

§ 202.7

closed because of present or prospective inability to meet the demands of its depositors or shareholders.

(Sec. 10, 56 Stat. 356, as amended, 12 U.S.C. 265; sec. 2, Pub. L. 95-147 (12 U.S.C. 266, 1464(k), 1725, 1789a, and 31 U.S.C. 1038); sec. 503 of the Rehabilitation Act of 1973 (29 U.S.C. 793); and sec. 503 of the Veterans Employment and Readjustment Act of 1972, Executive Order 11701 (38 U.S.C. 2012))

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§ 202.7 Maintenance of balances within authorizations.

(a) Government agencies must contact this Department 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 Federal Finance, Financial Management Service, Department of the Treasury, Washington, DC 20226.

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

(Sec. 10, 56 Stat. 356, as amended, 12 U.S.C. 265; sec. 2, Pub. L. 95-147 (12 U.S.C. 266, 1464(k), 1725, 1789a, and 31 U.S.C. 1038); sec. 503 of the Rehabilitation Act of 1973 (29 U.S.C. 793); and sec. 503 of the Veterans Employment and Readjustment Act of 1972, Executive Order 11701 (38 U.S.C. 2012))

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PART 203—TREASURY TAX AND LOAN DEPOSITARIES

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AUTHORITY: 31 U.S.C. 3122, 31 U.S.C. 323, 12 U.S.C. 265 and 12 U.S.C. 391.

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Subpart A—General Information

§ 203.1 Scope.

The regulations in this part govern the designation of Treasury tax and loan depositaries and their contract with the Treasury Department to process deposits of Federal taxes and to maintain and administer separate accounts to be known as Treasury tax and loan accounts.

§ 203.2 Definitions.

As used in this part:

(a) *Advices of credit* means those Treasury forms which are supplied to depositaries to be used in supporting credits to Treasury tax and loan accounts.

(b) *Business day* means any day on which the Federal Reserve Bank of the district is open to the public.

(c) *Delivery of advices of credit* to the Federal Reserve Bank means delivery of the paper advice of credit form or electronic delivery by Fedline or Voice Response of the information on the advice of credit form.

(d) *Depositary* means a Treasury tax and loan depositary.

(e) *Election of option form* means a document supplied by the Federal Reserve Bank of each district, on which a depositary indicates the option under

which it will administer its Treasury tax and loan account.

(f) *Federal funds rate* means the weekly Federal funds rate as published in the Federal Reserve Statistical Release, "H.15 Selected Interest Rates," which is published weekly by the Board of Governors of the Federal Reserve System.

(g) *Federal Reserve Bank of the district* means the Federal Reserve Bank which services the geographical area in which the depository is located. Depositories located in Puerto Rico, the Virgin Islands, and the Panama Canal Zone are included in the Second Federal Reserve District.

(h) *Federal tax deposit form* means a preinscribed form supplied to a taxpayer by the Treasury Department to accompany deposits of Federal taxes.

(i) *Federal taxes* means those Federal taxes specified by the Secretary of the Treasury or the Secretary's delegate as eligible for payment through the procedures prescribed in this part.

(j) *Note Option* means that choice available to a depository under which funds debited from its Treasury tax and loan account are added by the Treasury to its investments in obligations of the depository. The amount of such investments will be evidenced by an open-ended interest-bearing note maintained at the Federal Reserve Bank of the district.

(k) *Off premises collateral arrangement* means a collateral custody arrangement established pursuant to §203.14(c)(2) of this part wherein a depository is permitted to hold in its possession for the Federal Reserve Bank collateral security for funds invested with the depository as special direct investments.

(l) *Procedural Instructions for Treasury Tax and Loan Depositories* means Volume IV of the Treasury Financial Manual, published by the Financial Management Service.

(m) *Recognized insurance coverage* means the insurance provided by the Federal Deposit Insurance Corporation, the National Credit Union Share Insurance Fund and insurance provided by insurance organizations specifically qualified by the Secretary of the Treasury pursuant to 31 CFR part 226.

(n) *Remittance Option* means that choice available to a depository under which funds equivalent to the amount of deposits credited by the depository to its Treasury tax and loan account will be withdrawn by the Federal Reserve Bank immediately upon receipt by the Federal Reserve Bank of the advices of credit supporting such deposits.

