Round Agreements Act.

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(e) *Fee*. The filing fee for recording Notices of Intent to Enforce is prescribed in § 201.3(c).

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§ 201.39 [Amended]

4. Amend § 201.39 by removing paragraph (g)(3).

**PART 202—PREREGISTRATION AND REGISTRATION OF CLAIMS TO
COPYRIGHT**

5. The authority citation for part 202 continues to read as follows:

Authority: 17 U.S.C. 408(f), 702.

§ 202.3 [Amended]

6. Amend § 202.3 by removing paragraph (b)(2)(i)(C) and redesignating paragraph (b)(2)(i)(D) as paragraph (b)(2)(i)(C) and removing the parenthetical authority citation at the end of the section.

7. Amend § 202.12 by revising paragraph (c)(2) to read as follows:

§ 202.12 Restored copyrights.

* * * * *

(c) * * *

(2) *Fee*. The filing fee for registering a copyright claim in a restored work is prescribed in § 201.3(c) of this chapter.

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8. Amend § 202.16 by revising paragraph (c)(5) to read as follows:

§ 202.16 Preregistration of copyrights.

* * * * *

(c) * * *

(5) *Fee*. The filing fee for preregistration is prescribed in § 201.3(c) of this chapter.

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9. Amend § 202.23 by revising paragraph (e)(2) to read as follows:

§ 202.23 Full term retention of copyright deposits.

* * * * *

(e) * * *

(2) Payment in the amount prescribed in § 201.3(d) of this chapter payable to the U.S.

Copyright Office, must be received in the Copyright Office within 60 calendar days from the date of mailing of the Copyright Office's notification to the requestor that full-term retention has been granted for a particular copyright deposit.

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Dated: September 22, 2022.

Shira Perlmutter,

Register of Copyrights and

Director of the U.S. Copyright Office.

Approved by:

Carla D. Hayden,

Librarian of Congress.

[BILLING CODE 1410-30-P]

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