

(d) *Assignment.* A depository that pledges securities which are not negotiable without its endorsement or assignment may, in lieu of placing its unqualified endorsement on each security, furnish 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 Banks shall prescribe.

(e) *Disposition of principal and interest payments of the pledged securities after a depository is declared insolvent—(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 public money 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, including those not arising out of the depository relationship.

(2) *Payment procedures.* (i) Subject to the waiver in paragraph (e)(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 ten days after receipt of such a payment.

(ii) Subject to the waiver in paragraph (e)(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 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 (e)(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 the involvency of a pledging depository or, if earlier, upon notice by the Treasury 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.

[32 FR 14216, Oct. 13, 1967, as amended at 36 FR 6748, Apr. 8, 1971; 36 FR 17995, Sept. 8, 1971; 39 FR 30832, Aug. 26, 1974; 44 FR 53067, Sept. 11, 1979; 46 FR 28152, May 26, 1981; 62 FR 45521, Aug. 27, 1997; 65 FR 55428, Sept. 13, 2000]

#### **§202.7 Maintenance of balances within authorizations.**

(a) Federal Government agencies shall contact the Department of the Treasury, Financial Management Service, 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 Cash Management Policy and Planning Division, Federal Finance, Financial Management Service, Department of the Treasury, Washington, DC 20227.

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

[44 FR 53067, Sept. 11, 1979, as amended at 49 FR 47001, Nov. 30, 1984; 62 FR 45521, Aug. 27, 1997]

### **PART 203—PAYMENT OF FEDERAL TAXES AND THE TREASURY TAX AND LOAN PROGRAM**

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SOURCE: 72 FR 59181, Oct. 19, 2007, unless otherwise noted.

**Subpart A—General Information**

**§ 203.1 Scope.**

The regulations in this part govern the processing by financial institutions of electronic and paper-based deposits and payments of Federal taxes; the operation of the Treasury Tax and Loan (TT&L) program; the designation of TT&L depositaries; and the operation of the investment program. A financial institution may participate in the TT&L program by participating in the investment program or by accepting Federal tax payments, or both. A financial institution that accepts Federal tax payments may do so through the paper tax system (PATAX), or Electronic Federal Tax Payment System (EFTPS), or both. However, a financial institution is not designated as a TT&L depositary if it only processes EFTPS payments.

**§ 203.2 Definitions.**

*Advice of credit (AOC)* means the paper or electronic form depositaries use to summarize and report Federal Tax Deposit (FTD) coupon deposits to the Internal Revenue Service (IRS) and the Federal Reserve Bank (FRB).

*Automated Clearing House (ACH) credit entry* means a credit transaction originated by a financial institution, at the direction of the taxpayer, in accordance with applicable ACH formats and applicable laws, regulations, and procedural instructions.

*ACH debit entry* means a debit transaction originated by the Treasury Financial Agent (TFA), at the direction of the taxpayer, in accordance with applicable ACH formats and applicable laws, regulations, and instructions.

*Balance limit* means the highest amount a depositary has stated it will accept in its Treasury Investment Program (TIP) main account.

*Borrower-In-Custody (BIC) collateral* means an arrangement by which a financial institution pledging collateral to secure special direct investments and certain term investments is permitted to retain possession of that collateral, subject to terms and conditions agreed upon between the FRB and the financial institution.

*Business day* means any day on which a financial institution's FRB is open.

*Capacity* means a TT&L depositary's ability to accept additional investments in its TIP main account balance and/or its Special Direct Investment (SDI) account balance. With respect to a TT&L depositary's TIP main account balance, capacity means the balance limit or current collateral value, whichever is lower, minus the total of: the depositary's current TIP main account balance and any pending investments, plus any pending withdrawals. With respect to an SDI account balance, capacity means the dollar amount of collateral that the depositary has pledged for SDIs under a BIC arrangement minus the total of: the depositary's current SDI account balance and any pending investments, plus any pending withdrawals.

*Collector depositary* means a TT&L depositary that accepts paper tax payments from business customers and that may also process electronic tax

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payments from customers, but that does not retain any such deposits as investments or accept dynamic, direct, or special direct investments. A collector depository may accept term investments.

