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PRESS RELEASES

JS-03 is missing
JS-41 and 42 appear to be the same

DEPARTMENT OF THE TREASURY

TREASURY NEWS

OFFICE OF PUBLIC AFFAIRS • 1500 PENNSYLVANIA AVENUE, N.W. • WASHINGTON, D.C. • 20220 • (202) 622-2960

For Immediate Release
February 1, 2003

Contact: Tara Bradshaw
(202) 622-2014

PRESIDENT'S BUDGET STRENGTHENS IRS COMPLIANCE EFFORTS AND PROTECTS TAXPAYER RIGHTS

High Income Taxpayers to Receive Increased Scrutiny in Comprehensive Strategy

The President's budget strengthens the IRS' comprehensive efforts to improve compliance with the tax laws to ensure that all taxpayers pay their fair share, while protecting taxpayer rights. New funding and staffing resources will be focused toward the most significant areas of non-compliance. These new initiatives, along with other major efforts already underway, comprise a comprehensive strategy to ensure the tax laws are administered fairly by helping taxpayers understand and meet their tax responsibilities and by applying the tax law with integrity and fairness to all.

There are three key proposals in the budget aimed at improving the fairness of tax administration and compliance. The first proposal focuses resources on high-income taxpayers and businesses in areas where noncompliance is likely to be greatest. The second proposal permits private collection agencies to support the IRS' collection efforts while affording full protection of taxpayer rights, allowing the IRS to devote resources to more complex enforcement and collection issues. The third proposal strives to improve the effectiveness of the Earned Income Tax Credit (EITC) program by ensuring that benefits go to those who qualify for them.

"Americans' sense of fairness dictates that all taxpayers should pay their fair share," stated Pamela Olson, Treasury Assistant Secretary for Tax Policy. "The President's budget for the IRS will target the real problem areas in a fair and even-handed manner, restoring confidence in the tax system for hard-working taxpayers. At the same time the IRS goes after those who cheat, the IRS must provide better service to law-abiding taxpayers and respect every taxpayer's rights. It can and it must do both."

Olson continued, "These new proposals are part of Treasury's comprehensive strategy to ensure fair and effective enforcement of the tax laws. It includes stable funding for the IRS, refocusing attention on the most serious compliance problems, aggressively combating abusive tax avoidance transactions and schemes, better detecting new areas of non-compliance through measures like the National Research Program, and simplifying the tax code."

KD-3821

Unlike certain other federal benefit payment programs administered outside the tax code, there is currently little eligibility verification before EITC payments are made. The high number of erroneous claims are difficult to retrieve after the fact and require significant additional resources to recover.

As a result, the FY 2004 Budget requests an additional $100 million to begin a new strategy for improving the EITC program. The IRS will begin to use an integrated approach to address potential erroneous claims by identifying cases that have the highest likelihood of error before they are accepted for processing and before any EITC benefits are paid. A key part of this strategy is to begin certifying taxpayers for the EITC. The IRS will seek to minimize the burdens on taxpayers by using existing databases and other sources of information to verify eligibility in advance.

This integrated approach is designed to provide far greater assurance that EITC payments go to the individuals who qualify for the credit, without sacrificing the goals of the EITC program.

IRS Funding

The President's FY 2004 Budget increases the total IRS budget by 5.25% to $10.437 billion.

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For Immediate Release
February 3, 2003

Contact: **Betsy Holahan**
202-622-2960

REMARKS OF
UNDER SECERETARY OF THE TREASURY
FOR DOMESTIC FINANCE PETER R. FISHER
TO THE BANKNOTE 2003 CONFERENCE
WASHINGTON, DC
FEBRUARY 2, 2003

The Objective for U.S. Currency Design is Continuous Improvement

The overarching goal for U.S. currency design is to maintain confidence in our notes, both at home and abroad. To achieve this goal, we want to apply continuous downward pressure on the penetration of counterfeit notes. Our strategy to do this is continuous improvement: continuous improvement in design features and in aggressive law enforcement.

A constraint that we face as we introduce these improvements is consumer acceptance. We must surmount the fact that our citizens here in the United States have been accustomed to continuity in currency design over many years and only recently have had to adapt to changes in the physical appearance of our currency. However, we are now beginning a process of continuous cycles of design change so that, at a minimum, significant changes will be introduced every seven or eight years. While this will require extensive foreign and domestic marketing campaigns to educate consumers, banks and law enforcement officials, continuous improvement is our most effective defense against counterfeiting.

The design of our notes must help maintain confidence in U.S. currency as a stable and accepted medium of exchange and store of value around the world. This goal demands our attention because use of the dollar underpins our domestic economy and, due to its widespread foreign use, the global economy as well. Of course, its use abroad offers seignorage benefits to U.S. taxpayers.

We focus our efforts on the specific objective of continuous downward pressure on counterfeiting. The cost of preventing counterfeiting is minor compared with the risk of a loss of confidence in U.S. currency.

KD-3822

*U.S. Government Printing Office: 1998 - 619-559

Today's confidence in the currency rests on a legacy of success in suppressing counterfeiting based on fixed design features. In 1928, the United States introduced a currency design that lasted nearly seventy years. Its security was based on traditional features such as high-quality distinctive rag paper and fine line intaglio printing. At its start, the currency circulated almost exclusively within the borders of the United States. Threats to its integrity originated almost exclusively within our borders. Effective law and design enforcement kept counterfeiting at bay and customer acceptance high.

The currency environment changed and our strategy had to evolve as well. U.S. dollars are now used globally, with 60 percent of circulating Federal Reserve notes held abroad. While our customer base has grown worldwide, computer technology has transformed the nature of methods used in counterfeiting.

In 1996, the United States introduced a major redesign of banknotes. These design changes were needed to combat the emergence of color copiers and other emerging technologies to replicate notes. The new design incorporated a number of security features, and succeeded in raising the difficulty of producing a high quality counterfeit note. But as the quality and sophistication of printers has since improved, so did the quality of the counterfeited notes.

Our strategy today is continuous improvement: continuous design change, continuous development of security features, and continuous cooperation with the digital imaging industry, foreign banks, and law enforcement. Success will demand educating consumers to know and accept these changes. This is a particular challenge for domestic use, because Americans are not yet used to a shifting currency.

One example of the fruits of cooperation is the recent digital counterfeit deterrence system introduced by the Central Bank Counterfeit Deterrent Group. I applaud everyone involved in this endeavor. You are building a record of achievement in our cooperation with central banks and the private sector. As the word "continuous" implies, this success is just the first step.

While so many people have helped us get this far, I would like, in particular, to thank and recognize the efforts of Tom Ferguson, of the Bureau of Engraving and Printing, Marsha Reidhill, at the Federal Reserve Board, Tony Chapa, of the United States Secret Service, and John Moore, from the Federal Reserve Bank of San Francisco.

We are also working with an international group of major banknote producers to minimize the threat posed by digital devices and computers. As a matter of policy, we do not identify individual firms, but we thank you for your collaboration.
In 2003, we begin the roll-out of the next generation of currency.

The most dramatic change that you will notice is color. The color symbolizes a more sophisticated note and captures attention. We know from experience that security features are effective deterrents only if the public knows about and uses them to authenticate currency. For many years, Americans have taken our currency for granted. We have tended not to notice its appearance and we have also been confident that we won't receive counterfeit currency. In other areas of the world, people's first instinct is to check a note before accepting it. Foreign users of our currency are keenly aware of its features and cash handling professionals are adept at detecting counterfeits.

With the advent of new reprographic technology, it is critical that we educate our own citizens to look, feel and assess their currency before acceptance.

Introducing a new U.S. design will require us to educate people worldwide to take greater cognizance of security features and the importance of scrutinizing a note one receives. The introduction of the 1996 series showed that an integrated worldwide public information campaign can succeed in informing, educating and training the users of U.S. currency about a redesign. We used a variety of media from printed materials to public service announcements to paid advertising, and we mobilized support including the United States Information Agency and U.S. embassies around the globe. In the end, we achieved the goal of extremely high awareness of the new currency.

It takes several years from a new design concept to issuance of currency. We plan years ahead. As I mentioned, we now anticipate that we will be introducing refinements in currency design at least every seven to eight years. Also beyond design, there is the quality of production. The United States is looking towards innovations such as producing 50 subject sheets and acquiring more computer aided equipment.

How can the United States keep up with the pace of continuous improvement? Our best bet is to find ways of spurring private sector innovation. We need to provide avenues for the private sector to bring new ideas into the industry and encourage them to participate in developing anti-counterfeiting solutions. We must reach out beyond the traditional players and welcome new ideas and technologies. A partnership of government and industry is the only prudent way to achieving our objective: continuous downward pressure on counterfeiters' penetration rates through continuous improvement in our currency's design.

Thank you for this opportunity to speak to you today as you begin your conference on the essential mission of protecting of the world's currencies.

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DEPARTMENT OF THE TREASURY

TREASURY NEWS

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Embargoed Until 11:30 a.m. EST
February 3, 2003

Contacts: Betsy Holahan, Treasury
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Treasury, OFHEO and SEC Release Joint Report on Mortgage-Backed Securities Markets

The Department of the Treasury, the Office of Federal Housing Enterprise Oversight (OFHEO) and the Securities and Exchange Commission (SEC) today released a joint staff report on disclosure practices in the mortgage-backed securities (MBS) markets.

The purpose of the report was to evaluate current disclosure practices and consider whether disclosure enhancements are desirable in assisting investors to make informed investment decisions.

The report finds that additional disclosures in the MBS markets are desirable, feasible and would be useful for investors. To implement additional disclosures, the report encourages market participants to work together to reach a consensus on appropriate enhancements. The Treasury Department, OFHEO, and the SEC will continue to monitor and assess disclosure developments in the MBS markets.

The report can be found at www.treas.gov/press.

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KD-3823

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*U.S. Government Printing Office: 1998 - 619-559

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For Immediate Release
February 3, 2003

Contact: Betsy Holahan
202-622-2960

Media Advisory
Treasury Department's Quarterly Refunding Events
Economic Briefing To Be Webcast Live on Treasury's Web Site

The Treasury Department will hold the following events in connection with its scheduled Quarterly Refunding:

Tuesday, Feb. 4, 2003
Assistant Secretary for Economic Policy Richard Clarida
Economic Briefing before Treasury Borrowing Advisory Committee
Remarks
9:00 a.m. EST
Treasury Department, Large Conference Room 3327
1500 Pennsylvania Ave., NW
Washington, DC

- Note: this event will be webcast LIVE at 9:00 am EST from the Treasury's web site at www.treasury.gov

Wednesday, Feb. 5, 2003
Q & A on Quarterly Refunding Documents
Credentialed Media Only – No Cameras; Pen and Pad Only
9:30 a.m. EST
Treasury Department, Large Conference Room 3327
1500 Pennsylvania Ave., NW
Washington, DC

All media attending the above events must be credentialed and must have a Treasury or White House press pass to enter the building. Those without a Treasury or White House press pass must be cleared in by the Secret Service IN ADVANCE. Please contact Frances Anderson in the Office of Public Affairs at 202-622-2960 by Monday, February 3, 2003 at 5:00 pm for clearance, or you will not be admitted to the building. The following information can also be faxed to 202-622-1999, attention Frances Anderson: name, media organization, date of birth and social security number.

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KD-3824

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EMBARGOED UNTIL 3:00 P.M.
February 3, 2003

CONTACT: Betsy Holahan
(202) 622-2960

TREASURY ANNOUNCES MARKET FINANCING ESTIMATES

The Treasury Department announced today that it expects to borrow $110 billion in marketable debt during the January – March 2003 quarter and to target a cash balance of $25 billion on March 31. In the last quarterly announcement on October 28, 2002, Treasury announced that it expected to borrow $84 billion in marketable debt and to target an end-of-quarter cash balance of $30 billion. The increase in borrowing is due to lower receipts, higher outlays and changes in the actual and estimated cash balances at the ends of the October – December 2002 and January – March 2003 quarters.

Treasury also announced that it expects to pay down $25 billion in marketable debt during the April – June 2003 quarter and to target a cash balance of $45 billion on June 30.

The financing estimates for the January – March 2003 and April – June 2003 quarters are based upon current law and make no assumptions regarding the timing of the passage of the Administration's economic package.

During the October – December 2002 quarter, Treasury borrowed $83 billion in marketable debt and ended with a cash balance of $33 billion on December 31. On October 28, Treasury announced that it expected to borrow $76 billion in marketable debt and to target an end-of-quarter cash balance of $45 billion.

KD-3825

*U.S. Government Printing Office: 1998 - 619-559

The increase in borrowing was the result of increases in compensating balances, lower receipts and lower net issues of State and Local Government Series securities partially offset by lower outlays and a lower end-of-quarter cash balance.

Additional financing details relating to Treasury's Quarterly Refunding will be released at 9:00 A.M. on Wednesday, February 5.

FROM THE OFFICE OF PUBLIC AFFAIRS

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February 3, 2003
2003-2-3-9-58-55-16578

General Explanations of the Administration's Fiscal Year 2004 Revenue Proposals

This report summarizes the revenue proposals in the Administration's Fiscal Year 2004 Budget. These proposals include the economic growth package of proposals, which is designed to reinvigorate the economic recovery, create jobs, and enhance long-term economic growth. The other proposals, also intended to strengthen the American economy, affect a wide range of areas including encouraging saving, strengthening education, investing in health care, increasing housing opportunities, protecting the environment, encouraging telecommuting, and providing incentives for charitable giving, as well as simplifying the tax laws and improving tax administration. To maintain their favorable effects and provide greater certainty for economic and financial planning, the proposals extend several tax provisions that expire in 2003 and 2004 and permanently extend the tax cuts enacted in the Economic Growth and Tax Relief Reconciliation Act of 2001 as well as the Research and Experimentation tax credit.

Report(s):

- General Explanations

DEPARTMENT OF THE TREASURY

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For Immediate Release
February 3, 2003

Contact: Tara Bradshaw
(202) 622-2014

**United States Deputy Treasury Secretary Kenneth W. Dam
Remarks Regarding the Proposed Treasury Budget for 2004
February 3, 2004
Washington, DC**

The Department of the Treasury strongly supports President Bush's proposed budget for fiscal year 2004. We believe it reflects the values and priorities that the President set forth in his State of the Union Address.

The President's budget recognizes the Treasury's role as an economic policymaker, financial manager, and revenue collector for the federal government. Treasury's allocation within the budget will allow this department to continue its recent accomplishments in these areas.

The overall budget request for Treasury is reduced by nearly a third from the previous year's budget of $15.943 billion because of the transfer of Treasury law enforcement functions to the Department of Homeland Security and the Department of Justice. This reorganization of the law enforcement functions within the federal government will improve the nation's ability to defend itself against terrorism and other threats, and allows Treasury to focus on its core functions. The proposed Treasury budget for 2004 is $11.408 billion, a 3.5% increase over the adjusted 2003 level of $11.018 billion.

These funds will help us achieve our chief objectives, which include ensuring the fairness of the U.S. system of taxation, increasing Treasury's efficiency and effectiveness as an organization, fighting the financial war on terrorism, and safeguarding the integrity of our nation's financial systems and currency. I would like to highlight a few of the programs that fall into these categories.

With regard to ensuring the fairness of our system of taxation, the 2004 budget directs new resources toward areas where non-compliance is highest in dollar terms while maintaining balanced reviews across all areas, thereby applying tax laws fairly and equally to all taxpayers.

KD-3826

The budget also provides $35 million in 2004 to continue implementation of a health coverage tax credit program authorized by the Trade Act of 2002. This program provides a refundable tax credit to eligible individuals and their family members for the cost of qualified health insurance.

The budget invests $429 million to continue the Business System Modernization at the Internal Revenue Service, now in its fifth year of implementation. This funding level restores modernization funding that had been diverted last year to support the startup of the health coverage tax credit.

I would also like to highlight the Treasury Department's critical role in the financial war on terrorism, the newest and highest priority for our agency. The Treasury's Financial Crimes Enforcement Network (FinCEN) serves as the hub for interagency and global cooperation toward fighting domestic and international financial crimes. This function has made FinCEN the natural center for fighting the financial war on terror, and the divestiture of most of Treasury's other law enforcement activities will allow us to focus on this task with even greater precision and effectiveness than before. Since September 2001, Treasury's Office of Foreign Assets Control and our allies have frozen over $124 million in terrorist assets.

The FY 2004 budget also supports a $14M level for our International Technical Assistance program, $4M above last year, to continue programs that improve economic governance, particularly in post-conflict countries, and to increase focus on international terrorist financing. The funding also increases economic assistance for key geographic regions, such as, Central Europe, former Soviet Union, Africa, and Latin America.

I have chosen to highlight only a very few of the important tasks that Treasury accomplishes for the people of the United States. Let me add, however, that in these matters and all others, we are striving to make the President's Management Agenda the foundation of our success. We are focused on achieving results, improving customer and employee satisfaction, enhancing our productivity, and providing accurate and timely financial information to support government-wide implementation of accounting standards.

In conclusion, the Department of the Treasury is looking forward to implementing the President's budget programs in 2004.

Thank you.

-30-

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EMBARGOED UNTIL 11:00 A.M.
February 3, 2003

Contact: Office of Financing
202/691-3550

TREASURY OFFERS 4-WEEK BILLS

The Treasury will auction 4-week Treasury bills totaling $22,000 million to refund an estimated $13,000 million of publicly held 4-week Treasury bills maturing February 6, 2003, and to raise new cash of approximately $9,000 million.

Tenders for 4-week Treasury bills to be held on the book-entry records of *TreasuryDirect* will not be accepted.

The Federal Reserve System holds $14,334 million of the Treasury bills maturing on February 6, 2003, in the System Open Market Account (SOMA). This amount may be refunded at the highest discount rate of accepted competitive tenders in this auction up to the balance of the amount not awarded in today's 13-week and 26-week Treasury bill auctions. Amounts awarded to SOMA will be in addition to the offering amount.

Up to $1,000 million in noncompetitive bids from Foreign and International Monetary Authority (FIMA) accounts bidding through the Federal Reserve Bank of New York will be included within the offering amount of the auction. These noncompetitive bids will have a limit of $100 million per account and will be accepted in the order of smallest to largest, up to the aggregate award limit of $1,000 million.

The allocation percentage applied to bids awarded at the highest discount rate will be rounded up to the next hundredth of a whole percentage point, e.g., 17.13%.

This offering of Treasury securities is governed by the terms and conditions set forth in the Uniform Offering Circular for the Sale and Issue of Marketable Book-Entry Treasury Bills, Notes, and Bonds (31 CFR Part 356, as amended).

Details about the new security are given in the attached offering highlights.

oOo

Attachment

KD-3827

HIGHLIGHTS OF TREASURY OFFERING
OF 4-WEEK BILLS TO BE ISSUED FEBRUARY 6, 2003

February 3, 2003

Offering Amount.........................$22,000 million
Maximum Award (35% of Offering Amount)...$ 7,700 million
Maximum Recognized Bid at a Single Rate..$ 7,700 million
NLP Reporting Threshold.................$ 7,700 million
NLP Exclusion Amount....................$ 9,800 million

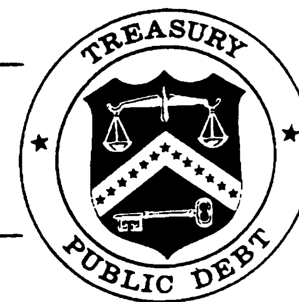
Description of Offering:
Term and type of security...........28-day bill
CUSIP number........................912795 MB 4
Auction date........................February 4, 2003
Issue date..........................February 6, 2003
Maturity date.......................March 6, 2003
Original issue date.................September 5, 2002
Currently outstanding...............$38,520 million
Minimum bid amount and multiples....$1,000

Submission of Bids:
Noncompetitive bids: Accepted in full up to $1 million at the highest discount rate of accepted competitive bids.
Foreign and International Monetary Authority (FIMA) bids: Noncompetitive bids submitted through the Federal Reserve Banks as agents for FIMA accounts. Accepted in order of size from smallest to largest with no more than $100 million awarded per account. The total noncompetitive amount awarded to Federal Reserve Banks as agents for FIMA accounts will not exceed $1,000 million. A single bid that would cause the limit to be exceeded will be partially accepted in the amount that brings the aggregate award total to the $1,000 million limit. However, if there are two or more bids of equal amounts that would cause the limit to be exceeded, each will be prorated to avoid exceeding the limit.
Competitive bids:
(1) Must be expressed as a discount rate with three decimals in increments of .005%, e.g., 4.215%.
(2) Net long position (NLP) for each bidder must be reported when the sum of the total bid amount, at all discount rates, and the net long position equals or exceeds the NLP reporting threshold stated above.
(3) Net long position must be determined as of one half-hour prior to the closing time for receipt of competitive tenders.

Receipt of Tenders:
Noncompetitive tenders:
Prior to 12:00 noon eastern standard time on auction day
Competitive tenders:
Prior to 1:00 p.m. eastern standard time on auction day

Payment Terms: By charge to a funds account at a Federal Reserve Bank on issue date.

PUBLIC DEBT NEWS



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TREASURY SECURITY AUCTION RESULTS
BUREAU OF THE PUBLIC DEBT - WASHINGTON DC

FOR IMMEDIATE RELEASE
February 03, 2003

CONTACT: Office of Financing
202-691-3550

RESULTS OF TREASURY'S AUCTION OF 26-WEEK BILLS

Term:	182-Day Bill
Issue Date:	February 06, 2003
Maturity Date:	August 07, 2003
CUSIP Number:	912795NG2

High Rate: 1.185%   Investment Rate 1/: 1.209%   Price: 99.401

All noncompetitive and successful competitive bidders were awarded securities at the high rate. Tenders at the high discount rate were allotted 7.20%. All tenders at lower rates were accepted in full.

AMOUNTS TENDERED AND ACCEPTED (in thousands)

Tender Type	Tendered	Accepted
Competitive	$ 34,930,950	$ 15,899,550
Noncompetitive	1,026,002	1,026,002
FIMA (noncompetitive)	75,000	75,000
SUBTOTAL	36,031,952	17,000,552 2/
Federal Reserve	6,057,166	6,057,166
TOTAL	$ 42,089,118	$ 23,057,718

Median rate 1.170%: 50% of the amount of accepted competitive tenders was tendered at or below that rate. Low rate 1.150%: 5% of the amount of accepted competitive tenders was tendered at or below that rate.

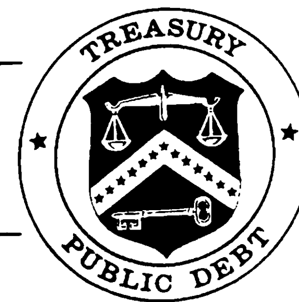
Bid-to-Cover Ratio = 36,031,952 / 17,000,552 = 2.12

1/ Equivalent coupon-issue yield.
2/ Awards to TREASURY DIRECT = $775,005,000

http://www.publicdebt.treas.gov

KD-3828

PUBLIC DEBT NEWS



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TREASURY SECURITY AUCTION RESULTS
BUREAU OF THE PUBLIC DEBT - WASHINGTON DC

FOR IMMEDIATE RELEASE
February 03, 2003

CONTACT: Office of Financing
202-691-3550

RESULTS OF TREASURY'S AUCTION OF 13-WEEK BILLS

Term: 91-Day Bill
Issue Date: February 06, 2003
Maturity Date: May 08, 2003
CUSIP Number: 912795ML2

High Rate: 1.155% Investment Rate 1/: 1.175% Price: 99.708

All noncompetitive and successful competitive bidders were awarded securities at the high rate. Tenders at the high discount rate were allotted 35.74%. All tenders at lower rates were accepted in full.

AMOUNTS TENDERED AND ACCEPTED (in thousands)

Tender Type	Tendered	Accepted
Competitive	$ 42,087,798	$ 17,085,878
Noncompetitive	1,639,789	1,639,789
FIMA (noncompetitive)	275,000	275,000
SUBTOTAL	44,002,587	19,000,667 2/
Federal Reserve	6,669,919	6,669,919
TOTAL	$ 50,672,506	$ 25,670,586

Median rate 1.145%: 50% of the amount of accepted competitive tenders was tendered at or below that rate. Low rate 1.135%: 5% of the amount of accepted competitive tenders was tendered at or below that rate.

Bid-to-Cover Ratio = 44,002,587 / 19,000,667 = 2.32

1/ Equivalent coupon-issue yield.
2/ Awards to TREASURY DIRECT = $1,305,472,000

http://www.publicdebt.treas.gov

KD-3829

DEPARTMENT OF THE TREASURY

TREASURY NEWS

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Text as Prepared for Delivery
February 4, 2003

Contact: Betsy Holahan
(202) 622-2960

ASSISTANT SECRETARY RICHARD H. CLARIDA
REMARKS TO THE TREASURY BORROWING ADVISORY COMMITTEE
OF THE BOND MARKET ASSOCIATION

Over the past 16 months, the U.S. economy has exhibited impressive resiliency in the face of a number of significant shocks: the tragic events of September 11th, the bursting of the 1990s equity bubble, the revelations of and repercussions deriving from major corporate financial scandals, a synchronized slump in global demand, and a rise in aversion to perceived and actual risks on the part of investors, business leaders, and households. Although we now know that the US economy was contracting when President Bush took office, the recession was, by historical standards, brief and modest, and the economy has now grown for five consecutive quarters, at an average annual rate 2.7 percent.

Economic recovery has been supported by a number of favorable fundamentals, including strong productivity growth – advancing a greater than a 4 percent pace during the recovery, low interest rates – recently at 40 year lows, and rising real after tax incomes – up 5.9 percent during 2002 thanks, in part, to the tax cuts that President Bush signed into law in 2001.

Yet, while the economy continues to grow, the road to recovery has been bumpy, with rapid growth in the first and third quarters of last year, and sluggish growth in the second and fourth quarters. Moreover, the unemployment rate, which fell to 5.6 percent last summer, has recently increased to the 6 percent level first reached back in April. Although a growing economy with 6 percent unemployment might have been considered acceptable in previous business cycles, President Bush has said many times that he will not be satisfied until every American who wants a job has a job.

On January 7th, the President outlined a bold proposal that, if passed by the Congress, will help to insure that the recovery, now going through a soft patch, will not only continue, but will also accelerate its pace of growth and job creation.

JS-01

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*U.S. Government Printing Office: 1998 - 619-559

Importantly, the President's package also provides a solid foundation for future gains in living standards and prosperity, by tearing down obstacles in the tax code that slow growth and job creation. The package will support consumer spending by accelerating to this year reductions in tax rates that under current law are scheduled to be phased-in in future years. The package will promote productive investments by eliminating the double taxation of dividends, by raising the expensing limit for small firms to $75,000, and by lowering tax rates for small businesses, many millions of which pay taxes at the top individual rate. Higher investment spending and continued growth in consumer spending will create jobs and lower the unemployment rate. Ending the double taxation of dividends will lower the cost of capital to firms, will improve corporate governance, and will improve the allocation of investment thus boosting productivity. At Treasury we estimate that by the end of 2004, real GDP will be about 2 percent higher and that the economy will generate almost 1-1/2 million more jobs with the package than without it.

While passage of the growth package will result in a modest deterioration in the Federal budget balance, most of the swing in the budget that has occurred to date – and that is projected to occur in the future – is due to the weak economy, the bursting of the equity bubble, and the pressing needs of national defense and homeland security. As the President has emphasized, it is a growing economy that provides the opportunity to run surpluses, not the other way around. Moreover, we believe that the estimates in the budget on the cost of the President's program likely overstate the loss of tax revenues that will ultimately result if the program is passed.

