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Rules and Regulations

DEPARTMENT OF THE TREASURY

Fiscal Service

Bureau of the Public Debt

**31 CFR Part 348**

**Regulations Governing Depositary Compensation Securities**

*68 FR 41266*

DATE: Friday, July 11, 2003

**ACTION:** Final rule.

[\*41266]

**SUMMARY:** The Bureau of the Public Debt (Public Debt) is issuing regulations governing Depositary Compensation Securities that will be used to compensate financial agents for work performed on behalf of the Department of the Treasury.

**EFFECTIVE DATE:** July 11, 2003.

**ADDRESSES:** You can download this final rule at the following World Wide Web address: <http://www.publicdebt.treas.gov>. You may also inspect and copy this rule at: Treasury Department Library, Room 1428, Main Treasury Building, 1500 Pennsylvania Ave., NW., Washington, DC 20220. Before visiting the library, you must call (202) 622-0990 for an appointment.

**FOR FURTHER INFORMATION CONTACT:** For information contact Ann Fowler in the Office of the Chief Counsel, Bureau of the Public Debt, at 304-480-8692, or at [CHCOUNSEL@bpd.treas.gov](mailto:CHCOUNSEL@bpd.treas.gov).

**SUPPLEMENTARY INFORMATION:** The former 31 CFR part 348 is being reinstated and revised to provide for [\*41267] the issuance of Depositary Compensation Securities in book-entry form, and for their automatic reinvestment at maturity.

These special issue securities, formerly known as 2-Percent Depositary Bonds, were first offered in 1941 as a means to compensate depositaries and financial agents of the Government for essential banking services provided in

support of the day-to-day operations of the Government, including the collection and deposit of all Treasury receipts. The securities were phased out when other methods of compensation were used. Hence, the offering was terminated in 1994.

The former 31 CFR part 348 is now being reinstated and revised because we have determined that the use of Depository Compensation Securities to compensate financial agents is in the public interest.

Financial agents will purchase Depository Compensation Securities with funds placed by the United States Treasury in a non-interest bearing time balance account at the financial agent equal to the principal amount of the security. The interest earned from Depository Compensation Securities will serve to compensate financial agents for services performed on behalf of the Treasury. Some financial agents have inquired regarding the proper accounting of this transaction and the potential impact on their balance sheet. The transaction, as more fully described in agreements between Treasury and its Financial Agents, is structured so that the principal amount of the security and the time balance will be set-off at maturity consistent with the criteria described in Financial Accounting Standards Board (FASB) Interpretation No. 39. Financial agents should consult with their auditors regarding the applicability of FASB Interpretation 39 to this transaction.

### **Procedural Requirements**

This final rule does not meet the criteria for a "significant regulatory action" as defined in Executive Order 12866. Therefore, the regulatory review procedures contained therein do not apply.

This final rule relates to matters of public contract and procedures for United States securities. The notice and public procedures requirements and delayed effective date requirements of the Administrative Procedure Act are inapplicable, pursuant to 5 U.S.C. 553(a)(2).

As no notice of proposed rulemaking is required, the Regulatory Flexibility Act (5 U.S.C. 601, *et seq.*) does not apply. We ask for no new collections of information in this final rule. Therefore, the Paperwork Reduction Act (44 U.S.C. 3507) does not apply.

### **List of Subjects in 31 CFR Part 348**

Banks, Banking, Electronic funds transfer, Government securities.

Accordingly, for the reasons set out in the preamble, 31 CFR Chapter II, Subchapter B, is amended by adding Part 348 to read as follows:

## **PART 348--REGULATIONS GOVERNING DEPOSITORY COMPENSATION SECURITIES**

Sec.

348.0 Offering of securities.

348.1 Description of securities.

348.2 Redemption/call/reinvestment.

348.3 Reservations.

**Authority:** 31 U.S.C. 3121; 5 U.S.C. 301.

### **§ 348.0 -- Offering of securities.**

The Secretary of the Treasury (the Secretary) under authority of Title 31, Chapter 31, offers, at par, Depository Compensation Securities (securities) to financial agents of the Department of the Treasury. The securities are offered to financial agents of the Department of the Treasury designated under federal law (including, but not limited to: 12 U.S.C. 90, 265-266, 1464(k), and 1789a; 31 U.S.C. 3303) which have executed a Depository, Financial Agency, and Collateral

Agreement satisfactory to the Secretary, and are authorized to provide essential banking services to the Department of the Treasury. The securities will be issued in an amount not to exceed, in any case, the amount for which the financial agents are authorized. The securities are non-marketable Treasury securities that will be utilized to compensate financial agents, in whole or in part, for services performed on behalf of the Department of the Treasury. The financial agents will be compensated from the interest earned on the securities. This offering will continue until terminated by the Secretary. The Fiscal Assistant Secretary is authorized to act on behalf of the Secretary upon all matters contained in these regulations.

**§ 348.1 -- Description of securities.**

(a) *General.* The securities will be issued in book-entry form on the books of the Department of the Treasury, Bureau of the Public Debt, Parkersburg, WV.

(b) *Terms and rate of interest.* The securities will be issued as notes or bonds, depending on their maturity, under such terms and at such rates as determined and announced by the Secretary. The Secretary will set a given rate of interest that will apply to all securities issued while the rate is in effect. The interest will be payable on a monthly basis. The securities will be issued in a minimum of \$ 1,000 each.

(c) *Nontransferability.* The securities are not transferable, but they will be acceptable to secure compensating balances with financial agents (as described in § 348.0) and may not be used for any other purpose.

**§ 348.2 -- Redemption/call/reinvestment.**

(a) *Redemption by financial agents.* The securities may be redeemed prior to maturity by financial agents only under such terms and conditions as set forth in agreements between the financial agents and the Department of the Treasury, Financial Management Service, Washington, DC.

(b) *Call by the Treasury.* The securities are subject to call before maturity. The Secretary will announce such call by any means the Secretary deems appropriate.

(c) *Reinvestment at maturity.* The securities shall be automatically redeemed at maturity and the principal amount reinvested in new securities having the same description in all material respects as the ones redeemed, except that the Secretary shall have the authority to modify the rate of interest for the re-issued securities. The securities shall be automatically redeemed and re-invested unless the agent certifies in writing, to the Treasury, Financial Management Service, Washington, DC, that it declines automatic reinvestment within seven calendar days prior to maturity date.

**§ 348.3 -- Reservations.**

The Secretary reserves the right to reject any application for the purchase of securities hereunder, in whole or in part, and to refuse to issue or permit to be issued any such securities in any case if the Secretary deems such action to be in the public interest, and the Secretary's action in any such respect shall be final. The Secretary may also at any time, supplement or amend the terms of these regulations, or of any amendments or supplements thereto.

Dated: July 7, 2003.

**Donald V. Hammond,**

*Fiscal Assistant Secretary.*

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