*Direct investment* means the Department of the Treasury's (Treasury's) placement of funds with a TT&L depository, which results in an increase to the depository's TIP main account balance and a credit to its reserve account.

*Dynamic investment* means Treasury's placement of funds with a TT&L depository throughout the day, which results in an increase to the depository's TIP main account balance and a credit to its reserve account.

*Electronic Federal Tax Payment System (EFTPS)* means the system through which taxpayers remit Federal tax payments electronically.

*Federal Reserve Bank (FRB)* means the FRB of the district where the financial institution is located, or such other FRB that may be designated in an FRB operating circular, or such other FRB that may be designated by the Treasury. A financial institution is deemed located in the same district it would be deemed located for purposes of Regulation D (12 CFR 204.3(b)(2)), even if the financial institution is not otherwise subject to Regulation D.

*Federal Tax Deposit (FTD)* means a Federal tax deposit made using an FTD coupon.

*FTD coupon* means a paper form supplied to a taxpayer by Treasury to accompany deposits of Federal taxes made through PATAX.

*Federal taxes* means those Federal taxes or other payments specified by the Secretary of the Treasury as eligible for payment through the procedures described in this part.

*Fedwire®1* means the funds transfer system owned and operated by the FRBs.

*Fedwire® non-value transaction* means the same-day Federal tax payment information transmitted by a financial institution to an FRB using a Fedwire@ type 1090 message to authorize a payment.

*Fedwire® value transfer* means a Federal tax payment made by a financial

institution using a Fedwire® type 1000 message.

*Financial institution* means any bank, savings bank, savings association, credit union, or similar institution.

*Fiscal agent* means the FRB acting as agent for Treasury.

*Investment program* is the all-inclusive name given to the programs by which Treasury invests excess operating cash.

*Investor depository* means a TT&L depository that is authorized to participate in the investment program by accepting funds from Treasury via direct investments, special direct investments, dynamic investments, or term investments. In addition, an investor depository may accept electronic or paper Federal tax payments from its business customers and retain a portion of those tax deposits, depending on the capacity of its TIP main account balance.

*Paper Tax System (PATAX)* means the paper-based system through which taxpayers remit Federal tax payments by presenting an FTD coupon and payment to a TT&L depository.

*Procedural instructions* means the procedures contained in the Treasury Financial Manual, Volume IV (IV TFM), other Treasury instructions issued by Treasury or through Treasury's Financial Agents and FRB operating circulars, and agreements issued consistent with this part.

*Recognized insurance coverage* means the insurance provided by the Federal Deposit Insurance Corporation, the National Credit Union Administration, and insurance organizations specifically qualified by the Secretary.

*Reserve account* means an account at an FRB with reserve or clearing balances held by a financial institution or its designated correspondent financial institution, if applicable.

*Retainer depository* means a TT&L depository that accepts electronic and/or paper Federal tax payments from its business customers and retains a portion of the Federal tax deposits in its TIP main account balance, depending on its balance limit, account balance, and collateral value. A retainer depository may also accept term investments.

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*Same-day payment* means a payment made by a Fedwire® non-value transaction or a Fedwire® value transaction.

*Secretary* means the Secretary of the Treasury, or the Secretary's delegate.

*Special Direct Investment (SDI)* means the placement by Treasury of funds with an investor depositary secured by collateral pledged under a BIC arrangement.

*SDI account balance* means an open-ended, interest-bearing note maintained on the books of the Treasury Support Center representing the amount of SDIs held by an investor depositary and secured by collateral pledged under a BIC arrangement.

*Tax due date* means the day on which a Federal tax payment is due to Treasury, as determined by statute and IRS regulations.

*Term Investments* means Treasury's excess operating funds that have been offered for a predetermined period of time and accepted by depositaries participating in the Term Investment Option.

*Term Investment Option (TIO)* means the program available to depositaries that offers the ability to borrow excess Treasury operating funds for a predetermined period of time.

*TIO account balance* means an interest-bearing note maintained on the books of the Treasury Support Center for a predetermined period of time.

*Treasury Financial Agent (TFA)* means a financial institution designated as an agent of Treasury for processing EFTPS enrollments, consolidating EFTPS tax payment information, and originating ACH debit entries on behalf of Treasury as authorized by the taxpayer.