DEPARTMENT OF THE TREASURY

TREASURY NEWS

OFFICE OF PUBLIC AFFAIRS • 1500 PENNSYLVANIA AVENUE, N.W. • WASHINGTON, D.C. • 20220 • (202) 622-2960

EMBARGOED UNTIL 2:00 P.M. EST
Tuesday, February 4, 2003

Contact: Rob Nichols
(202) 622-2910

SECRETARY SNOW'S OPENING STATEMENT BEFORE THE HOUSE WAYS AND MEANS COMMITTEE TESTIMONY ON THE PRESIDENT'S BUDGET

Chairman Thomas, Ranking Member Rangel, and distinguished members of the Committee on Ways and Means, I welcome the opportunity to appear before you today to discuss the President's budget for fiscal year 2004.

Let me begin by offering my views on the essential background for this budget: the United States economy and President Bush's economic growth plan, which promises to create jobs, accelerate America's economic recovery, and increase our growth for years to come.

As every American knows by now – whether from having lost a job, knowing someone who has, or worrying about losing theirs – our economy took a turn for the worse beginning in the summer of 2000. By the time President Bush took office an undercurrent was running against the economy. The unprovoked and unprecedented terrorist attacks of September 11, 2001 compounded a recession that was well underway, while the discovery of serious abuses of trust by some corporate business leaders slowed our recovery from it.

In response to this confluence of adverse events, President Bush led decisively. Acting with Congress in a bipartisan fashion, he took the steps necessary to protect a shaken nation and a fragile economy. In 2001 when relief was needed, he signed the most sweeping tax relief in a generation. As evidence of the damage became clearer, he acted again in March 2002 to further bolster the economy. These were precisely the right medicine at precisely the right time. These actions made the recession shorter and shallower than it would have been. In fact, by most measures it was the mildest since World War II.

JS-02

In the face of extreme adversity, our economy, like our nation, remains resilient. Despite a sequence of economic slowdown, attack on our homeland, war in Afghanistan, and weakened investor confidence, the economy is recovering. But as the President has stated, we can and must do better. Relative success is not sufficient. Too many Americans are out of work today, and too many Americans are insecure about their tomorrow.

We must build on the proven strengths of our economy. We must continue to move towards policies that will create more good jobs and raise living standards for all.

As long as there are Americans who want a job and can't find one, the economy is not growing fast enough. That's why President Bush's jobs and growth package is so important. Under the President's proposal, 92 million taxpayers and their families would receive a tax cut in 2003.

A typical family of four with two earners making a combined $39,000 will receive a total of $1,100 in tax relief, compared to the taxes they paid in 2002, under the President's plan – and not just this year, but in each and every year after. And his plan will create hundreds of thousand of additional jobs by the end of this year and well over a million more by the end of next year.

The package will not only help America return to its economic potential, it will increase it, creating a more abundant future with more good jobs and rising real wages. I believe that is what everyone in this room and across America seeks.

Before I turn to the budget, a word about deficits. Deficits matter. They are never welcome. But there are times, such as these, when they are unavoidable, particularly when we are compelled to address critical national needs. It is important to remember, even without the President's economic growth and jobs package, homeland security, and the war on terrorism, we would have deficits now. Are these deficits welcome? No. Are they understandable? Yes.

The surpluses we enjoyed were the product of a strong economy, not a weak one. We will not return to economic strength by taxing our economy when it is struggling, any more than we would increase our nation's security by failing to fund its defense when it is threatened. The prescription for returning to balanced budgets is straightforward: hold the line on spending and grow the economy. This is the direction the President has chosen: a course to create real jobs that last. We are not going to let terrorism and its effects bring either our nation or our economy to its knees.

Finally, we should remember that current deficits are small relative to our unique circumstances and to our economy as a whole. Even at their depth, they remain considerably below the typical levels following a recession over the last 30 years and they begin a pronounced improvement after next year.

We face new threats and challenges. Job creation and economic growth are keys not only to our near-term but our long-term success as well. If we are to meet the threats of today and the challenges of tomorrow, we must have a strong economy.

In fact, we must seek a higher level of prosperity for America than we have known – one which puts us on an even higher growth path, one which unlocks the fullest potential and talents of the American people. That means encouraging hard work, rewarding hard work, and creating the opportunities for work for all Americans. These are the values that brought America to where we are today and they are the ones that we must allow to lead us into the future.

We must also remember that our success and our example in this endeavor promises not only a brighter, better future for our people and our children, but for the rest of the world as well.

The Jobs and Growth Package, our new initiatives to promote savings, to promote health care coverage, to encourage charitable giving, to promote responsible energy production, and improved compliance measures from the Internal Revenue Service are all important budget initiatives.

I look forward to discussing that plan and the rest of the President's budget with you today.

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DEPARTMENT OF THE TREASURY

TREASURY NEWS

OFFICE OF PUBLIC AFFAIRS • 1500 PENNSYLVANIA AVENUE, N.W. • WASHINGTON, D.C. • 20220 • (202) 622-2960

EMBARGOED UNTIL 9:00 A.M.
February 5, 2003

CONTACT: Office of Financing
202/691-3550

TREASURY FEBRUARY QUARTERLY FINANCING

The Treasury will auction $24,000 million of 5-year notes and $18,000 million of 10-year notes to refund $21,589 million of publicly held securities maturing February 15, 2003, and to raise about $20,411 million of new cash.

In addition to the public holdings, Federal Reserve Banks, for their own accounts, hold $4,980 million of the maturing securities, which may be refunded by issuing additional amounts of the new securities.

Up to $1,000 million in noncompetitive bids from Foreign and International Monetary Authority (FIMA) accounts bidding through the Federal Reserve Bank of New York will be included within the offering amount of each auction. These noncompetitive bids will have a limit of $100 million per account and will be accepted in the order of smallest to largest, up to the aggregate award limit of $1,000 million.

TreasuryDirect customers requested that we reinvest their maturing holdings of approximately $54 million into the 5-year note and $22 million into the 10-year note.

The auctions being announced today will be conducted in the single-price auction format. All competitive and noncompetitive awards will be at the highest yield of accepted competitive tenders. The allocation percentage applied to bids awarded at the highest yield will be rounded up to the next hundredth of a whole percentage point, e.g., 17.13%.

The notes being offered today are eligible for the STRIPS program.

This offering of Treasury securities is governed by the terms and conditions set forth in the Uniform Offering Circular for the Sale and Issue of Marketable Book-Entry Treasury Bills, Notes, and Bonds (31 CFR Part 356, as amended).

Details about the notes are given in the attached offering highlights.

oOo

Attachment

JS-04

HIGHLIGHTS OF TREASURY OFFERINGS TO THE PUBLIC
FEBRUARY 2003 QUARTERLY FINANCING

February 5, 2003

Offering Amount	$24,000 million	$18,000 million
Maximum Award (35% of Offering Amount)	$ 8,400 million	$ 6,300 million
Maximum Recognized Bid at a Single Rate	$ 8,400 million	$ 6,300 million
NLP Reporting Threshold	$ 8,400 million	$ 6,300 million
Description of Offering:		
Term and type of security	5-year notes	10-year notes
Series	E-2008	A-2013
CUSIP number	912828 AT 7	912828 AU 4
Auction date	February 11, 2003	February 12, 2003
Issue date	February 18, 2003	February 18, 2003
Dated date	February 15, 2003	February 15, 2003
Maturity date	February 15, 2008	February 15, 2013
Interest rate	Determined based on the highest accepted competitive bid	Determined based on the highest accepted competitive bid
Amount currently outstanding	Not applicable	Not applicable
Yield	Determined at auction	Determined at auction
Interest payment dates	August 15 and February 15	August 15 and February 15
Minimum bid amount and multiples	$1,000	$1,000
Accrued interest payable by investor	Determined at auction	Determined at auction
Premium or discount	Determined at auction	Determined at auction
STRIPS Information:		
Minimum amount required	$1,000	$1,000
Corpus CUSIP number	912820 HQ 3	912820 HR 1
Due date(s) and CUSIP number(s) for additional TINT(s)	Not applicable	Not applicable

The following rules apply to all securities mentioned above:

Submission of Bids:

Noncompetitive bids: Accepted in full up to $5,000,000 at the highest accepted yield.

Foreign and International Monetary Authority (FIMA) bids: Noncompetitive bids submitted through the Federal Reserve Banks as agents for FIMA accounts. Accepted in order of size from smallest to largest with no more than $100 million awarded per account. The total noncompetitive amount awarded to Federal Reserve Banks as agents for FIMA accounts will not exceed $1,000 million. A single bid that would cause the limit to be exceeded will be partially accepted in the amount that brings the aggregate award total to the $1,000 million limit. However, if there are two or more bids of equal amounts that would cause the limit to be exceeded, each will be prorated to avoid exceeding the limit.

Competitive bids:

(1) Must be expressed as a yield with three decimals, e.g., 7.123%.

(2) Net long position (NLP) for each bidder must be reported when the sum of the total bid amount, at all yields, and the net long position equals or exceeds the NLP reporting threshold stated above.

(3) Net long position must be determined as of one half-hour prior to the closing time for receipt of competitive tenders.

Receipt of Tenders:

Noncompetitive tenders.......Prior to 12:00 noon eastern standard time on auction day

Competitive tenders..........Prior to 1:00 p.m. eastern standard time on auction day

Payment Terms:...............By charge to a funds account at a Federal Reserve Bank on issue date, or payment of full par amount with tender. *TreasuryDirect* customers can use the Pay Direct feature which authorizes a charge to their account of record at their financial institution on issue date.

REPORT TO THE SECRETARY OF THE TREASURY
FROM THE
TREASURY BORROWING ADVISORY COMMITTEE
OF THE
BOND MARKET ASSOCIATION

February 4, 2003

Dear Mr. Secretary:

Since the Committee's last meeting on October 29th, the economic situation remains largely the same, if not slightly worse despite the FOMC's 50 basis point rate cut on November 6th. Payroll growth not only remains below what is generally considered necessary to absorb new entrants into the labor market but fell a total of 189,000 in November and December. The unemployment rate has reached 6.0%. Consumer confidence indicators have all continued to move sharply lower and both inventory and equipment investment have slowed.

However, not all sectors of the economy are weak. The housing market has remained exceptionally strong throughout the downturn as low mortgage rates encouraged home purchases. Additionally, there have recently been signs of improvements in both the business fixed-investment portion of the GDP report and the recent ISM reports. These improvements suggest that a full-fledged recovery may be near for these sectors.

Nevertheless, the balance has tilted toward weakness as the evolving situation in regard to Iraq has permeated throughout the economy. The resulting geopolitical uncertainty is hampering both consumer and business spending. Most economists agree that the risk of sub-par growth remains high despite low and real nominal interest rates.

Since our last meeting, interest rates have stalled with the 2-year yield just 2 basis points lower than at the time of our last meeting despite having traded in a 52 basis point range. The 10-year yield is just 8 basis points higher and has traded in a 46 basis point range. With continued weakness in the economy and equity markets, combined with the ongoing geopolitical uncertainty, there has been little reason for Treasuries to make a sustained move in any direction.

Most major equity indices are down another 2-3% while volatility has eased. Indeed, while the VIX index, a measure of volatility, is near the same level as our last meeting, it has

averaged under 32 during the inter-meeting period versus a 40 reading in the last inter-meeting period.

Budget deficit estimates for FY 2003 continue to evolve as economists attempt to factor in the costs of a potential conflict as well as the impact of the recently proposed tax cuts. At present, most budget deficit estimates for FY2003 now run between $275 billion and $325 billion, in some cases $100 billion higher than at the time of our last meeting. Most expect that the budget situation will deteriorate further in FY2004 and that the budget will remain in deficit for several years to come.

With this economic and financial back drop in mind, the Committee began consideration of debt management questions posed in the Treasury Borrowing Committee Quarterly Meeting Committee Charge.

The first question addressed potential announcement options available to Treasury based on the premise that they planned to re-introduce 3-year note issuance in May, 2003 and to increase the use of long-term financing, primarily in the 5-year note sector, while reducing reliance on bills and 2-year notes.

In response to Treasury's request for a prioritization of the following announcement options:

1. Intra-quarter re-openings for 5-year notes (starting with the May note), and/or
2. Intra-quarter re-openings of 10-year notes, and/or
3. Further study of one or both of these options.
4. Other options.

the Committee first discussed the optimal minimum size for 3-year note auctions. While the range of suggestions was $15-25 billion, most members agreed that $20 billion 3-year auctions would attract adequate liquidity to the sector while still allowing financing markets to operate efficiently.

Then the Committee turned the discussion to prioritizing what it felt were the three logical choices for Treasury: Intra-quarter re-openings of 5-year notes; monthly 5-year note issuance; and intra-quarter re-openings of 10-year notes. Some members felt that monthly 5-year issuance was almost inevitable over time, and to be as transparent as possible Treasury should bypass re-openings and go directly to monthly 5-year note issuance. The majority, however, felt that quarterly 5-year note re-openings would provide Treasury more flexibility over time to increase and decrease issuance in the sector. Additionally, the doubling of annual auctions would smooth issuance so Treasury was not as dependent on the quarterly auction windows for issuing all of their longer-dated securities. In terms of sizes and timing of 5-year note issuance, the Committee recommended $20 billion auctions with $15 billion re-openings as minimums with the re-opening occurring in the middle of the month following the initial auction. For instance, a 6/16/03 re-opening of $15 billion 5-year notes would follow a 5/15/03 auction of $20 billion new 5-year notes.

The Committee then discussed the merits of monthly 5-year note issuance versus quarterly 10-year note issuance with re-openings if Treasury's borrowing needs increased beyond what could be handled by quarterly 5-year notes, and re-openings alone. Some members felt that the optical symmetry created by monthly 5-year note issuance would create robust demand while others thought that since historically the market already had experience with monthly 5-year notes and not with intra-quarterly re-opened 10-year notes, the former would prove less disruptive for markets generally. Proponents of intra-quarter re-openings of 10-year notes felt that this option not only created less sense of permanence but also helped Treasury further smooth issuance over the full year, and away from traditional refunding dates. Although relatively evenly split, the Committee decided by a vote of 10-8 to recommend that Treasury consider monthly 5-year note issuance before considering intra-quarter re-openings of 10-year notes.

The Committee then listed other options of debt management available to Treasury for further study and discussion. Relevant topics included by maturity:

1. 9-month or 12-month bills
2. 7-year notes
3. 30-year bonds
4. Additional TIIS issuance
5. New products—floating rate notes, putable notes and a formalized TAP program for outstanding securities.

The Treasury has a stated objective to achieve the lowest cost financing over time. Their objective is to be able to measure their performance around debt management. With this in mind, Treasury presented a series of slides to the Committee that detailed rough ideas they have on this topic. They were interested in the Committee's views on how to create a method for measuring their performance. After some discussion, one member of the Committee suggested developing a stated framework of measurement. That is to say, establish a range for duration of the debt, a baseline for budgetary forecasts, and extrapolate forward a potential path of issuance. This would establish a matrix to develop a performance discussion from. This discussion regarding performance measurement was meant to be ongoing, and to expand upon Treasury's own internal deliberations.

The Committee then turned to the question involving the composition of five- and ten-year notes needed to refund $21.6 billion of privately held notes and bonds maturing February 15th, 2003the composition of Treasury marketable financing for the remainder of the January-March quarter, including cash management bills if necessary, and the composition of the marketable financing for the April-June quarter.

For the January to March quarter the Committee recommended a new $24 billion 5-year note due February 15, 2008 and a new $20 billion 10-year note due February 2013, representing a $2 billion increase for each security from the prior quarter. For the remainder of the quarter,

the Committee recommended two $27 billion 2-year notes to be auctioned February 26th and March 26th, respectively. The Committee's recommendations regarding Treasury bill issuance for the quarter are contained in the attached charts.

For the April-June quarter, recommendations for Treasury borrowing included three $25 billion 2-year notes issued monthly, one $20 billion 3-year note issued 5/15/03, one 5-year note issued 5/15/03, one re-opened 5-year note issued 6/16/03 and one $18 billion 10-year note issued 5/15/03. Additionally, the Committee recommended a 12-day $20 billion cash management bill to be auctioned April 1st.

Respectfully submitted,

Timothy W. Jay
Chairman

Mark B. Werner
Vice Chairman

Attachments (2)

MINUTES OF THE MEETING OF THE TREASURY BORROWING ADVISORY COMMITTEE OF THE BOND MARKET ASSOCIATION
February 4, 2003

The Committee convened at 9:12 a.m. at the Treasury Department for the portion of the meeting that was open to the public. All members were present except Mr. White. The Federal Register announcement of the meeting and a list of Committee members are attached.

Brian Roseboro, Assistant Secretary for Financial Markets, welcomed the Committee. Richard Clarida, Assistant Secretary for Economic Policy, summarized the current state of the U.S. economy (statement attached). Timothy Bitsberger, Deputy Assistant Secretary for Federal Finance, presented the chart show, updating Treasury borrowing estimates and debt statistics.

The public meeting ended at 9:24 a.m.

The Committee reconvened in closed session at the Hay-Adams Hotel at 12:05 p.m. All members were present except Mr. White. The Chairman read the charge, which is also attached.

The meeting began with a slide show presentation (attached) by Timothy Bitsberger. Mr. Bitsberger first reviewed Treasury's goal and constraints. The Treasury is constrained in meeting its objective of lowest cost financing over time by the uncertainty it faces in its borrowing requirements and its borrowing costs. Mr. Bitsberger outlined the Treasury's efforts over the last few months to better analyze debt management decision-making and asked the Committee to use the slides as the basis for initial advice on approaches the Treasury could use to quantify its performance and decision-making criteria. The first four slides represented some of Treasury's work in following through on Committee recommendations from the previous meeting on possible performance measures. The remaining slides illustrated some of the work Treasury has done to quantify its debt management decisions. Committee member suggested titles and explanatory notes be expanded to improve understanding of the concepts before the charts were released to the public.

The first slide showed that forecast errors by both public and private sector analysts have been consistently large. Despite the size of forecast errors, some Committee members suggested that Treasury consider the range of possible debt management outcomes given the range of forecasted outcomes.

The second and third slides showed trading and pricing activity for 2-year notes over selected time periods. Committee members felt that the trading data did not cover a long enough time period to show trends in market activity around auctions. The third slide, showing the relationship between market prices at auction time and the auction stop for 2-year notes since

JS-06

1995, led to two discussion points: whether Treasury should be concerned about how closely auction results match pricing in the secondary market and whether the relationship between auction pricing and secondary market pricing has changed in recent years. Several Committee members said that activity in the when-issued market has declined in recent years; possible reasons cited for this decline included Treasury's use of Dutch auctions or a decline in the relevance of Treasuries during the surplus era. The Committee recommended that Treasury expand the data set to get a better idea of long-term trends in when-issued activity.

Committee members generally viewed a normal distribution of spreads between when-issued prices at auction time and auction prices as a good outcome because a normal distribution encourages capital commitment to auctions. Committee members suggested looking at outliers to see if there were lessons to be learned for Treasury, looking at comparisons to auctions after the market had time to respond to auction results but before new information had moved the market, and seeing if auction size affected the distribution of outcomes.

Committee members had a variety of views on the fourth chart. Some viewed it as a useful indicator of how much risk the market is taking on in Treasury auctions, but some argued that the denominator should be capital available to the market and that the measure needed to be adjusted for volatility.

The fifth chart led to a discussion of the factors Treasury should consider as it works towards meeting its objective of lowest cost financing over time. The Committee recognized the trade-off between reducing costs associated with long-term issuance and taking on additional rollover risk.

Committee members suggested that the sixth chart include projections of future average maturities of the debt. Members used the chart as the basis for a discussion on what is meant by "regular and predictable" issuance and whether the volatility of issuance maturity increased Treasury's borrowing costs. A couple of members argued that issuance volatility could be consistent with regular and predictable issuance if that volatility was in response to factors that the market could monitor. One member suggested that Treasury develop measures of risk aversion similar to those used for private sector borrowers. Others argued, however, that the unique status of a sovereign borrower might reduce the usefulness of such measures.

The next three slides were discussed jointly with the Committee debating the appropriate weighting measures for characterizing debt issuance. The constant issuance concept was recognized as a way to weight issuance by maturity, but Committee members also recognized that there were multiple approaches to describing Treasury's debt issuance.

The final slide provided the basis for a discussion on what a long-term view on Treasury debt issuance decisions should mean. Committee members offered a wide range of observations (listed as mentioned). Better forecast accuracy would better enable Treasury to define its financing options. Confidence bands around central projections would provide guidance on Treasury decision-making. Alternatively, Treasury could focus on the fundamental factors that would drive specific decisions. In thinking about demand for its securities, Treasury can improve auction mechanics (as it has done) and it can ensure that it sells products that are preferred by investors. One unambiguous indicator of demand that Treasury can follow is bid-to-cover ratios.

The Committee met through lunch to discuss the first question of the charge (attached). Some Committee members thought that the market would be surprised by the reintroduction of the 3-year note, others thought that the market was expecting it. Minimum sizes for quarterly 3-year note auctions were ranged from $15 billion to $25 billion. Commercial banks and central banks were viewed as the strongest source of demand. The Committee noted that the size of 2-year note auctions might be a factor in determining the ultimate level of demand for the 3-year notes.

Committee members generally spoke favorably about a regular re-opening policy for 5-year notes. Reasons cited for a regular re-opening policy were high level of financing flexibility with the policy, the market has already adjusted to expectations of greater 5-year note issuance, and it may be premature to issue monthly issues given budgetary uncertainty. The Committee concluded that the Treasury could conduct initial auctions of $20 billion with reopenings of $15 billion. The Committee was split on the timing of the reopenings with some favoring the mid-point between existing auctions and others favoring a mid-month date.

The Committee discussed what, if financing was required, the next step should be for Treasury to move to monthly 5-year notes or regular reopenings of 10-year notes (ten members favored monthly 5-year notes and eight favored regular reopenings of 10-year notes). The advantages cited for monthly 5-year issuance were good market focus; the shorter maturity is preferable given budgetary uncertainty, and good market depth. The main advantage of regular reopenings of 10-year notes was that reopenings in general are less permanent, giving the Treasury the option of scaling back if deficits are smaller than expected.

The Committee also discussed other financing options including the introduction of a tap issue security, the reintroduction of 30-year bonds, introducing floating note securities, reintroducing 52-week bills and reintroducing the 7-year note. Some Committee members argued that Treasury should reintroduce securities in the order in which they were suspended while others suggested that Treasury should look at the demand side before deciding on the next generation securities.

The Committee recommended that auction sizes for the 5-year and 10-year notes be increased to $24 billion and $20 billion respectively.

The meeting adjourned at 2:30 p.m.

The Committee reconvened at the Madison Hotel at 5:40 p.m. All members were present except Mr. White. The Chairman presented the Committee report to the Assistant Secretary for Financial Markets, Brian Roseboro and Deputy Assistant Secretary for Federal Finance, Tim Bitsberger. A brief discussion followed the Chairman's presentation, but did not raise significant questions regarding the report's content.

The meeting adjourned at 5:50 p.m.

Paul F. Malvey
Director
Office of Market Finance
February 4, 2003

Certified by:

Timothy W. Jay, Chairman
Treasury Borrowing Advisory Committee
of The Bond Market Association
February 4, 2003

February 4, 2003

Committee Charge

The Treasury Department would like the Committee's advice on the following:

- We plan to reintroduce the 3-year note in May to reduce reliance on bills and 2-year notes. We also plan to increase long-term financing, largely through increased 5-year note issuance. Given forecasts of increased borrowing needs, should we announce:
  - An intra-quarter reopening policy for 5-year notes auctioned in May;
  - Our intention to study the advantages of reopening 5-year notes;
  - An intra-quarter reopening policy for 5-year year notes and our intention to study whether we should move to an intra-quarterly reopening policy for 10-year notes;
  - An intra-quarter reopening policy for 5-year and 10-year notes; or
  - Our intention to study the advantages of reopening 5-year and 10-year notes.

- Our objective is to finance the government at lowest cost over time. Our largest constraint in meeting this objective is the uncertainty we face. We have identified some indicators that may be helpful in quantifying our success in meeting our objective. We will begin this part of the meeting with a presentation of slides that illustrate the some of these efforts. Our goal is to develop a set of performance measures by which our past decisions can be objectively measured and our future debt management decisions can be guided. As we present these slides, we have the following questions:
  - Which measures are most likely to help us meet our goal?
  - Are there any measures that are unlikely to be helpful?
  - Are we heading in the right direction?
  - Are there alternatives or extensions that you would recommend?

- The composition of Treasury notes to refund $3.2 billion of privately held bonds maturing on February 15.

- The composition of Treasury marketable financing for the remainder of the January – March quarter, including cash management bills if necessary.

- The composition of Treasury marketable financing for the April – June quarter.

PUBLIC DEBT NEWS

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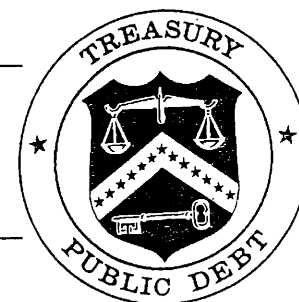


TREASURY SECURITY AUCTION RESULTS
BUREAU OF THE PUBLIC DEBT - WASHINGTON DC

FOR IMMEDIATE RELEASE
February 04, 2003

CONTACT: Office of Financing
202-691-3550

RESULTS OF TREASURY'S AUCTION OF 4-WEEK BILLS

Term: 28-Day Bill
Issue Date: February 06, 2003
Maturity Date: March 06, 2003
CUSIP Number: 912795MB4

High Rate: 1.145% Investment Rate 1/: 1.161% Price: 99.911

All noncompetitive and successful competitive bidders were awarded securities at the high rate. Tenders at the high discount rate were allotted 85.93%. All tenders at lower rates were accepted in full.

AMOUNTS TENDERED AND ACCEPTED (in thousands)

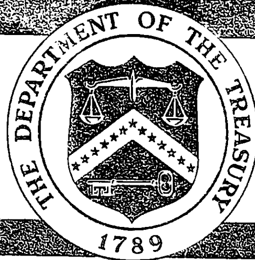
Tender Type	Tendered	Accepted
Competitive	$ 53,573,602	$ 21,953,287
Noncompetitive	47,241	47,241
FIMA (noncompetitive)	0	0
SUBTOTAL	53,620,843	22,000,528
Federal Reserve	1,606,996	1,606,996
TOTAL	$ 55,227,839	$ 23,607,524

Median rate 1.140%: 50% of the amount of accepted competitive tenders was tendered at or below that rate. Low rate 1.130%: 5% of the amount of accepted competitive tenders was tendered at or below that rate.

Bid-to-Cover Ratio = 53,620,843 / 22,000,528 = 2.44

1/ Equivalent coupon-issue yield.

DEPARTMENT OF THE TREASURY

TREASURY  NEWS

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For Immediate Release
February 4, 2003

Contact: **Betsy Holahan**
202-622-2960

Treasury Department Creates New Position
to Oversee Office of Critical Infrastructure Protection
New Deputy Assistant Secretary for CIP and Compliance Policy Will Lead Office

The Treasury Department today announced the newly-created position of Deputy Assistant Secretary for Critical Infrastructure Protection and Compliance Policy, which will oversee the Office of Critical Infrastructure Protection as part of the Administration's ongoing effort to strengthen the nation's safeguards against terrorist activities and financial crime.

Michael A. Dawson, named today as the new Deputy Assistant Secretary for Critical Infrastructure Protection and Compliance Policy, will oversee the Office's efforts to enforce statutes and regulations within the financial sector, including money laundering, terrorist financing, and identity theft. He will guide the office as it continues to develop and implement policies regarding sharing of information among financial institutions and between the private and public sectors, including security of personal financial information and the sharing of suspicious information under the Bank Secrecy Act.

