

*depository is declared insolvent*—(1) *General*. In the event of the depository's insolvency or closure, or in the event of the appointment of a receiver, conservator, liquidator, or other similar officer to terminate its business, the depository agrees that all principal and interest payments on any security pledged to protect public money due as of the date of the insolvency or closure, or thereafter becoming due, shall be held separate and apart from any other assets and shall constitute a part of the pledged security available to satisfy any claim of the United States, including those not arising out of the depository relationship.

(2) *Payment procedures*. (i) Subject to the waiver in paragraph (e)(2)(iii) of this section, each depository (including, with respect to such depository, an assignee for the benefit of creditors, a trustee in bankruptcy, or a receiver in equity) shall immediately remit each payment of principal and/or interest received by it with respect to collateral pledged pursuant to this section to the Federal Reserve Bank of the district, as fiscal agent of the United States, and in any event shall so remit no later than ten days after receipt of such a payment.

(ii) Subject to the waiver in paragraph (e)(2)(iii) of this section, each obligor on a security pledged by a depository pursuant to this section shall make each payment of principal and/or interest with respect to such security directly to the Federal Reserve Bank of the district, as fiscal agent of the United States.

(iii) The requirements of paragraphs (e)(2) (i) and (ii) of this section are hereby waived for only so long as a pledging depository remains solvent. The foregoing waiver is terminated without further action immediately upon the insolvency of a pledging depository or, if earlier, upon notice by the Treasury of such termination. For purposes of this paragraph, a depository is insolvent when, voluntarily or by action of competent authority, it is closed because of present or prospec-

tive inability to meet the demands of its depositors or shareholders.

[32 FR 14216, Oct. 13, 1967, as amended at 36 FR 6748, Apr. 8, 1971; 36 FR 17995, Sept. 8, 1971; 39 FR 30832, Aug. 26, 1974; 44 FR 53067, Sept. 11, 1979; 46 FR 28152, May 26, 1981; 62 FR 45521, Aug. 27, 1997; 65 FR 55428, Sept. 13, 2000]

#### **§ 202.7 Maintenance of balances within authorizations.**

(a) Federal Government agencies shall contact the Department of the Treasury, Financial Management Service, before making deposits with a financial institution insured by a State or agency thereof or by a corporation chartered by a State for the sole purpose of insuring deposits or accounts. The contact should be directed to the Cash Management Policy and Planning Division, Federal Finance, Financial Management Service, Department of the Treasury, Washington, DC 20227.

(b) Government agencies having control or jurisdiction over public money on deposit in accounts with depositories are responsible for the maintenance of balances in such accounts within the limits of the authorizations specified by the Secretary of the Treasury.

[44 FR 53067, Sept. 11, 1979, as amended at 49 FR 47001, Nov. 30, 1984; 62 FR 45521, Aug. 27, 1997]

## **PART 203—PAYMENT OF FEDERAL TAXES AND THE TREASURY TAX AND LOAN PROGRAM**

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### Subpart A—General Information

#### § 203.1 Scope.

The regulations in this part govern the processing of Federal tax payments by financial institutions and the Federal Reserve Banks (FRB) using electronic payment or paper methods; the designation of Treasury Tax and Loan (TT&L) depositories; and the operation of the Department of the Treasury's (Treasury) investment program.

#### § 203.2 Definitions.

As used in this part:

(a) *Advice of credit* means the Treasury form used in the Federal Tax Deposit system that is supplied to depositories to summarize and report Federal tax deposits. The current form is Treasury Form 2284. Advice of credit information also may be delivered electronically.

(b) *Automated Clearing House (ACH) credit entry* means a transaction originated by a financial institution in accordance with applicable ACH formats and applicable laws, regulations, and procedural instructions.

(c) *Automated Clearing House (ACH) debit entry* means a transaction originated by a Treasury Financial Agent (TFA), in accordance with applicable ACH formats and applicable laws, regulations, and instructions.

(d) *Business day* means any day on which the FRB of the district is open.

(e) *Direct Access transaction* means same-day Federal tax payment information transmitted by a financial institution directly to the Electronic Tax Application at an FRB using the Fedline Taxpayer Deposit Application.

(f) *Direct investment* means placement of Treasury funds with a depository and a corresponding increase in a depository's note balance.

(g) *Electronic Federal Tax Payment System (EFTPS)* means the system through which taxpayers remit Federal tax payments electronically.

(h) *Electronic Tax Application (ETA)* means a sub-system of EFTPS that receives, processes, and transmits same-day Federal tax payment information for taxpayers. ETA activity is comprised of Fedwire value transfers, Fedwire non-value transactions, and Direct Access transactions.

(i) *Electronic Tax Application (ETA) reference number* means the unique number assigned to each ETA transaction by an FRB.

(j) *Federal funds rate* means the Federal funds rate published weekly by the Board of Governors of the Federal Reserve System.

(k) *Federal Reserve account* means an account with reserve or clearing balances held by a financial institution at an FRB.

(l) *Federal Reserve Bank of the district* means the FRB that services the geographical area in which the financial institution is located, or such other FRB that may be designated in an FRB operating circular.