*Treasury General Account (TGA)* means an account maintained in the name of the United States Treasury at an FRB.

*Treasury Investment Program (TIP)* means the automated system under the TT&L program that receives tax collections, invests funds, and monitors collateral pledged to secure public money.

*TIP main account balance* means an open-ended interest-bearing note maintained on the books of the Treasury Support Center (TSC) representing a retainer or investor depositary's cur-

rent net amount of (i) Federal tax deposits retained by the depositary and/or (ii) Treasury investments made under the Direct investment program.

*Treasury Support Center (TSC)* means the office at the FRB that, as Treasury's Fiscal agent, monitors collateral pledged to secure Treasury funds, manages TT&L program participation for depositaries, and/or carries on its books depositaries' TIP main account balances, SDI account balances, and/or Term Investment Option (TIO) account balances.

*Treasury Tax and Loan (TT&L) account* means a record of transactions on the books of a TT&L depositary reflecting paper tax deposits received by the depositary.

*TT&L depositary or depositary* means a financial institution designated as a depositary by Treasury or the FRB of St. Louis acting as Treasury's Fiscal agent, for the purpose of participating in the investment program and/or PATAX. There are three kinds of TT&L depositaries: investor depositaries, retainer depositaries, and collector depositaries.

*TT&L program* means the program for collecting Federal taxes and investing the Government's excess operating funds.

*TT&L rate of interest* means the interest charged on the TIP main account balance and the SDI account balance. The TT&L rate of interest is the rate prescribed by the Secretary taking into consideration prevailing market interest rates. The rate and any rate changes will be announced through a TT&L Special Notice to Depositaries and will be published in the FEDERAL REGISTER and on a Web site maintained by Treasury's Financial Management Service at <http://www.fms.treas.gov>.

### § 203.3 TT&L depositaries.

A financial institution that participates in PATAX and/or the investment program must be a TT&L depositary. There are three kinds of TT&L depositaries. A collector depositary is a TT&L depositary that accepts paper Federal tax payments and also may accept electronic Federal tax payments, but does not accept direct investments or SDIs. A retainer depositary is a

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TT&L depository that accepts electronic and/or paper Federal tax payments and retains a portion of the tax deposits in its TIP main account balance. An investor depository is a TT&L depository that accepts direct investments, SDIs, or dynamic investments and may accept electronic and/or paper Federal tax payments and retain a portion of those tax deposits. Collector, retainer, and investor depositories may accept term investments. Retainer and investor depositories do not have to participate in PATAX.

### § 203.4 Financial institution eligibility for designation as a TT&L depository.

(a) To be designated as a TT&L depository, a financial institution must be insured as a national banking association, state bank, savings bank, savings association, building and loan, homestead association, Federal home loan bank, credit union, trust company, or a U.S. branch of a foreign banking corporation, the establishment of which has been approved by the Comptroller of the Currency.

(b) A financial institution must possess the authority to pledge collateral to secure TT&L account balances, a TIP main account balance, an SDI account balance, or a no account balance as applicable.

(c) In order to be designated as a TT&L depository for the purposes of processing Federal tax deposits through PATAX, a financial institution must possess under its charter either general or specific authority permitting the maintenance of the TT&L account, the balance of which is payable on demand without previous notice of intended withdrawal. In addition, investor depositories and retainer depositories must possess either general or specific authority permitting the maintenance of a TIP main account balance or an SDI account balance. Investor, retainer, and collector depositories that accept term investments must possess either general or specific authority permitting the maintenance of a TIO account balance. In the case of investor and retainer depositories maintaining a TIP main account balance or an SDI account balance, the authority must permit the

maintenance of a TIP main account balance or an SDI account balance which is payable on demand without previous notice of intended withdrawal.

### § 203.5 Designation of financial institutions as TT&L depositories.

(a) *Parties to the agreement.* To be designated as a TT&L depository, a financial institution must enter into a depository agreement with Treasury or Treasury's Fiscal agent. By entering into this agreement, the financial institution agrees to be bound by this part, and procedural instructions issued pursuant to this part. Treasury will not compensate depositories for servicing and maintaining a TT&L account, or for processing tax payments through EFTPS or PATAX, unless otherwise provided for in procedural instructions.

(b) *Application procedures.* (1) An eligible financial institution seeking designation as a TT&L depository must file the forms specified in the procedural instructions with the TSC. A TT&L depository must elect to be one or more of the following:

- (i) A collector depository;
- (ii) A retainer depository;
- (iii) An investor depository.

(2) A financial institution is not authorized to maintain a TT&L account, TIP main account balance, SDI account balance, or TIO account balance until the TSC designates it as a TT&L depository.

### § 203.6 Obligations of TT&L depositories.

A TT&L depository must:

(a) Administer a TIP main account balance, SDI account balance, or TIO account balance, as applicable, if participating in the investment program.

(b) Administer a TT&L account, if participating in PATAX.

(c) 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 Orders 11375 and 12086 (3 CFR, 1966-1970 Comp., p. 684; 3 CFR, 1978 Comp., p. 230), and the regulations issued thereunder at 41 CFR chapter 60.

(d) Comply with the requirements of Section 503 of the Rehabilitation Act of

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1973, as amended, and the regulations issued thereunder at 41 CFR part 60-741, requiring Federal contractors to take affirmative action to employ and advance in employment qualified individuals with disabilities.

(e) 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 (3 CFR 1971-1975 Comp., p. 752), and the regulations issued thereunder at 41 CFR parts 60-250 and 61-250, requiring Federal contractors to take affirmative action to employ and advance in employment qualified special disabled veterans and Vietnam-era veterans.

### § 203.7 Termination of agreement or change of election or option.

(a) *Termination by Treasury.* The Secretary may terminate the agreement of a TT&L depository at any time upon notice to that effect to that depository, effective on the date set forth in the notice.

(b) *Termination or change of election or option by the depository.* A TT&L depository may terminate its depository agreement, or change its option or election, consistent with this part and the procedural instructions, by prior written notice to the TSC.

### § 203.8 Application of part and procedural instructions.

The terms of this part and the procedural instructions issued pursuant to this part will be binding on financial institutions that process Federal tax payments or maintain a TT&L account, TIP main account balance, SDI account balance, or a TIO account balance under this part. By accepting or originating Federal tax payments, the financial institution agrees to be bound by this part and by procedural instructions issued pursuant to this part.

## Subpart B—Electronic Federal Tax Payments

### § 203.9 Scope of the subpart.

This subpart prescribes the rules that financial institutions must follow when they process electronic Federal tax payment transactions. A financial institution is not required to be des-

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ignated as a TT&L depository in order to process electronic Federal tax payments. In addition, a financial institution does not become a TT&L depository by processing electronic Federal tax payments under this subpart and may not represent itself as a TT&L depository because it does so.

### § 203.10 Electronic payment methods.

(a) *General.* Electronic payment methods for Federal tax payments available under this subpart include ACH debit entries, ACH credit entries, and same-day payments.

(b) *Conditions to making an electronic payment.* This part does not affect the authority of financial institutions to enter into contracts with their customers regarding the terms and conditions for processing payments, as long as the terms and conditions of those contracts are not inconsistent with this part and with any laws that apply to the particular transactions.

(c) *Payment of interest for time value of funds held.* Treasury will not pay interest on any payment that a financial institution erroneously originates and that subsequently is refunded.

### § 203.11 Same-day reporting and payment mechanisms.

(a) *General.* A financial institution or its authorized correspondent may initiate same-day reporting and payment transactions on behalf of taxpayers. A same-day payment must be received by the FRB by the deadline established by Treasury in the procedural instructions.

(b) *Fedwire® non-value transaction.* By initiating a Fedwire® non-value transaction, a financial institution authorizes the TSC to debit its reserve account for the amount of the Federal tax payment specified in the transaction.

(1) For an investor or retainer depository using a Fedwire® non-value transaction, the TSC will credit the Federal tax payment amount, up to the depository's available TIP main account balance capacity, to the depository's TIP main account balance on the day of the transaction. Throughout the course of the day, the TSC will debit from the

depository's reserve account, and credit to the TGA, any portion of a tax payment amount that would exceed the institution's available TIP main account balance capacity.

