

DEPARTMENT OF THE TREASURY**Fiscal Service****31 CFR Part 321**

[Department of the Treasury Circular, Public Debt Series No. 750]

Regulations Governing Payments by Banks and Other Financial Institutions of United States Savings Bonds and United States Savings Notes (Freedom Shares)

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

ACTION: Final rule.

SUMMARY: The Department of the Treasury hereby publishes this final rule amending the regulations to update procedures used by the Bureau of the Public Debt for collecting debts owed by paying agents of United States Savings Bonds and Savings Notes (collectively referred to herein as savings bonds or bonds). These collection procedures are used when a paying agent cannot be relieved of liability for a savings bond transaction and the paying agent fails to reimburse Public Debt in a timely manner.

Accounts designated or utilized by paying agents at Federal Reserve Banks for receiving settlements for savings bond redemptions are immediately credited upon the receipt of paid bonds with cash letters by Federal Reserve Banks or Branches through the EZ CLEAR system. These immediate settlements occur with the understanding that adjustments to correct errors may later be necessary. This system has expedited the process of crediting the accounts paying agents have designated or utilized for receiving savings bond transaction settlements. However, the system has also made it more cumbersome for Public Debt to collect monies from paying agents, not relieved of liability, that fail to reimburse Public Debt in a timely manner.

This amendment corrects this problem by providing that paying agents are deemed to have authorized the debit of any overdue amount, interest, administrative cost, and penalty assessed, directly from the agents' Reserve, correspondent, or clearing accounts designated or utilized at Federal Reserve Banks or Branches for settlement of redeemed savings bonds.

EFFECTIVE DATE: July 16, 1996.

FOR FURTHER INFORMATION CONTACT: Wallace L. Earnest, Division Director, Division of Staff Services (304) 480-6319, or Edward Gronseth, Deputy Chief

Counsel, Office of the Chief Counsel (304) 480-5192.

SUPPLEMENTARY INFORMATION:**I. Background**

The final rule will update the debt collection process used by the Bureau of the Public Debt. This update is necessitated by the automated processing of redeemed savings bonds through EZ CLEAR.

Paying agents receive settlements for the value of savings bonds redeemed via credits to Reserve, correspondent, and clearing accounts with Federal Reserve Banks, or their Branches.

When a depository financial institution qualifies as a savings bond paying agent, it agrees in writing to be bound by all of the provisions set out in 31 CFR part 321 and the Appendix thereto, as revised and amended, including any instructions promulgated by Treasury and its fiscal agents.

Relief of a paying agent from liability for a loss related to the redemption of a savings bond is a determination made under authority of 31 U.S.C. 3126(a).

The collection procedures will apply when a paying agent cannot be relieved of liability under 31 U.S.C. 3126(a) for a loss resulting from a payment of a savings bond pursuant to 31 CFR part 321. No change is being made in the procedure for assessing liability under 31 U.S.C. 3126(a), or in the regulations with respect to such liability determinations.

II. Summary of Amendments

Section 321.21 refers to collection procedures outlined in Paragraph 21 of the appendix to this part.

Paragraph 21 of the appendix to this part provides a detailed explanation of the consequences of a paying agent's failure to make reimbursement within 30 days of Public Debt's mailing the first demand letter, provided the paying agent cannot be relieved of liability under 31 U.S.C. 3126(a) for an erroneous payment.

A paying agent receiving settlement for the redemption value of redeemed savings bonds via credits to a Reserve, correspondent, or clearing account is deemed to have authorized the Federal Reserve Bank or Branch to debit the amount due from that account. Such debits shall be made if the paying agent fails to make timely reimbursement or submit new evidence sufficient for Public Debt to change a determination of liability within 120 days of the mailing of the first demand letter. The amount due from the redemption of a security for which the paying agent is not relieved of liability, under 31 U.S.C.

3126(a), shall include the amount of the final loss resulting from the erroneous payment, interest, administrative costs, and penalty charges.

A financial institution designated by a paying agent to receive settlement for redeemed savings bonds on behalf of that paying agent via a credit to a Reserve, correspondent, or clearing account with a Federal Reserve Bank or Branch is deemed to have authorized a debit from such account to collect an amount due from the paying agent. The consequences of a paying agent's failure to make timely reimbursement include the paying agent's being required to pay:

(a) Interest charges accruing from the date the first demand letter is mailed to the date of reimbursement, at the current value of funds rate published by the Secretary of the Treasury annually or quarterly in the Federal Register;

(b) Administrative costs (currently processing costs of \$6.00) will be assessed, if reimbursement is not made within 30 days of the date the first demand letter is mailed;

(c) Penalty charges in accordance with 31 U.S.C. 3717(e), if reimbursement is not made within 120 days of the date the first demand letter is mailed. When assessed, the penalty charge will accrue and be calculated from 30 days after the date the first demand letter is mailed to the date of reimbursement.

