Signed: June 22, 2001.

Bradley A. Buckles,

Director.

Approved: August 23, 2001.

Timothy E. Skud,

Acting Deputy Assistant Secretary (Regulatory, Tariff and Trade Enforcement).

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DEPARTMENT OF THE TREASURY

Fiscal Service

31 CFR Part 356

[Department of the Treasury Circular, Public Debt Series No. 1–93]

Sale and Issue of Marketable Book-Entry Treasury Bills, Notes, and Bonds; Calculation of Net Long Position and 35 Percent Limit

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

ACTION: Final Rule.

SUMMARY: The Department of the Treasury (''Treasury,'' ''We,'' or ''Us'') is issuing in final form an amendment to 31 CFR Part 356 (Uniform Offering Circular for the Sale and Issue of Marketable Book-Entry Treasury Bills, Notes, and Bonds). This amendment modifies the calculation of the net long position (''NLP'') to be reported in ''reopenings,'' which are auctions of additional amounts of previously issued securities. A bidder will have the option of subtracting from the holdings component of the NLP, combined with any STRIPS [1] principal components of the security being auctioned, an exclusion amount that Treasury will publish in the reopening offering announcement. The purpose of the modification is to ensure that participation in Treasury auctions remains both strong and broad.

EFFECTIVE DATE: November 13, 2001.

ADDRESSES: You may download this final rule from the Bureau of the Public Debt's website at *www.publicdebt.treas.gov.* It is also available for public inspection and copying at the Treasury Department Library, Room 1428, Main Treasury Building, 1500 Pennsylvania Avenue, N.W., Washington, D.C. 20220. To visit the library, call (202) 622–0990 for an appointment.

FOR FURTHER INFORMATION CONTACT: Lori Santamorena (Executive Director), Chuck Andreatta (Senior Financial Advisor), or Lee Grandy (Associate Director), Bureau of the Public Debt, Government Securities Regulations Staff, (202) 691–3632.

SUPPLEMENTARY INFORMATION: The Uniform Offering Circular, in conjunction with the offering announcement for each auction, provides the terms and conditions for the sale and issuance in an auction to the public of marketable Treasury bills, notes, and bonds.[2] One of these terms is the reporting of net long positions, which we use for limiting the amount that we will award to any one bidder in an auction (''the 35 percent rule''). In this document, we describe the rationale for this rule, and why we are changing it. We then discuss the public comments that we received in response to the Advance Notice of Proposed Rulemaking (''ANPR'') published on July 25, 2001.[3] Last, we describe the final amendment.

I. The 35 Percent Limit and its Rationale

The 35 percent rule generally limits auction awards for any one competitive bidder to 35 percent of the total amount offered to the public in a particular auction.[4] This rule ensures that awards in our auctions are distributed to a number of auction participants. This principle of broad distribution is intended to encourage participation by a significant number of competitive bidders in each auction. Broad participation over time keeps our borrowing costs to a minimum and helps ensure that Treasury auctions are fair and competitive.

A key component of the 35 percent award limit is the NLP calculation.[5] Currently, if a bidder has a reportable NLP, we subtract it from the 35 percent award limit in determining the bidder's maximum award amount for each auction.

The NLP is generally the amount of the security being auctioned that a bidder has obtained, or has arranged to obtain, outside of the auction in the secondary market. The term ''net long'' refers to the extent to which an investor has bought (or has agreed to buy) more of a security than it has sold (or has agreed to sell). The specific components of the NLP are intended to capture the various ways that a bidder can acquire a Treasury security. As defined in § 356.13(b), these components are the par amount of:

(1) Holdings of outstanding securities with the same CUSIP [6] number as the security being auctioned;

(2) Positions, in the security being auctioned, in

(i) When-issued trading,[7]

(ii) Futures contracts that require delivery of the specific security being auctioned (but not futures contracts for which the security being auctioned is one of several securities that may be delivered, and not futures contracts that are cash-settled),

(iii) Forward contracts; and

(3) Holdings of STRIPS principal components of the security being auctioned, including when-issued trading positions of such principal components.