(2) For a collector depository or a non-TT&L depository financial institution using a Fedwire® non-value transaction, the TSC will debit the financial institution's reserve account for the Federal tax payment amount and credit that amount to the TGA on the day of the transaction.

(c) *Cancellations and reversals.* In addition to cancellations due to insufficient funds in the financial institution's reserve account, the FRB may reverse a same-day transaction:

(1) If the transaction:

(i) Is originated by a financial institution after the deadline established by Treasury in the procedural instructions;

(ii) Has an unenrolled taxpayer identification number; or

(iii) Does not meet the edit and format requirements set forth in the procedural instructions; or

(2) At the direction of the IRS, for the following reasons:

(i) Incorrect taxpayer name;

(ii) Overpayment; or

(iii) Unidentified payment; or

(3) At the request of the financial institution that sent the same-day transaction, if the request is made prior to the payment day deadline established by Treasury in the procedural instructions.

(d) Other than as stated in paragraph (c) of this section, Treasury is not obligated to reverse all or any part of a payment.

#### § 203.12 EFTPS interest assessments.

(a) *Circumstances subject to interest assessments.* Treasury may assess interest on a financial institution in instances where a taxpayer that failed to meet a tax due date proves to the IRS that the delivery of Federal tax payment instructions to the financial institution was timely and that the taxpayer satisfied the conditions imposed by the financial institution pursuant to § 203.10(b). Treasury also may assess interest where a financial institution fails to respond to an ACH prenotification entry on an ACH debit

as required under part 210 of this title, or fails to originate an ACH prenotification or zero dollar entry on an ACH credit at a taxpayer's request, which then results in a late payment.

(b) *Calculation of interest assessment.* Any interest assessed under this section will be at the TT&L rate of interest. Treasury will assess the interest from the day the taxpayer specified that its payment should settle to the Treasury until the day Treasury receives the payment, subject to the following limitations: for ACH debit transactions, interest will be limited to no more than seven calendar days; For ACH credit and same-day transactions, interest will be limited to no more than 45 calendar days. The limitation of liability in this paragraph does not apply to any interest assessment in which there is an indication of fraud, the presentation of a false claim, or misrepresentation or embezzlement on the part of the financial institution or any employee or agent of the financial institution.

(c) *Authorization to assess interest.* A financial institution that processes Federal tax payments made electronically under this subpart is deemed to authorize the TSC to debit its reserve account for any interest assessed under this section. Upon the direction of Treasury, the TSC will debit the financial institution's reserve account for the amount of the assessed interest.

(d) *Circumstances not resulting in the assessment of interest.* (1) Treasury will not assess interest on a taxpayer's financial institution if a taxpayer fails to meet a tax due date because the taxpayer has not satisfied conditions imposed by the financial institution pursuant to § 203.10(b) and the financial institution has not contributed to the delay. The burden is on the financial institution to establish, pursuant to the procedures in § 203.13, that the taxpayer has not satisfied the conditions and that the financial institution has not caused or contributed to the delay.

(2) Treasury will not assess interest on a financial institution if a taxpayer fails to meet a tax due date because the FRB or the TFA caused a delay and the financial institution did not contribute

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to the delay. The burden is on the financial institution to establish, pursuant to the procedures in § 203.13, that it did not cause or contribute to the delay.

### § 203.13 Appeal and dispute resolution.

(a) *Contest.* A financial institution may contest any interest assessed under § 203.12 or any late fees assessed under § 203.17. To do so, the financial institution must submit information supporting its position and the relief sought. The information must be received, in writing, by the Treasury officer or Fiscal agent identified in the procedural instructions, no later than 90 calendar days after the date the TSC debits the Federal reserve account of the financial institution under § 203.12 or § 203.17. The Treasury officer or Fiscal agent will make a decision to: Uphold, reverse, or modify the assessment, or mandate other action.

(b) *Appeal.* The financial institution may appeal the decision referenced in subsection (a) to Treasury as set forth in the procedural instructions. No further administrative review of Treasury's decision is available under this part.