"The Office of Critical Infrastructure Protection plays a key role in coordinating public and private efforts to protect the critical infrastructure of the financial services industry from attack," said Wayne A. Abernathy, Assistant Secretary for Financial Institutions. "Deputy Assistant Secretary Dawson will do an outstanding job as we work cooperatively to defend our economy and its institutions in a post-September 11th world."

The Office of Critical Infrastructure Protection, established after September 11, 2001 under Treasury's Office of Financial Institutions, also staffs the Financial and Banking Information Infrastructure Committee (FBIIC); assists in developing and promulgating money laundering regulations related to the USA PATRIOT Act; and is currently negotiating with the European Union to obtain a finding that U.S. financial privacy law is "adequate" under the EU's Data Protection Directive.

JS-08

Deputy Assistant Secretary Dawson, previously the Senior Advisor to the Deputy Secretary of the Treasury from April 2001 to February 2003, was active in that role in Treasury's efforts to fight money laundering and terrorist financing.

Prior to joining the Treasury Department, Mr. Dawson served as Chief of Staff at FOLIO*fn*, a web-based broker-dealer that was the first to allow investors to buy and trade customizable baskets of equities. Mr. Dawson also worked for the Washington-based law firm, Covington & Burling, and clerked for Judge James L. Oakes on the United States Court of Appeals for the Second Circuit.

Mr. Dawson holds a B.A. in Economics from Williams College, an M. Phil. in Economics from Cambridge University, and a J.D. from the Yale Law School.

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DEPARTMENT OF THE TREASURY

TREASURY NEWS

OFFICE OF PUBLIC AFFAIRS • 1500 PENNSYLVANIA AVENUE, N.W. • WASHINGTON, D.C. • 20220 • (202) 622-2960

EMBARGOED UNTIL 9:00AM
February 5, 2003

CONTACT: Betsy Holahan
(202) 622-2960

Assistant Secretary for Financial Markets
Brian C. Roseboro
February 2003 Quarterly Refunding Statement

The Department of the Treasury announced its quarterly refunding needs and related financing changes today. There will be no change in the issuance calendar this quarter.

For this quarterly refunding, we are offering $42 billion of notes to refund approximately $21.6 billion of privately held notes and bonds maturing on February 15, raising approximately $20.4 billion. The securities are:

1. A new 5-year note in the amount of $24 billion, maturing February 15, 2008.
2. A new 10-year note in the amount of $18 billion, maturing February 15, 2013.

These securities will be auctioned on a yield basis at 1:00 p.m. Eastern time on Tuesday, February 11, and Wednesday, February 12, respectively. The balance of our financing requirements will be met through 2-year note and bill offerings.

Treasury may issue off-cycle cash management bills due to seasonal cash swings in early March. If permitted under the debt ceiling, Treasury will issue cash management bills in early April.

After this quarterly refunding, we plan to:

- Reintroduce a 3-year note at the May refunding, to be part of future quarterly financing packages, with the first auction on May 6, 2003; and

- Institute a regular reopening policy for 5-year notes, beginning with the May 15, 2008 issue. The reopening will occur one month after the initial auction (two months before the next auction for a new note).

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*U.S. Government Printing Office: 1998 - 619-559

The primary purpose of introducing the 3-year note is to diversify issuance. Issuance of the 3-year note will diminish somewhat Treasury's borrowing in 2-year notes and bills, while also providing additional capacity for fresh borrowing.

Lowest Cost Financing Over Time

We are examining ways to measure the Treasury's performance against our goal of lowest cost funding over time. In particular we are examining our issuance patterns, the structure of our maturing debt, and the efficiency of our auctions. We welcome the thoughts of interested parties. We have sought the advice of the Treasury Borrowing Advisory Committee on these issues. The minutes of the Committee's most recent meeting are available on our website (see address below).

Market Consultation

Prior to each quarterly refunding, Treasury seeks the individual advice of some of the Federal Reserve Bank of New York's primary dealers. As announced last quarter, we are now posting the questions we sent to primary dealers on our website:

http://www.treas.gov/offices/domestic-finance/debt-management/index.html.

Other market participants and observers are invited to respond to these questions via email at the address below.

Buyback Operations

Treasury will not be conducting buybacks this quarter.

Policy Issues Under Discussion

Treasury continues to review how offerings would be adjusted in the event that additional borrowing capacity is needed. Consideration will focus on whether the next step would be to reopen 10-year notes or, alternatively, to auction 5-year notes monthly. We are studying the costs and benefits of these options. We will not reopen the February and May 10-year notes.

As part of our promotion of inflation-indexed securities, we are re-examining the current auction cycle. We anticipate expanding inflation-indexed issuance in the coming quarters.

Also, we continue to explore ways to reduce the costs associated with short-term fluctuations in cash balances.

Please send comments and suggestions on these subjects or others relating to debt management to debt.management@do.treas.gov.

DEPARTMENT OF THE TREASURY

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Embargoed Until 9:00 a.m. EST
February 5, 2003

Contact: **Betsy Holahan**
202-622-2960

TREASURY STATEMENT ON THE DEBT CEILING

This morning the Treasury issued its quarterly refunding statement, reflecting revised projections of the government's borrowing needs for the next two quarters of the 2003 fiscal year. Under these projections, debt subject to limit is expected to reach the statutory ceiling of $6,400 billion on or about February 20th and will likely remain above the current debt ceiling thereafter.

If the statutory debt ceiling is not raised, the Treasury will have to begin to use a number of stopgap devices – some costly - to manage debt subject to limit, which have been previously utilized under established legal authority.

On current projections, this additional limited borrowing capacity may only be adequate to meet the government's needs until the beginning of April, when recurring benefit and tax refund payments occur.

The Treasury will continue to work with Congress to ensure the government's ability to finance its operations. Prompt action by Congress to raise the debt ceiling is necessary to ensure success in our efforts to combat terrorism, continue the economic recovery and maintain the soundness of federal government securities.

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DEPARTMENT OF THE TREASURY

TREASURY NEWS

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Embargoed Until 10:00 a.m. EST
Wednesday, February 5, 2003

Contact: Rob Nichols
(202) 622-2910

Snow Opening FY04 Budget Statement: Oral before House Budget Committee February 5, 2003

Chairman Nussle, Ranking Member Spratt, and distinguished members of the Budget Committee on Ways and Means, I welcome the opportunity to appear before you today to discuss the President's budget for fiscal year 2004.

Let me begin by offering my views on the essential background for this budget: the United States economy and President Bush's economic growth plan, which promises to create jobs, accelerate America's economic recovery, and increase our growth for years to come.

As every American knows by now – whether from having lost a job, knowing someone who has, or worrying about losing theirs – our economy took a turn for the worse beginning in the summer of 2000. By the time President Bush took office an undercurrent was running against the economy. The unprovoked and unprecedented terrorist attacks of September 11, 2001 compounded a recession that was well underway, while the discovery of serious abuses of trust by some corporate business leaders slowed our recovery from it.

In response to this confluence of adverse events, President Bush led decisively. Acting with Congress in a bipartisan fashion, he took the steps necessary to protect a shaken nation and a fragile economy. In 2001 when relief was needed, he signed the most sweeping tax relief in a generation. As evidence of the damage became clearer, he acted again in March 2002 to further bolster the economy. These were precisely the right medicine at precisely the right time. These actions made the recession shorter and shallower than it would have been. In fact, by most measures it was the mildest since World War II.

JS-11

*U.S. Government Printing Office: 1998 - 619-559

In the face of extreme adversity, our economy, like our nation, remains resilient. Despite a sequence of economic slowdown, attack on our homeland, war in Afghanistan, and weakened investor confidence, the economy is recovering. But as the President has stated, we can and must do better. Relative success is not sufficient. Too many Americans are out of work today, and too many Americans are insecure about their tomorrow.
We must build on the proven strengths of our economy. We must continue to move towards policies that will create more good jobs and raise living standards for all.

As long as there are Americans who want a job and can't find one, the economy is not growing fast enough. That's why President Bush's jobs and growth package is so important. Under the President's proposal, 92 million taxpayers and their families would receive a tax cut in 2003.

A typical family of four with two earners making a combined $39,000 will receive a total of $1,100 in tax relief, compared to the taxes they paid in 2002, under the President's plan – and not just this year, but in each and every year after. And his plan will create hundreds of thousand of additional jobs by the end of this year and well over a million more by the end of next year.
The package will not only help America return to its economic potential, it will increase it, creating a more abundant future with more good jobs and rising real wages. I believe that is what everyone in this room and across America seeks.
Before I turn to the budget, a word about deficits. Deficits matter. They are never welcome. But there are times, such as these, when they are unavoidable, particularly when we are compelled to address critical national needs. It is important to remember, even without the President's economic growth and jobs package, homeland security, and the war on terrorism, we would have deficits now. Are these deficits welcome? No. Are they understandable? Yes.

The surpluses we enjoyed were the product of a strong economy, not a weak one. We will not return to economic strength by taxing our economy when it is struggling, any more than we would increase our nation's security by failing to fund its defense when it is threatened. The prescription for returning to balanced budgets is straightforward: hold the line on spending and grow the economy. This is the direction the President has chosen: a course to create real jobs that last. We are not going to let terrorism and its effects bring either our nation or our economy to its knees.

Finally, we should remember that current deficits are small relative to our unique circumstances and to our economy as a whole. Even at their depth, they remain considerably below the typical levels following a recession over the last 30 years and they begin a pronounced improvement after next year.

We face new threats and challenges. Job creation and economic growth are keys not only to our near-term but our long-term success as well. If we are to meet the threats of today and the challenges of tomorrow, we must have a strong economy.

In fact, we must seek a higher level of prosperity for America than we have known – one which puts us on an even higher growth path, one which unlocks the fullest potential and talents of the American people. That means encouraging hard work, rewarding hard work, and creating the opportunities for work for all Americans. These are the values that brought America to where we are today and they are the ones that we must allow to lead us into the future.

We must also remember that our success and our example in this endeavor promises not only a brighter, better future for our people and our children, but for the rest of the world as well.

The Jobs and Growth Package, our new initiatives to promote savings, to promote health care coverage, to encourage charitable giving, to promote responsible energy production, and improved compliance measures from the Internal Revenue Service are all important budget initiatives.

I look forward to discussing that plan and the rest of the President's budget with you today.

DEPARTMENT OF THE TREASURY

TREASURY NEWS

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For Immediate Release
Tuesday, February 4, 2003

Contact: Rob Nichols
(202) 622-2910

LETTER FROM DEPUTY SECRETARY DAM TO PRESIDENT BUSH

President George W. Bush
The White House
Washington, D.C. 20500

Dear Mr. President:

I am writing to submit my resignation as Deputy Secretary of the Treasury to be effective on a date consistent with an orderly transition.

It has been a great privilege to serve in your Administration and at the Treasury. I consider it a special opportunity to support the goals and policies you have set forth so clearly and wisely for the country. And I have found it inspiring to be able to work with the great leaders you have attracted to government service in your Administration in bringing about results I so deeply believe in.

In my period at the Treasury I have worked hard on the financial aspects of the war on terrorism. Among other issues on which I have endeavored to provide new and innovative approaches are international taxation and international trade—and especially international financial services negotiations. I have also been the principal person in the Treasury working on national security and foreign policy within the framework of the National Security Council.

As Deputy Secretary I have, of course, spent much of my time on management issues, especially those involving the Internal Revenue Service and the bureaus and offices concerned with terrorist finance and money laundering.

Mr. President, I thank you for the opportunity to serve my country under your leadership.

Sincerely,

Kenneth W. Dam

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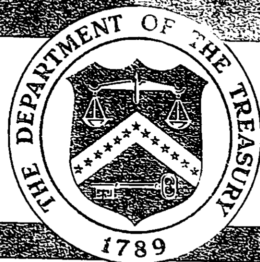
*U.S. Government Printing Office: 1998 - 619-559

DEPARTMENT OF THE TREASURY

TREASURY  NEWS

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Embargoed Until 2:00 p.m. EST
Wednesday, February 5, 2003

Contact: Rob Nichols
(202) 622-2910

Snow Opening FY04 Budget Statement: Oral before Senate Finance Committee February 5, 2003

Chairman Grassley, Ranking Member Baucus, and distinguished members of the Finance committee, before I begin my testimony today I would like to thank you for the trust you expressed in me last week by reporting out my nomination to be Secretary of the Treasury. I intend to do my utmost to live up to the tremendous responsibility you and the President have given to me.

I welcome the opportunity to appear before you today to discuss the President's budget for fiscal year 2004.

Let me begin by offering my views on the essential background for this budget: the United States economy and President Bush's economic growth plan, which promises to create jobs, accelerate America's economic recovery, and increase our growth for years to come.

As every American knows by now – whether from having lost a job, knowing someone who has, or worrying about losing theirs – our economy took a turn for the worse beginning in the summer of 2000. By the time President Bush took office an undercurrent was running against the economy.

The unprovoked and unprecedented terrorist attacks of September 11, 2001 compounded a recession that was well underway, while the discovery of serious abuses of trust by some corporate business leaders slowed our recovery from it.

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*U.S. Government Printing Office: 1998 - 619-559

In response to this confluence of adverse events, President Bush led decisively. Acting with Congress in a bipartisan fashion, he took the steps necessary to protect a shaken nation and a fragile economy. In 2001 when relief was needed, he signed the most sweeping tax relief in a generation. As evidence of the damage became clearer, he acted again in March 2002 to further bolster the economy.
These were precisely the right medicines at precisely the right time. These actions made the recession shorter and shallower than it would have been. In fact, by most measures it was the mildest since World War II.

In the face of extreme adversity, our economy, like our nation, remains resilient. Despite a sequence of economic slowdown, attack on our homeland, war in Afghanistan, and weakened investor confidence, the economy is recovering. But as the President has stated, we can and must do better. Relative success is not sufficient. Too many Americans are out of work today, and too many Americans are insecure about their tomorrow.

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I look forward to discussing that plan and the rest of the President's budget with you today.

FROM THE OFFICE OF PUBLIC AFFAIRS

February 5, 2003
JS-14

U.S. International Reserve Position

The Treasury Department today released U.S. reserve assets data for the latest week. As indicated in this table, U.S. reserve assets totaled $78,823 million as of the end of that week, compared to $79,198 million as of the end of the prior week.

I. Official U.S. Reserve Assets *(in US millions)*

	January 24, 2003			January 31, 2003		
TOTAL		79,198			78,823	
1. Foreign Currency Reserves [1]	Euro	Yen	TOTAL	Euro	Yen	TOTAL
a. Securities	7,070	13,353	20,423	7,015	13,113	20,127
Of which, issuer headquartered in the U.S.			0			0
b. Total deposits with:						
b.i. Other central banks and BIS	11,582	2,681	14,263	11,497	2,633	14,129
b.ii. Banks headquartered in the U.S.			0			0
b.ii. Of which, banks located abroad			0			0
b.iii. Banks headquartered outside the U.S.			0			0
b.iii. Of which, banks located in the U.S.			0			0
2. IMF Reserve Position [2]			22,189			22,225
3. Special Drawing Rights (SDRs) [2]			11,280			11,298
4. Gold Stock [3]			11,043			11,043
5. Other Reserve Assets			0			0

II. Predetermined Short-Term Drains on Foreign Currency Assets

	January 24, 2003			January 31, 2003		
	Euro	Yen	TOTAL	Euro	Yen	TOTAL
1. Foreign currency loans and securities			0			0

2. Aggregate short and long positions in forwards and futures in foreign currencies vis-à-vis the U.S. dollar:

2.a. Short positions			0			0
2.b. Long positions			0			0
3. Other			0			0

III. Contingent Short-Term Net Drains on Foreign Currency Assets

	January 24, 2003			January 31, 2003		
	Euro	**Yen**	**TOTAL**	**Euro**	**Yen**	**TOTAL**
1. Contingent liabilities in foreign currency			0			0
1.a. Collateral guarantees on debt due within 1 year						
1.b. Other contingent liabilities						
2. Foreign currency securities with embedded options			0			0
3. Undrawn, unconditional credit lines			0			0
3.a. With other central banks						
3.b. With banks and other financial institutions						
Headquartered in the U.S.						
3.c. With banks and other financial institutions						
Headquartered outside the U.S.						
4. Aggregate short and long positions of options in foreign						
Currencies vis-à-vis the U.S. dollar			0			0
4.a. Short positions						
4.a.1. Bought puts						
4.a.2. Written calls						
4.b. Long positions						
4.b.1. Bought calls						
4.b.2. Written puts						

Notes:

1/ Includes holdings of the Treasury's Exchange Stabilization Fund (ESF) and the Federal Reserve's System Open Market Account (SOMA), valued at current market exchange rates. Foreign currency holdings listed as securities reflect marked-to-market values, and deposits reflect carrying values. Foreign Currency Reserves for the latest week may be subject to revision. Foreign Currency

Reserves for the prior week are final.

2/ The items, "2. IMF Reserve Position" and "3. Special Drawing Rights (SDRs)," are based on data provided by the IMF and are valued in dollar terms at the official SDR/dollar exchange rate for the reporting date. The entries for the latest week reflect any necessary adjustments, including revaluation, by the U.S. Treasury to the prior week's IMF data. IMF data for the latest week may be subject to revision. IMF data for the prior week are final.

3/ Gold stock is valued monthly at $42.2222 per fine troy ounce.

DEPARTMENT OF THE TREASURY

TREASURY NEWS

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FOR IMMEDIATE RELEASE
February 6, 2003

Contact: Tony Fratto
(202) 622-2960

TREASURY DESIGNATES CALI CARTEL NETWORK IN SPAIN AND COLOMBIA

The Treasury Department's Office of Foreign Assets Control (OFAC) last night added the names of 59 businesses and 78 individuals to its list of Specially Designated Narcotics Traffickers (SDNTs). SDNTs are subject to the economic sanctions imposed against Colombian drug cartels in Executive Order 12978. OFAC has determined that these 137 new SDNTs are acting as fronts for Colombia's Cali drug cartel and are part of its international business and financial network operating in Spain and Colombia. The drug cartel businesses added to the list of SDNTs today are all determined to be owned or controlled by Cali cartel leaders Miguel Rodriguez Orejuela, currently incarcerated in a Colombian maximum security prison, Gilberto Rodriguez Orejuela, and other named SDNTs.

The OFAC action blocks the assets of SDNTs found in U.S. jurisdiction and prohibits Americans from doing business with them, thereby further exposing, isolating, and incapacitating Colombian drug cartels and their agents. The 59 Cali drug cartel businesses announced today include 10 Colombian-owned Spanish companies and 49 Colombian companies. In Spain, the businesses include real estate firms, an Internet services company, a coffee import/export company, a general services company, a graphic arts services provider, and a film distribution services company. In Colombia, the businesses include a money exchange house, pharmaceutical manufacturers and distributors, import/export firms, and investment, real estate and consulting companies.

The network of 59 Cali cartel fronts in Spain and Colombia named today on the list join 244 other Colombian drug cartel businesses on the SDNT list. The list includes Cali cartel businesses *Copservir*, and its *Drogas La Rebaja* drugstore chain and *Credirebaja* charge card, the *America de Cali* professional soccer team, the *Cosmepop* cosmetics company, the *Farmacoop* pharmaceutical laboratory, a Cali radio broadcasting company, as well as consulting, investment, construction, real estate, agricultural, and distribution firms.

This action is part of the ongoing interagency effort of the Treasury, Justice and State Departments to carry out Executive Order 12978, signed on October 21, 1995, which applies economic sanctions against Colombia's drug cartels.

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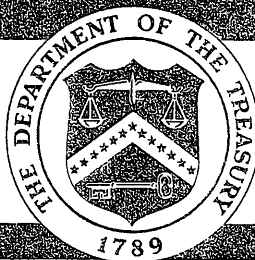
*U.S. Government Printing Office: 1998 - 619-559

The assets of a total of 749 Colombian drug cartel businesses and individuals are now blocked under the 1995 Executive Order; and those businesses and individuals are prohibited from American financial and business dealings. The list of SDNTs includes 12 kingpins from Colombia's Cali, North Valle, and North Coast drug cartels.

The list of businesses and individuals named by OFAC as SDNTs today is attached and available at www.treas.gov/ofac, as is the entire list of SDNTs. Today's list will be published in the Federal Register at a later date.

DEPARTMENT OF THE TREASURY

TREASURY  NEWS

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Embargoed Until 11:15 a.m. EST
Friday, February 7, 2003

Contact: Rob Nichols
(202) 622-2910

Prepared Remarks by United States Treasury Secretary John W. Snow
At the Swearing-in with the
President of the United States
The Treasury Department
February 7, 2003

Mr. President, Treasury colleagues, family and friends, it is humbling to stand before you today, as the heir to a tradition as old as our constitution, in a role established by the founders of this republic.

Mr. President, you have upheld the honor and dignity of your office through times of unforeseen peril, renewing our nation's hope and confidence. I, too, shall strive to maintain that standard of leadership in my office. Working with my colleagues here, I intend to earn your faith and reward your trust.

Today, the challenge to the Department of the Treasury is clear. Our task is to help restore the American economy to its full and vast potential. Mr. President, in the past you have taken well-timed and decisive action to bolster our economic freedom, security, and confidence. At the start of this year you put forth a new proposal for jobs and growth that is precisely the right plan at the exactly the right time.

My first responsibility shall be to deliver your plan to the American people, so that all those who seek work can find it, all families can provide for parents and children, and all businesses can invest with confidence in our shared future. Like you, Mr. President, I want to see more "Help Wanted" signs all across America.

We must build on the proven strengths of our economy. We must continue to move towards policies that will create more good jobs and raise living standards for all. As long as there are Americans who want a job and can't find one, the economy is not growing fast enough.

That's why your jobs and growth package is so important. The package will not only help America return to its economic potential, it will increase it, creating a more abundant future with more good jobs and rising real wages. Swift enactment of this package is my top priority.

Mr. President, you have asked much of this department, and put us at the center of the economic policy debate. I am confident that we will be able to respond to all you ask of us, because of the truly dedicated public servants that serve here at 1500 Pennsylvania Avenue. These are the best and the brightest. The success we enjoy will only come through the excellence and integrity of the men and women of the United States Treasury. It is an honor, today, to count myself among them.

Mr. President, the charge you have bestowed on us is a joyful privilege. I thank you for it. We will execute it with pride.

Thank you.
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REMARKS BY THE PRESIDENT
AT THE SWEARING-IN CEREMONY FOR
TREASURY SECRETARY JOHN SNOW

The Cash Room
The Treasury Building

11:00 A.M. EST
JS-17

THE PRESIDENT: Listen, thank you, all, for coming and good morning. Today we welcome John Snow as the 73rd Secretary of the Treasury. (Applause.) In this position John Snow will be a key advisor on the economy, will be an advocate for my administration's agenda of faster growth, more new jobs, and wider trade. John has had a distinguished career, both in the private sector and the public sector. And I am so pleased to have him join in my Cabinet. And I am grateful for his willingness to serve our nation once again.

I want to thank Judge Wilkinson for swearing in his good buddy. (Laughter.) Thank you for coming, Judge. I'm honored you and your wife are here. I'm also so pleased that the Snows are with us; Carolyn and all the Snows are up here with us. (Laughter.) Thank you all for coming. I want to thank Donnie Evans, who is the Secretary of Commerce for being here; Ken Dam, the Deputy Secretary of the Treasury, who serves so well in that position; other distinguished guests who are here to witness this swearing-in. I want to thank all of those who work in the Department of the Treasury for joining us today, as well.

Secretary Snow takes office at a time of challenge for this country. The American economy is in its second consecutive year of growth, yet it is not growing fast enough. The economy is not strong enough. Many family budgets are strained in America today. Too many small businesses are struggling just to stay afloat. The nation's rate of unemployment was 5.7 perçent last month, down from the prior months. But we will not be satisfied until this economy grows fast enough to employ every man and woman who seeks a job. (Applause.)

We will work with the United States Congress to address these challenges. And John Snow will be on point, and working with the Congress. I proposed a plan to boost the economy with tax relief for every American who pays federal income taxes. (Applause.)

Here's what we believe: by leaving more money in the hands that earned it, we will stimulate consumer spending and encourage investment, so that businesses large and small can expand and employ more people.

We know the role of government is not to create wealth, but an environment in which the entrepreneurial spirit flourishes. We know that businesses hire when they grow, and they grow when they invest. And so our proposal will promote capital formation. It is important for Congress to remember that most small businesses are sole proprietorships or limited partnerships. And when we cut individual tax rates, we are stimulating capital formation in the small business sector of America. (Applause.)

Our proposal will promote capital formation and investment by ending the unfair double taxation on dividends. (Applause.) Not only will this proposal help when it comes for job creation, it will help all investors, including nearly 10 million seniors who receive dividend income.

The Secretary of Treasury has been to Capitol Hill a lot already. (Laughter.) And he went up there recently to talk about the budget I submitted to the Congress. This budget calls for spending discipline in Washington, D.C. We believe the best way to deal with our deficits is to encourage economic growth and encourage spending discipline in Washington, D.C. (Applause.)

In addition to his work as economic advisor and economic spokesman for the country and for this administration, Secretary Snow will lead one of the oldest, largest and most important departments of our government. The Department of Treasury bears responsibility for a wide range of important tasks, from minting our nation's currency to stopping the flow of money to terrorist groups.

I appreciate the good work of the dedicated men and women throughout this department. And you can rest assured that your new boss is a superb executive and a fine man, with a good heart. John will be an active advocate for policies that encourage economic growth. And he'll be a good steward of the taxpayer's dollars. And that is fitting, because very soon, each one of those dollars will bear the signature of Secretary John Snow. Congratulations. (Applause.)

SECRETARY SNOW: Mr. President, Treasury colleagues, family and friends, it's truly humbling to stand before you today as the heir to a tradition as old as our Constitution, and in a role established by the founders of this republic.

Mr. President, you've upheld the honor and dignity of your office through times of unforeseen peril, renewing our nation's hope and our nation's confidence. I, too, shall strive to maintain that standard of leadership in the

office to which you've appointed me. In working with my colleagues here, we intend to earn your faith and reward your trust in us.

Today the challenge facing the department is clear. The President has mentioned it. Our task is to help restore the American economy to its full and its vast potential. In the past, Mr. President, you've taken well-timed and decisive actions to bolster the economy, to bolster our freedoms and our security and our confidence. And at the start of this year, you put forth a bold new proposal for jobs and for growth, a proposal that is precisely the right medicine at precisely the right time.

My first responsibility, the department's first responsibility, is to deliver your plan to the American people so that all those who seek to find work, all families who seek to provide for their parents and their children, and all businesses can invest and grow with confidence in our shared future. Like you, Mr. President, I want to see "help wanted" signs go up all across America.

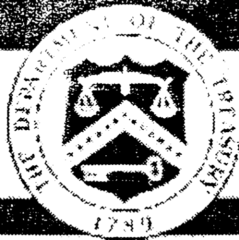
To do so we must build on the proven strengths of our economy. We must continue to move towards policies that create more good jobs and raise the living standards for all. As long as there is one American who wants a job and can't find one, the economy simply isn't growing fast enough. That's why your jobs and growth package is so essential. The package will not only return America to its economic potential, but I'm convinced it's going to give us a higher growth path for the future. It will create a more abundant future for all. Swift enactment of this package is my number one priority.

Mr. President, you've asked much of this department, and you've put us at the very center of the economic policy debate. I'm confident that working with my colleagues here, we will respond to all that you ask of us, because of the truly dedicated and able public servants here at 1500 Pennsylvania Avenue. I've gotten to know a lot of the folks here in this department going through this confirmation process. They really are the best and the brightest. The success we will enjoy is due to their excellence and their integrity. And it's an honor to count myself, today, among all of you.

