

DEPARTMENT OF THE TREASURY**Fiscal Service****31 CFR Parts 355 and 358****Fiscal Agency Checks and Book-Entry Conversion of Detached Bearer Coupons and Bearer Corpora**

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

ACTION: Final rule.

SUMMARY: We rewrote Regulations Governing Fiscal Agency Checks and Regulations Governing Book-Entry Conversion of Detached Bearer Coupons and Bearer Corpora, in plain language. We also made two changes in the regulations. We removed references to the Federal Reserve Bank of New York as the processor for bearer corpora and coupons, and we eliminated the fees requirement for conversions.

DATES: Effective November 1, 2000.

ADDRESSES: You can download this final rule at the following World Wide Web address: <<http://www.publicdebt.treas.gov>>.

FOR FURTHER INFORMATION CONTACT:

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SUPPLEMENTARY INFORMATION: Executive Order 12866 and the President's memorandum of June 1, 1998 (63 FR 31885) require each agency to write all rules in plain language. We have rewritten 31 CFR part 355, Regulations Governing Fiscal Agency Checks, and 31 CFR part 358, Regulations Governing Book-Entry Conversion of Detached Bearer Coupons and Bearer Corpora, in plain language.

No substantive changes were made to part 355 which was originally published as an interim regulation in 1985. This final rule will adopt part 355 in a final form.

Part 358 has been changed to remove references to the Federal Reserve Bank of New York as the agent for the conversion to book-entry of bearer corpora and detached bearer coupons because the Bureau of the Public Debt will process the conversions at its Parkersburg, WV location.

Fees for conversions of corpora and coupons have been eliminated. The collection of fees is not cost-effective and is counter-productive to our goal of eliminating paper securities.

Procedural Requirements

This final rule does not meet the criteria for a "significant regulatory action," as defined in Executive Order 12866. Therefore, the regulatory review procedures contained therein do not apply.

This final rule relates to matters of public contract and procedures for United States securities. The notice and public procedures requirements and delayed effective date requirements of the Administrative Procedure Act are inapplicable, pursuant to 5 U.S.C. 553(a)(2).

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

We ask for no new collections of information in this final rule. Therefore, the Paperwork Reduction Act (44 U.S.C. 3507) does not apply.

List of Subjects in 31 CFR Parts 355 and 358

Federal Reserve System, Government securities.

Accordingly, for the reasons set out in the preamble, 31 CFR Chapter II is amended as follows:

1. Revise 31 CFR part 355 to read as follows:

PART 355—REGULATIONS GOVERNING FISCAL AGENCY CHECKS

Sec.

- 355.0 What does this part cover?
- 355.1 Do any other regulations cover fiscal agency checks?
- 355.2 What special terms do I need to know to understand this part?
- 355.3 Where can I cash my fiscal agency check?
- 355.4 Is there a time limit on cashing a fiscal agency check?
- 355.5 What warranties does a presenting bank make?
- 355.6 What happens if the presenting bank breaches its warranty?
- 355.7 What notice should I give if I do not receive my check or if a check is lost, stolen, or destroyed?
- 355.8 How can I get a replacement fiscal agency check?
- 355.9 What should I do if I recover a check reported as lost, stolen, destroyed, or not received?
- 355.10 What happens if I present my check to the payor Reserve Bank more than six months after the issue date of the check?
- 355.11 What should I do if the endorsement on my check is forged or unauthorized?
- 355.12 What requirements apply if the check is payable to two or more persons?

355.13 Are there any additional requirements related to fiscal agency checks?

355.14 Can these regulations be waived?

355.15 Can these regulations be amended?

Authority: 12 U.S.C. 391; 31 U.S.C. Ch. 31.

§ 355.0 What does this part cover?

This part governs checks issued for payments in connection with United States securities. These checks, referred to as "fiscal agency checks," are issued by a designated Federal Reserve Bank in its capacity as fiscal agent of the United States. The checks are drawn on the payor Federal Reserve Bank in its banking capacity. The drawer of a fiscal agency check is the United States, and the drawee is a Federal Reserve Bank. The rights and liabilities of the United States, the Federal Reserve Banks, and others are set out in this part.

§ 355.1 Do any other regulations cover fiscal agency checks?

The regulations governing checks drawn on the United States and on designated depositories of the United States do not apply to fiscal agency checks, unless a statute specifically provides differently, or unless we state differently in this part. If a definition or matter pertaining to fiscal agency checks is not specifically covered in this part, we will apply the provisions of Regulations J of the Board of Governors of the Federal Reserve System, at 12 CFR part 210. To the extent not otherwise covered by this part or by Regulation J, we will apply the provisions of the Uniform Commercial Code (U.C.C.)

§ 355.2 What special terms do I need to know to understand this part?

Depository institution means:

(1) Any insured bank, mutual savings bank or savings bank as defined in 12 U.S.C. 1813, or any institution eligible to become an insured bank under 12 U.S.C. 1815;

(2) Any insured credit union as defined in 12 U.S.C. 1752, or any credit union eligible to become an insured credit union under 12 U.S.C. 1781;

(3) Any member as defined in 12 U.S.C. 1422; and

(4) Any savings association as defined in 12 U.S.C. that is an insured depository institution as defined in the Federal Deposit Insurance Act, 12 U.S.C. 1811 *et seq.*, or is eligible to become an insured depository institution under that Act.

Fiscal agency check means a check for a payment in connection with a United States security drawn upon a Reserve Bank and issued on our behalf by the Reserve Bank in its capacity as fiscal agent of the United States.

Payee (or “you”) means the person or persons to whom a fiscal agency check is made payable.

Payor Reserve Bank means the Reserve Bank on which a fiscal agency check is drawn.

Presenting bank means a depository institution that sends a fiscal agency check directly to a Reserve Bank for payment or collection.

Reserve Bank or Federal Reserve Bank means any Federal Reserve Bank or any branch of a Federal Reserve Bank.

Security, for the purpose of this part, means a direct obligation of the United States, including a Treasury bill, note, bond or savings bond/note.

We (or “us”) refers to the Secretary of the Treasury and the Secretary’s delegates at the Treasury Department and the Bureau of the Public Debt. The term also extends to any fiscal or financial agency acting on behalf of the United States when designated to act by the Secretary or the Secretary’s delegates. The term does not refer to a United States Savings Bond issuing or paying agent.

§ 355.3 Where can I cash my fiscal agency check?

Presentment of a fiscal agency check must be made to the payor Reserve Bank. The payor Reserve Bank will only cash a fiscal agency check presented by the payee who can be identified to the satisfaction of the Reserve Bank. Otherwise, a fiscal agency check must be presented through banking channels. A refusal to accept or to pay fiscal agency check presented by a person other than the payee, or by a payee who is not reasonably identified, does not constitute dishonor.

§ 355.4 Is there a time limit on cashing a fiscal agency check?

A payor Reserve Bank may refuse to pay a fiscal agency check presented more than six (6) months after the issue date of the check. If the check is not presented within this time, you must follow the procedures in § 355.10.

§ 355.5 What warranties does a presenting bank make?

(a) A presenting bank makes the warranties required of a sender under Subpart A of Regulation J (12 CFR part 210). This paragraph does not limit any warranty by a presenter or other party arising under State law.

(b) We are not barred from recovering on a breach of warranty solely because:

(1) Our negligence contributed to a fraudulent endorsement or material alteration;

(2) We did not promptly discover an unauthorized signature or alteration;

(3) An impostor fraudulently caused the issuance of a fiscal agency check in the name of any existing payee; or

(4) Our employee fraudulently caused the issuance of a fiscal agency check in the name of any existing payee.

§ 355.6 What happens if the presenting bank breaches its warranty?

If the presenting bank breaches its warranty, the payor Reserve Bank may either return the check to the presenting bank or send notice of the breach to the presenting bank. If the presenting bank does not make prompt restitution when it receives the returned check or notice of breach, we may begin appropriate collection procedures.

§ 355.7 What notice should I give if I do not receive my check or if a check is lost, stolen, or destroyed?

If a fiscal agency check is not received within a reasonable time after a payment is due, or if a check is lost, stolen, or destroyed, you must provide prompt written notification. Your written notice may be sent to us or to the payor Reserve Bank. You may give notice by telephone, but we will not issue a replacement check until you confirm the notice in writing. The written notice must provide enough information for us to identify the account and the security to which the payment relates. We will stop payment on the fiscal agency check if we have a reasonable time to act before final payment.

§ 355.8 How can I get a replacement fiscal agency check?

The payor Federal Reserve Bank will issue a replacement fiscal agency check if:

- (a) You submit written notice;
- (b) The check is unpaid;
- (c) We determine that recovery of the original check is unlikely; and
- (d) The payee and endorsee, if any, of the check execute the required indemnification agreement.

