

(i) *Caseload* means the average monthly number of individuals receiving food stamps during the 12-month period ending the preceding June 30.

(ii) *Covered individual* means a food stamp recipient, or an applicant denied eligibility for benefits solely because he or she received food stamps during the 3 months of eligibility provided under paragraph (b) of this section, who:

(A) Is not exempt from the time limit under paragraph (c) of this section;

(B) Does not reside in an area covered by a waiver granted under paragraph (f) of this section;

(C) Is not fulfilling the work requirements as defined in paragraph (a)(1) of this section; and

(D) Is not receiving food stamp benefits under paragraph (e) of this section.

(2) Subject to paragraphs (h) and (i) of this section, a State agency may provide an exemption from the 3-month time limit of paragraph (b) of this section for covered individuals. Exemptions do not count towards a State agency's allocation if they are provided to an individual who is otherwise exempt from the time limit during that month.

(3) For each fiscal year, a State agency may provide a number of exemptions such that the average monthly number of exemptions in effect during the fiscal year does not exceed 15 percent of the number of covered individuals in the State, as estimated by FNS, based on FY 1996 quality control data and other factors FNS deems appropriate, and adjusted by FNS to reflect changes in:

(i) The State agency's caseload; and

(ii) FNS's estimate of changes in the proportion of food stamp recipients covered by waivers granted under paragraph (f) of this section.

(4) State agencies must not discriminate against any covered individual for reasons of age, race, color, sex, disability, religious creed, national origin, or political beliefs. Such discrimination is prohibited by this part, the Food Stamp Act, the Age Discrimination Act of 1975 (Public Law 94-135), the Rehabilitation Act of 1973 (Public Law 93-112, section 504), and title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d). Enforcement action may be brought under any applicable Federal law. Title VI complaints will be processed in accord with 7 CFR part 15.

(h) *Adjustments*. FNS will make adjustments as follows:

(1) *Caseload adjustments*. FNS will adjust the number of exemptions estimated for a State agency under paragraph (g)(2) of this section during a fiscal year if the number of food stamp recipients in the State varies from the

State's caseload by more than 10 percent, as estimated by FNS.

(2) *Exemption adjustments*. During each fiscal year, FNS will adjust the number of exemptions allocated to a State agency based on the number of exemptions in effect in the State for the preceding fiscal year.

(i) If the State agency does not use all of its exemptions by the end of the fiscal year, FNS will increase the estimated number of exemptions allocated to the State agency for the subsequent fiscal year by the remaining balance.

(ii) If the State agency exceeds its exemptions by the end of the fiscal year, FNS will reduce the estimated number of exemptions allocated to the State agency for the subsequent fiscal year by the corresponding number.

(i) *Reporting requirement*. The State agency will track the number of exemptions used each month and report this number to the regional office on a quarterly basis as an addendum to the quarterly Employment and Training Report (Form FNS-583) required by § 273.7(c)(8).

(j) *Other Program rules*. Nothing in this section will make an individual eligible for food stamp benefits if the individual is not otherwise eligible for benefits under the other provisions of this part and the Food Stamp Act.

## PART 275—PERFORMANCE REPORTING SYSTEM

12. In § 275.12, paragraph (d)(1) is amended by removing the reference to “§ 273.7(g)” and adding in its place a reference to “§ 273.7(f).”

## PART 277—PAYMENTS OF CERTAIN ADMINISTRATIVE COSTS OF STATE AGENCIES

13. In § 277.4, paragraph (b)(8) is amended by removing the reference to “§ 273.7(f)” and adding in its place a reference to “§ 273.7(d).”

Dated: June 7, 2002.

**Eric M. Bost,**

*Under Secretary, Food, Nutrition and Consumer Services.*

[FR Doc. 02-15294 Filed 6-18-02; 8:45 am]

**BILLING CODE 3410-30-P**

## DEPARTMENT OF THE TREASURY

### Office of the Comptroller of the Currency

#### 12 CFR Part 28

[Docket No. 02-10]

RIN 1557-AC05

### International Banking Activities: Capital Equivalency Deposits

**AGENCY:** Office of the Comptroller of the Currency (OCC), Treasury.

**ACTION:** Final rule.

**SUMMARY:** The OCC is amending its regulation regarding the capital equivalency deposits (CED) that foreign banks with Federal branches or agencies must establish and maintain. The OCC is revising certain requirements regarding CED deposit arrangements to increase flexibility for, and reduce burden on, certain Federal branches and agencies, based on a supervisory assessment of the risks presented by the particular institution.