(o) *Reporting cycle* means the time period established for reporting and computation purposes. A reporting cycle begins on the first Thursday of each month and ends on the Wednesday preceding the first Thursday of the following month.

(p) *Reserve account* means that account every member of the Federal Reserve System maintains at the Federal Reserve Bank of its district for reserve purposes pursuant to 12 CFR part 204.

(q) *Special depository* means a depository that had been designated under the provisions of 31 CFR part 203 prior to November 2, 1978. A depository thereafter designated under this part shall be known as a Treasury tax and loan depository.

(r) *Special direct investment* means the type of addition to a depository's note account referred to in §203.9(d) of this part, where the addition specifically is identified as a "special direct investment" and is secured by collateral retained in the possession of the depository pursuant to the terms of §203.14(c)(2) of this part.

§203.3 Designation of financial institutions as Treasury tax and loan depositories.

(a) *Previously authorized depositories.* A special depository which, at the close of business on November 1, 1978, was authorized to maintain a Treasury tax and loan account is hereby redesignated as a Treasury tax and loan depository and subject to the provisions of the current part 203.

(b) *New designations.* In order to be designated as a Treasury tax and loan depository, a financial institution is required to possess under its charter either general or specific authority permitting the maintenance of the Treasury tax and loan account, the balance of which is payable on demand without previous notice of intended withdrawal.

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A financial institution also is required to possess the authority to pledge collateral to secure Treasury tax and loan balances.

(1) *Eligible institutions.* (i) Every incorporated bank and trust company in the United States, Puerto Rico, the Virgin Islands, every United States branch of a foreign banking corporation authorized by the State in which it is located to transact commercial banking business, and every Federal branch of a foreign banking corporation, the establishment of which has been approved by the Comptroller of the Currency.

(ii) Every financial institution insured by the Federal Deposit Insurance Corporation.

(iii) Every credit union insured by the Administrator of the National Credit Union Administration.

(iv) Every savings and loan, building and loan, homestead association and credit union, created under the laws of any State, the deposits or accounts of which are insured by a State or agency thereof, or by a corporation chartered by a State for the sole purpose of insuring deposits or accounts of such financial institutions.

(2) *Application procedures.* An eligible financial institution seeking designation as a depositary and, thereby, the authority to maintain a Treasury tax and loan account shall file with the Federal Reserve Bank of the district Financial Management Service Form 458 "Financial Institution Offer to Contract and Application for Designation as a Treasury Tax and Loan Depositary" and Financial Management Service Form 459 "Resolutions Authorizing the Financial Institution Offer to Contract and Application for Designation as a Treasury Tax and Loan Depositary" certified by its board of directors. Financial Management Service Forms 458 and 459 are available upon request from the Federal Reserve Bank of the district.

(3) *Designation.* Each financial institution satisfying the eligibility requirements and the application procedures will receive from the Federal Reserve Bank of the district notification of its specific designation as a Treasury tax and loan depositary. A financial institution is not authorized to

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maintain a Treasury tax and loan account until it has been designated as a Treasury tax and loan depositary by the Federal Reserve Bank of the district.

§ 203.4 Sources of deposits.

A depositary shall credit to its Treasury tax and loan account deposits of Federal taxes and any public funds due to Treasury from the depositary and authorized by the Secretary of the Treasury by regulation to be paid by crediting the tax and loan account.

§ 203.5 Deposits of Federal taxes.

(a) *Deposits with depositaries.* A depositary shall, through any of its offices that accept deposits:

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

(2) Issue a counter receipt when requested to do so by a taxpayer who makes a deposit of Federal taxes in cash over the counter.

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

(4) Credit on the date of receipt all deposits of Federal taxes to the Treasury tax and loan account and administer that account pursuant to the provisions of this part.

(5) Forward each day to the Internal Revenue Service Center servicing the geographical area in which the depositary is located the Federal tax deposit forms for all tax deposits received that

day. Each submission of deposit information shall be on the prescribed Treasury form and in the aggregate amount of the Federal tax deposit forms.

(6) Establish an adequate record of all deposits of Federal taxes prior to transmittal to the Internal Revenue Service Center so the depository will be able to identify deposits in the event tax deposit forms are lost in shipment between it and the Internal Revenue Service Center. For tracking purposes, a record shall be made of each deposit showing as a minimum the date of deposit, the taxpayer's identifying number and the amount of the deposit. The depository's copies of transmittal letters may be used to provide the necessary information if individual deposits are listed separately showing date, taxpayer's identifying number and amount.