(c) *Recoveries.* In the event of an over or under recovery of interest, principal, or late fees, Treasury will instruct the TSC to credit or debit the financial institution's reserve account.

## Subpart C—PATAX

### § 203.14 Scope of the subpart.

This subpart applies to all TT&L depositories that accept FTD coupons and governs the acceptance and processing of those coupons.

### § 203.15 Tax deposits using FTD coupons.

A TT&L depository processing FTD coupons may choose to be designated as a retainer depository, an investor depository, or a collector depository. A TT&L depository that accepts FTD coupons through any of its offices that accept demand and/or savings deposits must:

(a) Accept from a taxpayer that presents an FTD coupon: cash, a postal money order drawn to the order of the depository, or a check or draft drawn

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on and to the order of the depository, covering an amount to be deposited as Federal taxes. A TT&L depository may accept, at its discretion, a check drawn on another financial institution, but it does so at its option and absorbs for its own account any float and other costs involved.

(b) Place a stamp impression on the face of each FTD coupon in the space provided. The stamp must reflect the date on which the TT&L depository received the tax deposit and the name and location of the depository. The IRS will determine whether the tax payment is on time by referring to the date stamped on the FTD coupon.

(c) Forward, each day, to the IRS Service Center serving the geographical area in which the TT&L depository is located, the FTD coupons for all FTD deposits received that day and a copy of the AOC reflecting the total amount of all FTD coupons.

(d) Establish an adequate record of all FTD deposits prior to transmitting them to 36 the IRS Service Center so that the TT&L depository will be able to identify deposits in the event the FTD coupons are lost in shipment. To be adequate, the record must show, at a minimum for each deposit, the date of the deposit, the taxpayer identification number, the amount of the deposit, the tax period ending date, the type of tax deposited, and the employer name. Alternatively, the TT&L depository may retain a copy of each FTD coupon forwarded to the IRS Service Center.

(e) On the business day following receipt of an FTD coupon, submit the AOC information electronically to the TSC.

(f) Not accept compensation from taxpayers for accepting FTDs and handling them as required by this section.

### § 203.16 Retainer and investor depositories.

(a) *Credit to TIP main account balance.* On the business day that the TSC receives an AOC from a retainer or investor depository, the TSC will credit the depository's TIP main account balance for the amount reported on the AOC unless there isn't sufficient capacity. In that case, any amount in excess of

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the capacity will be debited to the reserve account and credited to the TGA.

(b) *Late delivery of AOC.* If an AOC does not arrive at the TSC before the designated cutoff time for receipt, the TSC will credit the amount of funds to the depository's TIP main account balance as of the date of receipt of the AOC. However, the date on which funds will begin to earn interest for Treasury is the next business day after the AOC date.

### § 203.17 Collector depositories.

(a) *Debit to reserve account.* On the business day that the TSC receives an AOC from a collector depository, the TSC will debit the depository's reserve account for the amount reported on the AOC and credit that amount to Treasury's account.

(b) *Late delivery of AOC.* If an AOC does not arrive at the TSC before the designated cutoff time on the first business day after the AOC date, an FTD late fee in the form of interest at the TT&L rate of interest will be assessed for each day's delay in receipt of the AOC. Upon the direction of Treasury, the TSC will debit the depository's reserve account for the amount of the late fee.

## Subpart D—Investment Program and Collateral Security Requirements for TT&L Depositories

### § 203.18 Scope of the subpart.

This subpart governs the operation of the investment program, including the rules that TT&L depositories must follow in crediting and debiting TIP main account balances, SDI account balances, and TIO account balances, and pledging collateral security.

### § 203.19 Sources of balances.

A financial institution must be a collector depository that accepts term investments, an investor depository, or a retainer depository to participate in the investment program. Depositories electing to participate in the investment program can receive Treasury's investments in obligations of the depository from the following sources:

(a) FTDs that have been credited to the depository's TIP main account balance pursuant to subpart C of this part;

(b) EFTPS ACH credit and debit transactions, Fedwire® non-value transactions, and Fedwire® value transfers pursuant to subpart B of this part;

(c) Direct investments, SDIs, dynamic investments, and term investments pursuant to subpart D of this part; and

(d) Other excess Treasury operating funds.