Mr. President, the charge you've bestowed upon us is truly a joyful privilege. I want to thank you for it and commit to you that we will execute it with pride. Thank you. (Applause.)

END 11:13 A.M. EST

DEPARTMENT OF THE TREASURY

TREASURY  NEWS

OFFICE OF PUBLIC AFFAIRS • 1500 PENNSYLVANIA AVENUE, N.W. • WASHINGTON, D.C. • 20220 • (202) 622-2960

EMBARGOED UNTIL 11:00 A.M.
February 6, 2003

CONTACT: Office of Financing
202/691-3550

TREASURY OFFERS 13-WEEK AND 26-WEEK BILLS

The Treasury will auction 13-week and 26-week Treasury bills totaling $34,000 million to refund an estimated $30,882 million of publicly held 13-week and 26-week Treasury bills maturing February 13, 2003, and to raise new cash of approximately $3,118 million. Also maturing is an estimated $11,000 million of publicly held 4-week Treasury bills, the disposition of which will be announced February 10, 2003.

The Federal Reserve System holds $13,660 million of the Treasury bills maturing on February 13, 2003, in the System Open Market Account (SOMA). This amount may be refunded at the highest discount rate of accepted competitive tenders either in these auctions or the 4-week Treasury bill auction to be held February 11, 2003. Amounts awarded to SOMA will be in addition to the offering amount.

Up to $1,000 million in noncompetitive bids from Foreign and International Monetary Authority (FIMA) accounts bidding through the Federal Reserve Bank of New York will be included within the offering amount of each auction. These noncompetitive bids will have a limit of $100 million per account and will be accepted in the order of smallest to largest, up to the aggregate award limit of $1,000 million.

TreasuryDirect customers have requested that we reinvest their maturing holdings of approximately $1,105 million into the 13-week bill and $886 million into the 26-week bill.

The allocation percentage applied to bids awarded at the highest discount rate will be rounded up to the next hundredth of a whole percentage point, e.g., 17.13%.

This offering of Treasury securities is governed by the terms and conditions set forth in the Uniform Offering Circular for the Sale and Issue of Marketable Book-Entry Treasury Bills, Notes, and Bonds (31 CFR Part 356, as amended).

Details about each of the new securities are given in the attached offering highlights.

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Attachment

JS-18

HIGHLIGHTS OF TREASURY OFFERINGS OF BILLS
TO BE ISSUED FEBRUARY 13, 2003

February 6, 2003

Offering Amount	$18,000 million	$16,000 million
Maximum Award (35% of Offering Amount)	$ 6,300 million	$ 5,600 million
Maximum Recognized Bid at a Single Rate	$ 6,300 million	$ 5,600 million
NLP Reporting Threshold	$ 6,300 million	$ 5,600 million
NLP Exclusion Amount	$ 5,600 million	None
Description of Offering:		
Term and type of security	91-day bill	182-day bill
CUSIP number	912795 MM 0	912795 NH 0
Auction date	February 10, 2003	February 10, 2003
Issue date	February 13, 2003	February 13, 2003
Maturity date	May 15, 2003	August 14, 2003
Original issue date	November 14, 2002	February 13, 2003
Currently outstanding	$21,817 million	---
Minimum bid amount and multiples	$1,000	$1,000

The following rules apply to all securities mentioned above:

Submission of Bids:

Noncompetitive bids: Accepted in full up to $1 million at the highest discount rate of accepted competitive bids.

Foreign and International Monetary Authority (FIMA) bids: Noncompetitive bids submitted through the Federal Reserve Banks as agents for FIMA accounts. Accepted in order of size from smallest to largest with no more than $100 million awarded per account. The total noncompetitive amount awarded to Federal Reserve Banks as agents for FIMA accounts will not exceed $1,000 million. A single bid that would cause the limit to be exceeded will be partially accepted in the amount that brings the aggregate award total to the $1,000 million limit. However, if there are two or more bids of equal amounts that would cause the limit to be exceeded, each will be prorated to avoid exceeding the limit.

Competitive bids:

(1) Must be expressed as a discount rate with three decimals in increments of .005%, e.g., 7.100%, 7.105%.

(2) Net long position (NLP) for each bidder must be reported when the sum of the total bid amount, at all discount rates, and the net long position equals or exceeds the NLP reporting threshold stated above.

(3) Net long position must be determined as of one half-hour prior to the closing time for receipt of competitive tenders.

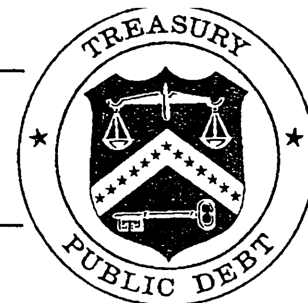
Receipt of Tenders:

Noncompetitive tenders..... Prior to 12:00 noon eastern standard time on auction day

Competitive tenders........ Prior to 1:00 p.m. eastern standard time on auction day

Payment Terms: By charge to a funds account at a Federal Reserve Bank on issue date, or payment of full par amount with tender. *TreasuryDirect* customers can use the Pay Direct feature, which authorizes a charge to their account of record at their financial institution on issue date.

PUBLIC DEBT NEWS
Department of the Treasury • Bureau of the Public Debt • Washington, DC 20239



FOR RELEASE AT 3:00 PM
February 6, 2003

Contact: Stephen Meyerhardt
(202) 691-3792

PUBLIC DEBT ANNOUNCES ACTIVITY FOR SECURITIES IN THE STRIPS PROGRAM FOR JANUARY 2003

The Bureau of the Public Debt announced activity for the month of January 2003, of securities within the Separate Trading of Registered Interest and Principal of Securities program (STRIPS).

Dollar Amounts in Thousands

Principal Outstanding (Eligible Securities)	$2,238,917,742
Held in Unstripped Form	$2,067,937,832
Held in Stripped Form	$170,979,910
Reconstituted in January	$13,548,419

The accompanying table gives a breakdown of STRIPS activity by individual loan description. The balances in this table are subject to audit and subsequent revision. These monthly figures are included in Table V of the Monthly Statement of The Public Debt, entitled "Holdings of Treasury Securities in Stripped Form."

The Strips Table along with the new Monthly Statement of The Public Debt is available on Public Debt's Internet site at: **www.publicdebt.treas.gov**. A wide range of information about the public debt and Treasury securities is also available at the site.

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TABLE V - HOLDINGS OF TREASURY SECURITIES IN STRIPPED FORM, JANUARY 31, 2003 – Continued

Loan Description			Corpus STRIP CUSIP	Maturity Date	Amount Outstanding in Thousands			Reconstituted This Month [17]
					Total Outstanding	Portion Held in Unstripped Form	Portion Held in Stripped Form	
Treasury Notes:								
CUSIP:	Series:	Interest Rate:						
912827 J78	A	6-1/4	912820 BF3	02/15/03	23,562,691	21,568,365	1,994,326	324,792
3Z3	D	5-1/2	CS4	02/28/03	13,670,354	13,623,154	47,200	0
6U1	M	4-5/8	GD3	02/28/03	14,685,095	14,278,695	406,400	0
4B5	E	5-1/2	CU9	03/31/03	14,172,892	14,132,092	40,800	0
6V9	N	4-1/4	GE1	03/31/03	14,674,853	14,674,853	0	0
4D1	F	5-3/4	CW5	04/30/03	12,573,248	12,532,448	40,800	0
6W7	P	4	GF8	04/30/03	13,338,528	13,338,528	0	0
4H2	G	5-1/2	DA2	05/31/03	13,132,243	13,021,843	110,400	0
6Y3	Q	4-1/4	GH4	05/31/03	13,331,937	13,331,937	0	0
4K5	H	5-5/8	DC8	06/30/03	13,126,779	13,077,179	49,600	0
6Z0	R	3-7/8	GJ0	06/30/03	14,671,070	14,671,070	0	0
7A4	S	3-7/8	GK7	07/31/03	16,003,270	16,000,070	3,200	0
L83	B	5-3/4	BG1	08/15/03	28,011,028	25,136,062	2,874,966	160,200
4N9	J	5-1/4	DE4	08/15/03	19,852,263	19,782,663	69,600	0
7C0	T	3-5/8	GM3	08/31/03	18,665,038	18,665,038	0	0
7D8	U	2-3/4	GN1	09/30/03	22,675,482	22,673,882	1,600	0
7E6	V	2-3/4	GP6	10/31/03	25,147,960	25,146,360	1,600	0
4U3	K	4-1/4	DJ3	11/15/03	18,625,785	16,958,390	1,667,395	4,300
7G1	W	3	GR2	11/30/03	26,170,526	26,170,526	0	0
7H9	X	3-1/4	GS0	12/31/03	29,666,988	29,666,988	0	0
7K2	J	3	GU5	01/31/04	30,775,555	30,775,555	0	0
N81	A	5-7/8	BH9	02/15/04	12,955,077	12,030,593	924,484	37,600
5A6	E	4-3/4	DQ7	02/15/04	17,823,228	17,811,228	12,000	0
7M8	K	3	GW1	02/29/04	31,746,067	31,746,067	0	0
912828 AA8	L	3-5/8	GX9	03/31/04	32,873,508	32,873,508	0	0
AB6	M	3-3/8	GY7	04/30/04	32,654,971	32,654,971	0	0
912827 P89	B	7-1/4	BJ5	05/15/04	14,440,372	13,378,335	1,062,037	14,000
5F5	F	5-1/4	DU8	05/15/04	18,925,383	18,925,383	0	0
912828 AD2	N	3-1/4	HA8	05/31/04	33,297,400	33,297,400	0	0
AE0	P	2-7/8	HB6	06/30/04	34,050,042	34,050,042	0	0
AG5	Q	2-1/4	HD2	07/31/04	33,250,010	33,250,010	0	0
912827 Q88	C	7-1/4	BK2	08/15/04	13,346,467	11,110,796	2,235,671	24,700
5M0	G	6	DZ7	08/15/04	18,089,806	18,089,806	0	0
912828 AK6	R	2-1/8	HG5	08/31/04	34,541,397	34,541,397	0	0
AL4	S	1-7/8	HH3	09/30/04	34,655,535	34,655,535	0	0
AM2	T	2-1/8	HJ9	10/31/04	32,439,549	32,439,549	0	0
912827 R87	D	7-7/8	BL0	11/15/04	14,373,760	14,365,760	8,000	0
5S7	H	5-7/8	EE3	11/15/04	32,658,145	32,658,145	0	0
912828 AQ3	U	2	HM2	11/30/04	32,871,320	32,871,320	0	0
AR1	V	1-3/4	HN0	12/31/04	33,203,363	33,203,363	0	0
AS9	G	1-5/8	HP5	01/31/05	33,838,032	33,838,032	0	0
912827 S86	A	7-1/2	BM8	02/15/05	13,834,754	13,183,835	650,919	105,440
T85	B	6-1/2	BN6	05/15/05	14,739,504	14,739,104	400	0
6D9	E	6-3/4	ER4	05/15/05	28,562,370	28,491,170	71,200	72,000
U83	C	6-1/2	BP1	08/15/05	15,002,580	15,002,180	400	0
V82	D	5-7/8	BQ9	11/15/05	15,209,920	14,488,568	721,352	17,000
6N7	F	5-3/4	FX0	11/15/05	28,062,797	27,392,197	670,600	8,600
W81	A	5-5/8	BR7	02/15/06	15,513,587	15,508,107	5,480	0
X80	B	6-7/8	BS5	05/15/06	16,015,475	14,930,834	1,084,641	55,529
6X5	E	4-5/8	GG6	05/15/06	27,797,852	27,797,852	0	0
Y55	C	7	BT3	07/15/06	22,740,446	22,602,446	138,000	8,000
Z62	D	6-1/2	BU0	10/15/06	22,459,675	22,395,675	64,000	0
7F3	F	3-1/2	GQ4	11/15/06	35,380,129	34,517,243	862,886	186,000
2J0	B	6-1/4	BW6	02/15/07	13,103,678	12,423,640	680,038	64,608
2U5	C	6-5/8	BX4	05/15/07	13,958,186	12,558,073	1,400,113	28,600
912828 AC4	E	4-3/8	GZ4	05/15/07	24,351,431	24,351,431	0	0
912827 3E0	D	6-1/8	CA3	08/15/07	25,636,803	23,438,511	2,198,292	11,200
912828 AH3	F	3-1/4	HE0	08/15/07	25,410,844	25,410,844	0	0
AN0	G	3	HK6	11/15/07	23,311,319	22,472,039	839,280	439,800
912827 3X8	B	5-1/2	CQ8	02/15/08	13,583,412	13,197,191	386,221	5,000
4F6	C	5-5/8	CY1	05/15/08	27,190,961	27,124,041	66,920	0
4V1	D	4-3/4	DK0	11/15/08	25,083,125	24,950,333	132,792	0
5G3	B	5-1/2	DV6	05/15/09	14,794,790	14,731,490	63,300	4,000
5N8	C	6	EA1	08/15/09	27,399,894	26,861,781	538,113	0
5Z1	B	6-1/2	EM5	02/15/10	23,355,709	23,352,309	3,400	0
6J6	C	5-3/4	FT9	08/15/10	22,437,594	22,437,094	500	0
6T4	B	5	GC5	02/15/11	23,436,329	23,427,289	9,040	0
7B2	C	5	GL5	08/15/11	26,635,316	26,628,096	7,220	0
7L0	B	4-7/8	GV3	02/15/12	24,779,838	24,772,238	7,600	0
912828 AJ9	D	4-3/8	HF7	08/15/12	19,647,976	19,647,976	0	0
AP5	E	4	HL4	11/15/12	18,112,742	18,112,542	200	0
Total Treasury Notes..					1,586,116,053	1,563,963,067	22,152,986	1,571,369
Grand Total..					2,238,917,742	2,067,937,832	170,979,910	13,548,419

TABLE V - HOLDINGS OF TREASURY SECURITIES IN STRIPPED FORM, JANUARY 31, 2003

Loan Description	Series	Interest Rate	Corpus STRIP CUSIP	Maturity Date	Amount Outstanding in Thousands: Total Outstanding	Amount Outstanding in Thousands: Portion Held in Unstripped Form	Amount Outstanding in Thousands: Portion Held in Stripped Form	Reconstituted This Month [17]
Treasury Bonds:								
CUSIP:		Interest Rate:						
912810 DM7		11-5/8	912803 AB9	11/15/04	8,301,806	4,736,988	3,564,818	1,015,800
DQ8		12	AD5	05/15/05	4,260,758	2,055,830	2,204,928	96,147
DR6		10-3/4	AG8	08/15/05	9,269,713	5,781,666	3,488,047	38,205
DU9		9-3/8	AJ2	02/15/06	4,755,916	4,238,909	517,007	83,040
DN5		11-3/4	912800 AA7	11/15/14	5,015,284	1,794,162	3,221,122	0
DP0		11-1/4	912803 AA1	02/15/15	10,520,299	9,214,259	1,306,040	393,560
DS4		10-5/8	AC7	08/15/15	4,023,916	3,274,755	749,161	127,440
DT2		9-7/8	AE3	11/15/15	5,584,859	3,173,573	2,411,286	102,400
DV7		9-1/4	AF0	02/15/16	5,431,754	4,923,594	508,160	363,200
DW5		7-1/4	AH6	05/15/16	18,823,551	18,245,738	577,813	125,600
DX3		7-1/2	AK9	11/15/16	18,787,448	16,745,848	2,041,600	177,360
DY1		8-3/4	AL7	05/15/17	15,559,169	8,763,430	6,795,739	546,200
DZ8		8-7/8	AM5	08/15/17	10,968,358	7,675,143	3,293,215	602,200
EA2		9-1/8	AN3	05/15/18	6,717,439	2,728,538	3,988,901	140,800
EB0		9	AP8	11/15/18	7,174,470	2,826,994	4,347,476	119,900
EC8		8-7/8	AQ6	02/15/19	13,090,498	8,657,383	4,433,115	757,200
ED6		8-1/8	AR4	08/15/19	18,940,932	17,751,232	1,189,700	323,720
EE4		8-1/2	AS2	02/15/20	9,476,268	6,684,635	2,791,633	222,600
EF1		8-3/4	AT0	05/15/20	7,582,183	3,440,290	4,141,893	171,420
EG9		8-3/4	AU7	08/15/20	17,059,306	8,639,210	8,420,096	873,600
EH7		7-7/8	AV5	02/15/21	10,075,573	8,962,183	1,113,390	175,000
EJ3		8-1/8	AW3	05/15/21	10,066,788	5,403,541	4,663,247	744,571
EK0		8-1/8	AX1	08/15/21	9,506,382	7,011,352	2,495,030	91,160
EL8		8	AY9	11/15/21	30,632,194	15,219,621	15,412,573	1,235,700
EM6		7-1/4	AZ6	08/15/22	10,127,790	9,149,780	978,010	20,800
EN4		7-5/8	BA0	11/15/22	7,423,626	3,719,358	3,704,268	381,200
EP9		7-1/8	BB8	02/15/23	15,782,061	10,445,847	5,336,214	123,200
EQ7		6-1/4	BC6	08/15/23	22,659,044	19,379,701	3,279,343	107,200
ES3		7-1/2	BD4	11/15/24	9,604,162	3,326,464	6,277,698	205,680
ET1		7-5/8	BE2	02/15/25	9,509,170	3,411,729	6,097,441	156,800
EV6		6-7/8	BF9	08/15/25	11,187,207	6,891,910	4,295,297	538,685
EW4		6	BG7	02/15/26	12,837,916	11,695,157	1,142,759	31,200
EX2		6-3/4	BH5	08/15/26	8,810,418	5,835,975	2,974,443	115,540
EY0		6-1/2	BJ1	11/15/26	10,860,177	4,421,765	6,438,412	287,600
EZ7		6-5/8	BK8	02/15/27	9,521,971	5,512,914	4,009,057	430,400
FA1		6-3/8	BL6	08/15/27	9,196,756	6,706,226	2,490,530	315,200
FB9		6-1/8	BM4	11/15/27	22,021,339	9,248,919	12,772,420	483,600
FE3		5-1/2	BP7	08/15/28	11,776,201	10,496,801	1,279,400	47,900
FF0		5-1/4	BV4	11/15/28	10,947,052	10,118,322	828,730	67,400
FG8		5-1/4	BW2	02/15/29	11,350,341	10,528,745	821,596	25,200
FJ2		6-1/8	CG6	08/15/29	11,178,580	10,091,230	1,087,350	45,050
FM5		6-1/4	CH4	05/15/30	17,043,162	16,176,278	866,884	67,572
FP8		5-3/8	CK7	02/15/31	16,427,648	16,212,248	215,400	0
Total Treasury Bonds..					499,889,485	351,318,243	148,571,242	11,977,050
Treasury Inflation-Indexed Notes:								
CUSIP:	Series:	Interest Rate:						
912827 2M3	A	3-3/8	912820 BV9	01/15/07	18,032,004	18,032,004	0	0
3T7	A	3-5/8	CL9	01/15/08	18,866,258	18,754,036	112,222	0
4Y5	A	3-7/8	DN4	01/15/09	17,579,941	17,579,941	0	0
5W8	A	4-1/4	EK9	01/15/10	12,199,357	12,199,357	0	0
6R8	A	3-1/2	GA9	01/15/11	11,459,559	11,459,559	0	0
7J5	A	3-3/8	GT8	01/15/12	6,130,613	6,130,613	0	0
912828 AF7	C	3	HC4	07/15/12	23,209,856	23,209,856	0	0
Total Inflation-Indexed Notes.............................					107,477,587	107,365,365	112,222	0
Treasury Inflation-Indexed Bonds:								
CUSIP:		Interest Rate:						
912810 FD5		3-5/8	912803 BN2	04/15/28	18,813,104	18,807,499	5,605	0
FH6		3-7/8	CF8	04/15/29	21,501,966	21,364,111	137,855	0
FQ6		3-3/8	CL5	04/15/32	5,119,547	5,119,547	0	0
Total Inflation-Indexed Bonds............................					45,434,617	45,291,157	143,460	0

DEPARTMENT OF THE TREASURY

TREASURY NEWS

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EMBARGOED UNTIL 11:00 A.M.
February 10, 2003

Contact: Office of Financing
202/691-3550

TREASURY OFFERS 4-WEEK BILLS

The Treasury will auction 4-week Treasury bills totaling $20,000 million to refund an estimated $11,000 million of publicly held 4-week Treasury bills maturing February 13, 2003, and to raise new cash of approximately $9,000 million.

Tenders for 4-week Treasury bills to be held on the book-entry records of *TreasuryDirect* will not be accepted.

The Federal Reserve System holds $13,660 million of the Treasury bills maturing on February 13, 2003, in the System Open Market Account (SOMA). This amount may be refunded at the highest discount rate of accepted competitive tenders in this auction up to the balance of the amount not awarded in today's 13-week and 26-week Treasury bill auctions. Amounts awarded to SOMA will be in addition to the offering amount.

Up to $1,000 million in noncompetitive bids from Foreign and International Monetary Authority (FIMA) accounts bidding through the Federal Reserve Bank of New York will be included within the offering amount of the auction. These noncompetitive bids will have a limit of $100 million per account and will be accepted in the order of smallest to largest, up to the aggregate award limit of $1,000 million.

Note: The closing times for receipt of noncompetitive and competitive tenders will be at 11:00 a.m. and 11:30 a.m. eastern standard time, respectively.

The allocation percentage applied to bids awarded at the highest discount rate will be rounded up to the next hundredth of a whole percentage point, e.g., 17.13%.

This offering of Treasury securities is governed by the terms and conditions set forth in the Uniform Offering Circular for the Sale and Issue of Marketable Book-Entry Treasury Bills, Notes, and Bonds (31 CFR Part 356, as amended).

Details about the new security are given in the attached offering highlights.

oOo

Attachment

JS-20

HIGHLIGHTS OF TREASURY OFFERING
OF 4-WEEK BILLS TO BE ISSUED FEBRUARY 13, 2003

February 10, 2003

Offering Amount........................$20,000 million
Maximum Award (35% of Offering Amount)...$ 7,000 million
Maximum Recognized Bid at a Single Rate..$ 7,000 million
NLP Reporting Threshold.................$ 7,000 million
NLP Exclusion Amount....................$ 9,500 million

Description of Offering:
Term and type of security..........28-day bill
CUSIP number.......................912795 MC 2
Auction date.......................February 11, 2003
Issue date.........................February 13, 2003
Maturity date......................March 13, 2003
Original issue date................September 12, 2002
Currently outstanding..............$37,123 million
Minimum bid amount and multiples....$1,000

Submission of Bids:
Noncompetitive bids: Accepted in full up to $1 million at the highest discount rate of accepted competitive bids.
Foreign and International Monetary Authority (FIMA) bids: Noncompetitive bids submitted through the Federal Reserve Banks as agents for FIMA accounts. Accepted in order of size from smallest to largest with no more than $100 million awarded per account. The total noncompetitive amount awarded to Federal Reserve Banks as agents for FIMA accounts will not exceed $1,000 million. A single bid that would cause the limit to be exceeded will be partially accepted in the amount that brings the aggregate award total to the $1,000 million limit. However, if there are two or more bids of equal amounts that would cause the limit to be exceeded, each will be prorated to avoid exceeding the limit.
Competitive bids:
(1) Must be expressed as a discount rate with three decimals in increments of .005%, e.g., 4.215%.
(2) Net long position (NLP) for each bidder must be reported when the sum of the total bid amount, at all discount rates, and the net long position equals or exceeds the NLP reporting threshold stated above.
(3) Net long position must be determined as of one half-hour prior to the closing time for receipt of competitive tenders.

Receipt of Tenders:
Noncompetitive tenders:
Prior to 11:00 a.m. eastern standard time on auction day
Competitive tenders:
Prior to 11:30 a.m. eastern standard time on auction day

Payment Terms: By charge to a funds account at a Federal Reserve Bank on issue date.

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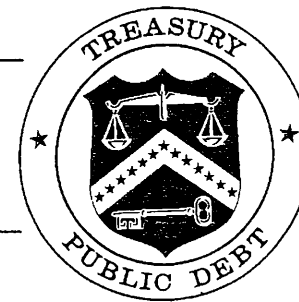

TREASURY SECURITY AUCTION RESULTS
BUREAU OF THE PUBLIC DEBT - WASHINGTON DC

FOR IMMEDIATE RELEASE
February 10, 2003

CONTACT: Office of Financing
202-691-3550

RESULTS OF TREASURY'S AUCTION OF 13-WEEK BILLS

Term: 91-Day Bill
Issue Date: February 13, 2003
Maturity Date: May 15, 2003
CUSIP Number: 912795MM0

High Rate: 1.150%   Investment Rate 1/: 1.171%   Price: 99.709

All noncompetitive and successful competitive bidders were awarded securities at the high rate. Tenders at the high discount rate were allotted 28.34%. All tenders at lower rates were accepted in full.

AMOUNTS TENDERED AND ACCEPTED (in thousands)

Tender Type	Tendered	Accepted
Competitive	$ 32,767,375	$ 16,337,675
Noncompetitive	1,537,560	1,537,560
FIMA (noncompetitive)	125,000	125,000
SUBTOTAL	34,429,935	18,000,235 2/
Federal Reserve	6,306,490	6,306,490
TOTAL	$ 40,736,425	$ 24,306,725

Median rate 1.140%: 50% of the amount of accepted competitive tenders was tendered at or below that rate. Low rate 1.125%: 5% of the amount of accepted competitive tenders was tendered at or below that rate.

Bid-to-Cover Ratio = 34,429,935 / 18,000,235 = 1.91

1/ Equivalent coupon-issue yield.
2/ Awards to TREASURY DIRECT = $1,228,367,000

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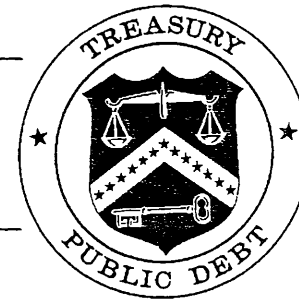

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TREASURY SECURITY AUCTION RESULTS
BUREAU OF THE PUBLIC DEBT - WASHINGTON DC

FOR IMMEDIATE RELEASE
February 10, 2003

CONTACT: Office of Financing
202-691-3550

RESULTS OF TREASURY'S AUCTION OF 26-WEEK BILLS

Term:	182-Day Bill
Issue Date:	February 13, 2003
Maturity Date:	August 14, 2003
CUSIP Number:	912795NH0

High Rate: 1.165% Investment Rate 1/: 1.188% Price: 99.411

All noncompetitive and successful competitive bidders were awarded securities at the high rate. Tenders at the high discount rate were allotted 81.98%. All tenders at lower rates were accepted in full.

AMOUNTS TENDERED AND ACCEPTED (in thousands)

Tender Type	Tendered	Accepted
Competitive	$ 32,077,730	$ 14,541,140
Noncompetitive	1,263,988	1,263,988
FIMA (noncompetitive)	195,000	195,000
SUBTOTAL	33,536,718	16,000,128 2/
Federal Reserve	5,702,347	5,702,347
TOTAL	$ 39,239,065	$ 21,702,475

Median rate 1.155%: 50% of the amount of accepted competitive tenders was tendered at or below that rate. Low rate 1.140%: 5% of the amount of accepted competitive tenders was tendered at or below that rate.