(7) Not accept compensation from taxpayers for accepting deposits of Federal taxes and handling them as required by this section.

(b) *Deposits with Federal Reserve Banks.* A Federal Reserve Bank shall, through any of its offices:

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

(i) Mailed or delivered by a taxpayer located within that Bank's territorial boundaries; and

(ii) In the form of cash, a check drawn to the order of that Bank and considered to be an immediate credit item by that Bank, a postal money order drawn to the order of the Bank; and,

(iii) Accompanied by a Federal tax deposit form on which the amount of the tax deposit has been properly entered in the space provided.

(2) When requested to do so by a taxpayer who makes a deposit of Federal taxes in cash over the counter, issue a counter receipt.

(3) When a deposit of Federal taxes is made in accordance with the requirements of paragraph (a) of this section, a Bank shall place in the space provided on the face of each Federal tax deposit form accepted directly from a taxpayer, a stamp impression reflecting the name of the Bank and the date on which the tax deposit was received by the Bank so that the timeliness of

the Federal tax payment can be determined. However, if such a deposit is mailed to a Bank, it shall be subject to the "Timely Mailing treated as timely filing and paying" clause of section 7502 of the Internal Revenue Code (26 U.S.C. 7502).

(4) When a deposit of Federal taxes is not in accordance with the requirements governing form of payment set forth in paragraph (a) of this section, a Bank shall place in the space provided on the face of each Federal tax deposit form a stamp impression reflecting the name of the Bank and the date on which the proceeds of the accompanying payment instrument are collected by the Bank. This date shall be used for the purpose of determining the timeliness of the Federal tax payment.

§203.6 Parties to the contract.

A financial institution which is designated as a Treasury Tax and Loan depository enters into a depository contract with the Department of the Treasury. The parties to this contract are the Treasury, acting through the Federal Reserve Banks as fiscal agents of the United States, and each financial institution designated under §203.3. The terms of the contract include all of the provisions of this part.

§203.7 Obligations of the depository.

A depository shall:

(a) Administer a Treasury tax and loan account in accordance with this part and any amendments or supplements thereto, and instructions issued pursuant thereto, including the Procedural Instructions for Treasury Tax and Loan Depositories.

(b) 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 Order 12086 (3 CFR, 1978 Comp. p.230), and the regulations issued thereunder at 41 CFR chapter 60, as amended. The Secretary of the Treasury may terminate the contract with a depository for failure to comply with the terms of the contract set forth in this section relating to equal employment opportunity.

(c) Comply with the requirements of section 503 of the Rehabilitation Act of 1973, as amended, 29 U.S.C. 793, and the

regulations issued thereunder at 41 CFR parts 60–741, requiring Government contractors to take affirmative action to employ qualified handicapped individuals, and

(d) 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, and the regulations issued thereunder at 41 CFR parts 60–250, for the promotion of employment of disabled and Vietnam era veterans.

Subpart B—Options

§ 203.8 General requirement.

A Treasury tax and loan depositary shall administer its Treasury tax and loan account under either the Note Option or the Remittance Option.

§ 203.9 Note option.

(a) *Classes.* Depositaries electing this option will be subdivided into Note Option Class A, B, or C depending upon the volume of deposits credited to their tax and loan accounts during the previous calendar year, as specified in the Procedural Instructions for Treasury Tax and Loan Depositaries.

(b) *Additions.* The Treasury will invest funds in obligations of depositaries selecting the Note Option. Such obligations shall be in the form of open-ended notes and additions and reductions will be reflected on the books of the Federal Reserve Bank of the district. A depositary electing the Note Option shall debit, as of the first business day after crediting deposits to its tax and loan account, its tax and loan account in the amount of such deposits and simultaneously credit the note thereby reflecting an increase in like amount in Treasury's investment in obligations of the depositary.

(c) *Delivery.* A depositary administering its tax and loan account under the Note Option shall forward at the close of business each day its advices of credit for that day to the Federal Reserve Bank of the district via the most expeditious means reasonably available. This may include the U.S. Postal Service, in instances where the depositary does not use a faster method for other documents (e.g., checks) being remit-

ted to the Federal Reserve Bank or Branch city.