**EFFECTIVE DATE:** This rule is effective on June 19, 2002.

**FOR FURTHER INFORMATION CONTACT:** Martha Clarke, Acting Assistant Director, Legislative and Regulatory Activities Division, 202-874-5090; or Carlos Hernandez, Senior International Advisor, International Banking and Finance Division, 202-874-4730.

**SUPPLEMENTARY INFORMATION:** On January 30, 2002, the OCC requested comment on an interim rule amending part 28. 67 FR 4325. The interim rule revised certain requirements regarding CED deposit arrangements to increase flexibility and reduce burden by permitting the OCC to impose deposit requirements based on the same supervision by risk approach that it uses in its supervision of national banks. The interim rule revised 12 CFR 28.15(d) to clarify that the OCC may vary the terms of a CED Agreement (Agreement) based on the circumstances and supervisory risks present at a particular branch or agency. For example, an Agreement may permit a foreign bank to withdraw assets from its CED account, thereby reducing the net value of the assets held in the account without OCC approval, as long as the withdrawal does not reduce the value below the minimum CED level required for that institution. Moreover, it may not be necessary in all cases for a foreign bank to pledge its CED assets to the OCC or for the depository bank to be a signatory to the Agreement unless required by the OCC. The OCC stated that it will make these determinations on a case-by-case basis,

consistent with its supervisory assessment of the risks presented by the particular institution.

The interim rule became effective immediately, but the OCC invited public comment on any aspect of the interim rule.

#### Description of Comments Received and Final Rule

The OCC received two comments. One comment strongly supported the revisions reflected in the interim rule. The commenter stated that the interim rule should alleviate the administrative burden associated with calculating, monitoring, and managing the CED requirement. The commenter also supported the incorporation of the risk-based approaches to regulation and supervision of international banking institutions into the CED requirement.

The second commenter stated that to some readers the rule could raise a question of whether the rule means that some foreign institutions would not be required to maintain a CED in the statutory minimum amount of five percent of liabilities. The proposed rule stated that the CED "[m]ay not be reduced in value below the minimum required for that branch or agency without the prior approval of the OCC." The final rule clarifies that in no event could the OCC approve a reduction that is less than the statutory minimum for the particular Federal branch or agency.

For these reasons, the OCC is adopting the interim rule in final form without change, except for this clarification.

#### Regulatory Flexibility Act

Pursuant to section 605(b) of the Regulatory Flexibility Act, 5 U.S.C. 605(b), the OCC certifies that the rule will not have a significant economic impact on a substantial number of small entities. The rule will affect few small entities. The principal effect of the rule is to remove several requirements with respect to deposit arrangements for the CED and reduce burden on qualifying foreign banks with Federal branches and agencies.

#### Unfunded Mandates Reform Act of 1995

Section 202 of the Unfunded Mandates Reform Act of 1995, Pub. L. 104-4 (Unfunded Mandates Act) requires that an agency prepare a budgetary impact statement before promulgating a rule that includes a Federal mandate that may result in expenditure by State, local, and tribal governments, in the aggregate, or by the private sector, of \$100 million or more in any one year. If a budgetary impact

statement is required, section 205 of the Unfunded Mandates Act also requires an agency to identify and consider a reasonable number of regulatory alternatives before promulgating a rule. The OCC has determined that the rule will not result in expenditures by State, local, or tribal governments or by the private sector of \$100 million or more. Accordingly, the OCC has not prepared a budgetary impact statement or specifically addressed the regulatory alternatives considered.

#### Executive Order 12866

The OCC has determined that this rule does not constitute a "significant regulatory action" for the purposes of Executive Order 12866.

#### Immediate Effective Date

The final rule is effective immediately. Pursuant to 5 U.S.C. 553, agencies may issue a rule without public notice and comment when the agency, for good cause, finds that such notice and public comment are impracticable, unnecessary, or contrary to the public interest. Section 553 also permits agencies to issue a rule without delaying its effectiveness if the agency finds good cause for the immediate effective date.