A competitive bidder is required to report its NLP if the sum of its bids plus its NLP equals or exceeds the NLP reporting threshold, currently $2 billion for Treasury notes and bonds and $1 billion for Treasury bills (unless otherwise stated in the offering announcement).[8] If a bidder's total bids exceed the reporting threshold but the bidder either has no position or has a net short position, it must report an NLP of zero.

The application of the NLP reporting requirement and the 35 percent award limit in reopenings has caused us to re-examine the rule. In a reopening, we apply the 35 percent limit to the public offering amount of that specific auction, rather than to the total amount that will be outstanding after the settlement date of the reopening. Because a bidder must include any holdings of the security being auctioned in its NLP calculation, its participation in the reopening may be limited by its holdings. The bidder's award may be reduced—or it may receive no award—even though the bidder's portion of the total amount outstanding of the security may be under 35 percent once we issue the additional amount.

Reopenings are now more frequent because in February 2000 we adopted a

[1] Separate Trading of Registered Interest and Principal of Securities.

[2] The Uniform Offering Circular was published as a final rule on January 5, 1993 (58 FR 412). The circular, as amended, is codified at 31 CFR Part 356.

[3] 61 FR 38600 (July 25, 2001).

[4] 31 CFR 356.22(b).

[5] 31 CFR 356.13.

[6] Committee on Uniform Securities Identification Procedures. The CUSIP number is the unique identifying number assigned to each separate security issue and each separate STRIPS component.

[7] When-issued trading refers to trading in a security that occurs prior to its issuance. Payment and delivery for this trading activity occurs on the day we issue the securities, thus the term ''when-issued.'' In the Treasury securities market, when-issued trading can begin as soon as we publicly announce the upcoming auction. When-issued trading aids the distribution process for Treasury securities. Most importantly for the auction process, when-issued trading serves as a price-discovery mechanism for competitive bidders.

[8] 31 CFR 356.10, 356.13(a).

policy of regular reopenings to preserve the liquidity of our longer-term securities as our borrowing needs declined.[9] In addition, we conducted Treasury's first auction of four-week bills on July 31, 2001. These auctions are reopenings of previously issued Treasury bills. Treasury issued a press release on July 23, 2001, that described the net long position reporting requirements and the application of the 35 percent award limit for Treasury four-week bill auctions while we considered whether to modify the rule.

The development of more frequent reopenings makes it an appropriate time to re-examine the application of the NLP and the 35 percent limit in auctions.

II. Comments Received in Response to the Advance Notice of Proposed Rulemaking

We published an ANPR for public comment on July 25, 2001,[10] to solicit comments on six alternatives for modifying the calculation of the net long position and the 35 percent award limit. We stated at that time that we believed Alternative 1 to be the most workable. The closing date for comments was September 10, 2001.

We received eight comments in response to the ANPR [11]—six from securities firms, one from a major trade association, and one from the debt management advisory committee of a major trade association. Five of these commenters favored Alternative 1, while three favored Alternative 4.

Since all commenters preferred either Alternative 1 or Alternative 4, we describe them below. Readers may refer to the ANPR for descriptions of the other alternatives.

Alternative 1: Optional Exclusion Amount for a Portion of a Bidder's Current Holdings

Under this alternative, a bidder would have the option of subtracting from the current holdings component of the NLP, combined with any STRIPS principal components of the security being auctioned, a published exclusion amount. We would specify in the offering announcement for the reopening the amount of holdings that may be excluded from the NLP calculation. The bidder would be required to include in the NLP calculation any holdings above this announced exclusion amount.

For example, suppose we reopen a Treasury note of which $10 billion is already outstanding by offering an additional $9 billion. In the example, suppose the reopening offering announcement specifies that the exclusion amount is $3.5 billion. Also suppose that a bidder already holds $3 billion par of that note, $1 billion of the note's STRIPS principal component, and a when-issued position in that note of $1 billion. That bidder would be able to exclude $3.5 billion of its holdings from its NLP calculation for the reopening auction. The bidder's holdings components of the NLP would therefore be $4 billion minus $3.5 billion, or $0.5 billion. This amount, when added to the $1 billion when-issued position component, results in a total NLP of $1.5 billion.[12] Since the 35% award limit in the reopening would be $3.15 billion (.35 × $9 billion), the bidder could be awarded up to $1.65 billion more of the note in the reopening ($3.15 billion − $1.5 billion). If the bidder were to be awarded this amount in the reopening, on the settlement date it would then have a total of $6.65 billion, or 35 percent, of the total $19 billion of the note outstanding (assuming there were no other changes in its position).