### § 203.20 Investment account requirements.

(a) *Additions.* Treasury will invest funds in obligations of collector depositories that accept term investments, investor depositories, or retainer depositories. Such obligations will be in the form of open-ended interest-bearing notes, or in the case of term investments, interest-bearing notes maintained for a predetermined period of time, and additions and reductions will be reflected on the books of the TSC.

(1) *PATAX.* The TSC will credit the TIP main account balance as stated in § 203.16(a) for an investor or retainer depository processing tax deposits through PATAX.

(2) *EFTPS—(i) ACH debit and ACH credit.* The TSC will credit a depository's TIP main account balance, and credit the depository's reserve account if capacity exists, for the amount of EFTPS ACH debit and credit entries on the day such entries settle.

(ii) *Fedwire® value and non-value transactions.* The TSC will credit a depository's TIP main account balance if capacity exists, throughout the day on the day of settlement, for the amount of Fedwire® value and non-value transactions. In the case of Fedwire® value transactions, the depository's reserve account will also be credited.

(b) *Additional offerings.* Other funds from Treasury may be offered from time to time to depositories participating in the investment program through direct investments, SDIs, term investments, or other investment programs.

(c) *Withdrawals.* The amount of a TIP main account balance or SDI account balance is payable on demand without

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prior notice. The TSC will make calls for payment at the direction of the Secretary. On behalf of Treasury, the TSC will debit the depository's reserve account on the day specified in the call for payment.

(d) *Interest.* The TIP main account balance and the SDI account balance bear interest at the TT&L rate of interest. Such interest is payable by a charge to the depository's reserve account in the manner prescribed in the procedural instructions.

(e) *Balance limits—(1) Retainer and investor depositories.* A retainer or investor depository must establish an initial balance limit for its TIP main account balance by providing notice to that effect in writing to the TSC. The balance limit is the amount of funds for which a retainer or investor depository is willing to provide collateral in accordance with § 203.21(c)(1). The depository must follow the procedural instructions before reducing the established balance limit unless the reduction results from a collateral revaluation as determined by the FRB. That portion of any PATAX or EFTPS tax payment which, when posted at the FRB, would cause the TIP main account balance to exceed the balance limit specified by the depository, will be withdrawn by the FRB that day.

(2) *Direct investments.* An investor depository that participates in direct investments must set a balance limit for direct investment purposes which is higher than the peak balance normally generated by the depository's PATAX and EFTPS tax payment inflow. The depository must follow the procedural instructions before reducing the established balance limit.

(3) *SDIs.* SDIs are credited to the SDI account balance and are not considered in setting the amount of the TIP main account balance limit or in determining the amounts to be withdrawn where a depository exceeds its TIP main account balance limit.

(f) *TIO.* Treasury may, from time to time, invest excess operating funds in obligations of depositories awarded funds under TIO. Such obligations will be in the form of interest-bearing notes payable upon a predetermined period of time not to exceed 90 days. Such notes will bear interest at a rate prescribed

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by the Secretary by auction or otherwise taking into consideration prevailing market interest rates.

### § 203.21 Collateral security requirements.

Financial institutions that process EFTPS tax payments, but that are not TT&L depositories, have no collateral requirements under this part. Financial institutions that are TT&L depositories have collateral security requirements, as follows:

(a) *Investor and retainer depositories—(1) PATAX and EFTPS tax payments.* Investor and retainer depositories must 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 TIP main account balance and the balance in the TT&L account that exceeds the recognized insurance coverage.

(2) *Direct investments.* An investor depository is required to pledge collateral in accordance with the requirements of paragraphs (c), (d), and (e) of this section no later than the day before a direct investment is placed. However, each investor depository participating in same-day direct investments must pledge, prior to the announcement, collateral up to its balance limit to obtain the depository's maximum portion of the same-day direct investment.

(3) *SDIs.* The day before SDIs are credited to an investor depository's SDI account balance, the depository must pledge collateral security, in accordance with the requirements of paragraphs (c)(2), (d), and (e) of this section, to cover the total of the SDIs to be received.