The OCC finds good cause to issue this rule without a delayed effective date. Like the interim rule, the final rule will enable the OCC to make determinations on a case-by-case basis, consistent with its supervisory assessment of the risks presented by a particular institution. These determinations will relate to whether a foreign bank should continue to be required to pledge its CED assets to the OCC or to obtain the OCC's approval to reduce the aggregate value of the CED assets by withdrawal. These requirements may not be necessary for safety and soundness reasons for most highly rated foreign banks, and they, therefore, may impose unnecessary cost and burden. Elimination of needless resulting cost and burden warrants making this rule effective immediately so that qualifying foreign banks that do not pose safety or soundness issues may take advantage of its benefits immediately.

Subject to certain exceptions, 12 U.S.C. 4802(b)(1) provides that new regulations and amendments to regulations prescribed by a Federal banking agency that impose additional reporting, disclosure, or other new requirements on an insured depository institution must take effect on the first day of a calendar quarter that begins on or after the date on which the regulations are published in final form.

Like the interim rule, the final rule imposes no additional reporting, disclosure, or other new requirements on insured depository institutions. Instead it removes restrictions for qualifying foreign banks with Federal branches and agencies. For this reason, section 4802(b)(1) does not apply to this rulemaking.

#### Paperwork Reduction Act

The OCC may not conduct or sponsor, and a respondent is not required to respond to, an information collection unless it displays a currently valid Office of Management and Budget (OMB) control number. The information collection requirements contained in 12 CFR part 28 have been approved under OMB control number 1557-0102.

The information collection requirements contained in this rule are contained in section 28.15(d). Under this section as amended, capital equivalency deposits may not be reduced in value below the minimum required for that branch or agency without prior OCC approval, and Federal branches and agencies are required to maintain records.

*Estimated number of respondents:* 35.

*Estimated number of responses:* 35.

*Estimated burden hours per response:* 1 hour.

*Estimated number of recordkeepers:*

35.

*Estimated number of recordkeeping burden hours:* 35.

*Estimated total burden hours:* 35.

#### List of Subjects in 12 CFR Part 28

Foreign banking, National banks, Reporting and recordkeeping requirements.

#### Authority and Issuance

For the reasons set forth in the preamble, the OCC amends part 28 of chapter I of title 12 of the Code of Federal Regulations as follows:

#### PART 28—INTERNATIONAL BANKING ACTIVITIES

1. The authority citation for part 28 continues to read as follows:

**Authority:** 12 U.S.C. 1 *et seq.*, 24(Seventh), 93a, 161, 602, 1818, 3101 *et seq.*, and 3901 *et seq.*

2. In § 28.15, paragraphs (d)(1) and (d)(2) are revised to read as follows:

##### § 28.15 Capital equivalency deposits.

\* \* \* \* \*

(d) \* \* \*

(1) May not be reduced in value below the minimum required for that branch or agency without the prior approval of the OCC, but in no event below the statutory minimum;

(2) Must be maintained pursuant to an agreement prescribed by the OCC that shall be a written agreement entered into with the OCC for purposes of section 8 of the Federal Deposit Insurance Act, 12 U.S.C. 1818; and

\* \* \* \* \*

Dated: June 12, 2002.

**John D. Hawke, Jr.,**

*Comptroller of the Currency.*

[FR Doc. 02-15429 Filed 6-18-02; 8:45 am]

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## DEPARTMENT OF THE TREASURY

### Internal Revenue Service

#### 26 CFR Part 301

[TD 9001]

RIN 1545-BA56

#### Disclosure of Return Information to Officers and Employees of the Department of Agriculture for Certain Statistical Purposes and Related Activities

**AGENCY:** Internal Revenue Service (IRS), Treasury.

**ACTION:** Final regulation.

**SUMMARY:** This contains a final regulation relating to return information to be disclosed to the Department of Agriculture (Department) for use in conducting the Census of Agriculture. The regulation provides for the disclosure of an additional item of return information to the Department. The regulation provides guidance to IRS personnel responsible for disclosing the return information.

**DATES:** *Effective Date:* This final regulation is effective June 19, 2002.

*Applicability Date:* For dates of applicability of this final regulation, see § 301.6103(j)(5)-1(d).