Bid-to-Cover Ratio = 33,536,718 / 16,000,128 = 2.10

1/ Equivalent coupon-issue yield.
2/ Awards to TREASURY DIRECT = $953,395,000

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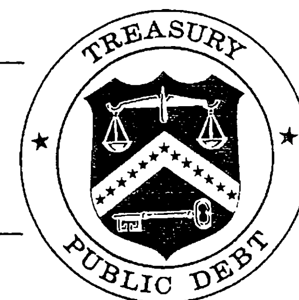

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TREASURY SECURITY AUCTION RESULTS
BUREAU OF THE PUBLIC DEBT - WASHINGTON DC

FOR IMMEDIATE RELEASE
February 11, 2003

CONTACT: Office of Financing
202-691-3550

RESULTS OF TREASURY'S AUCTION OF 4-WEEK BILLS

Term: 28-Day Bill
Issue Date: February 13, 2003
Maturity Date: March 13, 2003
CUSIP Number: 912795MC2

High Rate: 1.155% Investment Rate 1/: 1.174% Price: 99.910

All noncompetitive and successful competitive bidders were awarded securities at the high rate. Tenders at the high discount rate were allotted 55.89%. All tenders at lower rates were accepted in full.

AMOUNTS TENDERED AND ACCEPTED (in thousands)

Tender Type	Tendered	Accepted
Competitive	$ 43,547,500	$ 19,953,750
Noncompetitive	46,501	46,501
FIMA (noncompetitive)	0	0
SUBTOTAL	43,594,001	20,000,251
Federal Reserve	1,650,956	1,650,956
TOTAL	$ 45,244,957	$ 21,651,207

Median rate 1.145%: 50% of the amount of accepted competitive tenders was tendered at or below that rate. Low rate 1.130%: 5% of the amount of accepted competitive tenders was tendered at or below that rate.

Bid-to-Cover Ratio = 43,594,001 / 20,000,251 = 2.18

1/ Equivalent coupon-issue yield.

http://www.publicdebt.treas.gov

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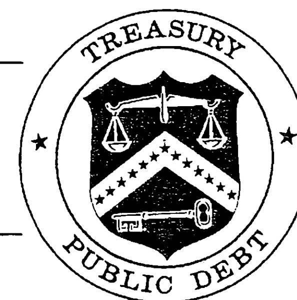


TREASURY SECURITY AUCTION RESULTS
BUREAU OF THE PUBLIC DEBT - WASHINGTON DC

FOR IMMEDIATE RELEASE
February 11, 2003

CONTACT: Office of Financing
202-691-3550

RESULTS OF TREASURY'S AUCTION OF 5-YEAR NOTES

Interest Rate:	3%	Issue Date:	February 18, 2003
Series:	E-2008	Dated Date:	February 15, 2003
CUSIP No:	912828AT7	Maturity Date:	February 15, 2008

High Yield: 3.029% Price: 99.866

All noncompetitive and successful competitive bidders were awarded securities at the high yield. Tenders at the high yield were allotted 71.96%. All tenders at lower yields were accepted in full.

Accrued interest of $ 0.24862 per $1,000 must be paid for the period from February 15, 2003 to February 18, 2003.

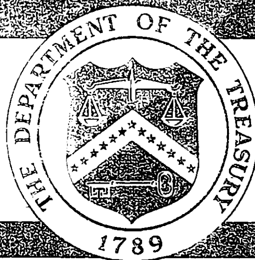
AMOUNTS TENDERED AND ACCEPTED (in thousands)

Tender Type	Tendered	Accepted
Competitive	$ 33,895,105	$ 23,732,654
Noncompetitive	237,378	237,378
FIMA (noncompetitive)	30,000	30,000
SUBTOTAL	34,162,483	24,000,032 1/
Federal Reserve	3,483,950	3,483,950
TOTAL	$ 37,646,433	$ 27,483,982

Median yield 2.980%: 50% of the amount of accepted competitive tenders was tendered at or below that rate. Low yield 2.900%: 5% of the amount of accepted competitive tenders was tendered at or below that rate.

Bid-to-Cover Ratio = 34,162,483 / 24,000,032 = 1.42

1/ Awards to TREASURY DIRECT = $145,222,000

DEPARTMENT OF THE TREASURY
TREASURY  NEWS
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AIR TRANSPORTATION STABILIZATION BOARD

For Immediate Release
February 11, 2003

Contact: **Betsy Holahan**
(202) 622-2960

Air Transportation Stabilization Board Conditionally Approves Application by US Airways, Inc.

WASHINGTON, DC - The Air Transportation Stabilization Board (the Board) confirmed today its conditional approval of the application by US Airways, Inc. for a $900 million loan guarantee under the Air Transportation Safety and System Stabilization Act and implementing regulations promulgated by the Office of Management and Budget. The Board's decision was unanimous. The Board's approval is subject to several conditions identified in the Board's letter to US Airways, Inc., which is attached.

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JS-25

*U.S. Government Printing Office: 1998 - 619-55

AIR TRANSPORTATION STABILIZATION BOARD

Daniel G. Montgomery
Executive Director

February 11, 2003

Mr. David N. Siegel
President and Chief Executive Officer
US Airways, Inc.
Crystal Park Four
2345 Crystal Drive
Arlington, VA 22227

Re: Application for a Loan Guarantee Under the Air Transportation Safety and System Stabilization Act

Dear Mr. Siegel:

This letter refers to the application of US Airways, Inc. (the "Applicant"), dated June 7, 2002, as supplemented (the "Application"), for a Federal loan guarantee under the Air Transportation Safety and System Stabilization Act, Pub. L. No. 107-42, 115 Stat. 230 (the "Act") and the regulations promulgated thereunder, 14 CFR Part 1300 (the "Regulations").

The Applicant has requested expedited action by the Board in connection with the Applicant's reorganization plan pending in the United States Bankruptcy Court for the Eastern District of Virginia, Alexandria Division, and to facilitate access to the remaining portion of its debtor-in-possession financing. The Board is asked to participate in a $1 billion financing by providing a Federal government guarantee of $900 million, representing 90 percent of the proposed financing.

The Board has carefully considered the Application under the standards set out in the Act and Regulations. The Board's consideration has included a review and analysis of the Application by the Board's staff and the Board's financial and industry consultants. The Board voted unanimously to approve the Application incorporating the revised business plan, subject to the conditions set out in this letter.

The Applicant's management has pursued a disciplined approach to executing its restructuring plan and reacting to changing economic conditions in the airline industry. The Board recognizes the difficult decisions confronting management and stakeholders in proposing, negotiating and accepting concessions. Among other factors, the Board's action is based on the proposed achievement of substantial and diverse cost savings and the development of credible revenue assumptions to support the business plan submitted. In the

Board's view, the Applicant's management has presented a business plan that reasonably positions the Applicant to meet the challenges and risks of this industry and to achieve financial stability over the term of the proposed loan. These factors, in the Board's view, together with the demonstrated commitment and cooperation of the Applicant's stakeholder groups, indicate a financially sound business plan and a reasonable assurance of repayment of the proposed loan.

The Board's approval is subject to satisfaction, as determined by the Board in its sole discretion, of all the conditions in the Act and the Regulations and the following:

- The Applicant must conclude legally binding agreements regarding the concessions and initiatives described in the Applicant's revised business plan.

- As required by the Regulations, the Applicant must obtain confirmation by the Bankruptcy Court of the Applicant's plan of reorganization.

- Among the regulatory and judicial approvals that are required to be obtained pursuant to the Regulations, a resolution of the Applicant's pension funding issue must be approved by the Pension Benefit Guaranty Corporation and, if necessary, the Bankruptcy Court. The Board understands that discussions involving the Applicant's pension initiative are ongoing among the Applicant and other interested parties. The Board takes no position on the form or specific provisions of such a resolution.

- The Applicant must resolve specific collateral issues.

- Final loan documents, including related collateral security documents and filings, affiliate guarantees, certifications, the warrant and registration rights agreement, and appropriate opinions of counsel, all in form and substance satisfactory to the Board, remain to be negotiated by the Board. The Board may require control rights, representations, warranties, covenants (including, without limitation, covenants relating to the Applicant's financial ratios), anti-dilution protections and registration rights in connection with the warrants, and other customary lending provisions which are different from or in addition to those described in the Summary of Indicative Terms and Conditions included in the Application.

The Board considers the warrants for 10% of the Applicant's reorganized equity (on a fully diluted basis), which is offered to the Government in the Application, to represent sufficient participation in the Applicant's potential future gains. The Board will accept a strike price equal to that proposed for all other initial stakeholders in the Applicant's plan of reorganization.

The Board will continue to perform business and legal due diligence as the transaction progresses. The Board's willingness to issue the guarantee, and the specific terms it may

require in the loan documents, are subject, therefore, to on-going due diligence and the Board's satisfaction with the results thereof. In the event that the Board discovers any materially negative information concerning the Applicant not currently known to it, the Board in its sole discretion may decline to issue its guarantee. The issuance of the Board's guarantee is subject also to the absence, in the sole judgment of the Board, of any material adverse change in the condition (financial or otherwise), business, property, operations, prospects, assets or liabilities of the Applicant, or in the Applicant's ability to repay the loan, or in the value of the collateral between the date hereof and the date the guarantee is issued.

The Board and Board staff look forward to working with you toward the successful completion of this transaction and are prepared to devote all of the resources necessary to accomplish this end.

Sincerely,

Daniel G. Montgomery

cc: Edward M. Gramlich
Kirk K. Van Tine
Peter R. Fisher

DEPARTMENT OF THE TREASURY

TREASURY NEWS

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AIR TRANSPORTATION STABILIZATION BOARD

Daniel G. Montgomery
Executive Director

February 11, 2003

Jeffrey T. Tolbert
President & CEO
MEDjet International, Inc.
1000 Urban Center Drive, Suite 470
Birmingham, Alabama 35242

Re: Request for Reconsideration

Dear Mr. Tolbert:

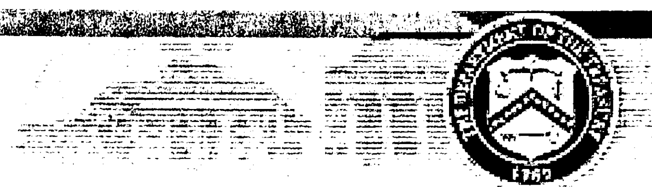
We have received the materials submitted to the Air Transportation Stabilization Board (the "Board") on January 24, 2002, by MEDjet International, Inc. ("MEDjet"). In the materials, MEDjet requests reconsideration by the Board of its November 26, 2002 denial of MEDjet's application (the "Application") for a Federal loan guarantee under the Air Transportation Safety and System Stabilization Act, Pub. L. No. 107-42, 115 Stat. 230 and the regulations promulgated thereunder, 14 CFR Part 1300.

The Board and Board staff have reviewed and considered the information recently submitted. The Board has determined that the information recently submitted does not alter in a material manner the rationale underlying the Board's November 26th decision. Accordingly, the Board's November 26th denial of MEDjet's Application remains in effect.

Sincerely,

Daniel G. Montgomery
Executive Director

JS-26



PRESS ROOM

FROM THE OFFICE OF PUBLIC AFFAIRS

February 12, 2003
JS-27

Remarks of Peter R. Fisher
Under Secretary of the Treasury for Domestic Finance
at the Global Association of Risk Professionals 4th Annual Convention
February 12, 2003
New York, NY

As the nature of financial risks evolve, so must risk management. Today I want to suggest two changes that risk managers should make to keep up with a new macroeconomic era.

For the past five years, the source of the greatest variance between investment objectives and outcomes has been credit risk, not market risk. The art and science of risk management grew up focused on market risk, but now needs to get back to the basics of credit risk. Keeping a closer eye on credit risk demands a crisp understanding of firms' creditworthiness. But a risk manager who seeks the critical firm-level details of cash flow and real economic leverage in today's capital markets will find they are too often absent. As long as investors are in the dark about companies' real, economic leverage, risk management threatens to remain less a science, less even an art, than a crap shoot.

The field of risk management bears the marks of coming into maturity during the past twenty-five or so years. Its tools are attuned to the sharp swings in output and inflation expectations from the 1970s to the early 1990s. The trick to making money in the debt markets was to anticipate corresponding changes in real and nominal interest rates: catching the turns from the negative real U.S. interest rates in the late 1970s, to the highly-volatile nominal and real rates of the 1980s, and to the low nominal rates of the early 1990s. Risk managers for their part concentrated on stress-testing portfolios against outsized moves in interest and exchange rates. It was good enough for your model, or your credit officer, to rely upon rules of thumb for credit spreads, for both corporate and sovereign debt, as long as you could hang on for the macroeconomic ride.

In a period of more stable output and prices, it becomes by definition less important to anticipate changes in macroeconomic conditions and more important to assess the credit standing of individual borrowers. In this environment we have learned that investment risk is a little less about macroeconomics and a little more about microeconomics.

To take a micro example, we know that the real value of a firm is the present value of future unencumbered cash flow. If the discount rate is volatile, differences in expected cash flows between two firms are almost background noise. But if the discount rate is stable, differences in expected cash flow demand center stage – not just for equity investors, but for debt investors too. Just investing in the energy sector is no longer good enough. It actually matters whether the company you are investing in is Enron or Chevron.

In a world where credit matters, risk managers cannot be content with stress-testing portfolios against macroeconomic variables. The transition to a world where credit matters has been an expensive education for some. The strategies of the 1980s and early 1990s – of tracking indexes and trading off rule-of-thumb spread relationships – have been hard to shed. We have grown accustomed to outsourcing vital judgments about credit quality to the rating agencies and, less

obviously, to the indexes. Reliance on indexing in particular has led us to a "herd mentality" of investing in which is better to fail together than make critical risk-and-reward judgments as individuals.

We need to watch the risks specific to the companies in our portfolios. Careful study of historical market prices will not provide us with a better understanding of credit quality. We need to focus on basic elements of credit: leverage and cash flow.

For a long time we have assumed that leverage was visible to anyone willing to dissect an annual report. We now know better. Going forward, users of financial information – yourselves included – are on notice to demand full disclosure of firms' real economic leverage.

We need to explode the idea that the balance sheet remains a useful concept for measuring a firm's true assets and liabilities. We need to move beyond the false dichotomy between the balance sheet and the off-balance sheet. You all know this with respect to your own firm. Why do we continue, collectively, to pretend that we can make reasoned investment decisions about other firms without knowledge of their real, economic leverage?

As I look back over the last decade, I see a series of events all about inadequate disclosure and elevated leverage.

In 1994, in the wake of the bond market sell off and Orange County, the hue and cry was about derivatives; keener-eyed critics knew it had more to do with inadequate disclosure and off-balance sheet leverage.
In Asian crisis of 1997, whole countries were criticized for the purported failure of their economic model; some of us saw inadequate disclosure and off-balance sheet leverage run amok. In 1998, anxieties focused on hedge funds; but the real issue was inadequate disclosure and excessive off-balance sheet leverage. In my judgment, Enron also was more a story of inadequate disclosure of the real economic leverage via off-balance sheet devices. Each of these was a credit event: a failure of other market participants to understand the amount of leverage employed – a confusion between leverage and real cash flow.

Our capital markets need a measure of all the contractually-obligated liabilities, whether contingent or fixed, future or current. We need a parallel measure of all the firm's contractually obligated revenues. Tying them together will give the firm's contractually-obligated net present value – a true indicator of the firm's leverage. This is not an untested or novel idea. The concept of NPV appears everywhere in modern finance except in financial reporting.

Contractually-obligated NPV will in most cases be negative. That's the little secret of capitalism: it involves risk. Disclosing the true leverage will focus investors' attention on how companies plan to close the gap – how they plan to generate the cash flow needed to exceed net obligations. I hope this attention will encourage firms to bring to life their Management Discussion and Analysis passages by providing the key indicators of business performance that management itself uses to judge expected cash flow.

Why don't more firms disclose this information? Habit. People are reluctant to change their ways. Habit is the most underestimated variable in human behavior and, therefore, in finance and economics. Firms claim that that they don't want to aid competitors. I don't buy it, at least not for most of their business indicators and nearly all financial measures. Moreover, this claim simply reflects a value judgment that keeping secrets from competitors is more important than informing the owners – that investors are better off if they remain ignorant of what's going on inside the companies that they own.

Our publicly-traded capital markets cannot function on so faulty a foundation. In the division of labor in our financial markets, too many have complacently accepted the status quo of corporate disclosure. Too few have seen it as their responsibility to work systematically to improve the quality of information that investors receive.

I suggest that you as risk managers should not tolerate these practices. You should demand that companies disclose this information in periodic disclosures. In its absence, how can you rationally manage investment decisions, other than on the lottery-ticket theory of investing?

PRESS ROOM

FROM THE OFFICE OF PUBLIC AFFAIRS

February 12, 2003
JS-28

"250 Economists Endorse President Bush's Jobs and Growth Plan"

The Honorable George W. Bush
The White House
1600 Pennsylvania Avenue, NW
Washington, D.C. 20500

Dear President Bush:

We enthusiastically endorse your economic growth and jobs proposal. It is fiscally responsible and it will create more employment, economic growth, and opportunities for all Americans. Moreover, it will improve corporate accountability and strengthen the nation's international competitiveness.

Sincerely,

Douglas K. Adie, Ohio University
Richard Agnello, University of Delaware
William Albrecht, University of Iowa
Donald Alexender, Western Michigan University
William R. Allen, UCLA
Annelise Anderson, Hoover Institution, Stanford University
Martin Anderson, Hoover Institution, Stanford University
Jim Araji, University of Idaho
Paul Ballantyne, University of Colorado in Colorado Springs
Stacie E. Beck, University of Delaware
Donald Bellante, University of South Florida
Bruce Bender, University of Wisconsin at Milwaukee
James T. Bennett, George Mason University
M. Douglas Berg, Sam Houston State University
Robert Blake, Forecasters Club of New York
Cecil E. Bohanon, Ball State University
Don Booth, Chapman University
George H. Borts, Brown University
Michael J. Boskin, Hoover Institution, Stanford University
Leonard Bower, consultant
Michael Brandl, University of Texas at Austin
Emile J. Brinkmann, Mortgage Bankers Association of America
Horace W. Brock, Strategic Economic Decisions, Inc.
Wayne T. Brough, Citizens for a Sound Economy
Jackson Brown, American Dental Association
Jeffrey Brown, University of Illinois at Urbana-Champaign

Phillip J. Bryson, Marriott School, BYU
Todd Buchholz, Enso Capital Management
James B. Burnham, Duquesne University
Michelle Burtis, LECG LLC
James L. Butkiewicz, University of Delaware
Samantha Carrington, California State University at Los Angeles
Kenneth W. Chilton, Lindenwood University
Ernest S. Christian, Center For Strategic Tax Reform
Lawrence R. Cima, John Carroll University
J.R. Clark, University of Tennessee at Chattanooga
Darin G. Clay, University of Southern California
Daniel M. Clifton, American Shareholders Association
Howard Cochran, Belmont University
John P. Cochran, Metropolitan State College of Denver
John Cogan, Hoover Institution, Stanford University
Boyd Collier, Tarleton State University
Phil Colling, Mortgage Bankers Association of America
Roy Cordato, John Locke Foundation
Ted Covey, Prosperity Caucus
Eleanor D. Craig, University of Delaware
Mark Crain, George Mason University
Thomas D. Crocker, University of Wyoming
Coldwell Daniel III, University of Memphis
Lawrence S. Davidson, Indiana University
Ronnie H. Davis, Printing Industries of America
Ed Day, University of Central Florida
Stephen J. Dempsey, University of Vermont
Christopher DeMuth, American Enterprise Institute
John L. Dobra, University of Nevada
Michael Dowd, University of Toledo
Thomas J. Duesterberg, Manufacturers Alliance
Douglas G. Duncan, Mortgage Bankers Association of America
John B. Egger, Towson University
Isaac Ehrlich, SUNY at Buffalo
Michael A. Ellis, Kent State University
Kenneth G. Elzinga, University of Virginia
Michael R. Englund, MMS International
Stephen J. Entin, Institute for Research on the Economics of Taxation
Ed Erickson, North Carolina State University
Richard E. Ericson, Columbia University
Paul Evans, Ohio State University
Frank Falero, California State University
Allen M. Featherstone, Kansas State University
Martin Feldstein, Harvard University
John Foltz, University of Idaho
Kristin J. Forbes, MIT
William F. Ford, Middle Tennessee State University
Kenneth C. Froewiss, NYU
Robert C. Fry, Washington, West Virginia
David Garthoff, University of Akron

James F. Gatti, University of Vermont
David Gay, University of Arkansas
Richard F. Gleisner, St. Cloud State University
Claudio Gonzalez, Ohio State University
Ernest Goss, Creighton University
Scott F. Grannis, Western Asset Management
John G. Greenhut, Arizona State University West
Earl Grinols, University of Illinois, Urbana-Champaign
Timothy Groseclose, Stanford Graduate School of Business
James Gwartney, Florida State University
David L. Hammes, University of Hawaii at Hilo
J. Daniel Hammond, Wake Forest University
Stephen Happel, Arizona State University
Kevin Hassett, American Enterprise Institute
Joel W. Hay, University of Southern California
Will C. Heath, Heath Economics
Dale M. Heien, University of California at Davis
Pat Hendershott, Ohio State University
James W. Henderson, Baylor University
Melvin J. Hinich, University of Texas
Mark Hirschey, University of Kansas
Harold M. Hochman, Lafayette College
Robert J. Hodrick, Columbia University
Lawrence A. Hunter, Empower America
Thomas R. Ireland, University of Missouri at St. Louis
John D. Jackson, Auburn University
Lowell Jacobsen, Baker University
Sherry Jarrell, Wake Forest University
Michael C. Jensen, Harvard Business School
Clifton T. Jones, Stephen F. Austin State University
Richard E. Just, University of Maryland
Steven N. Kaplan, University of Chicago
Ed Kaplan, Western Washington University
Raymond J. Keating, Small Business Survival Committee
Kristen Keith, University of Toledo
B.F. Kiker, University of South Carolina
E. Han Kim, University of Michigan
Paul Koch, Olivet Nazarene University
Meir Kohn, Dartmouth College
Melvyn Krauss, Hoover Institution, Stanford University
Peter Kretzmer, Bank of America
Robert Krol, California State University at Northridge
Larry Kudlow, Kudlow & Co.
Richard La Near, Missouri Southern State College
Arthur Laffer, Laffer Associates
William E. Laird, Jr., Florida State University
Russell Lamb, North Carolina State University
Don Leet, California State University at Fresno
John D. Leeth, Bentley College
Ken Lehn, University of Pittsburgh
Cotton M. Lindsay, Clemson University

Larry Lindsey, The Lindsey Group
Dennis E. Logue, University of Oklahoma
Lawrence W. Lovik, Troy State University
Harold I. Lunde, Bowling Green State University
Donald L. Luskin, Trend Macrolytics, LLC
Burton Malkiel, Princeton University
David Malpass, Bear Stearns & Co. Inc.
N. Gregory Mankiw, Harvard University
Richard Manning, Pfizer, Inc.
Dick Marcus, University of Wisconsin at Milwaukee
Michael L. Marlow, California Polytechnic State University, San Luis Obispo
Merrill Matthews, Jr., Council for Affordable Health Insurance
Thomas H. Mayor, University of Houston
Tom Means, San Jose State University
Allan H. Meltzer, Carnegie Mellon University
Michael Melvin, Arizona State University
Stephen Mennemeyer, University of Alabama at Birmingham
Lloyd Mercer, University of California at Santa Barbara
John Merrifield, University of Texas at San Antonio
Jim Miller, Director, Office of Management and Budget, 1985-88
Jim Mintert, Kansas State University
Velma Montoya, National Council of Hispanic Women
Steve Moore, Club for Growth
John Moorhouse, Wake Forest University
John Murray, University of Toledo
Harry Nagel, St. John's University
Anthony Negbenebor, Gardner-Webb University
George R. Neumann, University of Iowa
Grover Norquist, Americans for Tax Reform
Seth W. Norton, Wheaton College
William Oakland, Tulane University
Lee E. Ohanian, UCLA
Richard W. Oliver, American Graduate School of Management
June O'Neill, Baruch College, City University of New York
Lydia Ortega, San Jose State University
Karen Palasek, John Locke Foundation
Randall E. Parker, East Carolina University
James Parrino, Babson College
E.C. Pasour, Jr., North Carolina State University
Mark Perry, University of Michigan at Flint
Tomas Philipson, University of Chicago
Barry Poulson, University of Colorado
Edward C. Prescott, University of Minnesota
Jan S. Prybyla, Pennsylvania State University
Gary Quinlivan, Saint Vincent College
Richard W. Rahn, Discovery Institute
John Rapp, University of Dayton
Eric Rasmusen, Indiana University
Martin A. Regalia, U.S. Chamber of Commerce
Carmen M. Reinhart, International Monetary Fund

Christine P. Ries, Georgia Institute of Technology
Aldona Robbins, Fiscal Associates
Gary Robbins, Fiscal Associates
Paul Craig Roberts, Institute for Political Economy
Charles K. Rowley, George Mason University
Paul H. Rubin, Emory University
Roy J. Ruffin, University of Houston
Mark Rush, University of Florida
John Ryding, Bear Stearns & Co. Inc.
Andrew Sacher, Caxton Associates
Gary J. Santoni, Ball State University
Thomas R. Saving, Texas A&M University
Kurt Schuler, Office of the Vice Chairman, Joint Economic Committee, US Congress
Michael Schuyler, Institute for Research on the Economics of Taxation
Robert Scott, California State University, Chico
Gerald W. Scully, University of Texas at Dallas
Richard T. Selden, University of Virginia
Barry J. Seldon, University of Texas at Dallas
John Semmens, Laissez Faire Institute
Richard J. Sexton, University of California at Davis
Sol Shalit, University of Wisconsin at Milwaukee
Alan C. Shapiro, University of Southern California
Gary L. Shoesmith, Wake Forest University
William F. Shughart II, University of Mississippi
Charles David Skipton, Florida State University
Amy Smith, formerly with the Office of Management and Budget
James F. Smith, University of North Carolina at Chapel Hill
Rodney T. Smith, Stratecon, Inc.
Vernon L. Smith, George Mason University (Nobel Laureate)
Neil H. Snyder, University of Virginia
John C. Soper, John Carroll University
Frank Spreng, McKendree College
Beryl W. Sprinkel, B.W. Sprinkel Economics
Stan Spurlock, Mississippi State University
William G. Stanford, University of Illinois at Chicago
Ben Stein, actor, writer, economist
Carl H. Stem, Texas Tech University
Craig A. Stepenson, Babson College
E. Frank Stephenson, Berry College
Courtenay C. Stone, Ball State University
Robert Tamura, Clemson University
Fred Telling, Pfizer, Inc.
Rebecca Thacker, Ohio University
Clifford Thies, Shenandoah University
Leo Troy, Rutgers University
Kamal Upadhyaya, University of New Haven
Richard Vedder, Ohio University
Tony Villamil, The Washington Economics Group
Richard E. Wagner, George Mason University

William B. Walstad, University of Nebraska at Lincoln
Stephen J.K. Walters, Loyola College in Maryland
Harold Warren, East Tennessee State University
Marc Weidenmier, Claremont McKenna College
John T. Wenders, University of Idaho
Brian S. Wesbury, Griffin, Kubik, Stephens & Thompson
Walter Wessels, North Carolina State University
Robert Whaples, Wake Forest University
John Whitley, University of Adelaide
John H. Wicks, University of Montana at Missoula
Gary W. Williams, Texas A&M University
Michael E. Williams, University of Denver
Douglas Wills, University of Washington at Tacoma
Michael K. Wohlgenant, North Carolina State University
Charles Wolf, Jr., Hoover Institution, Stanford University
Gary Wolfram, Hillsdale College
Gene C. Wunder, Washburn University
Richard Yamarone, Argus Research Corp.
Andrew Yuengert, Pepperdine University
Paul J. Zak, Claremont Graduate University
M.Y. Zaki, Northern Michigan University
Asghar Zardkoohi, Texas A&M University
Kate Zhou, University of Hawaii
Benjamin Zycher, Pacific Research Institute

FROM THE OFFICE OF PUBLIC AFFAIRS

February 12, 2003
JS-29

U.S. International Reserve Position

The Treasury Department today released U.S. reserve assets data for the latest week. As indicated in this table, U.S. reserve assets totaled $78,479 million as of the end of that week, compared to $78,551 million as of the end of the prior week.