§ 355.9 What should I do if I recover a check reported as lost, stolen, destroyed, or not received?

If you recover the original check you must notify us in writing. If we have not yet issued a replacement check, we will remove the stop payment order against the original check. If we have already issued a replacement check, you must return the original check to us.

§ 355.10 What happens if I present my check to the payor Reserve Bank more than six months after the issue date of the check?

If the payor Reserve Bank refuses payment on a fiscal agency check solely because it is presented more than six (6)

months after the issue date of the check, a replacement check will be issued if you:

- (a) Surrender the original check; and
- (b) Execute the required indemnification agreement.

§ 355.11 What should I do if the endorsement on my check is forged or unauthorized?

If we verify the existence of a forged or unauthorized endorsement on a paid fiscal agency check, the payor Reserve Bank will issue a replacement check to the person entitled. The payee or endorsee must execute an affidavit that there has been a forged or unauthorized endorsement. We may also require an indemnification agreement.

§ 355.12 What requirements apply if the check is payable to two or more persons?

If the fiscal agency check is payable to two or more persons, the requirements of this part apply to all designated payees.

§ 355.13 Are there any additional requirements related to fiscal agency checks?

We may require an indemnification agreement, with or without surety. You must provide any additional evidence we consider necessary. We will require any information necessary for the protection of the interests of the United States.

§ 355.14 Can these regulations be waived?

We reserve the right, in our discretion, to waive any provision of the regulations in this part in any case or class of cases for the convenience of the United States, or to relieve any person of unnecessary hardship, if the waiver is not inconsistent with law and will not subject the United States to substantial expense or liability.

§ 355.15 Can these regulations be amended?

We may, at any time, supplement, amend, or revise the regulations in this part.

1. Revise 31 CFR part 358 to read as follows:

PART 358—REGULATIONS GOVERNING BOOK—ENTRY CONVERSION OF BEARER CORPORA AND DETACHED BEARER COUPONS

Sec.

358.0 What does this part cover?

358.1 What special terms apply to this part?

358.2 What regulations cover these securities?

358.3 Are there any bearer corpora or detached bearer coupons that are not eligible for conversion?

358.4 Which bearer corpora or detached bearer coupons are eligible for

- conversion to transferable BECCS or CUBES securities?
- 358.5 Which bearer corpora or detached bearer coupons are eligible for conversion to non-transferable BECCS or CUBES securities?
- 358.6 What is the procedure for converting bearer corpora and detached bearer coupons to book-entry?
- 358.7 Where do I send my bearer corpora and detached bearer coupons to be converted?
- 358.8 Are there fees for the conversion of bearer corpora or detached bearer coupons?
- 358.9 Who is responsible for the cost and risks associated with the shipment of securities?
- 358.10 How are amounts of less than one dollar credited?
- 358.11 What is required to establish the authority of a depository institution to request conversion?
- 358.12 What is Treasury's liability if the depository institution does not have authority to convert securities?
- 358.13 What is Treasury's liability if the depository institution incurs a loss because it does not follow required procedures?
- 358.14 What happens when securities are accepted for conversion?
- 358.15 What happens if securities are adjusted?
- 358.16 Are BECCS and CUBES accounts maintained separately from the STRIPS program?
- 358.17 Can BECCS and CUBES securities be reconstituted to physical form?
- 358.18 What limitations exist on liability?
- 358.19 Who is responsible for any loss resulting from the conversion of a bearer corpus missing callable coupons?
- 358.20 Can these regulations be waived?
- 358.21 Can these regulations be amended?

Authority: 12 U.S.C. 391, 31 U.S.C. Ch. 31.

§ 358.0 What does this part cover?

(a) This part applies to the conversion to book-entry of United States Treasury bearer corpora and detached bearer coupons.

(b) These instruments are accepted from depository institutions for conversion under the Bearer Corpora Conversion System (BECCS) and Coupons Under Book Entry Safekeeping (CUBES) programs.

(1) For coupons converted after November 1, 2000, these regulations supersede the terms and conditions governing CUBES set forth in the written "Agreements to the Terms and Conditions Governing CUBES" signed by depository institutions that previously participated in the CUBES program.

(2) Depository institutions that submit bearer corpora and detached bearer coupons are deemed to agree to the terms and conditions in this part and any other requirements we may prescribe.

§ 358.1 What special terms apply to this part?

Bearer security means a definitive security payable to the bearer on its face at maturity or when called for redemption before maturity in accordance with its terms. Ownership of a bearer security is not recorded. Title to the security may pass by delivery without endorsement or notice. The only remaining unmatured bearer securities are bearer bonds.

BECCS means the Treasury's Bearer Corpora Conversion System.

BECCS security means a United States Treasury bearer security converted to book-entry form and held in BECCS.

Callable means a United States Treasury security subject to call before maturity.

Callable Coupons means the coupons associated with a callable security that are due after the date the security is subject to call.

Conversion, as used in this part, means a change in the form of a security from definitive form to book-entry form.

Corpus (plural corpora) means the principal portion of a United States Treasury bearer security.

Coupon means a definitive bearer interest instrument associated with a United States Treasury bearer security.

CUBES means the Treasury's Coupon Under Book-Entry Safekeeping program.

CUBES security means a definitive coupon detached from a United States Treasury security and held in CUBES.

Definitive security means a security held in paper form.

Depository institution means:

(1) Any insured bank, mutual savings bank, or savings bank as defined in 12 U.S.C. 1813, or any institution eligible to become an insured bank under 12 U.S.C. 1815;

(2) Any insured credit union as defined in 12 U.S.C. 1752, or any credit union eligible to become an insured credit union under 12 U.S.C. 1781;

(3) Any member as defined in 12 U.S.C. 1422; and

(4) Any savings association as defined in 12 U.S.C. that is an insured depository institution as defined in the Federal Deposit Insurance Act, 12 U.S.C. 1811 *et seq.*, or is eligible to become an insured depository institution under that Act.

Non-callable means a United States Treasury bearer security not subject to call before maturity.

Non-callable coupons means coupons associated with a non-callable bearer security or coupons associated with a callable bearer security that are due on or before the date on which the callable bearer security is subject to call.

Non-transferable means the ownership of a security held in BECCS

or CUBES may not be transferred. See § 358.5.

Transferable means the ownership of a security held in BECCS or CUBES may be transferred. See § 358.4 of this part.

We (or "us") refers to the Secretary of the Treasury and the Secretary's delegates at the Treasury Department and the Bureau of the Public Debt. The term also extends to any fiscal or financial agent we designate to act on behalf of the United States.

§ 358.2 What regulations cover these securities?

BECCS and CUBES securities are deemed to be securities for the purposes of 31 CFR part 357, subparts A, B, and D, and are governed by that part. Notwithstanding the provisions of 31 CFR part 357, certain BECCS and CUBES securities are non-transferable. See § 358.5.

§ 358.3 Are there any bearer corpora or detached bearer coupons that are not eligible for conversion?

Bearer corpora and detached bearer coupons will not be accepted if they are submitted:

(a) Within 30 days of their maturity date; or

(b) If the call provision has been invoked, within 30 days of their call date.

§ 358.4 Which bearer corpora or detached bearer coupons are eligible for conversion to transferable BECCS or CUBES securities?

(a) For a callable corpus to be eligible for conversion to a transferable BECCS security, all associated callable coupons must be submitted with the corpus. These callable coupons will be linked with the corpus within BECCS when converted. Once the coupons are linked to the corpus, they may not be transferred separately.

(b) A corpus that is not subject to call will be converted to a transferable BECCS security.

(c) Non-callable coupons will be converted to transferable CUBES securities.

§ 358.5 Which bearer corpora or detached bearer coupons are eligible for conversion to non-transferable BECCS or CUBES securities?

If all of the callable coupons associated with the corpus are not submitted with the corpus, the corpus will be converted to a non-transferable BECCS security. Any remaining callable coupons submitted with the corpus will be converted to individual non-transferable CUBES securities.

§ 358.6 What is the procedure for converting bearer corpora and detached bearer coupons to book-entry?

Bearer corpora and detached bearer coupons must be submitted in accordance with our procedures. They must be accompanied by an approved form executed by an authorized officer of the submitting depository institution. Until we verify the submission, the bearer corpora and detached bearer coupons are subject to rejection or adjustment.

§ 358.7 Where do I send my bearer corpora and detached bearer coupons to be converted?

Send bearer corpora and detached bearer coupons to be converted to: Bureau of the Public Debt, Division of Customer Service, P. O. Box 426, Parkersburg, WV 26106-0426.

§ 358.8 Are there fees for the conversion of bearer corpora or detached bearer coupons?

We do not charge fees for the conversion of bearer corpora or detached bearer coupons to BECCS or CUBES securities.

§ 358.9 Who is responsible for the cost and risks associated with the shipment of securities?

The following guidelines apply to the transportation of bearer corpora and detached bearer coupons:

- (a) Shipment from the depository institution is at the risk and expense of the depository institution;
- (b) Shipment between our designated agent and the Department, if required, is at our risk and expense; and
- (c) Shipment of securities that are returned to the depository institution is at the risk and expense of the depository institution.

§ 358.10 How are amounts of less than one dollar credited?

Only full dollar amounts can be held in CUBES; principal amounts that include cents cannot be held in CUBES. Upon the conversion of coupons to CUBES, amounts of less than one dollar in aggregate per CUBES CUSIP will not be credited to the account of the depository institution.

Example: A depository institution submits five coupons with face amount of \$346.88 each, and a total dollar amount of \$1,734.40.

Upon conversion of these coupons to CUBES, only \$1,734.00 will be credited to the depository institution's account.

§ 358.11 What is required to establish the authority of a depository institution to request conversion?

By submitting bearer corpora and detached bearer coupons for conversion to BECCS and CUBES securities, a depository institution represents that it has the authority to request the conversion.

§ 358.12 What is Treasury's liability if the depository institution does not have authority to convert securities?

We are not liable if the depository institution has no authority to convert the bearer corpora and detached bearer coupons to book-entry form or to take other actions in respect to book-entry accounts in BECCS and CUBES.

§ 358.13 What is Treasury's liability if the depository institution incurs a loss because it does not follow required procedures?

We are not liable for any loss incurred by the depository institution as a result of its failure to properly follow our procedures.

§ 358.14 What happens when securities are accepted for conversion?

(a) After processing and initial verification, we will transfer the securities accepted to the depository institution's book-entry account, establishing a securities entitlement in TRADES according to 31 CFR part 357 subpart B.

(b) We will do the final verification within twenty (20) business days of initial receipt of the bearer corpora and detached bearer coupons.

(c) If at any time after this twenty (20) day period we determine that the security was improperly credited to the BECCS or CUBES account of the depository institution, such as in the case of a previously undetected, counterfeit security, we reserve the right to adjust the BECCS or CUBES account.

§ 358.15 What happens if securities are adjusted?

(a) If we make an adjustment to all or part of the submitted securities, we will instruct the depository institution to transfer BECCS or CUBES securities of the same payment date and face amount

from the depository institution's account to an account that we designate.

(b) If no such BECCS or CUBES securities exist in the depository institution's account, we will instruct the depository institution as to how the adjustment will be made.

(c) If the depository institution fails to comply with our instructions within five (5) business days of receipt of the instructions, we reserve the right to debit the master account of the depository institution for the face value of the adjusted bearer corpora and detached bearer coupons. By the submission of the bearer corpora and detached bearer coupons, the depository institution is deemed to agree to this debit.

§ 358.16 Are BECCS and CUBES accounts maintained separately from the STRIPS program?

BECCS and CUBES accounts are maintained separately from accounts maintained in Treasury's STRIPS (Separate Trading of Registered Interest and Principal of Securities) program.

§ 358.17 Can BECCS and CUBES securities be reconstituted to physical form?

After bearer corpora and detached bearer coupons have been converted to book-entry form, reconversion to physical form is prohibited. The reconstitution of a BECCS security with CUBES securities or any combination of Treasury obligations is prohibited.

§ 358.18 What limitations exist on liability?

(a) Except as otherwise provided by regulation, circular, or written agreement, any fiscal agent designated to act on our behalf is liable for its action or omission only if it failed to exercise ordinary care.

(b) We do not assume any responsibility to any party except the sending and receiving depository institutions involved in a BECCS or CUBES transaction.

(c) We do not assume any responsibility in connection with a BECCS or CUBES transaction for the insolvency, neglect, misconduct, mistake, or default of another bank or person, including the immediate participants.

§ 358.19 Who is responsible for any loss resulting from the conversion of a bearer corpus missing callable coupons?

The submitting depository institution shall indemnify the United States against any loss resulting from the conversion of a bearer corpus that is missing one or more associated callable coupons.

§ 358.20 Can these regulations be waived?

We reserve the right to waive or modify any provision of the regulations in this part for the convenience of the United States or to relieve any person of unnecessary hardship, if such action is not inconsistent with law, does not impair existing rights, and does not subject the United States to any substantial expense or liability.

§ 358.21 Can these regulations be amended?

We may at any time supplement, amend, or revise the regulations in this part.

Dated: October 24, 2000.

Donald V. Hammond,

Fiscal Assistant Secretary.

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