**FOR FURTHER INFORMATION CONTACT:** Joseph Conley, 202-622-4580 (not a toll-free number).

#### SUPPLEMENTARY INFORMATION:

##### Background

Under section 6103(j)(5) of the Internal Revenue Code (Code), upon written request from the Secretary of Agriculture, the Secretary of the Treasury shall furnish such returns or return information as prescribed by Treasury regulation to officers and employees of the Department whose official duties require access to such returns or return information for the purpose of, but only to the extent necessary in, structuring, preparing, and conducting the Census of Agriculture

pursuant to the Census of Agriculture Act of 1997. Currently, § 301.6103(j)(5)-1 provides an itemized description of the return information authorized to be disclosed for this purpose. By letter dated May 8, 2001, the Secretary of Agriculture requested that the Treasury Regulations be amended to authorize the disclosure of an additional item of return information, the taxpayer's telephone number contained on Form 1040/Schedule F.

This document adopts a final regulation that authorizes IRS personnel to disclose the additional item of return information that has been requested by the Secretary of Agriculture.

#### Explanation of Provisions

This final regulation will permit the IRS to disclose to the Department, for its use in structuring, preparing, and conducting the Census of Agriculture, an additional item of return information, the taxpayer's telephone number provided on the Form 1040/Schedule F. According to the Department, the disclosure of this additional item of return information will improve the efficiency of the Department's list-building operations by reducing the potential for duplication in the Census of Agriculture. After receiving information from the IRS, the Department attempts to link such information to other records held by or available to the Department, doing so where possible on the basis of names, social security numbers or employer identification numbers, and addresses. The Department intends to use taxpayer telephone numbers to match records that cannot be matched otherwise or to determine that questionable links between records, such as those based merely on name and address information, constitute or do not constitute definite matches. By means of the matching process, the Department avoids duplicate contacts and furthers its classification of farms for Census of Agriculture purposes. The IRS will provide taxpayer telephone numbers to the Department under this final regulation with the understanding that the Department will only use them for such purpose, and that it will not use the information to telephone taxpayers.

#### Special Analyses

Section 553 of the Administrative Procedure Act (5 U.S.C. chapter 5) requires that a notice of proposed rulemaking be published in the **Federal Register** and, after such notice, that the Federal agency that issued the notice give interested persons an opportunity to participate in the rulemaking through submission of written comments, with

or without opportunity for oral presentation. These requirements are subject to certain exceptions, including when the agency for good cause finds that notice and public comment are impracticable, unnecessary, or contrary to the public interest. Because the final regulation merely amends a preexisting regulation (§ 301.6103(j)(5)-1) to add a single item of information to a list of such items, it is determined that the notice and public-comment procedure required by 5 U.S.C. 553 is unnecessary in this case pursuant to the exception in 5 U.S.C. 553(b)(3)(B). For the same reason, a delayed effective date is not required pursuant to 5 U.S.C. 553(d)(3).

It has also been determined that this Treasury decision is not a significant regulatory action as defined in Executive Order 12866. Therefore, a regulatory assessment is not required. Because no notice of proposed rulemaking is required, the provisions of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) do not apply. Pursuant to section 7805(f) of the Code, this regulation was submitted to the Chief Counsel of the Small Business Administration for comment on its impact on small business.

#### Drafting Information

The principal author of this temporary regulation is Joseph Conley, Office of Associate Chief Counsel (Procedure & Administration), Disclosure and Privacy Law Division.

#### List of Subjects in 26 CFR Part 301

Employment taxes, Estate taxes, Excise taxes, Gift taxes, Income taxes, Penalties, Reporting and recordkeeping requirements.

#### Adoption of Amendments to the Regulations

Accordingly, 26 CFR part 301 is amended as follows:

#### PART 301—PROCEDURE AND ADMINISTRATION

**Paragraph 1.** The authority citation for part 301 is amended by adding an entry in numerical order to read in part as follows:

**Authority:** 26 U.S.C. 7805 \* \* \*

Section 301.6103(j)(5)-1 also issued under 26 U.S.C. 6103(j)(5); \* \* \*

**Par. 2.** Section 301.6103(j)(5)-1 is amended by:

1. Adding paragraph (b)(2)(xiv).
2. Revising paragraph (d).

The addition and revision read as follows: