

deflation adjustment the holder takes into account to reduce the amount of interest otherwise includible in income or treats as an ordinary loss with respect to the instrument during the taxable year. The decrease occurs when the deflation adjustment is taken into account under paragraph (f)(1) of this section.

(3) *Subsequent holders.* A holder determines the amount of acquisition premium or market discount on an inflation-indexed debt instrument by reference to the adjusted issue price of the instrument on the date the holder acquires the instrument. A holder determines the amount of bond premium on an inflation-indexed debt instrument by assuming that the amount payable at maturity on the instrument is equal to the instrument's inflation-adjusted principal amount for the day the holder acquires the instrument. Any premium or market discount is taken into account over the remaining term of the debt instrument as if there were no further inflation or deflation. See section 171 for additional rules relating to the amortization of bond premium and sections 1276 through 1278 for additional rules relating to market discount.

(4) *Minimum guarantee.* Under both the coupon bond method and the discount bond method, a minimum guarantee payment is ignored until the payment is made. If there is a minimum guarantee payment, the payment is treated as interest on the date it is paid.

(5) *Temporary unavailability of a qualified inflation index.* Notwithstanding any other rule of this section, an inflation-indexed debt instrument may provide for a substitute value of the qualified inflation index if and when the publication of the value of the qualified inflation index is temporarily delayed. The substitute value may be determined by the issuer under any reasonable method. For example, if the CPI-U is not reported for a particular month, the debt instrument may provide that a substitute value may be determined by increasing the last reported value by the average monthly percentage increase in the qualified inflation index over the preceding twelve months. The use of a substitute value does not result in a reissuance of the debt instrument.

(g) *Reopenings.* For purposes of § 1.1275-2(d)(2), a reopening of Treasury Inflation-Indexed Securities is a qualified reopening if—

(1) The terms of the securities issued in the reopening are the same as the terms of the original securities; and

(2) The reopening occurs not more than one year after the original securities were first issued to the public.

(h) *Effective date.* This section applies to an inflation-indexed debt instrument issued on or after January 6, 1997.

Par. 5. Section 1.1286-2T is added to read as follows:

**§ 1.1286-2T Stripped inflation-indexed debt instruments (temporary).**

*Stripped inflation-indexed debt instruments.* If a Treasury Inflation-Indexed Security is stripped under the Department of the Treasury's Separate Trading of Registered Interest and Principal of Securities (STRIPS) program, the holders of the principal and coupon components must use the discount bond method (as described in § 1.1275-7T(e)) to account for the original issue discount on the components.

Margaret Milner Richardson,  
*Commissioner of Internal Revenue.*

Approved: December 6, 1996.  
Donald C. Lubick,  
*Acting Assistant Secretary of the Treasury.*  
[FR Doc. 96-33398 Filed 12-31-96; 12:57 pm]

BILLING CODE 4830-01-U

## Fiscal Service

### 31 CFR Part 354

#### Regulations Governing Book-Entry Securities of the Student Loan Marketing Association (Sallie Mae)

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

**ACTION:** Final rule.

**SUMMARY:** The Department of the Treasury, on behalf of the Student Loan Marketing Association, is publishing final regulations to govern Sallie Mae book-entry securities. This action is being taken in conjunction with similar amendments being made by the Department of the Treasury to the regulations governing book-entry Treasury securities, and by other government-sponsored enterprises (GSEs) for GSE securities that are maintained on the book-entry system operated by the Federal Reserve Banks. The rules incorporate recent and significant changes in commercial law addressing the holding of securities in book-entry form through financial intermediaries.

**EFFECTIVE DATE:** January 6, 1997. The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of January 6, 1997.

**FOR FURTHER INFORMATION CONTACT:** Mary A. Sheehan, Assistant General Counsel, Sallie Mae, (703) 810-7681, or Cynthia E. Reese, Deputy Chief Counsel, Bureau of the Public Debt, (202) 219-3320.

**SUPPLEMENTARY INFORMATION:** Virtually all government-sponsored enterprises (GSEs) have regulations governing their book-entry securities maintained in the Federal Reserve book-entry system that are nearly identical to the regulations governing marketable Treasury securities.<sup>1</sup>

In the case of the Student Loan Marketing Association ("Sallie Mae"), the Secretary of the Treasury is expressly authorized by the Higher Education Act of 1965, as amended,<sup>2</sup> to promulgate Sallie Mae's book-entry regulations. The current Sallie Mae book-entry regulations were issued by Treasury pursuant to that authority and appear in 31 CFR Part 354.<sup>3</sup> The regulations set forth rules for the transfer, pledge and servicing of book-entry Sallie Mae securities.

The current Treasury regulations will be superseded by new regulations (the "TRADES regulations")<sup>4</sup> that will go into effect January 1, 1997. As explained below, the TRADES regulations incorporate recent and significant changes in commercial law addressing the holding of securities in book-entry form through financial intermediaries.<sup>5</sup>

Some commenters on the TRADES regulations were concerned about coordination among Treasury and the GSEs. The commenters urged simultaneous effectiveness of parallel GSE rules. Accordingly, pursuant to Sallie Mae's request, Treasury is issuing revised regulations that will be effective in January, 1997, for Sallie Mae securities maintained on the Federal Reserve book-entry system.

Consistent with the approach in the TRADES regulations, the regulations in this Part contain specific provisions that deal with the rights and obligations of Sallie Mae and the Federal Reserve Banks with respect to Sallie Mae securities and the operation of the book-entry system. The regulations are also based in large part on Revised Article 8 on Investment Securities of the Uniform

<sup>1</sup> 31 CFR Part 306, Subpart O.

<sup>2</sup> P.L. No. 99-498, 20 U.S.C. § 1087-2(m).

<sup>3</sup> 52 FR 4495 (February 12, 1987). Prior to that time, Treasury had promulgated book-entry regulations only for Sallie Mae securities issued February 25, 1983 through September 30, 1983 (48 FR 8059).

<sup>4</sup> 61 FR 43626 (August 23, 1996).

<sup>5</sup> At the time the Sallie Mae regulations were issued, it was noted in the preamble that once the TRADES regulations were finalized, it was contemplated that the Sallie Mae regulations would be replaced with a similar set of rules.

Commercial Code ("Revised Article 8"). The regulations include certain choice of law rules patterned on Revised Article 8. In the event the jurisdiction specified under the choice of law rules has not adopted Revised Article 8, Revised Article 8 will be applied nonetheless, as though it had been so adopted. At the time of the publication of the final TRADES rule, 28 states had adopted Revised Article 8.<sup>6</sup>

Except with respect to matters related to differences between Sallie Mae securities and Treasury securities,<sup>7</sup> the provisions of these rules are the same as the rules that will apply to Treasury securities. Sallie Mae intends that the analysis contained in the commentary to the TRADES final rule, Appendix B to 31 CFR Part 357, and other interpretations of the TRADES regulations published in the Federal Register, are to be used in interpreting the Sallie Mae regulations.

The most notable differences between these regulations and the TRADES regulations are as follows. First, Sallie Mae maintains no direct ownership system with respect to Sallie Mae securities comparable to the "TREASURY DIRECT"<sup>8</sup> system for Treasury securities. Second, Sallie Mae rarely has need to issue securities in definitive (certificated) form; however, Sallie Mae retains the right to issue securities in definitive form if it so chooses. Third, there are some variations in the terminology used in these regulations and in TRADES, particularly with respect to the type of documentation used to establish the terms of the security. Finally, it should be noted that these regulations apply only to Sallie Mae book-entry securities maintained on the Federal Reserve book-entry system. These regulations do not apply to Sallie Mae securities held through any other book-entry clearing systems, such as those operated by the Depository Trust Company, Euroclear or Cedel.

#### Procedural Requirements

This final rule does not meet the criteria for a "significant regulatory action" pursuant to Executive Order 12866.

These regulations are being adopted as a final rule effective upon

<sup>6</sup>California has since also adopted Revised Article 8.

<sup>7</sup>Sallie Mae securities, together with interest thereon, are not guaranteed by the United States and do not constitute a debt or obligation of the United States or of any agency or instrumentality thereof other than Sallie Mae.

<sup>8</sup>In TREASURY DIRECT, the beneficial owners of Treasury securities hold their securities directly, on the books of the issuer (in contrast to holding through a financial intermediary).

publication. For the following reasons, the Department finds that notice and public procedure and a 30-day delayed effective date are unnecessary, impracticable, and contrary to the public interest, pursuant to 5 U.S.C. 553(b)(3)(B) and (d)(3). First, the rule merely conforms the regulations governing book-entry Sallie Mae securities to the TRADES regulations that will govern book-entry Treasury securities. Second, the TRADES regulations were published in various forms, as a proposed rule four times and as a final rule once. In each instance, the TRADES regulations were accompanied by extensive commentary addressing the background and rule provisions. Third, the comments on the TRADES regulations urged uniformity in substance and effectiveness for regulations for GSEs that issue book-entry securities maintained on the Federal Reserve book-entry system. Fourth, there are compelling reasons for setting the effective date as close as possible to January 1, 1997, when the TRADES regulations and those of the other GSEs will become effective. Having the rules become effective at different times for securities that are all maintained and transferred on the book-entry system would be burdensome and unworkable for market participants.

As no notice of proposed rulemaking is required, the provisions of the Regulatory Flexibility Act do not apply.

There are no collections of information contained in this final rule. Therefore, the Paperwork Reduction Act does not apply.

#### List of Subjects in 31 CFR Part 354

Bonds, Electronic funds transfer, Federal Reserve System, Government securities, Incorporation by reference, Securities.

For the reasons set forth in the preamble, Title 31, Chapter II, Subchapter B, Code of Federal Regulations, is amended by revising Part 354 to read as follows:

### **PART 354—REGULATIONS GOVERNING BOOK-ENTRY SECURITIES OF THE STUDENT LOAN MARKETING ASSOCIATION (SALLIE MAE)**

Sec.

354.0 Applicability; maintenance of Sallie Mae Securities.

354.1 Definitions of terms.

354.2 Law governing rights and obligations of Federal Reserve Banks, and Sallie Mae; rights of any Person against Federal Reserve Banks, and Sallie Mae.

354.3 Law governing other interests.

354.4 Creation of Participant's Security Entitlement; security interests.

354.5 Obligations of Sallie Mae; no adverse claims.

354.6 Authority of Federal Reserve Banks.

354.7 Withdrawal of eligible Book-entry Sallie Mae Securities for conversion to definitive form.

354.8 Waiver of regulations.

354.9 Liability of Sallie Mae and Federal Reserve Banks.

354.10 Additional provisions.

Authority: 12 U.S.C. 391; 20 U.S.C. 1087-2(m).

#### **§ 354.0 Applicability; maintenance of Sallie Mae Securities.**

(a) A Sallie Mae Security may be maintained in the form of a Definitive Sallie Mae Security or a Book-entry Sallie Mae Security. A Book-entry Sallie Mae Security shall be maintained in the Book-entry System.

(b) The Sallie Mae Securities to which the regulations in this part apply are obligations which, by the terms of their issue, are available exclusively as Book-entry Sallie Mae Securities or which, pursuant to the securities documentation, are convertible from Book-entry Sallie Mae Securities to Definitive Sallie Mae Securities or vice versa.

#### **§ 354.1 Definitions of terms.**

(a) *Adverse Claim* means a claim that a claimant has a property interest in a Security and that it is a violation of the rights of the claimant for another Person to hold, transfer, or deal with the Security.

(b) *Book-entry Sallie Mae Security* means a Sallie Mae Security issued or maintained in the Book-entry System.

(c) *Book-entry System* means the automated book-entry system operated by the Federal Reserve Banks acting as the fiscal agent for Sallie Mae, on which Book-entry Sallie Mae Securities are issued, recorded, transferred and maintained in book-entry form.

(d) *Definitive Sallie Mae Security* means a Sallie Mae Security in engraved or printed form, or that is otherwise represented by a certificate.

(e) *Eligible Book-entry Sallie Mae Security* means a Book-entry Sallie Mae Security issued or maintained in the Book-entry System which by the terms of its Security Documentation is available in either definitive or book-entry form.

(f) *Entitlement Holder* means a Person to whose account an interest in a Book-entry Sallie Mae Security is credited on the records of a Securities Intermediary.

(g) *Federal Reserve Bank* means a Federal Reserve Bank or Branch.

(h) *Federal Reserve Bank Operating Circular* means the publication issued by each Federal Reserve Bank that sets forth the terms and conditions under

which the Federal Reserve Bank maintains book-entry Securities accounts (including Book-entry Sallie Mae Securities) and transfers book-entry Securities (including Book-entry Sallie Mae Securities).

(i) *Funds Account* means a reserve and/or clearing account at a Federal Reserve Bank to which debits or credits are posted for transfers against payment, book-entry securities transaction fees, or principal and interest payments.

(j) *Participant* means a Person that maintains a Participant's Securities Account with a Federal Reserve Bank.

(k) *Participant's Securities Account* means an account in the name of a Participant at a Federal Reserve Bank to which Book-entry Sallie Mae Securities held for a Participant are or may be credited.

(l) *Person* means and includes an individual, corporation, company, governmental entity, association, firm, partnership, trust, estate, representative, and any other similar organization, but does not mean or include the United States, Sallie Mae, or a Federal Reserve Bank.

(m) *Revised Article 8* means Uniform Commercial Code, Revised Article 8, Investment Securities (with Conforming and Miscellaneous Amendments to Articles 1, 3, 4, 5, 9, and 10) 1994 Official Text. Revised Article 8 of the Uniform Commercial Code is incorporated by reference in this Part pursuant to 5 U.S.C. 552(a) and 1 CFR Part 51. Article 8 was adopted by the American Law Institute and the National Conference of Commissioners on Uniform State laws and approved by the American Bar Association on February 14, 1995. Copies of this publication are available from the Executive Office of the American Law Institute, 4025 Chestnut Street, Philadelphia, PA 19104, and the National Conference of Commissioners on Uniform State Laws, 676 North St. Clair Street, Suite 1700, Chicago, IL 60611. Copies are also available for public inspection at the Department of the Treasury Library, Room 5030, main Treasury Building, 1500 Pennsylvania Avenue, N.W., Washington D.C. 20220, and in the Office of the Federal Register, 800 North Capitol St., N.W., Suite 700, Washington D.C.

(n) *Sallie Mae* means the Student Loan Marketing Association, a stock holder-owned corporation and government-sponsored enterprise established in 1972 by, and operating pursuant to, Section 439 of the Higher Education Act of 1965, as amended, 20 U.S.C. 1087-2.

(o) *Sallie Mae Security* means any security or obligation of Sallie Mae

issued in the form of a Definitive Sallie Mae Security or a Book-entry Sallie Mae Security.

(p) *Securities Documentation* means the applicable statement of terms and conditions or other documents establishing the terms of a Book-entry Sallie Mae Security.

(q) *Securities Intermediary* means: (1) a Person that is registered as a "clearing agency" under the federal securities laws; a Federal Reserve Bank; any other Person that provides clearance or settlement services with respect to a Book-entry Security that would require it to register as a clearing agency under the federal securities laws but for an exclusion or exemption from the registration requirement, if its activities as a clearing corporation, including promulgation of rules, are subject to regulation by a federal or state governmental authority; or

(2) a Person (other than an individual, unless such individual is registered as a broker or dealer under the federal securities laws) including a bank or broker, that in the ordinary course of its business maintains securities accounts for others and is acting in that capacity.

(r) *Security* means any note, bond, debenture, evidence of indebtedness, or, in general, any interest or instrument commonly known as a "security."

(s) *Security Entitlement* means the rights and property interest of an Entitlement Holder with respect to a Book-entry Sallie Mae Security.

(t) *State* means any state of the United States, the District of Columbia, Puerto Rico, the Virgin Islands, or any other territory or possession of the United States.

(u) *Transfer Message* means an instruction of a Participant to a Federal Reserve Bank to effect a transfer of a Book-entry Security (including a Book-entry Sallie Mae Security) maintained in the Book-entry System, as set forth in Federal Reserve Bank Operating Circulars.

**§ 354.2 Law governing rights and obligations of Federal Reserve Banks, and Sallie Mae; rights of any Person against Federal Reserve Banks and Sallie Mae.**

(a) Except as provided in paragraph (b) of this section, the following are governed solely by the book-entry regulations contained in this Part 354, the Securities Documentation (to the extent not inconsistent with these regulations) and Federal Reserve Bank Operating Circulars:

(1) The rights and obligations of Sallie Mae and the Federal Reserve Banks with respect to:

(i) A Book-entry Sallie Mae Security or Security Entitlement; and

(ii) The operation of the Book-entry System as it applies to Sallie Mae Securities; and

(2) The rights of any Person, including a Participant, against Sallie Mae and the Federal Reserve Banks with respect to:

(i) A Book-entry Sallie Mae Security or Security Entitlement; and

(ii) The operation of the Book-entry System as it applies to Sallie Mae Securities.

(b) A security interest in a Security Entitlement that is in favor of a Federal Reserve Bank from a Participant and that is not recorded on the books of a Federal Reserve Bank pursuant to § 354.4(c)(1), is governed by the law (not including the conflict-of-law rules) of the jurisdiction where the head office of the Federal Reserve Bank maintaining the Participant's Securities Account is located. A security interest in a Security Entitlement that is in favor of a Federal Reserve Bank from a Person that is not a Participant, and that is not recorded on the books of a Federal Reserve Bank pursuant to § 354.14(c)(1), is governed by the law determined in the manner specified in § 354.3.

(c) If the jurisdiction specified in the first sentence of paragraph (b) of this section is a State that has not adopted Revised Article 8 (incorporated by reference, see § 354.1), then the law specified in paragraph (b) shall be the law of that State as though Revised Article 8 had been adopted by that State.

**§ 354.3 Law governing other interests.**

(a) To the extent not inconsistent with the regulations in this Part, the law (not including the conflict-of-law rules) of a Securities Intermediary's jurisdiction governs:

(1) The acquisition of a Security Entitlement from the Securities Intermediary;

(2) The rights and duties of the Securities Intermediary and Entitlement Holder arising out of a Security Entitlement;

(3) Whether the Securities Intermediary owes any duties to an adverse claimant to a Security Entitlement;

(4) Whether an Adverse Claim can be asserted against a Person who acquires a Security Entitlement from the Securities Intermediary or a Person who purchases a Security Entitlement or interest therein from an Entitlement Holder; and

(5) Except as otherwise provided in paragraph (c) of this section, the perfection, effect of perfection or non-perfection and priority of a security interest in a Security Entitlement.

(b) The following rules determine a "Securities Intermediary's jurisdiction" for purposes of this section:

(1) If an agreement between the Securities Intermediary and its Entitlement Holder specifies that it is governed by the law of a particular jurisdiction, that jurisdiction is the Securities Intermediary's jurisdiction.

(2) If an agreement between the Securities Intermediary and its Entitlement Holder does not specify the governing law as provided in paragraph (b)(1) of this section, but expressly specifies that the securities account is maintained at an office in a particular jurisdiction, that jurisdiction is the Securities Intermediary's jurisdiction.

(3) If an agreement between the Securities Intermediary and its Entitlement Holder does not specify a jurisdiction as provided in paragraph (b)(1) or (b)(2) of this section, the Securities Intermediary's jurisdiction is the jurisdiction in which is located the office identified in an account statement as the office serving the Entitlement Holder's account.

(4) If an agreement between the Securities Intermediary and its Entitlement Holder does not specify a jurisdiction as provided in paragraph (b)(1) or (b)(2) of this section and an account statement does not identify an office serving the Entitlement Holder's account as provided in paragraph (b)(3) of this section, the Securities Intermediary's jurisdiction is the jurisdiction in which is located the chief executive office of the Securities Intermediary.

(c) Notwithstanding the general rule in paragraph (a)(5) of this section, the law (but not the conflict-of-law rules) of the jurisdiction in which the Person creating a security interest is located governs whether and how the security interest may be perfected automatically or by filing a financing statement.

(d) If the jurisdiction specified in paragraph (b) of this section is a State that has not adopted Revised Article 8 (incorporated by reference, see § 354.1), then the law for the matters specified in paragraph (a) of this section shall be the law of that State as though Revised Article 8 had been adopted by that State. For purposes of the application of the matters specified in paragraph (a) of this section, the Federal Reserve Bank maintaining the Participant's Securities Account is a clearing corporation, and the Participant's interest in a Book-entry Security is a Security Entitlement.

**§ 354.4 Creation of Participant's Security Entitlement; security interests.**

(a) A Participant's Security Entitlement is created when a Federal

Reserve Bank indicates by book-entry that a Book-entry Sallie Mae Security has been credited to a Participant's Securities Account.

(b) A security interest in a Security Entitlement of a Participant in favor of the United States to secure deposits of public money, including without limitation deposits to the Treasury tax and loan accounts, or other security interest in favor of the United States that is required by Federal statute, regulation, or agreement, and that is marked on the books of a Federal Reserve Bank is thereby effected and perfected, and has priority over any other interest in the securities. Where a security interest in favor of the United States in a Security Entitlement of a Participant is marked on the books of a Federal Reserve Bank, such Federal Reserve Bank may rely, and is protected in relying, exclusively on the order of an authorized representative of the United States directing the transfer of the security. For purposes of this paragraph, an "authorized representative of the United States" is the official designated in the applicable regulations or agreement to which a Federal Reserve Bank is a party, governing the security interest.

(c)(1) Sallie Mae and the Federal Reserve Banks have no obligation to agree to act on behalf of any Person or to recognize the interest of any transferee of a security interest or other limited interest in favor of any Person except to the extent of any specific requirement of Federal law or regulation or to the extent set forth in any specific agreement with the Federal Reserve Bank on whose books the interest of the Participant is recorded. To the extent required by such law or regulation or set forth in an agreement with a Federal Reserve Bank, or the Federal Reserve Bank Operating Circular, a security interest in a Security Entitlement that is in favor of a Federal Reserve Bank, Sallie Mae, or a Person may be created and perfected by a Federal Reserve Bank marking its books to record the security interest. Except as provided in paragraph (b) of this section, a security interest in a Security Entitlement marked on the books of a Federal Reserve Bank shall have priority over any other interest in the securities.

(2) In addition to the method provided in paragraph (c)(1) of this section, a security interest, including a security interest in favor of a Federal Reserve Bank, may be perfected by any method by which a security interest may be perfected under applicable law as described in § 354.2(b) or § 354.3. The perfection, effect of perfection or non-perfection, effect of perfection or non-perfection and priority of a security

interest are governed by such applicable law. A security interest in favor of a Federal Reserve Bank shall be treated as a security interest in favor of a clearing corporation in all respects under such law, including with respect to the effect of perfection and priority of such security interest. A Federal Reserve Bank Operating Circular shall be treated as a rule adopted by a clearing corporation for such purposes.

**§ 354.5 Obligations of Sallie Mae; no adverse claims.**

(a) Except in the case of a security interest in favor of the United States or a Federal Reserve Bank or otherwise as provided in § 354.4(c)(1), for the purposes of this Part 354, Sallie Mae and the Federal Reserve Banks shall treat the Participant to whose Securities Account an interest in a Book-entry Sallie Mae Security has been credited as the person exclusively entitled to issue a Transfer Message, to receive interest and other payments with respect thereof and otherwise to exercise all the rights and powers with respect to such Security, notwithstanding any information or notice to the contrary. Neither the Federal Reserve Banks nor Sallie Mae is liable to a Person asserting or having an Adverse Claim to a Security Entitlement or to a Book-entry Sallie Mae Security in a Participant's Securities Account, including any such claim arising as a result of the transfer or disposition of a Book-entry Sallie Mae Security by a Federal Reserve Bank pursuant to a Transfer Message that the Federal Reserve Bank reasonably believes to be genuine.

(b) The obligation of Sallie Mae to make payments of interest and principal with respect to Book-entry Sallie Mae Securities is discharged at the time payment in the appropriate amount is made as follows:

(1) Interest on Book-entry Sallie Mae Securities is either credited by a Federal Reserve Bank to a Funds Account maintained at such Bank or otherwise paid as directed by the Participant.

(2) Book-entry Sallie Mae Securities are redeemed at maturity or pursuant to a call for redemption in accordance with their terms by a Federal Reserve Bank withdrawing the securities from the Participant's Securities Account in which they are maintained and by either crediting the amount of the redemption proceeds, including both principal and interest where applicable, to a Funds Account at such Bank or otherwise paying such principal and interest, as directed by the Participant.

**§ 354.6 Authority of Federal Reserve Banks.**

(a) Each Federal Reserve Bank is hereby authorized as fiscal agent of Sallie Mae to perform functions with respect to the issuance of Book-entry Sallie Mae Securities offered and sold by Sallie Mae, in accordance with the Securities Documentation, and Federal Reserve Bank Operating Circulars; to service and maintain Book-entry Sallie Mae Securities in accounts established for such purposes; to make payments of principal and interest with respect to such Book-entry Sallie Mae Securities as directed by Sallie Mae; to effect transfer of Book-entry Sallie Mae Securities between Participants' Securities Account as directed by the Participants; to effect conversions between Book-entry Sallie Mae securities and Definitive Sallie Mae Securities with respect to those securities as to which conversion rights are available pursuant to the applicable Securities Documentation; and to perform such other duties as fiscal agent as may be requested by Sallie Mae.

(b) Each Federal Reserve Bank may issue Operating Circulars not inconsistent with this Part, governing the details of its handling of Book-entry Sallie Mae Securities, Security Entitlements, and the operation of the Book-entry System under this Part.

**§ 354.7 Withdrawal of eligible Book-entry Sallie Mae Securities for conversion to definitive form.**

(a) Eligible Book-entry Sallie Mae Securities may be withdrawn from the Book-entry System by requesting delivery of like Definitive Sallie Mae Securities.

(b) A Federal Reserve Bank shall, upon receipt of appropriate instructions to withdraw Eligible Book-entry Sallie Mae Securities from book-entry in the Book-entry System, convert such securities into Definitive Sallie Mae Securities and deliver them in accordance with such instructions. No such conversion shall affect existing interests in such Sallie Mae Securities.

(c) All requests for withdrawal of Eligible Book-entry Sallie Mae Securities must be made prior to the maturity or date of call of such securities.

(d) Sallie Mae Securities which are to be delivered upon withdrawal may be issued in either registered or bearer form, to the extent permitted by the applicable Securities Documentation.

**§ 354.8 Waiver of regulations.**

The Secretary reserves the right, in the Secretary's discretion, to waive any provision(s) of the regulations in this

Part in any case or class of cases for the convenience of Sallie Mae, or in order to relieve any person or entity of unnecessary hardship, if such action is not inconsistent with law, does not adversely affect substantial existing rights, and the Secretary is satisfied that such action will not subject Sallie Mae to any substantial expense or liability.

**§ 354.9 Liability of Sallie Mae and Federal Reserve Banks.**

Sallie Mae and the Federal Reserve Banks may rely on the information provided in a Transfer Message, and are not required to verify the information. Sallie Mae and the Federal Reserve Banks shall not be liable for any action taken in accordance with the information set out in a Transfer Message or evidence submitted in support thereof.

**§ 354.10 Additional provisions.**

(a) *Additional requirements.* In any case or any class of cases arising under these regulations, Sallie Mae may require such additional evidence and a bond of indemnity, with or without surety, as may in the judgment of Sallie Mae be necessary for the protection of the interests of Sallie Mae.

(b) *Notice of attachment for Sallie Mae Securities in Book-entry System.* The interest of a debtor in a Security Entitlement may be reached by a creditor only by legal process upon the Securities Intermediary with whom the debtor's securities account is maintained, except where a Security Entitlement is maintained in the name of a secured party, in which case the debtor's interest may be reached by legal process upon the secured party. The regulations in this part do not purport to establish whether a Federal Reserve Bank is required to honor an order or other notice of attachment in any particular case or class of cases.

Dated: December 29, 1996.

Gerald Murphy,

*Fiscal Assistant Secretary.*

[FR Doc. 97-129 Filed 1-3-97; 8:45 am]

**BILLING CODE 4810-39-W**

**DEPARTMENT OF DEFENSE****Office of the Secretary****32 CFR Part 199**

[DoD 6010.8-R]

RIN 0720-AA29

**Civilian Health and Medical Program of the Uniformed Services (CHAMPUS); Clarification of the CHAMPUS Exclusion of Unproven Drugs, Devices and Medical Treatments and Procedures**

**AGENCY:** Office of the Secretary, DoD.

**ACTION:** Final rule.

**SUMMARY:** This final rule clarifies the CHAMPUS exclusion of unproven drugs, devices and medical treatments and procedures and describes the process that the Office of CHAMPUS follows in determining when such drugs, devices, treatments and procedures have moved from the status of unproven to the position of proven medical effectiveness. This clarification is necessary to ensure the CHAMPUS beneficiary and provider population understand the process the Office of CHAMPUS (OCHAMPUS) follows prior to endorsement by CHAMPUS of a new emerging medical technology, drug, or device for which the safety and efficacy have been proven.

**DATES:** This final rule is effective February 5, 1996.

**ADDRESSES:** Office of the Civilian Health and Medical Program of the Uniformed Services (OCHAMPUS), Program Development Branch, Aurora, CO 80045-6900.

**FOR FURTHER INFORMATION CONTACT:** Rene Morrell, Program Development Branch, OCHAMPUS, telephone (303) 361-1218.

**SUPPLEMENTARY INFORMATION:****A. Discussion of Champus Policy**

Under statutes governing CHAMPUS, including 10 U.S.C. 1079, CHAMPUS payments are prohibited for health care services that are "not medically or psychologically necessary." The purpose of this provision, common in health care payment programs, is to prevent CHAMPUS beneficiaries from being exposed to less than fully developed and tested medical procedures and to avoid the associated risk of unnecessary or unproven treatment. CHAMPUS regulations and program policies restrict benefits to those procedures for which the safety and efficacy have been proven to be comparable or superior to conventional therapies. In general, the CHAMPUS