(m) *Federal Tax Deposit (FTD)* means a tax deposit or payment made using an FTD coupon.

(n) *Federal Tax Deposit coupon (FTD coupon)* means a paper form supplied to

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a taxpayer by the Treasury for use in the FTD system to accompany deposits of Federal taxes. The current paper form is Form 8109.

(o) *Federal Tax Deposit system (FTD system)* means the paper-based system through which taxpayers remit Federal tax payments by presenting an FTD coupon and payment to a depository or an FRB. The depository prepares an advice of credit summarizing all FTDs.

(p) *Federal taxes* means those Federal taxes or other payments specified by the Secretary of the Treasury as eligible for payment through the procedures prescribed in this part.

(q) *Fedwire* means the funds transfer system owned and operated by the FRBs.

(r) *Fedwire non-value transaction* means the same-day Federal tax payment information transmitted by a financial institution to an FRB using a Fedwire type 1090 message to authorize a payment.

(s) *Fedwire value transfer* means a Federal tax payment made by a financial institution using a Fedwire type 1000 message.

(t) *Financial institution* means any bank, savings bank, savings and loan association, credit union, or similar institution.

(u) *Fiscal Agent* means the Federal Reserve acting as agent for the Treasury.

(v) *Input Message Accountability Data (IMAD)* means a unique number assigned to each Fedwire transaction by the financial institution sending the transaction to an FRB.

(w) *Note option* means that program available to a TT&L depository under which Treasury invests in obligations of the depository. The amount of such investments will be evidenced by an open-ended interest-bearing note balance maintained at the FRB of the district.

(x) *Procedural instructions* means the procedures contained in the Treasury Financial Manual, Volume IV (IV TFM), other Treasury instructions issued through the TFAs, and FRB operating circulars issued consistent with this part.

(y) *Recognized insurance coverage* means the insurance provided by the Federal Deposit Insurance Corporation,

the National Credit Union Administration, and by insurance organizations specifically qualified by the Secretary.

(z) *Remittance option* means that program available to a depository that processes FTD payments, under which the amount of deposits credited by the depository to the TT&L account will be withdrawn by the FRB for deposit to the Treasury General Account on the day that the FRB receives the advices of credit supporting such deposits.

(aa) *Same-day payment* means the following ETA payment options:

- (1) Direct Access transaction;
- (2) Fedwire non-value transaction; and
- (3) Fedwire value transfer.

(bb) *Secretary* means the Secretary of the Treasury, or the Secretary's delegate.

(cc) *Special direct investment* means the placement of Treasury funds with a depository and a corresponding increase in a depository's note balance, where the investment specifically is identified as a "special direct investment" and may be secured by collateral retained in the possession of the depository pursuant to the terms of § 203.24(c)(2)(i).

(dd) *Tax due date* means the day on which a tax payment is due to Treasury, as determined by statute and Internal Revenue Service (IRS) regulations.

(ee) *Transaction trace number* means an identifying number assigned by the taxpayer's financial institution to each ACH credit transaction.

(ff) *Treasury Financial Agent (TFA)* means a financial institution designated as an agent of Treasury for processing EFTPS enrollments, receiving EFTPS tax payment information, and originating ACH debit entries on behalf of Treasury as authorized by the taxpayer.

(gg) *Treasury General Account (TGA)* means an account maintained in the name of the United States Treasury at an FRB.

(hh) *Treasury Tax and Loan (TT&L) account* means the Treasury account maintained by a depository in which funds are credited by the depository after receiving and collateralizing FTDs.

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(ii) *Treasury Tax and Loan depositary (depositary)* means a financial institution designated as a depositary by the FRB of the district for the purpose of maintaining a TT&L account and/or note balance.

(jj) *Treasury Tax and Loan (TT&L) Program* means the program for collecting Federal taxes and investing the Government's excess operating funds.

(kk) *Treasury Tax and Loan (TT&L) rate of interest* means the Federal funds rate less twenty-five basis points (i.e.,  $\frac{1}{4}$  of 1 percent).

#### **§ 203.3 Financial institution eligibility for designation as a Treasury Tax and Loan depositary.**

(a) To be designated as a TT&L depositary, a financial institution shall be insured as a national banking association, state bank, savings bank, savings and loan, building and loan, homestead association, Federal home loan bank, credit union, trust company, or a U.S. branch of a foreign banking corporation, the establishment of which has been approved by the Comptroller of the Currency.

(b) A financial institution shall possess the authority to pledge collateral to secure TT&L account balances and/or a note balance.

(c) In order to be designated as a TT&L depositary for the purposes of processing tax deposits in the FTD system, a financial institution shall possess under its charter either general or specific authority permitting the maintenance of the TT&L account, the balance of which is payable on demand without previous notice of intended withdrawal. In addition, note option depositaries shall possess either general or specific authority permitting the maintenance of a note balance, which is payable on demand without previous notice of intended withdrawal.

