(vii) Charges may be imposed even though the search discloses no records responsive to the request, or if records located are determined to be exempt from disclosure.

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Dated, Washington, DC, July 18, 2001.

By direction of the Board.

John J. Toner,

Executive Secretary, National Labor Relations Board.

[FR Doc. 01–18296 Filed 7–24–01; 8:45 am]

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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: Advance notice of proposed rulemaking.

SUMMARY: The Department of the Treasury (''Treasury,'' ''We,'' or ''Us'') is issuing this Advance Notice of Proposed Rulemaking to solicit comments on potential modifications to the calculation of the net long position (''NLP'') and the 35 percent award limit in marketable Treasury securities auctions. The purpose of any such modifications would be to ensure that participation in Treasury auctions remains both strong and broad, particularly in ''reopenings,'' which are auctions of additional amounts of previously issued Treasury securities. Treasury is examining whether the current method for calculating the NLP unnecessarily limits or precludes participation in reopenings by auction participants that already hold significant amounts of the security we are auctioning. We are specifically interested in comments on an alternative that would permit bidders in reopenings to exclude a certain portion of their current holdings of the security being auctioned from their NLP calculation. We also discuss other alternatives for calculating the NLP and the 35 percent award limit. We invite comments on these alternatives as well.

DATES: Submit comments on or before September 10, 2001.

ADDRESSES: You may send hard copy comments to: Government Securities Regulations Staff, Bureau of the Public Debt, 999 E Street NW., Room 315, Washington, DC 20239. You may also send us comments by e-mail at *govsecreg@bpd.treas.gov.* When sending comments by e-mail, please use an ASCII file format and provide your full name and mailing address. You may download this advance notice, and review the comments we receive, from the Bureau of the Public Debt's website at *www.publicdebt.treas.gov.* The advance notice and comments will also be available for public inspection and copying at the Treasury Department Library, Room 1428, Main Treasury Building, 1500 Pennsylvania Avenue, NW., Washington, DC 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.[1] One of these terms (rules) is the limit on the award to any one bidder of 35 percent of the offering amount. In this notice, we first describe this rule and its rationale, and why we are considering a change. Second, we give historical background. Third, we describe various alternatives on which we are seeking comment.

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.[2] This rule ensures that awards in our auctions are distributed to a number of auction participants, rather than to just one or two. This principle of broad distribution is intended to encourage participation by a significant number of competitive bidders in each auction. Broad participation keeps our borrowing costs to a minimum, helps ensure that Treasury auctions are fair and competitive, and makes it less likely that ownership of Treasury securities will become overly concentrated.

A key component of the 35 percent award limit is the net long position calculation.[3] 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 the auction.

The net long position 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[4] number as the security being auctioned;

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

(i) When-issued trading,[5]

(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), and

(iii) Forward contracts (including next-day settling); and

(3) Holdings of STRIPS[6] 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).[7] If a bidder's total bids

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[1] 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.

[2] 31 CFR 356.22(b).

[3] 31 CFR 356.13.

[4] 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.

[5] 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.

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

[7] 31 CFR 356.10.

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 way the NLP is calculated. In a reopening, we apply the 35 percent limit to the public offering amount of that specific auction. Because a bidder must include any holdings of the security being auctioned in its NLP calculation, it may be awarded less in a reopening than it would if it had no such 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 reopening amount.

For example, assume a bidder owns $3.5 billion of a Treasury security that has $10 billion outstanding, and the bidder has no other positions in that security. If we were to reopen the security by offering an additional $10 billion to the public, that bidder would not be awarded any additional securities because its NLP of $3.5 billion would already equal the 35 percent limit ($10 billion × .35). However, after we issued the additional $10 billion, the bidder would hold only 17.5 percent of the total combined amount outstanding ($3.5 billion/$20 billion).

Reopenings are now more frequent because in February 2000 we adopted a policy of regular reopenings to preserve the liquidity of our longer-term securities as our borrowing needs have declined.[8] In addition, we announced today that we will begin four-week bill auctions the week of July 30. These auctions will be reopenings of previously issued Treasury bills. Along with the publication of this notice, Treasury is issuing a press release that describes the net long position reporting requirements and the application of the 35 percent award limit for Treasury four-week bill auctions while we consider whether to modify the rule.

Since Treasury announced its policy of more frequent reopenings, several auction participants have asserted that the likelihood of their being precluded from participating in a future reopening has increased because of the requirement to include current holdings of the security being auctioned in the NLP calculation. The Treasury Borrowing Advisory Committee of The Bond Market Association addressed this issue in May 2001. The Committee recommended that the auction rules be modified so that ''the net long position used in the calculation of a bidder's position refers only to the position in the when-issued security.''[9] Regarding the 35 percent award limit itself, a majority of the Committee felt there was a need for some threshold limit but was unprepared to state what that limit might be.

The development of more frequent reopenings and declining borrowing needs make this an opportune time to re-examine the application of the NLP and the 35 percent limit. Our goal is to strike a better balance between fostering broad participation in Treasury auctions while still limiting the potential for concentration of ownership.

II. Historical Background

Application of the 35 percent award limit and the NLP reporting requirement has evolved over the years. The initial limitation, introduced in August 1962, was 25 percent of the auction offering amount. In May 1979, the 25 percent award limit was modified to apply to the ''public'' offering amount instead of the total offering amount. This modification excluded from the 25 percent calculation those Treasury securities allotted to the Federal Reserve in exchange for maturing securities held both for its own account and for the accounts of foreign official institutions. It also excluded Treasury securities allotted to the Federal Reserve for new cash tenders[10] on behalf of foreign official institutions. One consequence of this rule modification was that it reduced the possible award size for competitive bidders.

In September 1981, Treasury increased the maximum award in marketable Treasury securities auctions from 25 percent to 35 percent of the public offering amount. The ceiling was raised to lessen the effect of the 1979 modification that limited the 25 percent rule to the public offering amount instead of the total offering amount.

In July 1990, the 35 percent limit was extended to bids as well as awards, limiting the maximum bid that we would recognize at any one yield to 35 percent of the public offering amount.

Although some changes have been made to NLP reporting and the ''public offering amount'' to which the 35 percent limit is applied, the basic 35 percent rule has remained unchanged since 1990. We note that after the Uniform Offering Circular was published in proposed form on January 31, 1992 (57 FR 3870), several commenters questioned the requirement that, in a reopening, a bidder include its holdings of the outstanding security in its NLP calculation. At that time, we retained the provision because, ''[i]f the holdings of the issue being reopened were to be excluded from the net long position computation, a holder of a large outstanding amount could receive an auction award that, when combined with its net long position, would highly concentrate the holdings of the security as a result of the reopening. Similarly, if the 35% were to be applied to the combined auction amounts, holders of relatively small amounts of outstanding securities would be in a position to receive significantly more than 35% of the additional offering.''[11]

III. Alternatives

We are considering a number of alternatives to reach our goal of fostering broad participation in Treasury auctions while limiting the potential for concentration of ownership. As a result of our considerations to this point, we feel currently that Alternative 1 is the most workable. We are inviting comments on these alternatives.

Alternative 1: Optional excludable 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, up to 35 percent of the combined prior offering amounts of that security. 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 excludable amount.

Here's an example. Suppose we reopen a Treasury note that had a previous offering amount of $10 billion by offering an additional $10 billion. Also suppose that a bidder already holds $3 billion par of that note, $1 billion of the note's STRIPS principal component, and no other position in the security. That bidder would be able to exclude $3.5 billion from its NLP calculation for the reopening auction since $3.5 billion is 35 percent of the previous offering amount. We would specify this $3.5 billion excludable amount in the reopening offering

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

[9] Report to the Secretary of the Treasury from the Treasury Borrowing Advisory Committee of The Bond Market Association (dated May 1, 2001). The Committee, which is comprised of securities industry representatives, provides periodic advice to Treasury on debt management issues.

[10] New cash tenders are bids from foreign official institutions for amounts in excess of amounts of maturing Treasury securities that they hold.

[11] 57 FR 45117 (September 30, 1992).

announcement. The bidder's NLP calculation would therefore be $4 billion minus $3.5 billion, or $0.5 billion. The bidder could be awarded up to $3 billion more of the note in the reopening auction. If the bidder were to be awarded this amount in the reopening, on the settlement date it would have a total of $7 billion, or 35 percent, of the total $20 billion of the note outstanding (assuming there were no other changes in its position).

Alternative 2: Eliminate the NLP reporting requirement altogether and reduce the 35 percent limit to 25 percent (or some other amount below 35 percent). We are including this alternative as a possible means to overcome the operational difficulties that can result from bidders having to calculate their net long positions shortly before the competitive bidding deadline.

Alternative 3: Keep the current NLP calculation requirement, but Treasury would compute the 35 percent limit based on the offering amount plus any previous offering amounts. For example, if we offered $10 billion of a Treasury security in a previous auction, and we offered an additional $10 billion of the security in a reopening, a bidder with no net long position would be able to purchase up to $7 billion ($20 billion × .35%) of the reopening offering. (If the security were being offered for a third time for an additional $10 billion, a bidder with no NLP could be awarded the entire amount of the reopening.)

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. This was the recommendation of the Treasury Borrowing Advisory Committee of The Bond Market Association.

Alternative 5: Keep the current NLP calculation requirement, but increase the 35 percent limit.

Alternative 6: Retain both the 35 percent limit and the NLP reporting requirement as they exist now.

In addition to inviting comments on all of the above alternatives, we also invite comments on any other alternatives. The preliminary views expressed in this notice may change in light of the comments received.

It has been determined that this is not a significant regulatory action for purposes of Executive Order 12866.

List of Subjects in 31 CFR Part 356

Bonds, Federal Reserve System, Government securities, Securities.

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

Dated: July 19, 2001.

Donald V. Hammond,

Fiscal Assistant Secretary.

[FR Doc. 01–18441 Filed 7–23–01; 11:30 am]

BILLING CODE 4810–39–P

POSTAL RATE COMMISSION

39 CFR Part 3001

[Docket No. RM2001–3; Order No. 1319]

Rules of Practice and Procedure

AGENCY: Postal Rate Commission.

ACTION: Request for comments on expired rules.

SUMMARY: Several Commission rules on expedited consideration of Postal Service requests for recommended decisions have expired. The Commission seeks comments on whether these rules should be re-issued. After evaluation of the comments, the Commission anticipates issuing a notice of proposed rulemaking addressing the expired rules.

DATES: Comments are due by August 21, 2001.

ADDRESSES: Send comments to Steven W. Williams, Acting Secretary, Postal Rate Commission, 1333 H Street, NW., Suite 300, Washington, DC 20268–0001.

FOR FURTHER INFORMATION CONTACT: Stephen L. Sharfman, General Counsel, 202–789–6820.

SUPPLEMENTARY INFORMATION: In two unrelated rulemakings, the Commission amended its rules of practice, 39 CFR 3001.1 *et seq.,* to provide for expedited consideration of certain Postal Service requests for a recommended decision. The first, adopted in 1989, concerned changes in Express Mail rates and fees. The second, adopted in 1996, entailed four rules designed to address certain types of classification changes. These five rules contain a common thread; each includes a five-year sunset provision; each of these rules has now expired.

By this notice, the Commission solicits comments from interested persons concerning the advisability of reissuing some or all of these rules. The rules are briefly described below.[1]

1. Market Response Rate Requests for Express Mail Service

Rules 57 through 57c govern Postal Service requests for an expedited recommended decision on changes in Express Mail rates and fees. These rules were adopted in response to a Postal Service petition requesting the Commission to initiate a rulemaking to implement special rules designed to consider changes in Express Mail rates prompted by changes in market conditions. See order no. 836, docket no. RM88–2, August 10, 1989. The rules provide for a compressed procedural schedule under which the Commission is to consider the Postal Service's market rate request within 90 days of its filing. Rule 57c; see also rule 57b(e)(5). As adopted, the rules were designed, consistent with due process, to expedite consideration of proposed changes in Express Mail rates occasioned by market conditions for the purpose of minimizing the loss of Express Mail's contribution to institutional costs recommended in the most recent omnibus rate case. Rule 57(a). The rules included a sunset provision limiting their effectiveness for a period of five years from the date of their adoption by the Commission. Rule 57(b).

In August 1994, on or about the date the rules expired, the Postal Service requested the Commission to institute a rulemaking proceeding to reissue the rules. After notice and comment, the Commission reissued the rules, including the sunset provision. Order no. 1042, docket no. RM95–1, February 17, 2000. The reissued rules (57 through 57c) expired March 6, 2000.

The Postal Service never invoked these rules. Nor has it sought to have them reissued after their expiration in March 2000.

2. Limited Classification Changes

In April 1995, the Postal Service petitioned the Commission to initiate a rulemaking involving changes or additions to the Commission's procedural rules concerning limited rate and classification matters. The petition drew heavily on a report, ''Postal Ratemaking in a Time Change,'' issued by the Joint Task Force on Postal Ratemaking, June 1, 1992. In an advance notice of proposed rulemaking the Commission requested comments on the Postal Service's petition. 60 FR 22017, May 4, 1995. Following the receipt of comments by interested parties, the Commission issued a notice of proposed rulemaking in which it proposed specific amendments to its rules of practice designed to expedite consideration of certain limited classification-related changes requested by the Postal Service. Order no. 1084, docket no RM95–4, October 13, 1995. Thereafter, in a final rule issued, in May 1996, the Commission adopted three separate set of rules designed to

[1] The Commission is distributing the relevant rules with this order to the service list in the most recent omnibus rate case, docket no. R2000–1, as a convenience to those parties.