I. Official U.S. Reserve Assets *(in US millions)*						
	January 31, 2003			**February 7, 2003**		
TOTAL	**78,551**			**78,479**		
1. Foreign Currency Reserves [1]	**Euro**	**Yen**	**TOTAL**	**Euro**	**Yen**	**TOTAL**
a. Securities	7,015	13,113	20,127	7,068	13,065	20,133
Of which, issuer headquartered in the U.S.			0			0
b. Total deposits with:						
b.i. Other central banks and BIS	11,497	2,633	14,129	11,569	2,623	14,192
b.ii. Banks headquartered in the U.S.			0			0
b.ii. Of which, banks located abroad			0			0
b.iii. Banks headquartered outside the U.S.			0			0
b.iii. Of which, banks located in the U.S.			0			0
2. IMF Reserve Position [2]			21,953			21,861
3. Special Drawing Rights (SDRs) [2]			11,298			11,251
4. Gold Stock [3]			11,043			11,043
5. Other Reserve Assets			0			0

II. Predetermined Short-Term Drains on Foreign Currency Assets						
	January 31, 2003			**February 7, 2003**		
	Euro	**Yen**	**TOTAL**	**Euro**	**Yen**	**TOTAL**
1. Foreign currency loans and securities			0			0
2. Aggregate short and long positions in forwards and futures in foreign currencies vis-à-vis the U.S. dollar:						
2.a. Short positions			0			0
2.b. Long positions			0			0
3. Other			0			0

III. Contingent Short-Term Net Drains on Foreign Currency Assets						
	January 31, 2003			**February 7, 2003**		

	Euro	Yen	TOTAL	Euro	Yen	TOTAL
1. Contingent liabilities in foreign currency			0			0
1.a. Collateral guarantees on debt due within 1 year						
1.b. Other contingent liabilities						
2. Foreign currency securities with embedded options			0			0
3. Undrawn, unconditional credit lines			0			0
3.a. With other central banks						
3.b. With banks and other financial institutions						
Headquartered in the U.S.						
3.c. With banks and other financial institutions						
Headquartered outside the U.S.						
4. Aggregate short and long positions of options in foreign						
Currencies vis-à-vis the U.S. dollar			0			0
4.a. Short positions						
4.a.1. Bought puts						
4.a.2. Written calls						
4.b. Long positions						
4.b.1. Bought calls						
4.b.2. Written puts						

Notes:

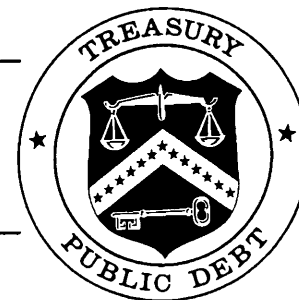
1/ Includes holdings of the Treasury's Exchange Stabilization Fund (ESF) and the Federal Reserve's System Open Market Account (SOMA), valued at current market exchange rates. Foreign currency holdings listed as securities reflect marked-to-market values, and deposits reflect carrying values. Foreign Currency Reserves for the latest week may be subject to revision. Foreign Currency Reserves for the prior week are final.

2/ The items, "2. IMF Reserve Position" and "3. Special Drawing Rights (SDRs)," are based on data provided by the IMF and are valued in dollar terms at the official SDR/dollar exchange rate for the reporting date. The entries for the latest week reflect any necessary adjustments, including revaluation, by the U.S. Treasury to the prior week's IMF data. IMF data for the latest week may be subject to revision. IMF data for the prior week are final.

3/ Gold stock is valued monthly at $42.2222 per fine troy ounce.

PUBLIC DEBT NEWS

Department of the Treasury • Bureau of the Public Debt • Washington, DC 20239



TREASURY SECURITY AUCTION RESULTS
BUREAU OF THE PUBLIC DEBT - WASHINGTON DC

FOR IMMEDIATE RELEASE
February 12, 2003

CONTACT: Office of Financing
202-691-3550

RESULTS OF TREASURY'S AUCTION OF 10-YEAR NOTES

Interest Rate:	3 7/8%	Issue Date:	February 18, 2003
Series:	A-2013	Dated Date:	February 15, 2003
CUSIP No:	912828AU4	Maturity Date:	February 15, 2013

High Yield: 3.960% Price: 99.304

All noncompetitive and successful competitive bidders were awarded securities at the high yield. Tenders at the high yield were allotted 51.28%. All tenders at lower yields were accepted in full.

Accrued interest of $ 0.32113 per $1,000 must be paid for the period from February 15, 2003 to February 18, 2003.

AMOUNTS TENDERED AND ACCEPTED (in thousands)

Tender Type	Tendered	Accepted
Competitive	$ 33,083,431	$ 17,821,753
Noncompetitive	128,291	128,291
FIMA (noncompetitive)	50,000	50,000
SUBTOTAL	33,261,722	18,000,044 1/
Federal Reserve	1,496,500	1,496,500
TOTAL	$ 34,758,222	$ 19,496,544

Median yield 3.930%: 50% of the amount of accepted competitive tenders was tendered at or below that rate. Low yield 3.894%: 5% of the amount of accepted competitive tenders was tendered at or below that rate.

Bid-to-Cover Ratio = 33,261,722 / 18,000,044 = 1.85

1/ Awards to TREASURY DIRECT = $90,681,000

http://www.publicdebt.treas.gov

JS-30

PRESS ROOM

FROM THE OFFICE OF PUBLIC AFFAIRS

February 13, 2003
JS-31

United States Treasury Secretary John W. Snow
Remarks to the Detroit Economic Club
February 13, 2003
Detroit, Michigan

Good afternoon. Thank you, Rick [Wagoner, General Motors] for that kind introduction.

This is my second week on the job, and Detroit is one of my first stops as Treasury Secretary for a reason: few places better embody the American spirit of enterprise than this town, and this state. Today, I'd like to talk about the United States economy, and I'll focus on President Bush's economic growth plan, which promises to create jobs, accelerate our economic recovery, and increase our growth in the years to come. I think it's the right medicine at the right time. And I think the plan will do a lot for the people of the state of Michigan.

As every American knows by now – whether from losing a job, from feeling the fear that comes when your job is insecure, or from knowing someone who has lost a job – our economy took a turn for the worse beginning in the summer of 2000. By the time President Bush took office, an undercurrent was running against the economy. The unprovoked and unprecedented terrorist attacks of September 11, 2001 compounded a recession that was well underway, and the discovery of serious abuses by some corporate business leaders slowed our recovery from it.

In response to this convergence of adverse events, President Bush led decisively. Acting with Congress, he took the steps necessary to protect a shaken nation and a fragile economy. In 2001, when relief was needed, he signed the most sweeping tax relief in a generation. As evidence of the damage became clearer, he acted again in March 2002 to further bolster the economy. The timing was perfect. These actions made the recession shorter and shallower than it would have been. In fact, by most measures it was the mildest since World War II.

In the face of extreme adversity, our economy, like our nation, remains resilient. Despite an economic slowdown, attacks on our homeland, war in Afghanistan, and weakened investor confidence, the economy is recovering. But as the President has stated, we can and must do better. Too many Americans are out of work today, and too many Americans feel uncertainty about tomorrow.

We must build on the proven strengths of our economy. We must continue to move towards policies that enable the private sector to invest in more good jobs that raise living standards for all. As long as there are Americans who want jobs and can't find them, the economy is not growing fast enough. That's why President Bush's jobs and growth package is so important.

Let me describe the package in a little more detail.

The President's growth plan is especially favorable to working families. The 10% tax rate bracket will expand immediately so that the lowest income earners can keep more of their pay. The marriage penalty will end once and for all, and the child credit will increase to $1,000 per child immediately – double its level in the year 2000. The President's plan will accelerate the tax cuts approved in 2001, to accelerate their economic benefits for the American people.

The President's growth plan also offers new assistance to the unemployed, extending existing unemployment benefits, and creating new personal re-employment accounts. Re-employment accounts grant unemployed workers up to $3,000 to use toward the expense of finding a new job, such as moving costs, child care, training and transportation.

The President's plan also helps businesses create the new jobs that workers are looking for. For one, the plan offers tax relief to small businesses that invest in our future. The plan will triple the amount of equipment that small businesses can deduct rather than depreciate, which adds incentive for entrepreneurs to invest now. More investment now means more jobs, and sooner.

But the key job creation provision of the President's plan is the elimination of the double taxation of dividends. Companies pay dividends to their shareholders to attract equity investment, which allows the companies to expand their businesses and create new jobs. Yet today, our tax laws discourage that investment and job creation, and needlessly penalize all those investors -- especially seniors -- by taxing dividends twice. The company pays taxes on its profits, and when it pays out those profits to shareholders as a dividend, the same earnings get taxed again as income.

Most American would agree that double taxation is unfair. It is also bad policy. The net effect of double taxation of dividends is that the American economy grows more slowly than it should, because it is more costly than it needs to be for businesses to expand and invest.

And double taxation hits seniors the hardest. Of the 17 million seniors we expect will file tax returns in 2003, 9 million – over half – have taxable dividend income. In fact, seniors receive over half of all taxable dividends. It doesn't seem right to put a higher tax burden on folks who have already contributed most of a lifetime to this country.

Under the President's plan, corporations will still be taxed on their profits, but when they pay out their profits as dividends, shareholders will not be taxed on that income a second time. We think that is fair. It is also smart. And the way we have written the plan, it will encourage companies to pay the taxes that they owe, because they can only pay tax-free dividends when pay taxes on their profits.

Under the President's proposal, 92 million taxpayers and their families would receive a tax cut in 2003. A typical family of four with two earners making a combined $39,000 will receive a total of $1,100 in tax relief compared to 2002 – not just this year, but in every year after. And the plan will create jobs. The Treasury Department estimates that by the end of next year, the Presidents growth plan will create over 1.5 million new jobs, with much of that coming from the elimination of dividend double taxation.

The President and his economic team have given this plan a lot of thought. Our goal was to do something now that would pay off for America long into the future – not here today, gone tomorrow. The package will not only help America return to its economic potential, it will increase it, creating a more abundant future with more good jobs and rising real wages. I believe that is what everyone in this room and across America seeks.

Now, I know not everyone agrees with me, and a lot of Americans still have questions about the President's plan. I spent most of my first week on the job testifying to Congress, and while I was up on the hill, I heard some reasonable questions about the President's plan. Let me take those head-on.

First, I was asked about the federal budget deficit. Yes, in the short term, the President's plan would increase the deficit – we would leave more money with the American taxpayers and take less to Washington. Deficits matter. They are never welcome. But there are times, such as these, when they are unavoidable, particularly when we must address critical national needs. Even without the President's economic growth and jobs package, improved homeland security, and

the war on terrorism, we would still have deficits today from the economic slowdown. Are these deficits welcome? No. Are they understandable? Yes.

The surpluses we enjoyed were the product of a strong economy, not a weak one. We will not return to economic strength by taxing our economy when it is struggling. The prescription for returning to balanced budgets is straightforward: hold the line on government spending and grow the economy. This is the direction the President has chosen: a course to create real jobs that last.

We should also remember that current deficits are small relative to our economy as a whole. Even at their worst, they are expected to remain considerably below the typical levels following other recessions in the last 30 years, and they are expected to improve considerably after next year, as our growth accelerates.

I've also been asked how the President's plan will help states and municipalities. Some people seem to think the best way to help ailing state budgets is to hook them up to federal life support. We think the best way is to administer the medicine that will restore their economic health. The President's plan does offer assistance to the unemployed in every state through re-employment accounts, and the President's budget increases state and local grants-in-aid. But the most important aspect of this plan is that it will create more, better-paying jobs in your state.

In Michigan alone, the President's growth package will reduce income tax bills for 3.2 million taxpayers, and over 800,000 small businesses will have tax savings to apply toward new jobs and equipment. 2.5 million married and single filers will benefit from the expanded 10-percent tax bracket. 1.3 million couples will benefit from the elimination of the marriage penalty; 900,000 parents will benefit from the increased child tax credit, and nearly 1.2 million taxpayers will gain from the end of double taxation of dividends.

I've heard people say that the President's plan is unfair. Let's be real clear about this one. I already explained that the proposal favors working families because it eliminates the marriage penalty, nearly doubles the child tax credit, and expands the 10 percent rate bracket. It also favors seniors by ending double-taxation of dividends.

Here are the facts: under the President's plan, taxpayers with income under $30,000 will get an average tax reduction of about 17 percent. Taxpayers with incomes over $100,000 will get a reduction of about 11 percent.

Under the President's plan, families with incomes under $50,000 will pay a smaller share of the total income tax burden than they do today. Families with incomes over $100,000 will pay a larger share of the total income tax burden than they pay today. Under this plan, the share of income taxes paid by families with income over $100,000 will rise to 73.3 percent.

I think that's pretty fair.

Job creation and economic growth are keys not only to our near-term but our long-term success as well. To the meet the new challenges our nation faces today, and the unexpected threats of tomorrow, we must have a strong economy.

We must seek a higher level of prosperity for America than we have known – one that puts us on a path to ever-greater growth, one which unlocks the fullest potential and talents of the American people. That means encouraging hard work, rewarding hard work, and creating the opportunities for all Americans. These are the values that brought America to its glory, and these are the values that should lead us into the future.

President Bush's Jobs and Growth Package is the right plan at the right time.

Thank you.

DEPARTMENT OF THE TREASURY

TREASURY NEWS

OFFICE OF PUBLIC AFFAIRS • 1500 PENNSYLVANIA AVENUE, N.W. • WASHINGTON, D.C. • 20220 • (202) 622-2960

EMBARGOED UNTIL 11:00 A.M.
February 13, 2003

CONTACT: Office of Financing
202/691-3550

TREASURY OFFERS 13-WEEK AND 26-WEEK BILLS

The Treasury will auction 13-week and 26-week Treasury bills totaling $33,000 million to refund an estimated $28,911 million of publicly held 13-week and 26-week Treasury bills maturing February 20, 2003, and to raise new cash of approximately $4,089 million. Also maturing is an estimated $14,000 million of publicly held 4-week Treasury bills, the disposition of which will be announced February 18, 2003.

The Federal Reserve System holds $13,006 million of the Treasury bills maturing on February 20, 2003, in the System Open Market Account (SOMA). This amount may be refunded at the highest discount rate of accepted competitive tenders either in these auctions or the 4-week Treasury bill auction to be held February 19, 2003. Amounts awarded to SOMA will be in addition to the offering amount.

Up to $1,000 million in noncompetitive bids from Foreign and International Monetary Authority (FIMA) accounts bidding through the Federal Reserve Bank of New York will be included within the offering amount of each auction. These noncompetitive bids will have a limit of $100 million per account and will be accepted in the order of smallest to largest, up to the aggregate award limit of $1,000 million.

TreasuryDirect customers have requested that we reinvest their maturing holdings of approximately $1,066 million into the 13-week bill and $650 million into the 26-week bill.

The allocation percentage applied to bids awarded at the highest discount rate will be rounded up to the next hundredth of a whole percentage point, e.g., 17.13%.

This offering of Treasury securities is governed by the terms and conditions set forth in the Uniform Offering Circular for the Sale and Issue of Marketable Book-Entry Treasury Bills, Notes, and Bonds (31 CFR Part 356, as amended).

Details about each of the new securities are given in the attached offering highlights.

oOo

Attachment

JS-32

HIGHLIGHTS OF TREASURY OFFERINGS OF BILLS
TO BE ISSUED FEBRUARY 20, 2003

February 13, 2003

Offering Amount	$17,000 million	$16,000 million
Maximum Award (35% of Offering Amount)	$ 5,950 million	$ 5,600 million
Maximum Recognized Bid at a Single Rate	$ 5,950 million	$ 5,600 million
NLP Reporting Threshold	$ 5,950 million	$ 5,600 million
NLP Exclusion Amount	$ 5,300 million	None

Description of Offering:

Term and type of security	91-day bill	182-day bill
CUSIP number	912795 MN 8	912795 NJ 6
Auction date	February 18, 2003	February 18, 2003
Issue date	February 20, 2003	February 20, 2003
Maturity date	May 22, 2003	August 21, 2003
Original issue date	November 21, 2002	February 20, 2003
Currently outstanding	$20,507 million	---
Minimum bid amount and multiples	$1,000	$1,000

The following rules apply to all securities mentioned above:

Submission of Bids:

Noncompetitive bids: Accepted in full up to $1 million at the highest discount rate of accepted competitive bids.

Foreign and International Monetary Authority (FIMA) bids: Noncompetitive bids submitted through the Federal Reserve Banks as agents for FIMA accounts. Accepted in order of size from smallest to largest with no more than $100 million awarded per account. The total noncompetitive amount awarded to Federal Reserve Banks as agents for FIMA accounts will not exceed $1,000 million. A single bid that would cause the limit to be exceeded will be partially accepted in the amount that brings the aggregate award total to the $1,000 million limit. However, if there are two or more bids of equal amounts that would cause the limit to be exceeded, each will be prorated to avoid exceeding the limit.

Competitive bids:

(1) Must be expressed as a discount rate with three decimals in increments of .005%, e.g., 7.100%, 7.105%.

(2) Net long position (NLP) for each bidder must be reported when the sum of the total bid amount, at all discount rates, and the net long position equals or exceeds the NLP reporting threshold stated above.

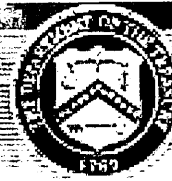
(3) Net long position must be determined as of one half-hour prior to the closing time for receipt of competitive tenders.

Receipt of Tenders:

Noncompetitive tenders..... Prior to 12:00 noon eastern standard time on auction day

Competitive tenders........ Prior to 1:00 p.m. eastern standard time on auction day

Payment Terms: By charge to a funds account at a Federal Reserve Bank on issue date, or payment of full par amount with tender. *TreasuryDirect* customers can use the Pay Direct feature, which authorizes a charge to their account of record at their financial institution on issue date.



PRESS ROOM

FROM THE OFFICE OF PUBLIC AFFAIRS

February 13, 2003
JS-33

The Road to Wellville: Economic Challenges Facing Japan
U.S. Deputy Treasury Secretary Kenneth W. Dam
Remarks to the Japan Society
New York City

It's a pleasure for me to speak before the Japan Society, an organization that has done so much to promote cooperation and understanding between our two countries.

This is a particularly appropriate venue because the Bush Administration made a deliberate decision to change the tone and approach of the US-Japan economic policy relationship. We chose to move from the confrontation and hectoring that characterized the past to a more supportive, cooperative relationship.

Now, two years into that policy, I can report to you that our political and security alliance and our economic relationship with Japan are as strong as they have ever been. Japan has been a steadfast ally of the United States, and we have worked together closely on issues of international concern.

Our cooperation to bring about Afghan reconstruction is a particularly good example. Japan hosted the first pledging meeting of the Afghan Reconstruction Steering Group. We collaborated to fund the Kabul-Kandahar-Herat road, a major transportation infrastructure project that will form a basis for a national economy.

The Bush Administration has encouraged Japan to step forward and play its rightful role as a strategic and international partner. At the same time, the Administration has recognized that Japan's ability to play that role depends substantially on its economic performance. This is one of the reasons why restoring vibrant growth in Japan is so important.

The Japanese economy has struggled throughout the last 12 years, and many observers now believe it is headed into yet another downturn. The cost in lost income and employment opportunities has been high. If the Japanese economy had managed to grow at 3% over the past 12 years instead of the 1.1% that it actually managed since 1991, Japanese output would be 25% greater than it is today.

Public finances would also be in far better shape. The Japanese fiscal deficit and burgeoning public debt are the result of falling tax revenues and over $1 trillion spent trying to stimulate the economy. Japan's fiscal difficulties carry over into international affairs. Budget pressures have led the Japanese to substantially cut their foreign aid in the last two years.

When an economy struggles, the effect spills over into the public mood, in increasing pessimism and dissatisfaction. A recent Nikkei survey found that 84% of those polled expected the economy to fail to improve or deteriorate further. Eighty-three percent felt uneasy about their current or future employment. Economic recovery consistently tops the list of the public's policy priorities. And dissatisfaction with the economy played an important role in making Mr. Koizumi Prime Minister.

Rather than trying to prop the economy up in the short term with government expenditure, the Prime Minister has concentrated on the challenges that Japan faces in restoring vibrant, sustained growth. These are:

- Resolving the problems of the banking system
- Eliminating deflation
- Carrying out fundamental economic and structural reform
- Reducing the deficit

I'd like to take these in reverse order, building up to the banking system problem.

Fiscal Consolidation

Limiting the deficit and bringing Japan's rapidly growing public debt under control is a challenge that Prime Minister Koizumi has clearly identified. Cutting fiscal deficits, particularly in a weak economy, requires hard choices. But a transparent, credible medium term plan to cut the deficit – one that increases household and investor confidence – can do much to assure that fiscal consolidation enhances growth rather than holding it back.

Economic and Structural Reform

The second challenge – economic and structural reform – is one of re-invigorating the private, domestic Japanese economy. This requires opening up new opportunities for investment and growth. It also requires reversing the drop in the productivity growth rate in Japan, which has fallen farther and faster than in any other G7 country.

All of us have been greatly impressed by the prowess of Japanese export manufacturers – in electronics, optics, automobiles, and a host of other goods. Indeed, where Japanese firms have faced foreign competition, they have often become world productivity and technology leaders.

But Japan combines industries where productivity is the highest in the world with industries that lag strikingly behind their counterparts in other countries.

In many cases these lagging industries have extensive regulation on products, technologies, and companies. Regulation has sheltered these industries from competition, not only from foreign companies, but also from domestic new entrants.

But industries that don't face competition fail to innovate. And they fall further behind. Unfortunately, many of these regulated and lagging industries – business services, medical services, communications, and financial services – are industries that offer the greatest potential for growth in today's economy.

Structural reform and deregulation that removes barriers to competition, new entry, and new product introduction is the strongest tool for pushing productivity and growth upwards. The deregulation of Japan's cellular telephone industry provides a vivid example. It is now an industry in which Japan is world-leading. Prime Minister Koizumi is absolutely right when he says "no growth without structural reform."

Overcoming Deflation

Eliminating deflation is the next challenge. Deflation raises the burden of debts, discourages investment, and leads households to postpone expenditures. Although Japanese deflation has been modest – about 1% for the consumer price index and 2% for the broader GDP deflator – deflation has been strikingly persistent. And, with wages currently falling by more than 1% per year, deflation is now endemic and firmly embedded in expectations.

Deflation is a monetary phenomenon and the monetary policy of the Bank of Japan will play a central role in overcoming deflation. In March 2001 the Bank of Japan made a commitment to expand liquidity until the consumer price index was stable or increasing year-on-year. Since the change in policy the BoJ has increased bank reserves and currency in circulation by 43 percent. Most of this increase came from a rapid start, however, and BoJ's efforts to increase the money supply have flagged recently. And Japanese prices continue to fall.

The persistence of deflation, despite BoJ's efforts, should not be discouraging. As my former University of Chicago colleague, Milton Friedman, says, monetary policy operates through many channels, often with considerable lags.

It has been some time since a major country has had to deal with deflation. But experience in Sweden and the United States during the 1930's suggests that increases in the money supply that are larger than Japan has had so far and that are sustained over time are necessary to break deflation's grip.

Sweden is a particularly good example. Like Japan, Swedish prices declined steadily without a deflationary spiral. When the Central Bank announced a commitment and took action to eliminate deflation, it increased base money by 92 percent between 1931 and 1936. It still took almost 3 years from the beginning of the monetary easing for Swedish prices to begin to rise again.

The deflation problem is also intertwined with the other challenges that Japan faces. Persistent deflation increases the burden of debts, exacerbating the bank bad debt problem.

Banking difficulties also make the task of monetary policy in overcoming deflation more difficult. Weakened banks do not increase their lending when the central bank provides more reserves, blocking a principal channel through which monetary policy works.

Sometime soon, perhaps in the coming week, Prime Minister Koizumi will appoint a new Governor of the Bank of Japan, along with two new Deputy Governors. Actions by the Bank of Japan are a critical component in meeting Japan's challenges and restoring vibrant growth. But they are not a magic bullet. Simultaneous action on all fronts will be needed if Japan is to restore vibrant growth.

Banking Sector: Dealing with Bad and Troubled Loans

I have saved the banking problem to last because it is the most complicated and persistent of the challenges that Japan faces.

The financial system – the flow of funds from savers to investors – is the lifeblood of a modern economy. A banking system that is hobbled by bad and troubled debts loses the critical ability to gauge and fund new business opportunities. This creates a tremendous obstacle to economic growth.

Many countries have had banking problems. As a result, there is now a clear basis – expensively won – for understanding the steps necessary to clean up a troubled banking system. These steps involve:

recognizing the full extent of bad and troubled loans,

- closing banks that are insolvent,

- assuring that the remaining banks accurately gauge the risks of their loan portfolios, have sufficient reserves against loss, and maintain enough capital to operate prudently, and

- ensuring that the new management of the remaining banks have the skills and the incentives to run their banks well.

Many actions are necessary to bring these results about, and Japan has made considerable progress – more than it is often given credit for. The Government's Financial Revival Program, announced on October 30 is an important step forward.

The Revival Program sets out a much more specific and detailed set of measures than previous Japanese bank reform programs. These cover how required loan provisions should be calculated, how collateral should be valued, what should count in bank capital, and what conditions should accompany the use of public funds to strengthen banks.

Implementation of those measures is, of course, key. The Financial Services Agency has already put into effect several of the measures under its jurisdiction. Full and effective implementation of the Government's October 30 program would markedly increase the incentives for Japanese banks to deal with their bad debt problems.

A crucial point, however, is that a banking crisis is not simply a bank problem. The problems of non-performing and troubled borrowers are at least as serious in their effects on the economy as a whole. And, along with cleaning up the banks, the problems of the distressed borrowers must be dealt with.

Borrowers who are not able to make payments on their loans are the owners and employers of productive assets—property, buildings, capital equipment, and workers— that are not being used efficiently.

In addition, at Japan's current low interest rates many performing borrowers are able to meet their interest payments, but little else. They can't invest, they can't expand, nor can they enter new fields of activity. And they have no realistic prospect of ever repaying their loans.

The name given to these companies – "zombie firms" – is telling. These are companies that don't live, in the sense of growing, innovating, or making money. But nor do they die. Productive assets, including much of Japan's workforce, remain frozen in place, often in excess capacity industries, worsening deflationary pressures.

Efforts to address the problems of distressed borrowers have progressed very slowly in Japan. The Resolution and Collection Corporation, or RCC, was set up to receive bad loans from failed though still operating banks. But the RCC has long seen its role as that of a collection agent, rather than a resolution mechanism. As a result, it has become a warehouse, not a halfway house.

This may be about to change. The Financial Revival Program provides clear instructions to the RCC to move beyond collection and sell loans where it has been unable to make collections.

The Japanese Government has also decided to create an Industrial Revitalization Corporation that would purchase loans to major companies that are judged to have viable businesses. Mr. Tanigaki has been named Minister for Industrial Revitalization, and there is legislation before the Diet to establish the IRC this spring.

The IRC is interesting and promising in a number of ways. First, the focus is explicitly on corporate restructuring and turnaround, not on collection. Second, the IRC will work with borrowers at an earlier stage, before they are bankrupt or in danger of bankruptcy, where there is likely to be a greater chance of success. Third, Minister Tanigaki has said that he plans to appoint experts from the private sector to run the IRC and to make up its decision-making council.