(d) *Other additions.* Other funds from the Treasury's operating cash may be offered from time to time to certain Note Option depositaries. Each such Note Option depositary shall have the opportunity to decide whether to receive from the Treasury such additional investments in its notes.

(e) *Withdrawals.* The amount of the note shall be payable on demand without previous notice. Calls for payment on the note will be by direction of the Secretary of the Treasury through the Federal Reserve Banks. A depositary shall arrange for the payment of calls on the payment date specified in the calls by a charge to the reserve account of the depositary or the reserve account of a member bank correspondent.

(f) *Interest.* A note shall bear interest at the rate specified in § 203.12. Such interest is payable monthly by a charge to the reserve account of the depositary or through the reserve account of a member bank correspondent. Specific details about the computations of the amount of interest due, the means of payment, payment dates, Federal Reserve Bank responsibilities, and other related details are described in the Procedural Instructions for Treasury Tax and Loan Depositaries.

(g) *Maximum balance.* A depositary selecting the Note Option shall establish a maximum balance for its note account by providing notice to that effect in writing to the Federal Reserve Bank of the district. That portion of any advice of credit which, when posted at the Federal Reserve Bank, would cause the note balance to exceed the amount specified by the depositary will be withdrawn automatically by the Federal Reserve Bank. The maximum balance applies to that portion of the note account balance which is secured by collateral deposited in accordance with § 203.14(c)(1) with either Federal Reserve Banks or authorized third party custodians. Special direct investments, which are secured by collateral held by the depositary in accordance with § 203.14(c)(2) under off premises custody arrangements, shall not be considered

in determining the amounts to be withdrawn automatically where a depository's maximum balance is exceeded.

§203.10 Remittance option.

(a) *Remittance Option classes.* Depositories electing this option will be subdivided into Remittance Option Class 1 or 2 depending upon the volume of deposits credited to their tax and loan accounts during the previous calendar year, as specified in the Procedural Instructions for Treasury Tax and Loan Depositories.

(b) *Delivery.* A Remittance Option depository shall establish and maintain procedures to ensure timely delivery of its advices of credit at the Federal Reserve Bank of the district prior to the Federal Reserve Bank's cutoff time for processing such credits the next business day after the date of credit.

(c) *Late fee.* If an advice of credit does not arrive at the Federal Reserve Bank before the designated cutoff hour for receipt of such advices, a late fee in the form of interest at the rate specified at §203.12 will be assessed for each day's delay in receipt of such advice. Such late fee assessments will be effected on a monthly basis through a depository's reserve account or the reserve account of a member bank correspondent. Specific details and procedures are included in the Procedural Instructions for Treasury Tax and Loan Depositories.

(d) *Withdrawals.* For a depository selecting the Remittance Option, funds equivalent to the amount of deposits credited by a depository to its Treasury tax and loan account will be withdrawn by the Federal Reserve Bank upon receipt by the Federal Reserve Bank of the advices of credit supporting such deposits. A depository shall arrange for the payment of withdrawals by an immediate charge to its reserve account or the reserve account of a member bank correspondent.

§203.11 Change of options.

A depository is subject to the provisions of the option it has selected until such time as it provides notice to the Federal Reserve Bank requesting a change of option and receives formal notification from the Federal Reserve Bank of the effective date of the

change of option. Specific details regarding changes of option are included in the Procedural Instructions for Treasury Tax and Loan Depositories.

Subpart C—Interest and Compensation

§203.12 Rate of interest.

The rate of interest to be used in connection with the Note Option and the Remittance Option will be equal to the Federal funds rate less twenty-five basis points (i.e., $\frac{1}{4}$ of 1 percent). Details about the computation are included in the Procedural Instructions for Treasury Tax and Loan Depositories.

§203.13 Compensation for services.

Except as provided in the Procedural Instructions for Treasury Tax and Loan Depositories, depositories will not be compensated for servicing the tax and loan account or for the book-keeping costs of maintaining that account.

Subpart D—Collateral Security

§203.14 Collateral security requirements.

(a) *Note Option.* (1) Before crediting deposits to its Treasury tax and loan account, a Note Option depository 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 sum of 100 percent of the pre-established maximum balance for the note account (see §203.9(g) of this part), and the closing balance in its Treasury tax and loan account which exceeds recognized insurance coverage, minus the amount of the note balance attributable to special direct investments.

(2) Before special direct investments are credited to a depository's note account, a Note Option depository shall pledge collateral security in accordance with the requirements of paragraphs (c)(2) and (e) of this section, and in accordance with the instructions provided in the Procedural Instructions for Treasury Tax and Loan Depositories, to cover 100 percent of the

amount of the special direct investments to be received.

(b) *Remittance Option.* Prior to crediting deposits to its Treasury tax and loan account, a Remittance Option depository 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 maximum balance in the tax and loan account at the close of business each day, less recognized insurance coverage.

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

(2)(i) Collateral security required under paragraph (a)(2) of this section shall be pledged under a written security agreement on a form provided by the Federal Reserve Bank of the district. The collateral security pledged to satisfy the requirements of paragraph (a)(2) 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 Federal Reserve Bank of the district. Collateral security pledged under the agreement shall not be substituted for or released without the advance written approval of the Federal Reserve Bank 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 Federal Reserve Bank 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

the Treasury's taking possession of the collateral security for a period of not to exceed 21 days from the day of receipt of the special direct investment.

(d) *Acceptable securities.* Unless otherwise specified by the Secretary of the Treasury, collateral security pledged under this section may be transferable securities of any of the classes listed below. Collateral will be accepted at values assigned by the Federal Reserve Bank of the district.

(1) Obligations issued or fully insured or guaranteed by the United States or any U.S. Government agency, and obligations of Government-sponsored corporations which under specific statute may be accepted as security for public funds.

(2) Obligations issued or fully guaranteed by the International Bank for Reconstruction and Development, the Inter-American Development Bank or the Asian Development Bank.

(3) Obligations partially insured or guaranteed by any U.S. Government agency.

(4) Notes representing loans to students in colleges or vocational schools which are insured either by Federal insurance or by a State agency or private nonprofit institution or organization administering a student loan insurance program in accordance with a formal agreement with the Commissioner of Education under the provisions of the Higher Education Act of 1965, as amended, 20 U.S.C. 1001, or the National Vocational Student Loan Insurance Act of 1965, as amended, 20 U.S.C. 981.

(5) Obligations issued by States of the United States.

(6) Obligations of Puerto Rico.

(7) Obligations of counties, cities, and other governmental authorities and instrumentalities which are not in default as to payments on principal or interest.

(8) Obligations of domestic corporations which may be purchased by banks as investment securities under the limitations established by Federal bank regulatory agencies.

(9) Commercial and agricultural paper and bankers' acceptances approved by the Federal Reserve Bank of the district.

(10) Zero-coupon obligations of the U.S. Treasury and the Resolution Funding Corporation.

(e) *Assignment of securities.* A tax and loan depository that pledges 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 Federal Reserve Bank to assign the securities. The resolution and power of attorney shall conform to such terms and conditions as the Federal Reserve Bank shall prescribe.

(f) *Effecting payments of principal and interest on securities pledged as collateral subsequent to the insolvency of a depository—(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 the note account (if applicable) and the Treasury tax and loan account, 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 Federal Reserve Bank of the district, as fiscal agent of 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 shall make each payment of principal and/or interest due 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 (f)(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 insolvency of a pledging depository or, if earlier, upon notice by the Treasury or the Federal Reserve Bank of the district 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 prospective inability to meet the demands of its depositors or shareholders.

Subpart E—Miscellaneous Provisions

§ 203.15 Termination of contract.

(a) *Termination by the Treasury.* The Secretary of the Treasury may terminate the contract 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 by the depository.* A depository may terminate its depository contract by submitting notice to that effect in writing to the Federal Reserve Bank of the district effective at a prospective date set forth in the notice.

§ 203.16 Implementing instructions.

A Federal Reserve Bank is authorized to issue instructions consistent with these regulations for carrying out the requirements of this part that shall be binding upon depositories located in its district.

§ 203.17 Effective date.

This revision of this part is proposed to be effective on August 2, 1993.

PART 204 [RESERVED]

PART 205—RULES AND PROCEDURES FOR FUNDS TRANSFERS

Sec.	
205.1	Purpose.
205.2	Scope of part.
205.3	Definitions.