#### **§ 203.4 Designation of financial institutions as Treasury Tax and Loan depositaries.**

(a) *Parties to the agreement.* To be designated as a TT&L depositary, a financial institution shall enter into a depositary agreement with Treasury's fiscal agent, the FRB. By entering into this agreement, the financial institution agrees to be bound by this part,

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and procedural instructions issued pursuant to this part.

(b)(1) *Application procedures.* An eligible financial institution seeking designation as a depositary and, thereby, the authority to maintain a TT&L account and/or a note balance shall file with the FRB, Financial Management Service Form 458, "Financial Institution Agreement and Application for Designation as a TT&L Depositary," and Financial Management Service Form 459, "Resolution Authorizing the Financial Institution Agreement and Application for Designation as a TT&L Depositary," certified by its board of directors. Financial Management Service Forms 458 and 459 are available upon request from the FRB of the district.

(2) Depositaries processing tax payments in the FTD system are required to elect either the remittance or the note option.

(c) *Designation.* Each financial institution satisfying the eligibility requirements and the application procedures will receive from the FRB notification of its specific designation as a TT&L depositary. A financial institution is not authorized to maintain a TT&L account or note balance until it has been designated as a TT&L depositary by the FRB.

#### **§ 203.5 Obligations of the depositary.**

A depositary shall:

(a) Administer a note balance, if not participating in the FTD System.

(b) Administer a TT&L account and, if applicable, a note balance, if participating in the FTD System.

(c) Comply with the requirements of Section 202 of Executive Order 11246, entitled "Equal Employment Opportunity" (3 CFR, 1964-1965 Comp. p. 339) as amended by Executive Orders 11375 and 12086 (3 CFR, 1966-1970 Comp., p. 684; 3 CFR, 1978 Comp. p. 230), and the regulations issued thereunder at 41 CFR Chapter 60.

(d) Comply with the requirements of Section 503 of the Rehabilitation Act of 1973, as amended, and the regulations issued thereunder at 41 CFR part 60-741, requiring Federal contractors to take affirmative action to employ and advance in employment qualified individuals with disabilities.

(e) Comply with the requirements of Section 503 of the Vietnam Era Veterans' Readjustment Assistance Act of 1972, as amended, 38 U.S.C. 4212, Executive Order 11701 (3 CFR 1971-1975 Comp. p. 752), and the regulations issued thereunder at 41 CFR parts 60-250 and 61-250, requiring Federal contractors to take affirmative action to employ and advance in employment qualified special disabled veterans and Vietnam-era veterans.

#### § 203.6 Compensation for services.

Except as provided in the procedural instructions, Treasury will not compensate financial institutions for servicing and maintaining the TT&L account, or for processing tax payments through the EFTPS or the FTD system.

#### § 203.7 Termination of agreement or change of election or option.

(a) *Termination by Treasury.* The Secretary may terminate the agreement of a depository at any time upon notice to that effect to that depository, effective on the date set forth in the notice.

(b) *Termination or change of election or option by the depository.* A depository may terminate its depository agreement, or change its option or election, consistent with this part and the procedural instructions, by submitting notice to that effect in writing to the FRB effective at a prospective date set forth in the notice.

#### § 203.8 Application of part and procedural instructions.

The terms of this part and procedural instructions issued pursuant to this part shall be binding on financial institutions that process tax payments and/or maintain a note balance under this part. By accepting or originating Federal tax payments, the financial institution agrees to be bound by this part and by procedural instructions issued pursuant to this part.

### Subpart B—Electronic Federal Tax Payments

#### § 203.9 Scope of the subpart.

This subpart prescribes the rules by which financial institutions shall process Federal tax payment transactions

electronically. A financial institution does not need to be designated as a TT&L depository in order to process electronic Federal tax payments. In addition, a financial institution that does process electronic Federal tax payments under this subpart does not thereby become a Federal Government depository and shall not advertise itself as one because of that fact.

#### § 203.10 Enrollment.

(a) *General.* Taxpayers shall complete an enrollment process with the TFA prior to making their first electronic Federal tax payment.

(b) *Enrollment forms.* The TFA shall provide financial institutions and taxpayers with enrollment forms upon request. The taxpayer is responsible for completing the enrollment form, obtaining the verifications required on the form, and returning the enrollment form to the TFA.

(c) *Verification.* If the taxpayer elects the ACH debit entry method of paying taxes, an authorized representative of the financial institution shall verify the accuracy of the financial institution routing number, taxpayer account number, and taxpayer account type at the request of the taxpayer.

#### § 203.11 Electronic payment methods.

(a) *General.* Electronic payment methods for Federal tax payments available under this subpart include ACH debit entries, ACH credit entries, and same-day payments. Any financial institution that is capable of originating and/or receiving transactions for these payment methods, by itself or through a correspondent financial institution, may do so on behalf of a taxpayer.

(b) *Conditions to making an electronic payment.* Nothing contained in this part shall affect the authority of financial institutions to enter into contracts with their customers regarding the terms and conditions for processing payments, provided that such terms and conditions are not inconsistent with this subpart and applicable law governing the particular transaction type.

(c) *Payment of interest for time value of funds held.* Treasury will not pay interest on any payments erroneously paid

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to Treasury and subsequently refunded to the financial institution.

### § 203.12 Future-day reporting and payment mechanisms.

(a) *General.* A financial institution may receive an ACH debit entry, originated by the TFA at the direction of the taxpayer; or, a financial institution may originate an ACH credit entry, at the direction of the taxpayer. Taxpayers will be credited for the actual amount received by Treasury.

(b) *ACH debit.* A financial institution receiving an ACH debit entry originated by the TFA shall, as applicable:

(1) Timely verify the account number and account type contained in an ACH prenotification entry;

(2) Timely and properly return a prenotification entry that contains an invalid account number or account type, or otherwise is erroneous or unprocessable;

(3) Timely and accurately notify the TFA of incorrect information on entries received, using a Notification of Change entry; and

(4) Timely and accurately return an entry not posted, including but not limited to, a return or a contested dishonored return for acceptable return reasons, as set forth in the procedural instructions.

(c) *ACH credit.* A financial institution originating an ACH credit entry at the direction of a taxpayer shall:

(1) At the request of the taxpayer, originate either an ACH prenotification containing the taxpayer's identification number or a zero dollar ACH entry with the appropriate addenda record. Additional format information is contained in the procedural instructions;

(2) Format the ACH credit entry in the ACH format approved by Treasury for Federal tax payments;

(3) Originate an ACH credit entry by the appropriate deadline, as specified by the FRB or Treasury, whichever is earlier, in order to meet the tax due date specified by the taxpayer; and

(4) Provide the taxpayer, upon request, a transaction trace number, or some other method to trace the tax payment.

(d) *ACH credit reversals.* Reversals may be initiated for a duplicate or er-

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roneous file or entry. No advance approval from, or notification to, the IRS is required when originating an ACH credit reversal. Documentation of reversals shall be made available as set forth in the procedural instructions.

### § 203.13 Same-day reporting and payment mechanisms.

(a) *General.* A financial institution or its authorized correspondent may initiate same-day reporting and payment transactions on behalf of taxpayers. A same-day payment must be received by the FRB of the district by the deadline established by the Treasury in the procedural instructions. Taxpayers will be credited for the actual amount received by Treasury.

(b) *Fedwire value transfer.* To initiate a Fedwire value tax payment, the financial institution shall be a Fedwire participant and shall comply with the FRB's Fedwire format for tax payments. The taxpayer's financial institution shall provide the taxpayer, upon request, the IMAD and the ETA reference numbers for a Fedwire value transfer. The financial institution may obtain the ETA reference number for Fedwire value transfers from its FRB by supplying the related IMAD number. Fedwire value transfers settle immediately to the TGA and thus are not credited to a depository's note balance.

(c) *Fedwire non-value transaction.* By initiating a Fedwire non-value transaction, a financial institution authorizes the FRB of the district to debit its Federal Reserve account or, for a TT&L depository, to debit the Federal Reserve account of the depository or its designated correspondent financial institution, for the amount of the tax payment specified in the transaction. To initiate a Fedwire non-value transaction, the financial institution shall be a Fedwire participant and shall comply with the FRB's Fedwire format for tax payments. The taxpayer's financial institution shall provide the taxpayer, upon request, the IMAD and ETA reference numbers for the Fedwire non-value transaction. The financial institution may obtain the ETA reference number for Fedwire non-value transactions from its FRB by supplying the related IMAD number.

(1) For a note option depository using a Fedwire non-value transaction, the tax payment amount will be credited to the depository's note balance on the day of the transaction.

(2) For a remittance option depository using a Fedwire non-value transaction, the tax payment amount will be debited from the Federal Reserve account of the depository or the depository's designated correspondent and credited to the TGA on the day of the transaction.

(3) For a non-TT&L depository financial institution using a Fedwire non-value transaction, the tax payment amount will be debited from the financial institution's Federal Reserve account and credited to the TGA on the day of the transaction.

(d) *Direct Access transaction.* By initiating a Direct Access transaction, a financial institution authorizes the FRB of the district to debit its Federal Reserve account or, for a TT&L depository, to debit the Federal Reserve account of the depository or its designated correspondent financial institution for the amount of the tax payment specified in the transaction. The taxpayer's financial institution shall provide the taxpayer, upon request, the ETA reference number for the Direct Access transaction.

(1) For a note option depository using a Direct Access transaction, the tax payment amount will be credited to the depository's note balance on the day of the transaction.

(2) For a remittance option depository or a non-TT&L depository financial institution using a Direct Access transaction, the tax payment amount will be debited from the Federal Reserve account of the financial institution or its designated correspondent financial institution, and credited to the TGA on the day of the transaction.

(e) *Cancellations and reversals.* In addition to cancellations due to insufficient funds in the financial institution's Federal Reserve account, the FRB may reverse a same-day transaction:

(1) If the transaction:

(i) Is originated by a financial institution after the deadline established by the Treasury in the procedural instructions;

(ii) Has an unenrolled taxpayer identification number; or

(iii) Does not meet the edit and format requirements set forth in the procedural instructions; or,

(2) At the direction of the IRS, for the following reasons:

(i) Incorrect taxpayer name;

(ii) Overpayment; or

(iii) Unidentified payment; or,

(3) At the request of the financial institution that sent the same-day transaction, if the request is made prior to the deadline established by Treasury in the procedural instructions on the day the payment was made.

(f) Other than as stated in paragraph (e) of this section, Treasury is not obligated to reverse all or any part of a payment.

#### **§ 203.14 Electronic Federal Tax Payment System interest assessments.**

(a) *Circumstances subject to interest assessments.* Treasury may assess interest on a financial institution in instances where a taxpayer that failed to meet a tax due date proves to the IRS that the delivery of tax payment instructions to the financial institution was timely and that the taxpayer satisfied the conditions imposed by the financial institution pursuant to § 203.11(b). Treasury also may assess interest where a financial institution failed to respond to an ACH prenotification entry on an ACH debit as required in § 203.12(b) or failed to originate an ACH prenotification or zero dollar entry on an ACH credit as described in § 203.12(c) which then resulted in a late payment.

(b) *Calculation of interest assessment.* Any interest assessed under this section will be at the TT&L rate. The interest will be assessed from the day the taxpayer specified that its payment should settle to the Treasury until the receipt of the payment by Treasury, subject to the following limitations: For ACH debit transactions, interest will be limited to no more than seven calendar days; for ACH credit and same-day transactions, interest will be limited to no more than 45 calendar days. The limitation of liability in this paragraph does not apply to any interest assessment in which there is an indication of fraud, the presentation of a false claim, or misrepresentation or

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embezzlement on the part of the financial institution or any employee or agent of the financial institution.

(c) *Authorization to assess interest.* A financial institution that processes Federal tax payments made by electronic payment methods under this subpart is deemed to authorize the FRB to debit its Federal Reserve account or the account of its designated correspondent financial institution for any interest assessed under this section. Upon the direction of Treasury, the FRB shall debit the Federal Reserve account of the financial institution or the account of its designated correspondent financial institution for the amount of the assessed interest.

(d) *Circumstances not subject to the assessment of interest.* (1) Treasury will not assess interest on a taxpayer's financial institution if a taxpayer fails to meet a tax due date because the taxpayer has not satisfied conditions imposed by the financial institution pursuant to § 203.11(b) and the financial institution has not contributed to the delay. The burden is on the financial institution to establish, pursuant to the procedures in § 203.16, that the taxpayer has not satisfied the conditions and that the financial institution has not contributed to the delay.

(2) Treasury will not assess interest on a financial institution if the delay causing the interest assessment is due to the FRB or the TFA and the financial institution did not contribute to the delay. The burden is on the financial institution to establish, pursuant to the procedures in § 203.16, that it did not cause or contribute to the delay.

### § 203.15 Prohibited debits through the Automated Clearing House.

(a) *General.* The Treasury has instituted operational safeguards to scrutinize all entries that remove funds from the TGA. In the event funds are removed from the TGA without authority, this section sets forth the liability of financial institutions originating such entries. Accordingly, a financial institution shall not originate an ACH transaction to debit the TGA without the prior written permission of Treasury. Unauthorized entries under this section do not include reversal entries

of previously initiated ACH credits authorized in § 203.12(d).

(b) *Liability.* A financial institution that originates an unauthorized ACH entry that debits the TGA shall be liable to Treasury for the amount of the transaction and shall be liable for interest charges as specified in paragraph (d) of this section.

(c) *Authorization to recover principal and assess interest charge.* By initiating unauthorized debits to the TGA through the ACH, a financial institution is deemed to authorize the FRB to debit its Federal Reserve account or the account of its designated correspondent financial institution for any principal and, if applicable, an interest charge assessed by Treasury under this section.

(d) *Interest charge calculation.* The interest charge shall be at a rate equal to the Federal funds rate plus two percent. The interest charge shall be assessed for each calendar day from the day the TGA was debited to the day the TGA is recredited with the full amount of principal due.

### § 203.16 Appeal and dispute resolution.

(a) *Contest.* A financial institution may contest any interest assessed under § 203.14, any principal or interest assessed under § 203.15, or any late fees assessed under § 203.20. The financial institution shall submit information supporting its position and the relief sought. The information must be received, in writing, by the Treasury officer or fiscal agent identified in the procedural instructions, no later than 90 calendar days after the date the FRB debits the reserve account of the financial institution under §§ 203.14, 203.15, or 203.20. The Treasury officer or fiscal agent will: uphold the assessment, or reverse the assessment, or modify the assessment, or mandate other action.

(b) *Appeal.* The financial institution may appeal the decision to Treasury as set forth in the procedural instructions. No further administrative review of the Treasury's decision is available under this Part.

(c) *Recoveries.* In the event of an over or under recovery of either interest, principal, or late fees, Treasury will instruct the FRB to credit or debit the



Federal Reserve account of the financial institution or its designated correspondent financial institution, as appropriate.