Procedural Requirements

It has been determined that this final rule is not a "significant regulatory action" pursuant to Executive Order 12866.

Although this rule was published in the Federal Register as a proposed rule on April 1, 1996, to secure the benefit of public comment, the rule relates to matters of public contract, as well as the borrowing power and fiscal authority of the United States. The notice and public procedures 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 provisions of the Regulatory Flexibility Act (5 U.S.C. 601, *et seq.*) do not apply.

There are no collections of information required by this final rule, therefore, the Paperwork Reduction Act does not apply.

Comments

No comments were received on the proposed rule published April 1, 1996, with a 30 day comment period.

List of Subjects in 31 CFR Part 321

Banks, Banking, Bonds, Government securities.

Dated: July 3, 1996.
 John Kilcoyne,
 Deputy Fiscal Assistant Secretary.

For the reasons set forth in the preamble, part 321 of title 31 of the Code of Federal Regulations is amended to read as follows:

PART 321—PAYMENTS BY BANKS AND OTHER FINANCIAL INSTITUTIONS OF UNITED STATES SAVINGS BONDS AND UNITED STATES SAVINGS NOTES (FREEDOM SHARES)

1. The authority citation for part 321 is revised as follows:

Authority: 2 U.S.C. 901, 5 U.S.C. 301, 12 U.S.C. 391, 31 U.S.C. 3105, 31 U.S.C. 3126.

2. Section 321.21 is revised to read as follows:

§ 321.21 Replacement and recovery of losses.

(a) If a final loss results from the redemption of a security, and the paying agent redeeming the security is not relieved of liability for such loss under 31 U.S.C. 3126(a), the Bureau of the Public Debt will demand that the paying agent promptly reimburse the United States in the amount of the final loss and will take such other action as may be necessary to collect such amount as

set out in the procedure described in Paragraph 21 of the appendix to this part.

(b) If a final loss has resulted from the redemption of a security, and no reimbursement has been or will be made, the loss shall be subject to replacement out of the fund established by the Government Losses in Shipment Act, as amended.

3. Subpart E, paragraph 21 of the appendix to this part is revised as follows:

21. *Determination of liability.* (Sec. 321.18 and Sec. 321.21)

(a) Upon completing the investigation, the Bureau of the Public Debt will examine the available information and determine whether a paying agent may be relieved of liability for any loss that may have resulted. If the paying agent cannot be relieved of liability, demand will be made upon the paying agent to reimburse the Treasury promptly. Any amount not paid within 30 days following the mailing of the first demand letter is subject to the following charges.

(1) Interest shall accrue from the date the first demand letter is mailed to the date reimbursement is made. The rate of interest to be used will be the current value of funds rate published annually or quarterly in the Federal Register and in effect during the entire period in which the remittance is late.

(2) Administrative costs shall be assessed as set out in the first demand letter, if reimbursement is not made within 30 days of the date the first demand letter is mailed.

(3) Penalty charges shall be assessed, in accordance with 31 U.S.C. 3717(e), if reimbursement is not made within 120 days of the date the first demand letter is mailed. The penalty charge will accrue and be calculated from 30 days after the date the first demand letter is mailed to the date of reimbursement.

(b) When a paying agent fails, within 120 days of the date the first demand letter is mailed, to make such reimbursement or to submit new evidence sufficient for Public Debt to change the determination of liability, by virtue of the paying agent's acceptance of settlement via credits to a Reserve, correspondent, or clearing account with a Federal Reserve Bank or Branch, the agent is deemed to have authorized the Federal Reserve Bank to debit the amount due from that account designated or utilized by the agent at the Federal Reserve Bank or Branch. An institution, designated by a paying agent to receive settlement on its behalf, in authorizing such paying agent to utilize its Reserve, correspondent, or clearing account on the books at the Federal Reserve Bank shall similarly be deemed to authorize such debits from that account.

(c) Reconsideration of a determination of liability will be made in any case when a paying agent so requests and presents additional evidence and information regarding the transaction.

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