Those commenters that preferred Alternative 1 generally believed that it best achieves the goal of fostering broad participation in Treasury auctions while still limiting the potential for excessive concentration of ownership in a particular marketable Treasury security. Two of the commenters who favored Alternative 1 cited Alternative 4 as their second choice. Both of these commenters expressed concern, however, that since Alternative 4 would not include holdings of the security being auctioned in the net long position calculation, that it would not sufficiently limit the potential for excessive concentration of ownership. While one of the commenters acknowledged that Alternative 1 is more complex operationally than Alternative 4, it did not believe the operational difficulties of efficiently reporting the NLP would be so great as to favor Alternative 4.

Alternative 4: Continue to Calculate the 35 Percent Limit on the Reopening Public Offering Amount, but Redefine the Net Long Position as Including Only the When-issued Position

The commenters that preferred Alternative 4 indicated that this alternative would allow for the broadest participation in reopening auctions. They also indicated that this alternative would be easier to implement than Alternative 1 because the net long position calculation would be considerably simpler. Those favoring Alternative 4 also asserted that Treasury has adequate means at its disposal, such as its Large Position Reporting rules [13] and anti-market manipulation laws, to address undue concentrations of ownership.

III. Amendment to the Rule

After considering the comments we received, we are modifying the NLP calculation for reopenings to provide an optional exclusion amount for a portion of a bidder's holdings (Alternative 1 in the ANPR). We believe this alternative best achieves our goal of fostering broad participation in Treasury auctions.

Accordingly, § 356.13(b) of the Uniform Offering Circular (UOC) is restructured and revised. Paragraph (b)(1) has been reorganized so that the ''holdings'' components are listed consecutively and then the ''positions'' components are listed. Paragraph (b)(2) now provides that in a reopening a bidder may subtract the published exclusion amount for that security from the sum of: (1) its holdings of the security being auctioned, and (2) its holdings of STRIPS principal components of the security being auctioned.

A bidder must include any holdings in excess of the exclusion amount in calculating and reporting the net long position. A bidder may not take advantage of the exclusion amount if its combined holdings are zero or less than zero. For example, a bidder who is ''short'' the security being auctioned, and whose holdings amount is therefore a negative number, cannot make its position more ''short'' by subtracting the exclusion amount. Further, if a bidder takes advantage of the exclusion amount, it must first calculate its combined holdings before subtracting the exclusion amount.

In addition, a bidder may use the exclusion amount only up to the amount of its combined holdings. After subtracting the exclusion amount from its combined holdings, the resulting

[9] Treasury Press Release dated February 2, 2000.

[10] *See supra*, note 3.

[11] The ANPR and comment letters are available for downloading on the Internet and for inspection and copying at the Treasury Department Library at the addresses provided earlier in this final rule.

[12] The bidder would report this amount with its bids if the amount, when combined with its bids, equals or exceeds the NLP reporting threshold for the auction. See § 356.13(a).

[13] 17 CFR Part 420.

amount cannot be included in the NLP calculation as a negative number. In other words, a bidder cannot change a long holdings position to a short position through use of the exclusion amount.

We will publish the specific optional exclusion amount in the offering announcement for each particular auction. We expect that the exclusion amount will be approximately 35 percent of the outstanding amount of the particular security (CUSIP) being auctioned, less the amount of the outstanding security held by the Federal Reserve for its own account. However, bidders must carefully read each offering announcement to ensure they are aware of the exact exclusion amount for the auction and other details of the particular offering. As provided in § 356.10, if the provisions of an offering announcement are different from the provisions of the UOC, the announcement takes precedence.

IV. Procedural Requirements

This final rule is not a significant regulatory action for purposes of Executive Order 12866. Although we issued an Advance Notice of Proposed Rulemaking on July 25, 2001 to benefit from public comment, the notice and public procedures requirements of the Administrative Procedure Act do not apply, under 5 U.S.C. 553(a)(2).

Since no notice of proposed rulemaking is required, the provisions of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) do not apply.

List of Subjects in 31 CFR Part 356

Bonds, Federal Reserve System, Government securities, Securities.

For the reasons stated in the preamble, we amend 31 CFR Part 356 as follows:

PART 356—SALE AND ISSUE OF MARKETABLE BOOK-ENTRY TREASURY BILLS, NOTES, AND BONDS (DEPARTMENT OF THE TREASURY CIRCULAR, PUBLIC DEBT SERIES NO. 1–93)

1. The authority citation for Part 356 continues to read as follows:

Authority: 5 U.S.C. 301; 31 U.S.C. 3102 *et seq.*; 12 U.S.C. 391.

2. Section 356.13 is amended by revising paragraph (b) to read as follows:

§ 356.13 Net long position.

* * * * *

(b) *Determination of net long position.* (1) The net long position must be determined as of the designated reporting time, which is one-half hour prior to the closing time for receipt of competitive bids. Except as modified in (b)(2) in the event of a reopening, a net long position includes the par amount of:

(i) Holdings of outstanding securities with the same CUSIP number as the security being auctioned;

(ii) Holdings of STRIPS principal components of the security being auctioned; and

(iii) Positions, in the security being auctioned, in

(A) When-issued trading, including when-issued trading positions of the STRIPS principal components;

(B) Futures contracts that require delivery of the specific security being auctioned (but not futures contracts for which the security being auctioned is one of several securities that may be delivered, and not futures contracts that are cash-settled); and

(C) Forward contracts that require delivery of the specific security being auctioned or of the STRIPS principal component of that security.

(2) In a reopening (i.e., additional issue) of an outstanding security, a bidder may subtract the published exclusion amount for that security from: its holdings of the outstanding securities (paragraph (b)(1)(i) of this section) combined with its holdings of STRIPS principal components of the security being auctioned (paragraph (b)(1)(ii) of this section). The amount of holdings that may be excluded from the net long position calculation will be specified in the Treasury offering announcement for that auction. A bidder may not take the exclusion if its combined holdings are zero or less than zero. The exclusion is optional for bidders. However, if a bidder takes the exclusion, it must include any holdings in excess of the exclusion amount in calculating its net long position. If the published exclusion amount is greater than the bidder's combined holdings (paragraphs (b)(1)(i) and (ii) of this section), the combined holdings may be calculated as zero, but cannot be included in the calculation as a negative number.

* * * * *

Dated: November 7, 2001.

Donald V. Hammond,

Fiscal Assistant Secretary.

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BILLING CODE 4810–39–P

DEPARTMENT OF LABOR

Veterans' Employment and Training Service

41 CFR Part 61–250

RIN 1293–AA07

Annual Report From Federal Contractors

AGENCY: Veterans' Employment and Training Service (VETS), Labor.

ACTION: Final rule; correction.

SUMMARY: This document contains a correction to the final regulation which was published Thursday, October 11, 2001 (66 FR 51998–52008). The regulation pertains to annual reporting of efforts in hiring of targeted veterans by contractors and subcontractors.

EFFECTIVE DATE: This rule is effective November 13, 2001.

FOR FURTHER INFORMATION CONTACT: Norm Lance, Chief of Investigations and Compliance Division, VETS, at (202) 693–4731 or by e-mail at *Lance-Norman@dol.gov*. Individuals with hearing impairments may call (800) 670–7008 (TTY/TDD).

SUPPLEMENTARY INFORMATION:

Background

The final regulation that is the subject of this correction provides amended reporting procedures required of contractors and subcontractors to conform with the provisions of the Veterans' Employment Opportunities Act of 1998.

Need for Correction

As published, the final regulation contained an error which may prove to be misleading. The change below will correct the misleading language to conform to that used in the rest of the document, i.e., later in § 61–250.11(b) and in the preamble.

Correction of Publication

Accordingly, the publication of October 11, 2001, of the final regulation at 66 FR 51998–52008 is corrected as follows:

PART 61–250 [CORRECTED]

§ 61–250.11 [Corrected]

On page 52006, in the second column in § 61–250.11, the first sentence of paragraph (b) is corrected to read as follows:

* * * * *

(b) Contractors and subcontractors that submit computer-generated output for more than 10 hiring locations to satisfy their VETS–100 reporting