As anyone in the industry will tell you, corporate restructuring is inherently difficult.

There are many failures as well as successes. The United States, with the RTC, did not choose the restructuring approach. Instead, we chose to sell assets quickly. But other countries have opted for a restructuring approach to bad debt workout. Some of them – notably Sweden and Korea – have had success with this approach.

Experience across a number of countries suggests that the restructuring approach can be successful when the institutions in charge are:

• Well-funded, with the ability to take (and therefore recognize) losses on particular transactions

• Independent, with the ability to make hard-headed commercial judgments. This is important not just at the beginning, but throughout the restructuring process. The ability to change course midway or abandon a failed restructuring effort is crucial.

• Given a fixed termination date. A sunset provision not only assures that decisions are made quickly, it also assures that decisions are actually made.

• Transparent in their operations. In both Sweden and Korea, the public was given considerable detail about the operations of the restructuring entities, which built public support.

• Able to draw on experts from the private sector and employ the services of private firms in the restructuring process.

The Japanese government is now in the process of designing and establishing the Industrial Revitalization Corporation. I hope that they will draw on international best practice based on the lessons of restructuring entities elsewhere.

There is one additional point that I would like to make that deals with the social and political environment surrounding restructuring and with the role of foreign investors.

Dealing with distressed borrowers is a wrenching experience. Huge losses must be recognized, mostly by the taxpayer. Bankruptcies throw people out of work. Companies pass from one set of owners to another, often at a fraction of their original value. Buyers are sometimes foreign, leading to complaints that national assets are moving into foreign hands. These are highly charged issues wherever they occur.

They certainly were in United States in the late 1980's – when it was our skyscrapers and golf courses, and the buyers were often Japanese. Book titles of the period – "Selling Out...," and "Yen! Japan's New Financial Empire" – reflected and fed that fear. These fears were irrational, and in hindsight seem quaint.

Japanese concerns about foreigners benefiting from distress are similarly misplaced. It's true that the initial interest in distressed debt purchases and corporate workouts in Japan was from foreign firms – many of them American – drawing on the experience they had accumulated in other countries.

But already there are new Japanese institutions in this market – affiliates of big companies like Nomura's Jafco or much smaller firms like Akusa Capital. Seminars on corporate restructuring, such as the one given recently by PriceWaterhouse Coopers, now attract huge Japanese audiences.

Corporate restructuring is not about nationality, nor is it about instant profit. Corporate restructuring is fundamentally about freeing viable businesses from the death grip of overextended, failed companies. And it is risky.

But there are already examples of successes – Denon in electronic equipment and Victoria Sportswear in retailing. Sogo, which recently came out of court-ordered

rehabilitation, will make the largest number of new job offers of any department store this spring.

Japanese banks have recognized what many of the critics of foreign involvement overlook – the valuable skills that restructuring experts can bring to the process of loan workout. UFJ has teamed up with Merrill Lynch and Sumitomo-Mitsui will work with Goldman Sachs in corporate restructuring efforts. This is clearly a win-win situation for Japan.

Conclusion

The United States fully supports Prime Minister Koizumi's resolve to overcome these four challenges facing Japan. Returning the Japanese economy to its full growth potential is critically important to Japan in order to assure employment, income security, and fiscal sustainability.

Why is this so important to the United States? It is because we clearly recognize that a vibrant international economy requires strong performance from each of the major economies. We realize that today many countries depend on the United States as a source of growth for the world economy. But continued world economic growth needs more than a single engine. It needs the powerful engine of a vigorous Japanese economy. We can't applaud with one hand clapping.

Nor is our interest simply a matter of economics. A healthy, vibrant Japan is a Japan that is able to take is proper place on the world stage – a critical factor in the security of this region, and of the world as a whole.

PRESS ROOM

FROM THE OFFICE OF PUBLIC AFFAIRS

February 13, 2003
JS-34

MEDIA ADVISORY
Treasury Secretary John Snow to visit Philadelphia, Pennsylvania

FRIDAY, FEBRUARY 14, 2003

8:00 AM
TOUR OF THE PHILADELPHIA MINT
OPEN PRESS
The United States Mint
Philadelphia Mint Facility
151 North Independence Mall East
Philadelphia, Pennsylvania
SEPARATE ADVISORY FOR DETAILS
CONTACT Michael White
202-354-7222

10:00 AM
TAXPAYERS' COFFEE
OPEN PRESS
Marathon Grill
Widener Building
1339 Chestnut Street
Philadelphia, PA
215-561-4460

12:00 PM
SPEECH TO THE PHILADELPHIA
CHAMBER OF COMMERCE
OPEN PRESS
Union League Club
140 South Broad Street
Philadelphia, PA

CONTACT
Rob Nichols
202-622-2910

PRESS ROOM

FROM THE OFFICE OF PUBLIC AFFAIRS

February 14, 2003
JS-35

United States Treasury Secretary John W. Snow
Remarks to the Philadelphia Chamber of Commerce
February 14, 2003
Philadelphia, PA

Good afternoon. Thank you, Governor Schweiker for that kind introduction.

This is my second week on the job as Treasury Secretary, and Philadelphia is one of my first stops on the road, talking to people about the state of our economy and President Bush's economic growth plan, which promises to create jobs, accelerate our economic recovery, and increase our growth in the years to come. I think it's the right medicine at the right time, and his plan will do a lot for the people of the state of Pennsylvania.

As every American knows by now – whether from losing a job, from feeling the fear that comes when your job is insecure, or from knowing someone who has lost a job – our economy took a turn for the worse beginning in the summer of 2000. By the time President Bush took office, an undercurrent was running against the economy. The unprovoked and unprecedented terrorist attacks of September 11, 2001 compounded a recession that was well underway, and the discovery of serious abuses by some corporate business leaders slowed our recovery from it.

In response to this convergence of adverse events, President Bush led decisively. Acting with Congress, he took the steps necessary to protect a shaken nation and a fragile economy. In 2001, when relief was needed, he signed the most sweeping tax relief in a generation. As evidence of the damage became clearer, he acted again in March 2002 to further bolster the economy. The timing was perfect. These actions made the recession shorter and shallower than it would have been. In fact, by most measures it was the mildest since World War II.

In the face of extreme adversity, our economy, like our nation, remains resilient. Despite an economic slowdown, attacks on our homeland, war in Afghanistan, and weakened investor confidence, the economy is recovering. But as the President has stated, we can and must do better. Too many Americans are out of work today, and too many Americans feel uncertainty about tomorrow.

We must build on the proven strengths of our economy. We must continue to move toward policies that enable the private sector to invest in more good jobs that raise living standards for all. As long as there are Americans who want jobs and can't find them, the economy is not growing fast enough. That's why President Bush's jobs and growth package is so important.

Let me describe the package in a little more detail.

The President's growth plan is especially favorable to working families. The 10% tax rate bracket will immediately expand to help the lowest income earners keep more of their pay. The marriage penalty will end once and for all, and the child credit will increase to $1,000 per child immediately – double its level in the year 2000.

The President's plan will also accelerate the tax cuts approved in 2001, to accelerate economic benefits for the American people.

For the unemployed, the President's growth plan offers considerable assistance, extending existing unemployment benefits, and creating new personal re-employment accounts. Re-employment accounts grant unemployed workers up to $3,000 to use toward the expense of finding a new job, such as moving costs, child care, training and transportation.

The President's plan also helps businesses create the new jobs that workers are looking for. For one, the plan offers tax relief to small businesses that invest in our future. The plan will triple the amount of equipment that small businesses can deduct rather than depreciate, which adds incentive for entrepreneurs to invest now. More investment now means more jobs, and sooner.

But the key job creation provision of the President's plan is the elimination of the double taxation of dividends. Companies pay dividends to their shareholders to attract equity investment, which allows the companies to expand their businesses and create new jobs. Dividends provide investors with an incentive to invest in American companies, American products and services and in the American worker. Yet today, our tax laws discourage that investment and job creation, and needlessly penalize all those investors -- especially seniors -- by taxing dividends twice. The company pays taxes on its profits, and when it pays out those profits to shareholders as a dividend, the same earnings get taxed again as income.

Most American would agree that double taxation is unfair. It is also bad policy. The net effect of double taxation of dividends is that the American economy grows more slowly than it should, because it is more costly than it needs to be for businesses to expand and invest.

And double taxation hits seniors the hardest. Of the 17 million seniors we expect will file tax returns in 2003, 9 million – over half – have taxable dividend income. In fact, seniors receive over half of all taxable dividends. It doesn't seem right to put a higher tax burden on folks who have already contributed most of a lifetime to this country.

This double taxation is unfair, counter-productive and damaging to our economy. Double taxation makes it doubly difficult for companies to hire new workers, for hardworking taxpayers to save for their retirements, and for the economy to grow and create jobs. For every dollar a business sends to Washington in taxes, it is one less dollar used to hire a new employee, develop a new product or invest in the future. For every dollar an individual taxpayer sends to Washington in the form of a dividend tax, it's one less dollar to invest in a business or save for the future.

Under the President's plan, corporations will still be taxed on their profits, but when they pay out their profits as dividends, shareholders will not be taxed on that income a second time. We think that is fair. It is also smart. And the way we have written the plan, it will encourage companies to pay the taxes that they owe, because they can only pay tax-free dividends when they pay taxes on their profits.

Under the President's proposal, 92 million taxpayers and their families would receive a tax cut in 2003. A typical family of four with two earners making a combined $39,000 will receive a total of $1,100 in tax relief, compared to 2002 – not just this year, but in every year after. And the plan will create jobs. The Treasury Department estimates that by the end of next year, the Presidents growth plan will create over 1.5 million new jobs, with much of that coming from the elimination of dividend double taxation.

The President and his economic team have given this plan a lot of thought. Our goal was to do something now that would pay off for America long into the future – not here today, gone tomorrow. The package will not only help America return to its economic potential, it will increase it, creating a more abundant future with more good jobs and rising real wages. I believe that is what everyone in this room and across America seeks.

Now, I know not everyone agrees with me, and a lot of Americans still have questions about the President's plan. I spent most of my first week on the job

testifying to Congress, and while I was up on the hill, I heard some reasonable question about the President's plan. Let me take those head-on.

First, I was asked about the federal budget deficit. Yes, in the short term, the President's plan would increase the deficit – we would leave more money with the American taxpayers and take less to Washington. Deficits matter. They are never welcome. But there are times, such as these, when they are unavoidable, particularly when we must address critical national needs. Even without the President's economic growth and jobs package, improved homeland security, and the war on terrorism, we would still have deficits today from the economic slowdown. Are these deficits welcome? No. Are they understandable? Yes.

The surpluses we enjoyed were the product of a strong economy, not a weak one. We will not return to economic strength by taxing our economy when it is struggling. The prescription for returning to balanced budgets is straightforward: hold the line on government spending and grow the economy. This is the direction the President has chosen -- a course to create real jobs that last.

We should also remember that current deficits are small relative to our economy as a whole. Even at their worst, they are expected to remain considerably below the typical levels following other recessions in the last 30 years, and they are expected to improve considerably after next year, as our growth accelerates.

I've also been asked how the President's plan will help states and municipalities. Some people seem to think the best way to help ailing state budgets is to hook them up to federal life support. We think the best way is to create an environment that will restore their economic health. The President's plan does offer assistance to the unemployed in every state through re-employment accounts, and the President's budget increases state and local grants-in-aid. But the most important aspect of this plan is that it will create more, better-paying jobs in your state.

In Pennsylvania alone, the President's growth package will reduce income tax bills for over 4 million taxpayers, and over 1 million small businesses will have tax savings to apply toward new jobs and equipment. More than 3 million married and single filers will benefit from the expanded 10-percent tax bracket. Over 1.5 million couples will benefit from the elimination of the marriage penalty. Over 1.1 million parents will benefit from the increased child tax credit, and over 1.4 million taxpayers will gain from the end of double taxation of dividends.

I've heard people say that the President's plan is unfair. Let's be real clear about this one. I already explained that the proposal favors working families because it eliminates the marriage penalty, nearly doubles the child tax credit, and expands the 10 percent rate bracket. It also favors seniors by ending double-taxation of dividends.

Here are the facts: under the President's plan, taxpayers with income under $30,000 will get an average tax reduction of about 17 percent. Taxpayers with incomes over $100,000 will get a reduction of about 11 percent.

Under the President's plan, families with incomes under $50,000 will pay a smaller share of the total income tax burden than they do today. Families with incomes over $100,000 will pay a larger share of the total income tax burden than they pay today. Under this plan, the share of income taxes paid by families with income over $100,000 will rise to 73.3 percent.

I think that's pretty fair.

Job creation and economic growth are keys not only to our near-term but our long-term success as well. To the meet the new challenges our nation faces today, and the unexpected threats of tomorrow, we must have a strong economy.

We must seek a higher level of prosperity for America than we have known – one that puts us on a path to ever-greater growth, one which unlocks the fullest potential

and talents of the American people. That means encouraging hard work, rewarding hard work, and creating the opportunities for all Americans. These are the values that made America great, and these are the values that should lead us into the future.

President Bush's Jobs and Growth Package is the right plan at the right time.

Thank you.

PRLSS ROOM

FROM THE OFFICE OF PUBLIC AFFAIRS

February 14, 2003
JS-36

VALENTINE'S DAY FACT FROM THE TREASURY DEPARTMENT

JOBS AND ECONOMIC GROWTH FACT OF THE DAY
FEBRUARY 14, 2003

46,000,000

Number of married couples who will be able to enjoy Valentine¡¦s Day a little more knowing that they will receive an average of $1716 as a result of the President¡¦s jobs and economic growth plan.

- Under the President¡¦s plan, the standard deduction for married couples would be increased to double the amount of the standard deduction for single taxpayers in 2003. The width of the 15-percent tax bracket for married couples would be increased to twice the width for single taxpayers in 2003.

- These provisions were scheduled to phase-in over the period between 2005 and 2010 as part of the tax cuts of 2001. President Bush believes that the time to deliver this relief is now¡V when it can do the most good for married couples, businesses, and the economy.

- Under the President¡¦s plan, 46 million married couples would receive average tax cuts of $1,716 in 2003, with the total tax relief for the tax year reaching $78 billion.

- 92 million taxpayers¡Xespecially middle-income Americans¡Xwill benefit as tax reductions passed by Congress in 2001 are made effective immediately. Middle-income families will receive relief from the accelerated reduction of the marriage penalty, a faster increase in the child tax credit, and immediate implementation of the new, wider 10 percent tax bracket.

PRESS ROOM

FROM THE OFFICE OF PUBLIC AFFAIRS

February 14, 2003
JS-37

"A Fresh Perspective on U.S.-EU Economic Relations"
remarks by
Kenneth W. Dam
U.S Treasury Deputy Secretary
delivered to the
Atlantic Council
Washington, D.C.
February 13, 2003

This evening I'd like to offer a fresh perspective on U.S.-EU economic relations. If you've been reading the financial press on a regular basis, you might think the United States and the EU were fighting a transatlantic trade war.
Consider these recent headlines: "EU allowed to retaliate up to $4 billion dollars;" "Steel tariffs stir transatlantic trade unrest;" "U.S. farm bill coldly received in Europe." Fortunately, international economic relations are about more than headlines.
The facts tell a different story. In the last decade, the U.S.-EU economic relationship, when measured as trade plus investment, has swelled into the largest and most complex on earth. U.S. investors are deeply invested in Europe's growth, and vice-versa. You might not realize it, but more than 800 of Europe's best companies choose to list their shares, in the form of American Depository Receipts, on U.S. stock exchanges.
Sure, every so often, the United States and the EU experience "trade rows," - as our British friends call them but trade disputes are inevitable given the scope of our economic ties. In any event, the real action today in international trade is not in the WTO dispute settlement process, but in the new Doha Round of negotiations. There we have put on the table unprecedented proposals for the reduction of barriers in both agricultural and industrial products.

We propose to eliminate agricultural export subsidies and greatly reduce agricultural support payments as well as to eliminate all tariffs on industrial products by 2015. Any major reform of the Common Agricultural Policy naturally presents a challenge to the EU's internal processes. Our agricultural proposal is far more forward-looking and more beneficial to the developing world than anything under consideration in the EU. The same may well prove true with respect to our proposals for industrial and other non-agricultural products.
The fact is that the overall U.S.-EU economic relationship is about more than just trade. We have both devoted new resources to fighting the financial war on terrorism and collaborating with our EU counterparts on new financial and regulatory changes.
Therefore, while I am open to questions regarding U.S.-EU trade relations, I'd like to spend the next few minutes exploring some of the less publicized aspects of the U.S.-EU economic relationship. Let's start with the financial war against terrorism.

U.S.-EU Cooperation in Combating Terrorist Financing

Since September 11th, the United States and the EU have campaigned jointly to designate terrorist entities and their financial backers, and then to freeze their assets. For example, nearly every terrorist individual and entity designated by the United States also has been designated by the EU or some of its member states. Moreover, the United States and the EU have established a fluid, informal mechanism for sharing information on terrorists and their supporters. Action also was taken by the EU against the al-Aqsa Martyrs Brigade, a group that has taken responsibility for a number of suicide bombings in Israel. In December, the EU

designated an Algerian terrorist organization with operations in Italy and Western Europe, and 17 of its key operatives.
Recent terrorist finance developments at the EU member-state level also are positive. Last September, we co-chaired with Spain an important meeting of the Financial Action Task Force to discuss international standards and measures being taken in the war against terrorist financing. In August, Italy joined the United States in submitting to the UN 1267 Sanctions Committee the names of 25 individuals and entities linked to al Qaida. The Dutch Government recently froze the assets of the "New Peoples Army" and its leader Jose Sison, both known to be responsible for the killing of American citizens in the Philippines. Both France and Germany have submitted names in the past few months to the UN 1267 list.

However, there is room for improvement on both substantive and procedural issues.

First, it still takes far too long for terrorist names to be submitted and considered for designation by the EU. Although the EU has established a so-called "clearinghouse" based on unanimity to streamline the process, it remains too cumbersome. Given the threat we face, this process must be improved.

Second, the assets of "internal terrorists" are being left unblocked in a number [VGC1]of European countries. This is because under current EU treaty interpretation, the EU cannot direct member states to block the assets of individuals and entities of so-called "internal terrorists." Member countries must rely on their own domestic law to block the assets of "internal terrorists." Unfortunately, not all of the fifteen EU countries have the necessary domestic laws. Our European friends need to close this loophole.

Third, it is time the EU joined the United States in labeling Hamas and Hizballah as what they are -- terrorist organizations. Thus far, most European countries have dodged this issue, on grounds of a supposed distinction between the "charitable" or "political" wing of Hamas and Hizballah and the terrorist wing. The United States has rejected the notion that "firewalls" exist walling off the terrorist activities of Hamas and Hizballah, and we urge our European counterparts to do the same. Not only is money fungible, but no evidence has been brought forward to establish the existence of any such "firewall." Nor is their any reason to suppose that terrorists within either organization respect such niceties. We are beginning to see some progress. Recently, for example, Denmark seized the assets of the Al Aqsa [VGC2]Foundation -- a fundraiser for Hamas -- and arrested three individuals affiliated with that organization. This is movement in the right direction, but we have a long way yet to go.
Our EU counterparts know that the United States is pressing for resolution on these critical issues, which we believe will enhance the EU's ability to combat terrorist financing more effectively. We welcome the generally good cooperation of the EU in the financial war on terrorism to date. Now is the time to confront the remaining issues.
U.S.-EU Financial and Regulatory Cooperation
As in the financial war on terrorism, the United States and the European Union have been actively working together over the past year on financial and regulatory changes that have transatlantic consequences. A good example is Europe's plan to introduce a single financial market in 2005.
Ever since the idea took shape, the United States has been very supportive of the EU's Financial Services Action Plan for a single financial market. If properly implemented, we believe the Plan will stimulate economic growth in Europe, facilitate international capital flows, and provide advantageous opportunities to borrowers and savers.
Our most general concern is in seeing that the process of European capital market integration is well-managed and that the process of formulating new legislation and rules is transparent and fair to all market participants. We have made our EU counterparts aware of concerns where newly proposed EU financial directives could adversely impact non-EU companies operating in EU-regulated markets. For example, we have voiced concerns that new EU directives under consideration governing the prospectuses, capital adequacy, investment services and financial conglomerates could discriminate against U.S. firms in unintended ways.
Take one such directive -- the Financial Conglomerates Directive. Under the directive, U.S.-based investment banks operating in Europe would be subject to supervision at the holding company level. In the United States, however,

investment banks are supervised by the SEC at the broker-dealer level – not at the holding company level. Therefore, absent a finding of "equivalent" oversight by EU authorities, U.S.-based investment banks operating in Europe no doubt would face higher compliance and operating costs. Officials in Brussels have been supportive of our efforts to resolve this problem, and we are continuing to work with officials from the U.K.'s Financial Services Authority to try to address specific concerns they have raised.

In order to manage these and other cases of regulatory "spillover" that crop up on both sides of the Atlantic, and more generally to have a two-way dialogue on key financial market issues of import to both sides, Treasury created an informal U.S.-EU Financial Markets Dialogue in early 2002.. European issues of concern include the Sarbanes-Oxley Act and the draft rules that the SEC has been promulgating to implement sections of that Act. In addition, a request by the Frankfurt Stock Exchange is now pending before the SEC to allow the former to place its trading screens in the United States.

Treasury and the European Commission chair the dialogue and are accompanied by financial regulators on both sides. A number of informal dialogue meetings have been held in Brussels and Washington to date. Later this month, Commissioner Bolkestein, who oversees the Internal Market Directorate, will visit Washington. He has asked to meet with Secretary Snow at that time for further discussions on these financial market issues.

While conflicts are inevitable given our varied experiences and attitudes toward financial regulation and oversight, the Financial Markets Dialogue has been a successful forum for openly airing concerns on both sides. Both sides share the same objectives: sound financial markets regulation and efficient capital markets that generate real benefits to firms and investors on both sides of the Atlantic. I have been impressed by the depth and professionalism of the talks thus far.

The Financial Markets Dialogue has also begun dealing with the issue of accounting. Here, the general level of cooperation is high, and for the moment convergence between our respective standards of accounting seems a mid-range possibility.

In June 2002, the EU called upon all 15 member states to move from national accounting standards to International Accounting Standards (IAS) by 2005. This means that all 7,000 firms listed in the EU will soon be adopting the same accounting standards. Only a month later, President Bush signed the Sarbanes-Oxley Act, which introduces stricter government oversight of the audit process for public companies, in accordance with Generally Accepted Accounting Principles (GAAP). Though we share common goals on better corporate disclosure, both actions – as you might imagine – raised eyebrows on the opposite side of the Atlantic, as corporations feared that the costs of reconciliation between the two standards – IAS and GAPP – as well as compliance would increase significantly. Fortunately, how these more muscular regulatory schemes will be implemented and enforced is being discussed openly by U.S. and EU regulatory officials, with market participants' input. This needs to continue. The SEC has indicated a willingness to consider accepting IAS for firms listed on U.S. exchanges without reconciliation to U.S. GAAP, provided there is consistent interpretation and enforcement at the EU level across all member countries. Convergence needs to be about not just reducing differences in treatment, but also about optimizing the respective advantages of each approach to ensure the best reporting and to give specific guidance on particular kinds of transactions.

I also understand that the Financial Accounting Standards Board (FASB), which sets accounting standards in the United States, has added convergence to its formal work agenda. This is a positive development, as is the FASB's and IAS' recent "Norwalk Agreement." This agreement acknowledges a commitment to the development of high-quality compatible accounting standards that could be used for both domestic and cross-border financial reporting. After all, capital markets are rapidly becoming a worldwide feature and regulations need to keep pace.

EU Enlargement

My discussion of U.S.-EU economic relations would not be complete without a brief word on the EU's continued enlargement. This enlargement highlights both the opportunities and challenges in the relationship.

The prospect of EU membership has been a key factor in motivating economic and political reform in the countries of Central Europe and the Baltics, enabling them to make rapid progress from centrally planned to market economies. Over the past twelve years, these countries have shown a consistent and sustained commitment

to reform. This includes actions to create attractive and competitive investment climates. These actions include selling off state-owned enterprises, simplifying regulatory procedures, creating predictable tax regimes, establishing secure property rights, promoting good governance, and providing basic infrastructure.

These reforms have not been without costs: Privatizing state enterprises, for example, has often led to massive layoffs. Some governments have been forced to cut generous but unsustainable benefit programs. The "carrot" of joining the EU has facilitated the implementation of difficult policies, enabling these countries to avoid the pitfalls of reform limbo that have afflicted other transition economies. As a result, most of these economies are enjoying the benefits of reform in terms of prolonged macroeconomic stability and robust, private-sector led growth.

Despite the natural economic linkages created by close proximity with Western Europe, U.S. investors have benefited significantly from the opportunities offered in the EU accession countries. U.S. investment in Hungary, for example, accounted for 29 percent of all Hungarian FDI between 1989 and 2002. (To see how significant this figure is, consider that next-door Germany came in second to the United States. The United States also has 130 firms operating in Poland, second only to the Germans. In total, the U.S. firms have invested over $7.5 billion in Poland since 1993.

The United States stands to gain further from opportunities that are arising because of the accession process. The Central European accession countries are harmonizing with EU standards on a broad range of issues, from the environment to financial services. The upgrades and reforms that are being undertaken will provide additional opportunities for U.S. investors, as U.S. firms can assist in technological upgrading, investment in manufacturing equipment, and financial sector servicing.

In addition to these specific opportunities, development of a larger internal market will offer a bigger consumer base and greater economies of scale, which can only promote trade and investment. Administrative simplification at the borders through an extension of the internal market will also facilitate trade and investment.

To ensure that U.S. businesses can fully capitalize on new opportunities, it is important that they are not disadvantaged by EU integration. No doubt we will hear more about this issue in the future.

We are particularly concerned, that the vast potential that this new market will offer could be undermined by the structural rigidities that have already dampened growth in the EU, especially labor market rigidities. Some EU accession countries – especially those in the Baltics – are actually surpassing current EU member states in development of open, flexible market economies. We fear they will be required to impose regulations that will reduce competition and could obstruct growth in order to comply with EU standards. The EU needs to hasten implementation of reforms that support deregulation and labor market flexibility if its current and future members are to benefit fully from the opportunities of integration.

Conclusion

The U.S.-EU economic relationship continues to evolve. It is characterized by deep cooperation on common public goals and complex integration of private pursuits. While important challenges remain, I expect the relationship to be a source of strength, stability, and opportunity in the years to come.

PRESS ROOM

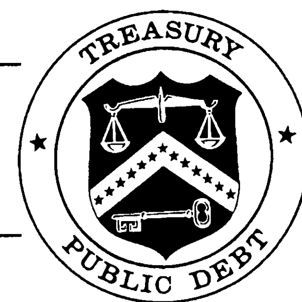
FROM THE OFFICE OF PUBLIC AFFAIRS

February 14, 2003
JS-38

Air Transportation Stabilization Board Issues Federal Guarantee On Behalf of Frontier Airlines, Inc.

The Air Transportation Stabilization Board today announced that Frontier Airlines, Inc. has closed on a $70 million loan. The loan is backed by a $63 million federal guarantee issued under the Air Transportation Safety and System Stabilization Act and implementing regulations promulgated by the Office of Management and Budget.