### Subpart C—Federal Tax Deposits

#### § 203.17 Scope of the subpart.

This subpart applies to all depositories that accept FTD coupons and governs the acceptance and processing of those coupons.

#### § 203.18 Tax deposits using Federal Tax Deposit coupons.

(a) *FTD coupons.* A depository that accepts FTD coupons, through any of its offices that accept demand and/or savings deposits, shall:

(1) Accept from a taxpayer, cash, a postal money order drawn to the order of the depository, or a check or draft drawn on and to the order of the depository, covering an amount to be deposited as Federal taxes when accompanied by an FTD coupon on which the amount of the deposit has been properly entered in the space provided. A depository may accept, at its discretion, a check drawn on another financial institution, but it does so at its option and absorbs for its own account any float and other costs involved.

(2) Issue a counter receipt when requested to do so by a taxpayer that makes an FTD deposit over the counter.

(3) Place a stamp impression on the face of each FTD coupon in the space provided. The stamp shall reflect the date on which the tax deposit was received and the name and location of the depository. The timeliness of the tax payment will be determined by reference to the date stamped by the depository on the FTD coupon.

(4) Credit, on the date of receipt, all FTD deposits to the TT&L account and administer that account pursuant to the provisions of this part.

(5) Forward, each day, to the IRS Center servicing the geographical area in which the depository is located, the FTD coupons for all FTD deposits received that day. The FTD coupons shall be accompanied by an advice of credit reflecting the total amount of all FTD coupons.

(6) Establish an adequate record of all FTD deposits prior to transmittal to the IRS Center so that the depository will be able to identify deposits in the event tax deposit coupons are lost in shipment. For tracking purposes, a record shall be made of each FTD deposit showing, at a minimum, the date of deposit, the taxpayer identification number, and the amount of the deposit. The depository's copy of the advice of credit may be used to provide the necessary information if individual deposits are listed separately, showing date, taxpayer identification number, and amount.

(7) Deliver its advices of credit to the FRB by the cutoff hour designated by the FRB for receipt of advices.

(8) Not accept compensation from taxpayers for accepting FTDs and handling them as required by this section.

(b) *FTD deposits with Federal Reserve Banks.* An FRB shall:

(1) Accept an FTD directly from a taxpayer when such tax deposit is:

(i) Mailed or delivered by a taxpayer; and

(ii) Provided in the form of cash or a check or postal money order payable to the order of that FRB; and,

(iii) Accompanied by an FTD coupon on which the amount of the tax deposit has been properly entered in the space provided.

(2) Issue a counter receipt, when requested to do so by a taxpayer that makes an FTD over the counter; and,

(3) Place, in the space provided on the face of each FTD coupon accepted directly from a taxpayer, a stamp impression reflecting the name of the FRB and the date on which the tax deposit will be credited to the TGA. Timeliness of the Federal tax payment will be determined by this date. However, if a deposit is mailed to an FRB, it shall be subject to the "Timely mailing treated as timely filing and paying" clause of the Internal Revenue Code, 26 U.S.C. 7502; and,

(4) Credit the TGA with the amount of the tax payment;

(i) On the date the payment is received, if payment is made in cash; or,

(ii) On the date the proceeds of the tax payment are collected, if payment is made by postal money order or check.

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### § 203.19 Note option.

(a) *Late delivery of advices of credit.* If an advice of credit does not arrive at the FRB before the designated cutoff hour for receipt of such advices, the FRB will post the funds to the note balance as of the next business day after the date on the advice of credit. This is the date on which funds will begin to earn interest for Treasury.

(b) *Transfer of funds from TT&L account to the note balance.* For a depositary selecting the note option, funds equivalent to the amount of deposits credited by a depositary to the TT&L account shall be withdrawn by the depositary and credited to the note balance on the business day following the receipt of the tax payment.

### § 203.20 Remittance option.

(a) *FTD late fee.* If an advice of credit does not arrive at the FRB before the designated cutoff hour for receipt of such advices, an FTD late fee in the form of interest at the TT&L rate will be assessed for each day's delay in receipt of such advice. Upon the direction of Treasury, the FRB shall debit the Federal Reserve account of the financial institution or the account of its designated correspondent financial institution for the amount of the late fee.

(b) *Withdrawals.* For a depositary selecting the Remittance Option, the amount of deposits credited by a depositary to the TT&L account will be withdrawn upon receipt by the FRB of the advices of credit. The FRB will charge the depositary's Federal Reserve account or the account of the depositary's designated correspondent financial institution.

### Subpart D—Investment Program and Collateral Security Requirements for Treasury Tax and Loan Depositaries

#### § 203.21 Scope of the subpart.

This subpart provides rules for TT&L depositaries on crediting note balances under the various payment methods; debiting note balances; and pledging collateral security.

### § 203.22 Sources of balances.

Depositaries electing to participate in the investment program can receive Treasury's investments in obligations of the depositary from the following sources:

(a) FTDs that have been credited to the TT&L account pursuant to subpart C of this part;

(b) EFTPS ACH credit and debit transactions, Fedwire non-value transactions, and Direct Access transactions pursuant to subpart B of this part; and

(c) Direct investments and special direct investments pursuant to subpart D of this part.

