

§ 357.44

§ 357.44 [Reserved]

§ 357.45 Supplements, amendments, or revisions.

The Secretary may, at any time, prescribe additional supplemental, amendatory or revised regulations with respect to securities, including charges and fees for the maintenance and servicing of securities in book-entry form.

APPENDIX A TO PART 357—DISCUSSION OF FINAL RULE

BACKGROUND

Twenty-four written comments were received to the notice of proposed rulemaking from various sources, including Federal agencies, trade associations, as well as financial and commercial investment institutions. With the exception of one bank, all commentators endorsed the concept of a certificateless security.

The grouping and identification of the comments received have been made on a section-by-section basis, with an explanation of the action taken with respect thereto. As circumstances necessitated the publication of the rule in two segments, in order to make each part more understandable, certain definitions, such as those for “Department” and “securities”, have appeared in the proposed rule for both Legacy Treasury Direct® and TRADES, and were slightly modified in the proposed rules on TRADES. Because these modifications represent non-substantive clarifications, and to avoid confusion as between the two portions of the rules, the definitions as used in TRADES have been adopted.

SECTION-BY-SECTION ANALYSIS

Section 357.21 Registration.

The forms of registrations provided for securities to be held in Legacy Treasury Direct have different legal effect from those currently provided for in the case of definitive Treasury securities and for the Treasury’s book-entry Treasury bill system. A comment was received that, as a result, this could lead to some confusion, and that the Treasury bill forms of recordation currently offered should be changed, particularly since Treasury bills will be phased into Legacy Treasury Direct gradually. The Bureau believes that the benefits of uniformity of rights and interests that Legacy Treasury Direct investors will derive far outweigh any possible confusion. As for confusion with the current Treasury bill book-entry system, given the fact that Treasury bills have a term of not more than a year, it is believed that the problem, if any, will be short-lived.

31 CFR Ch. II (7–1–09 Edition)

Given the importance of the change that Legacy Treasury Direct provides as to registration, the discussion thereof that accompanied the Notice of Proposed Rulemaking is re-published below.

“*Forms of Registration.* The proposed rule provides the investor with a variety of registration options. They are essentially similar to those provided for registered, definitive marketable Treasury securities. Investors should be particularly aware that, where the security is held in the names of two individuals, the registration chosen may establish rights of survivorship.

“The reason for establishing the rights of ownership for securities held in Legacy Treasury Direct is that it will give investors the assurance that the forms of registration they select will establish conclusively the rights to their book-entry securities. It will also serve to eliminate some of the uncertainties, as well as possible conflicts, between the varying laws of the several States.

“A Federal rule of ownership is being adopted by the Treasury for Legacy Treasury Direct securities. This regulatory approach is consistent with the one previously taken in the case of United States Savings Bonds. It will have the effect of overriding inconsistent State laws. See, *Free v. Bland*, 369 U.S. 663 (1962).

“In the case of individuals (who are likely to be by far the majority of holders of securities in Legacy Treasury Direct), the options offered will permit virtually all the preferred forms of ownership. At the investor’s option, it will be possible to provide for the disposition of the securities upon death through rights of survivorship.

“*Coownership registration.* One option is the coownership form of registration, i.e., “A or B.” Unlike the current Treasury bill book-entry system being administered by the Bureau of the Public Debt, a security held in Legacy Treasury Direct registered in this form will be transferable upon the written request of either coowner. Other changes in the account may also be made upon the request of either party. While this form of registration will facilitate the receipt of payments and provide ease in conducting transactions, care should obviously be exercised in designating a coowner.

“*Joint ownership.* For those who would prefer to have the transferability of a security held in two names contingent upon the request of both, the joint form of registration will be appropriate. This form of registration, i.e., “A and B, with [without] the right of survivorship,” will require the agreement of both parties to conduct any authorized transaction.

“*Beneficiary form.* The beneficiary form, i.e., “A payable on death to (POD) B,” will permit the owner to have sole control of the account during his/her lifetime, but in the