(4) *TIO.* Each depository participating in the term investment program must pledge, prior to the time the term investment is placed, collateral in accordance with paragraphs (c)(1), (c)(2) for certain term investments as determined by Treasury, (d), and (e) of this section sufficient to cover the total TIO account balance.

(b) *Collector depositories.* Prior to crediting FTD deposits to the TT&L account, a collector depository must

pledge collateral security, in accordance with the requirements of paragraphs (c)(1), (d), and (e) of this section, in an amount which is sufficient to cover the balance in the TT&L account that exceeds the recognized insurance coverage.

(c) *Deposits of securities.* (1) Collateral security required under paragraphs (a)(1), (2), (4) (except as provided in subparagraph (2) below), and (b) of this section must be deposited with the depository's FRB, or with a custodian or custodians within the United States designated by the TSC or FRB, under terms and conditions prescribed by the TSC or FRB.

(2) A depository pledging collateral security as required under paragraph (a)(3) or paragraph (a)(4) (when permitted) of this section must pledge the collateral under a written security agreement on a form provided by the FRB. The collateral security pledged to satisfy the requirements of paragraphs (a)(3) and (a)(4) (when permitted) of this section may remain in the pledging depository's possession provided that the pledging is evidenced by advices of custody incorporated by reference in the written security agreement. The depository must provide the written security agreement and all advices of custody covering collateral security pledged under that agreement to the FRB. Collateral security pledged under the agreement may not be substituted for or released without the advance approval of the FRB, and any collateral security subject to the security agreement will remain so subject until an approved substitution is made. No substitution or release will be approved until an advice of custody containing the description required by the written security agreement is received by the FRB.

(3) Treasury's security interest in collateral security pledged by a depository in accordance with paragraphs (c)(2) of this section to secure SDIs and certain term investments is perfected without Treasury taking possession of the collateral security by filing or, absent filing, for a period not to exceed 20 calendar days from the day of the depository's receipt of the special direct or term investment.

(d) *Acceptable collateral.* The types of securities that may be used as collateral, and how those securities are valued, are set forth in 31 CFR part 380.

(e) *Assignment of securities.* By pledging acceptable securities which are not negotiable without the depository's endorsement or assignment, a TT&L depository, in lieu of placing its unqualified endorsement on each security, appoints the FRB or its assigns as the depository's attorney-in-fact with full irrevocable power and authority to endorse, assign or transfer the securities, and represents and warrants that an appropriate resolution authorizing the granting of such irrevocable power of attorney has been executed and adopted. The powers of attorney so granted are coupled with an interest and are irrevocable, and full power of substitution is granted to the assignee or holder.

(f) *Effecting payments of principal and interest on securities or instruments pledged as collateral—(1) General.* Treasury, without notice or demand, may sell or otherwise collect the proceeds of all or part of the collateral, including additions, substitutions, interest, and distribution of principal, and apply the proceeds to satisfy any claims of the United States against the depository, if any of the following events occur:

(i) The depository fails to pay, when due, the whole or any part of the funds received by it for credit to the TT&L account and, if applicable, its TIP main account balance, SDI account balance, or TIO account balance;

(ii) The depository fails to pay when due amounts owed to the United States or the United States Treasury;

(iii) The depository otherwise violates or fails to perform any of the terms of this part or any of the procedural instructions entered into hereunder; or

(iv) The depository is closed for business by regulatory action or by proper corporate action, or a receiver, conservator, liquidator, or any other officer is appointed for the depository. All principal and interest payments on any security pledged to protect the TIP main account balance, the SDI account balance, the TIO account balance or the TT&L account, as applicable, due

as of the date of the insolvency or closure or thereafter becoming due, will be held separate and apart from any other assets and will 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) will, as soon as possible, remit to the FRB, as Fiscal agent, each payment of principal and/or interest received by it with respect to collateral pledged pursuant to this section. The remittance will be made 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, upon notification that Treasury is entitled to any payment associated with that pledged security, must make each payment of principal and/or interest due with respect to such security directly to the FRB, 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 avoids both termination from the program under §203.7 and also those circumstances identified in paragraph (f)(1) which may lead to the collection of the proceeds of collateral or the waiver is otherwise terminated by Treasury.

#### PART 204 [RESERVED]

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