### § 203.23 Note balance.

(a) *Additions.* Treasury will invest funds in obligations of depositaries selecting the note option. Such obligations shall be in the form of open-ended, interest-bearing notes; and additions and reductions will be reflected on the books of the FRB of the district.

(1) *FTD system.* A depositary processing tax deposits using the FTD system and electing the note option shall debit the TT&L account and credit its note balance as stated in § 203.19(b).

(2) *EFTPS—(i) ACH debit and ACH credit.* A note option depositary processing EFTPS ACH debit entries and/or ACH credit entries shall credit its note balance for the value of the transactions on the date that an exchange of funds is reflected on the books of the Federal Reserve Bank of the district. Financial institutions may refer to the procedural instructions for information on how to ascertain the amount of the credit to the note balance.

(ii) *Fedwire non-value and Direct Access.* A note option depositary processing Fedwire non-value and/or Direct Access transactions pursuant to subpart B of this part shall credit its note balance and debit its customer's account for the value of the transactions on the date ETA receives and processes the transactions.

(b) *Other additions.* Other funds from Treasury may be offered from time to time to certain note option depositaries through direct investments, special direct investments, or other investment programs.

(c) *Note balance withdrawals.* The amount of the note balance shall be

payable on demand without prior notice. Calls for payment on the note will be by direction of the Secretary through the FRBs. On behalf of Treasury, the FRB shall charge the reserve account of the depositary or the depositary's designated correspondent on the day specified in the call for payment.

(d) *Interest.* A note shall bear interest at the TT&L rate. Such interest is payable by a charge to the Federal Reserve account of the depositary or its designated correspondent in the manner prescribed in the procedural instructions.

(e) *Maximum balance—(1) Note option depositaries.* A depositary selecting the note option shall establish a maximum balance for its note by providing notice to that effect in writing to the FRB of the district. The maximum balance is the amount of funds for which a note option depositary is willing to provide collateral in accordance with § 203.24(c)(1). The depositary shall provide the advance notice required in the procedural instructions before reducing the established maximum balance unless it is a reduction resulting from a collateral re-evaluation as determined by the depositary's FRB. That portion of any advice of credit or EFTPS tax payment, which, when posted at the FRB, would cause the note balance to exceed the maximum balance amount specified by the depositary, will be withdrawn by the FRB that day.

(2) *Direct investment depositaries.* A note option depositary that participates in direct investment shall set a maximum balance for direct investment purposes which is higher than its peak balance normally generated by the depositary's advices of credit and EFTPS tax payment inflow. The direct investment note option depositary shall provide the advance notice required in the procedural instructions before reducing the established maximum balance.

(3) *Special direct investment depositaries.* Special direct investments, while credited to the note balance, shall not be considered in setting the amount of the maximum balance or in determining the amounts to be withdrawn where a depositary's maximum balance is exceeded.

#### § 203.24 Collateral security requirements.

Financial institutions that process EFTPS tax payments, but are not TT&L depositaries, have no collateral requirements under this part. Financial institutions that are note option depositaries or remittance option depositaries have collateral security requirements, as follows:

(a) *Note option—(1) FTD deposits and EFTPS tax payments.* A depositary shall pledge collateral security in accordance with the requirements of paragraphs (c)(1), (d), and (e) of this section in an amount that is sufficient to cover the pre-established maximum balance for the note, and, if applicable, the closing balance in the TT&L account which exceeds recognized insurance coverage. Depositaries shall pledge collateral for the full amount of the maximum balance at the time the maximum balance is established. If the depositary maintains a TT&L account, the depositary shall pledge collateral security before crediting deposits to the TT&L account.

(2) *Direct investments.* A note option depositary that participates in direct investment is not required to pledge collateral continuously in the amount of the pre-established maximum balance. However, each note option depositary participating in direct investment shall pledge, no later than the day the direct investment is placed, the additional collateral in accordance with paragraphs (c)(1), (d), and (e) of this section to cover the total note balance including those funds received through direct investment. If a direct investment depositary has a history of frequent collateral deficiencies, it shall fully collateralize its maximum balance at all times.

(3) *Special direct investments.* Before special direct investments are credited to a depositary's note balance, the note option depositary shall pledge collateral security, in accordance with the requirements of paragraphs (c)(2) and (e) of this section, to cover 100 percent of the amount of the special direct investments to be received.

(b) *Remittance option.* Prior to crediting FTD deposits to the TT&L account, a remittance option depositary

shall pledge collateral security in accordance with the requirements of paragraph (c)(1), (d), and (e) of this section in an amount which is sufficient to cover the balance in the TT&L account at the close of business each day, less recognized insurance coverage.

(c) *Deposits of securities.* (1) Collateral security required under paragraphs (a)(1), (2), and (b) of this section shall be deposited with the FRB of the district, or with a custodian or custodians within the United States designated by the FRB, under terms and conditions prescribed by the FRB.

(2)(i) Collateral security required under paragraph (a)(3) of this section shall be pledged under a written security agreement on a form provided by the FRB of the district. The collateral security pledged to satisfy the requirements of paragraph (a)(3) of this section may remain in the pledging depository's possession and the fact that it has been pledged shall be evidenced by advices of custody to be incorporated by reference in the written security agreement. The written security agreement and all advices of custody covering collateral security pledged under that agreement shall be provided by the depository to the FRB of the district. Collateral security pledged under the agreement shall not be substituted for or released without the advance approval of the FRB of the district, and any collateral security subject to the security agreement shall remain so subject until an approved substitution is made. No substitution or release shall be approved until an advice of custody containing the description required by the written security agreement is received by the FRB of the district.

(ii) Treasury's security interest in collateral security pledged by a depository in accordance with paragraph (c)(2)(i) of this section to secure special direct investments is perfected without Treasury taking possession of the collateral security for a period not to exceed 21 calendar days from the day of the depository's receipt of the special direct investment.

(d) *Acceptable securities.* Types and valuations of acceptable collateral security are addressed in 31 CFR part 380. For a current list of acceptable classes

of securities and instruments described in 31 CFR part 380 and their valuations, see the Bureau of the Public Debt's web site at [www.publicdebt.treas.gov](http://www.publicdebt.treas.gov).

(e) *Assignment of securities.* A TT&L depository that pledges acceptable securities which are not negotiable without its endorsement or assignment may furnish, in lieu of placing its unqualified endorsement on each security, an appropriate resolution and irrevocable power of attorney authorizing the FRB to assign the securities. The resolution and power of attorney shall conform to such terms and conditions as the FRB shall prescribe.

(f) *Effecting payments of principal and interest on securities pledged as collateral—(1) General.* If the depository fails to pay, when due, the whole or any part of the funds received by it for credit to the TT&L account, and/or if applicable, its note balance; or otherwise violates or fails to perform any of the terms of this part, or fails to pay when due amounts owed to the United States or the United States Treasury; or if the depository is closed for business by regulatory action or by proper corporate action, or in the event that a receiver, conservator, liquidator or any other officer is appointed; then the Treasury, without notice or demand, may sell, or otherwise collect the proceeds of all or part of the collateral, including additions and substitutions; and apply the proceeds, to satisfy any claims of the United States against the depository. All principal and interest payments on any security pledged to protect the note balance (if applicable) and/or the TT&L account (if applicable), due as of the date of the insolvency or closure, or thereafter becoming due, shall be held separate and apart from any other assets and shall constitute a part of the pledged security available to satisfy any claim of the United States.

(2) *Payment procedures.* (i) Subject to the waiver in paragraph (f)(2)(iii) of this section, each depository (including, with respect to such depository, an assignee for the benefit of creditors, a trustee in bankruptcy, or a receiver in equity) shall immediately remit each payment of principal and/or interest received by it with respect to collateral pledged pursuant to this section to the FRB of the district, as fiscal agent of

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the United States, and in any event shall so remit no later than 10 days after receipt of such a payment.

(ii) Subject to the waiver in paragraph (f)(2)(iii) of this section, each obligor on a security pledged by a depository pursuant to this section, upon notification that the Treasury is entitled to any payment associated with that pledged security, shall make each payment of principal and/or interest due with respect to such security directly to the FRB of the district, as fiscal agent of the United States.

(iii) The requirements of paragraphs (f)(2)(i) and (ii) of this section are hereby waived for only so long as a pledging depository avoids both termination from the program under §203.7; and also, those circumstances identified in paragraph (f)(1) which may lead to the collection of the proceeds of collateral or the waiver is otherwise terminated by Treasury.

[63 FR 5650, Feb. 3, 1998, as amended at 65 FR 55429, Sept. 13, 2000]

## PART 204 [RESERVED]

## PART 205—RULES AND PROCEDURES FOR FUNDS TRANSFERS

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### Subpart C [Reserved]

AUTHORITY: 5 U.S.C. 301; 31 U.S.C. 321, 3335, 6501, 6503.

SOURCE: 57 FR 60676, Dec. 21, 1992, unless otherwise noted.

### § 205.1 Purpose.

Subparts A and B of this part implement the Cash Management Improvement Act and prescribe rules and procedures for the transfer of funds between the Federal Government and the States for Federal grant and other programs. Subpart C of this part is reserved and, if issued, may implement other authorities and govern transactions outside the scope of subparts A and B.

### § 205.2 Scope of part.

(a) Subparts A and B apply to programs listed in the Catalog of Federal Domestic Assistance. Pursuant to chapter 61 of title 31, United States Code.

(b) This part does not generally apply to direct loan programs.

(c) This part does not apply to payments made to States acting as vendors on Federal contracts, which are subject to the Prompt Payment Act of 1982, as amended, 31 U.S.C. 3901 *et seq.*, Office of Management and Budget (OMB) Circular A-125 “Prompt Payment,” and 48 CFR part 32.

(d) This part does not apply to the Tennessee Valley Authority (TVA) or programs administered by the TVA.

### § 205.3 Definitions.

For the purpose of this part:

*Administrative cost grant* means a grant exclusively for administrative