PUBLIC DEBT NEWS



Department of the Treasury • Bureau of the Public Debt • Washington, DC 20239

TREASURY SECURITY AUCTION RESULTS
BUREAU OF THE PUBLIC DEBT - WASHINGTON DC

FOR IMMEDIATE RELEASE
February 18, 2003

CONTACT: Office of Financing
202-691-3550

RESULTS OF TREASURY'S AUCTION OF 13-WEEK BILLS

Term:	91-Day Bill
Issue Date:	February 20, 2003
Maturity Date:	May 22, 2003
CUSIP Number:	912795MN8

High Rate: 1.160%   Investment Rate 1/: 1.179%   Price: 99.707

All noncompetitive and successful competitive bidders were awarded securities at the high rate. Tenders at the high discount rate were allotted 3.07%. All tenders at lower rates were accepted in full.

AMOUNTS TENDERED AND ACCEPTED (in thousands)

Tender Type	Tendered	Accepted
Competitive	$ 34,058,283	$ 15,399,436
Noncompetitive	1,450,715	1,450,715
FIMA (noncompetitive)	150,000	150,000
SUBTOTAL	35,658,998	17,000,151 2/
Federal Reserve	5,828,786	5,828,786
TOTAL	$ 41,487,784	$ 22,828,937

Median rate 1.150%: 50% of the amount of accepted competitive tenders was tendered at or below that rate. Low rate 1.125%: 5% of the amount of accepted competitive tenders was tendered at or below that rate.

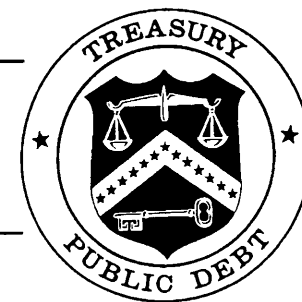
Bid-to-Cover Ratio = 35,658,998 / 17,000,151 = 2.10

1/ Equivalent coupon-issue yield.
2/ Awards to TREASURY DIRECT = $1,166,909,000

JS-39

PUBLIC DEBT NEWS

Department of the Treasury • Bureau of the Public Debt • Washington, DC 20239



TREASURY SECURITY AUCTION RESULTS
BUREAU OF THE PUBLIC DEBT - WASHINGTON DC

FOR IMMEDIATE RELEASE
February 18, 2003

CONTACT: Office of Financing
202-691-3550

RESULTS OF TREASURY'S AUCTION OF 26-WEEK BILLS

Term:	182-Day Bill
Issue Date:	February 20, 2003
Maturity Date:	August 21, 2003
CUSIP Number:	912795NJ6

High Rate: 1.180% Investment Rate 1/: 1.204% Price: 99.403

All noncompetitive and successful competitive bidders were awarded securities at the high rate. Tenders at the high discount rate were allotted 5.36%. All tenders at lower rates were accepted in full.

AMOUNTS TENDERED AND ACCEPTED (in thousands)

Tender Type	Tendered	Accepted
Competitive	$ 33,373,833	$ 14,982,713
Noncompetitive	967,690	967,690
FIMA (noncompetitive)	50,000	50,000
SUBTOTAL	34,391,523	16,000,403 2/
Federal Reserve	5,666,910	5,666,910
TOTAL	$ 40,058,433	$ 21,667,313

Median rate 1.170%: 50% of the amount of accepted competitive tenders was tendered at or below that rate. Low rate 1.150%: 5% of the amount of accepted competitive tenders was tendered at or below that rate.

Bid-to-Cover Ratio = 34,391,523 / 16,000,403 = 2.15

1/ Equivalent coupon-issue yield.
2/ Awards to TREASURY DIRECT = $708,960,000

JS-40

DEPARTMENT OF THE TREASURY

TREASURY NEWS

OFFICE OF PUBLIC AFFAIRS • 1500 PENNSYLVANIA AVENUE, N.W. • WASHINGTON, D.C. • 20220 • (202) 622-2960

EMBARGOED UNTIL 11:00 A.M.
February 18, 2003

Contact: Office of Financing
202/691-3550

TREASURY OFFERS 4-WEEK BILLS

The Treasury will auction 4-week Treasury bills totaling $20,000 million to refund an estimated $14,000 million of publicly held 4-week Treasury bills maturing February 20, 2003, and to raise new cash of approximately $6,000 million.

Tenders for 4-week Treasury bills to be held on the book-entry records of *TreasuryDirect* will not be accepted.

The Federal Reserve System holds $13,006 million of the Treasury bills maturing on February 20, 2003, in the System Open Market Account (SOMA). This amount may be refunded at the highest discount rate of accepted competitive tenders in this auction up to the balance of the amount not awarded in today's 13-week and 26-week Treasury bill auctions. Amounts awarded to SOMA will be in addition to the offering amount.

Up to $1,000 million in noncompetitive bids from Foreign and International Monetary Authority (FIMA) accounts bidding through the Federal Reserve Bank of New York will be included within the offering amount of the auction. These noncompetitive bids will have a limit of $100 million per account and will be accepted in the order of smallest to largest, up to the aggregate award limit of $1,000 million.

The allocation percentage applied to bids awarded at the highest discount rate will be rounded up to the next hundredth of a whole percentage point, e.g., 17.13%.

This offering of Treasury securities is governed by the terms and conditions set forth in the Uniform Offering Circular for the Sale and Issue of Marketable Book-Entry Treasury Bills, Notes, and Bonds (31 CFR Part 356, as amended).

Details about the new security are given in the attached offering highlights.

oOo

Attachment

JS-41

HIGHLIGHTS OF TREASURY OFFERING
OF 4-WEEK BILLS TO BE ISSUED FEBRUARY 20, 2003

February 18, 2003

Offering Amount.........................$20,000 million
Maximum Award (35% of Offering Amount)...$ 7,000 million
Maximum Recognized Bid at a Single Rate..$ 7,000 million
NLP Reporting Threshold.................$ 7,000 million
NLP Exclusion Amount....................$ 9,400 million

Description of Offering:
Term and type of security...........28-day bill
CUSIP number........................912795 MD 0
Auction date........................February 19, 2003
Issue date..........................February 20, 2003
Maturity date.......................March 20, 2003
Original issue date.................September 19, 2002
Currently outstanding...............$36,982 million
Minimum bid amount and multiples....$1,000

Submission of Bids:
Noncompetitive bids: Accepted in full up to $1 million at the highest discount rate of accepted competitive bids.
Foreign and International Monetary Authority (FIMA) bids: Noncompetitive bids submitted through the Federal Reserve Banks as agents for FIMA accounts. Accepted in order of size from smallest to largest with no more than $100 million awarded per account. The total noncompetitive amount awarded to Federal Reserve Banks as agents for FIMA accounts will not exceed $1,000 million. A single bid that would cause the limit to be exceeded will be partially accepted in the amount that brings the aggregate award total to the $1,000 million limit. However, if there are two or more bids of equal amounts that would cause the limit to be exceeded, each will be prorated to avoid exceeding the limit.
Competitive bids:
(1) Must be expressed as a discount rate with three decimals in increments of .005%, e.g., 4.215%.
(2) Net long position (NLP) for each bidder must be reported when the sum of the total bid amount, at all discount rates, and the net long position equals or exceeds the NLP reporting threshold stated above.
(3) Net long position must be determined as of one half-hour prior to the closing time for receipt of competitive tenders.

Receipt of Tenders:
Noncompetitive tenders:
Prior to 12:00 noon eastern standard time on auction day
Competitive tenders:
Prior to 1:00 p.m. eastern standard time on auction day

Payment Terms: By charge to a funds account at a Federal Reserve Bank on issue date.

PRESS ROOM

FROM THE OFFICE OF PUBLIC AFFAIRS

To view or print the PDF content on this page, download the free Adobe® Acrobat® Reader®.

February 19, 2003
JS-43

Treasury Department Issues Additional USA PATRIOT Act Regulations

The Department of the Treasury and the Financial Crimes Enforcement Network (FinCEN) today issued a proposed rule and two advance notices of proposed rulemaking concerning a requirement that additional categories of financial institutions establish an anti-money laundering program.

These regulations form part of Treasury's work to implement section 352 of the USA PATRIOT Act, a provision that requires all financial institutions to establish anti-money laundering programs. Treasury wishes to specifically commend those within these industries for helping Treasury and FinCEN to understand various aspects of these industries.

In a proposed rule, Treasury and FinCEN propose to require certain dealers in precious metals, precious stones, and jewels to establish an anti-money laundering program designed to detect and prevent money laundering and the financing of terrorism. The proposed rule covers a broad range of industry segments including those trading in precious metals, including refiners; those trading in loose gemstones; large and small scale manufacturers of jewelry; and retail stores that function as a dealer in such items.

The proposed rule is limited, however, to dealers—those businesses that both buy and sell the items—thereby excluding pure retail outlets. Additionally, the rule proposes to exclude businesses that purchase or sell less than $50,000 worth of the material each year. Written comments on the proposed rule may be submitted within 60 days of its publication in the Federal Register, which is expected to occur later this week.

In addition, Treasury and FinCEN issued two advance notices of proposed rulemaking seeking public comment on imposing an anti-money laundering program requirement on vehicle sellers and travel agents. Section 352 requires Treasury to issue regulations requiring financial institutions to establish an anti-money laundering program that is commensurate with the financial institutions' size, location and activities.

After researching these two industry sectors, Treasury and FinCEN determined that additional public comment on various aspects, including the money laundering risks that could be addressed through additional regulation, is necessary. An advance notice of proposed rulemaking provides Treasury and FinCEN with an opportunity to discuss the various risks and regulatory issues while soliciting public comment prior to issuing a formal proposed rule.

The notices highlight important issues under consideration. For example, because the category of vehicle sellers is quite inclusive, comments on the scope of the definition, the money laundering risks associated with the various types of vehicles and distribution mechanisms, and the structure of an appropriate anti-money laundering program are sought.

With respect to travel agents, comments are specifically sought on whether

minimum business thresholds are necessary as well as the money laundering risks that may be posed by these businesses. Both vehicle sellers and travel agents, like most other businesses, are already under the existing regulatory obligation to report the receipt of cash or monetary instruments in excess of $10,000.

Written comments on the advance notices of proposed rules may be submitted within 45 days of its publication in the Federal Register, which is expected to occur later this week.

Related Documents:

- "Proposed Rule"
- "Advance Notice of Prospoased Rule"
- "Advance Notice of Prospoased Rule"

Js 43

(BILLING CODE: 4810-02-P)

DEPARTMENT OF THE TREASURY

31 CFR Part 103

RIN 1506-AA28

Financial Crimes Enforcement Network; Anti-Money Laundering Programs for Dealers in Precious Metals, Stones, or Jewels

AGENCY: Financial Crimes Enforcement Network ("FinCEN"), Treasury.

ACTION: Notice of proposed rulemaking.

SUMMARY: FinCEN is issuing this proposed rule to prescribe minimum standards applicable to dealers in precious metals, stones, or jewels pursuant to the provisions in the USA PATRIOT Act of 2001 that require financial institutions to establish anti-money laundering programs.

DATES: Written comments may be submitted on or before [INSERT DATE THAT IS 60 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER].

ADDRESSES: Commenters are encouraged to submit comments by electronic mail because paper mail in the Washington, D.C., area may be delayed. Comments submitted by electronic mail may be sent to regcomments@fincen.treas.gov with the caption in the body of the text, "ATTN: Section 352 – Jewelry Dealer Regulations." Comments also may be submitted by paper mail to FinCEN, P.O. Box 39, Vienna, VA 22183-0039, "ATTN: Section 352 – Jewelry Dealer Regulations." Comments should be sent by one method only. Comments may be inspected at FinCEN between 10 a.m. and 4 p.m., in the FinCEN Reading Room in Washington, D.C. Persons wishing to inspect the comments submitted must request an appointment by telephoning (202) 354-6400 (not a toll-free number).

FOR FURTHER INFORMATION CONTACT: Office of Chief Counsel, FinCEN, (703) 905-3590; the Office of the General Counsel, (202) 622-1927; or the Office of the Assistant General Counsel (Banking and Finance), (202) 622-0480 (not toll-free numbers).

SUPPLEMENTARY INFORMATION:

I. Background

On October 26, 2001, the President signed into law the Uniting and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism (USA PATRIOT Act) of 2001 (Public Law 107-56) (the "Act"). Title III of the Act makes a number of amendments to the anti-money laundering provisions of the Bank Secrecy Act ("BSA"), which are codified in subchapter II of chapter 53 of title 31, United States Code.[1] These amendments are intended to promote the prevention, detection, and prosecution of international money laundering and the financing of terrorism.

Section 352(a) of the Act, which became effective on April 24, 2002, amended section 5318(h) of the BSA. As amended, section 5318(h)(1) requires every financial institution to establish an anti-money laundering program that includes, at a minimum: (i) the development of internal policies, procedures, and controls; (ii) the designation of a compliance officer; (iii) an ongoing employee training program; and (iv) an independent audit function to test programs. Section 352(c) of the Act directs the Secretary of the Treasury ("Secretary") to prescribe regulations for anti-money laundering programs that are "commensurate with the size, location, and activities" of the financial institutions to which such regulations apply.

[1] Regulations implementing the BSA appear at 31 CFR Part 103. The authority of the Secretary the Treasury to administer the BSA and its implementing regulations has been delegated to the Director of

Although a dealer "in precious metals, stones, or jewels" ("dealer") is defined as a financial institution under the BSA, 31 U.S.C. 5312(a)(2)(N), FinCEN has not previously defined the term or issued regulations regarding dealers. On April 29, 2002, FinCEN deferred the anti-money laundering program requirement contained in 31 U.S.C. 5318(h) that would have applied to the industry. The purpose of the deferral was to provide FinCEN with time to study the industry and to consider how anti-money laundering controls could best be applied to the industry.[2] This rule defines the term dealer and provides guidance, tailored to the industry, to such entities in complying with section 352.

The industry of dealers encompasses various segments, including: (1) those who trade in precious metals, including large scale metal suppliers and large and small scale refiners; (2) those who trade loose gemstones; (3) large and small scale manufacturers of jewelry; and (4) retail stores, including independent and chain stores of varying sizes, selling jewelry products to, and buying jewelry products from, the consuming public. The size of businesses in each segment of the industry varies substantially from a single artisan goldsmith to publicly traded commercial manufacturers employing hundreds of people and producing millions of finished pieces every year. The sources of supply vary as well, from large scale producers of fabricated precious metals materials to small dealers selling unique and rare gemstones on an individualized basis. Further, there is an active secondary market for jewelry, loose gemstones, and precious metals, with small firms selling used or antique pieces for scrap value or as unique works of art.

FinCEN.

[2] See 31 CFR 103.170, as codified by interim final rule published at 67 FR 21110 (April 29, 2002), as amended at 67 FR 67547 (November 6, 2002) and corrected at 67 FR 68935 (November 14, 2002).

Because dealers are not generally regulated as financial institutions, the industry traditionally has been subject to limited federal financial regulation. Federal laws governing this industry, such as the National Gold and Silver Stamping Act (15 U.S.C. 291-300) and the Lanham Act (15 U.S.C. 1117, 1125), are generally intended to protect consumers against misleading descriptions of the fineness of precious metals or the identity and quality of precious stones and jewels. Similarly, state regulation of the industry is focused on consumer protection.

II. The Anti-Money Laundering Program

The Congressional mandate that all financial institutions establish an anti-money laundering program is a key element in the national effort to prevent and detect money laundering and the financing of terrorism. The mandate recognizes that financial institutions other than depository institutions (which have long been subject to BSA requirements) are vulnerable to money laundering. The legislative history of the Act explains that the anti-money laundering program is not a one-size-fits-all requirement. The general nature of the requirement reflects Congress' intent that each financial institution have the flexibility to tailor its program to fit its business, taking into account factors such as size, location, activities, and risks or vulnerabilities to money laundering. This flexibility is designed to ensure that all firms subject to the anti-money laundering program requirement, from the largest to the smallest firms, have in place policies and procedures appropriate to monitor for anti-money laundering compliance.[3]

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[3] See USA PATRIOT Act of 2001: Consideration of H.R. 3162 Before the Senate (October 25, 2001) (statement of Sen. Sarbanes); Financial Anti-Terrorism act of 2001: Consideration Under Suspension of Rules of H.R. 3004 Before the House of Representatives (October 17, 2001) (statement of Rep. Kelly) (provisions of the Financial Anti-Terrorism Act of 2001 were incorporated as Title III in the Act).

Although dealers do not perform the same functions as banking institutions, the industry presents identifiable money laundering risks. Precious metals, precious stones, and jewels constitute easily transportable, highly concentrated forms of wealth. They serve as international mediums of exchange that can be converted into cash anywhere in the world. In addition, precious metals, especially gold, silver, and platinum, have a ready, actively traded market, and can be melted and poured into various forms, thereby obliterating refinery marks and leaving them virtually untraceable. For these reasons, precious metals, precious stones, and jewels can be highly attractive to money launderers and other criminals, including those involved in the financing of terrorism.

In addition, significant incentives currently exist for dealers to minimize financial losses caused by fraud in connection with the valuable products in which they deal. By their very nature, precious metals, precious stones, and jewels are extremely valuable by weight and volume, and fraud perpetrators attempt to incorrectly identify the mass, quality, or fineness of these products. Theft of such items, through the use of counterfeit checks, forged signatures, or other means, is likewise a risk. As such, this industry has long been aware that rigorous anti-fraud measures are a necessity in order to remain economically viable. This proposed rule seeks to take advantage of those existing practices by focusing the due diligence conducted by dealers to include the potential for money laundering or terrorist financing.

A. Definitions

Section 103.140(a) defines the key terms used in the proposed rule. Paragraph 103.140(a)(1)(i) defines "dealer" as any person who is "engaged in the business of purchasing and selling jewels, precious metals, or precious stones, or jewelry composed of

jewels, precious metals, or precious stones." The proposed definition of dealer reflects Treasury's determination that all segments of the industry are vulnerable to money laundering and terrorist financing. Thus, the anti-money laundering requirement contained in the proposed rule covers entities including manufacturers, refiners, wholesalers, retailers, and any other entity engaged in the business of purchasing and selling jewels, precious metals, precious stones, or jewelry.

The proposed definition contains an explicit minimum dollar threshold, to carve out small businesses that may, on a part-time basis, deal in precious metals, stones, jewels, or jewelry. Thus, paragraphs (a)(1)(i)(A) and (B) provide that a person is a "dealer" only if, during the prior calendar or tax year, the person (1) purchased more than $50,000 in jewels, precious metals, precious stones, or jewelry, or (2) received more than $50,000 in gross proceeds from the sale of jewels, precious metals, precious stones, or jewelry. Thus, an amateur silversmith, who sells a portion of his production to finance his hobby, would not be subject to this rule if he were to remain below the proposed threshold. FinCEN specifically solicits comment on the amount of the proposed threshold, and whether an alternative threshold should be employed, such as specific physical quantities of precious metals, stones, or jewels, or other types of thresholds.

In addition to the minimum dollar threshold, the definition of "dealer" contains two exceptions, found in proposed paragraph (a)(1)(ii). The first exception provides that a retailer[4] is a dealer only if it purchased more than $50,000 in jewels, precious metals, precious stones, or jewelry from persons other than dealers during the prior calendar or tax year. Thus, a retailer that purchases jewels, precious metals, precious stones, or jewelry

[4] The NPRM defines a retailer as a person engaged in the business of selling to the public jewels, precious metals, or precious stones or jewelry composed of jewels, precious metals, or precious stones.

from a dealer (for example, from a wholesaler), would not fall within the definition of "dealer," even if its gross sales of jewels, precious metals, stones, and jewelry exceeded $50,000 in the prior calendar or tax year. However, a retailer that, in the prior calendar or tax year, purchased more than $50,000 in jewels, precious metals, precious stones, or jewelry from sources other than a dealer (for example, from the general public), would be a dealer for purposes of the rule. The rationale for this limited exception is that, in order to abuse this industry, a money launderer must be able to sell as well as purchase the goods. Therefore, there is substantially less risk that a retailer who purchases goods exclusively or almost exclusively from dealers subject to the proposed rule will be abused by money launderers.

The second exception, contained in proposed paragraph (a)(1)(ii)(B), carves out from the definition of "dealer" a person buying or selling value-added fabricated goods containing minor amounts of precious metals or gemstones. Precious metals, stones, and jewels often have minor uses in equipment for which they act as a very small component, for example, in computers or drills with industrial diamond cutting tools, or as reflective coating on windows. Similarly, sapphire bearings may be used in highly precise electronic equipment, because of the toughness exhibited by corundum. Although the amount of precious metals, stones, and jewels contained in each industrial product may be minimal, the high volume production or sale of such products could result in a high volume of sale of precious metals, stones, or jewels. FinCEN has determined that the anti-money laundering program requirement should be imposed on those sectors of the industry that pose the most significant risk of money laundering and terrorist financing, and for this reason, persons

who buy and sell value-added fabricated goods containing minor amounts of precious metals or gemstones are excluded from the proposed definition of "dealer."

The term "jewel" is defined in paragraph (a)(2) to include organic substances that have a market-recognized gem level of quality, beauty, and rarity. Certain substances, such as coral, are available in two forms that are not generally transmutable, one that is of gem quality, and another that is of non-gem quality. As proposed, the definition of "jewel" would not include substances that are of non-gem quality.

Paragraph (a)(3) contains a definition of the term "precious metal," which is defined to include gold, silver, and the platinum group of metals, when it is at a level of purity of 0.500 (50 percent) or greater, singly or in any combination. For example, an alloy of 25 percent gold and 30 percent platinum would be a precious metal under the proposed rule. Similarly, this definition excludes the products of a mining firm or refinery that does not deal in precious metals refined to that purity level, but would include 12 karat gold jewelry. The 50 percent threshold is intended to exclude materials that have incidental levels of precious metals, such as polymer resin castings that have been electroplated with gold, or antique mirrors with a thin silver foil on the back. Similarly, operations that process lead ore that may contain smaller amounts of silver or gold would also be excluded. As a result, the focus of the definition is on materials that are predominantly precious metal.

The term "precious stone" is defined in paragraph (a)(4) to include inorganic substances that have a market-recognized gem level of quality, beauty, and rarity. Certain substances, such as diamonds, are available in two forms that are not generally transmutable, one that is of gem quality, and another that is of industrial (or non-gem)

quality. For example, diamonds are available in both industrial grades and gem quality grades. However, industrial grade diamonds cannot generally be transformed into gem quality diamonds. Similarly, a flame fusion synthetic corundum may be chemically identical to a gem quality ruby, yet not be a "precious stone." Therefore, precious stones of industrial quality have been carved out of the definition of precious stones.

B. Anti-Money Laundering Program Requirements

Section 103.140(b) requires that each dealer develop and implement an anti-money laundering program reasonably designed to prevent the dealer from being used to facilitate money laundering or the financing of terrorist activities. The program must be in writing and should set forth clearly the details of the program, including the responsibilities of the individuals and departments involved. To ensure that this requirement receives the highest level of attention throughout the company, the proposed rule requires that each dealer's program be approved in writing by its senior management.[5] A dealer must make its anti-money laundering program available to Treasury or its designee upon request. While it is permissible for a dealer to delegate certain functions relating to its anti-money laundering program to a third party, the dealer remains responsible for ensuring compliance with these requirements.

Section 103.140(c) sets forth the minimum requirements of a dealer's money laundering program. Section 103.140(c)(1) requires the anti-money laundering program to incorporate policies, procedures, and internal controls based upon the dealer's assessment of the money laundering and terrorist financing risks associated with its line(s) of business. Policies, procedures, and internal controls must also be reasonably designed to

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[5] This may be the sole proprietor in the case of a sole proprietorship, the board of directors, or a committee authorized for this purpose in the case of a corporation, or partners representing a majority interest in a

ensure compliance with BSA requirements. The only BSA regulatory requirement currently applicable to a dealer is the obligation to report on Form 8300 the receipt of cash or certain non-cash instruments totaling more than $10,000 in one transaction or two or more related transactions.[6] To assure reasonable compliance, the program should be reasonably designed to detect and report not only transactions required to be reported on Form 8300, but also activity designed to evade this reporting requirement. Such activity, commonly known as "structuring," may involve payments of more than $10,000 with multiple money orders, travelers' checks, or cashiers' checks or other bank checks, each with a face amount of less than $10,000. Such methods of payment may be indicative of money laundering, particularly when the payment instruments were obtained from different sources or the payments were made at different times on the same day or were made on consecutive days or close in time. Should dealers become subject to additional requirements, their compliance programs would have to be updated to include appropriate policies, procedures, training, and testing functions relating to such requirements.

Section 103.140(c)(1)(i) provides that, for purposes of making the risk assessment required under section 103.140(c)(1), a dealer must consider all relevant factors, including those listed in the rule. First, the dealer must assess the money laundering and terrorist financing risks associated with its products, customers, suppliers, distribution channels, and geographic locations. In addition, a dealer must take into consideration the extent to which the dealer engages in transactions other than with established customers or sources of supply. Finally, a dealer must analyze the extent to which it engages in transactions for which payment or account reconciliation is routed to or from accounts

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general partnership.

[6] See 31 CFR 103.30.

located in jurisdictions that have been identified as vulnerable to terrorism or money laundering.[7] The proposed rule is intended to give a dealer the flexibility to design its program to meet the specific money laundering and terrorist financing risks presented by the dealer's business, based on the dealer's assessment of such risks.

Section 103.140(c)(1)(ii) provides that a dealer's policies, procedures, and internal controls must be reasonably designed to detect transactions that may involve use of the dealer to facilitate money laundering or terrorist financing. In addition, a dealer's program must incorporate procedures for making reasonable inquiries to determine whether a transaction involves money laundering or terrorist financing. A dealer that identifies indicators that a transaction may involve money laundering or terrorist financing should take reasonable steps to determine whether its suspicions are justified and respond accordingly, including refusing to enter into, or complete, a transaction that appears designed to further illegal activity.[8] The proposed rule provides flexibility to dealers in developing procedures for making reasonable inquiries under paragraph (c)(1)(ii). For example, a dealer may appropriately determine that reasonable inquiry with respect to a transaction conducted by a new customer or supplier involves considerable scrutiny, including verification of customer identity, income source, or the purpose of a transaction. In contrast, reasonable inquiry with respect to an established

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[7] Examples of designations to this effect include the Department of State's designation of a jurisdiction as a sponsor of international terrorism under 22 U.S.C. 2371, the FATF's designation of jurisdictions that are non-cooperative with international anti-money laundering principles, or the Secretary of the Treasury's designation pursuant to 31 U.S.C. 5318A of jurisdictions warranting special measures due to money laundering concerns.

[8] 18 U.S.C. 1956 and 1957 make it a crime for any person, including an individual or company, to engage knowingly in a financial transaction with the proceeds from any of a long list of crimes or types of "specific unlawful activity." Although the standard of knowledge required is "actual knowledge," actual knowledge includes "willful blindness." Thus, a person could be deemed to have knowledge that proceeds were derived from illegal activity if he or she ignored "red flags" that indicated illegality. See, e.g., U.S. v. Finkelstein, 229 F.3d 90 (2nd Cir. 2000) (owner of jewelry/precious metals business convicted for

customer may not involve additional steps beyond those normally required to complete the transaction, unless the transaction appears suspicious or unusual to the dealer. As explained further below, the determination whether to refuse to enter into, or to terminate, a transaction lies with the dealer. In addition, dealers are encouraged to adopt procedures for voluntarily filing Suspicious Activity Reports with FinCEN and for reporting suspected terrorist activities to FinCEN using its Financial Institutions Hotline (1-866-566-3974).

The proposed rule lists several examples of factors that may indicate that a transaction is designed to involve use of the dealer to facilitate money laundering or terrorist financing. Factors that may indicate a transaction is designed to involve use of the dealer to facilitate money laundering or terrorist financing include: (1) unusual payment methods, such as the use of large amounts of cash, multiple or sequentially numbered money orders, traveler's checks, or cashier's checks, or payment from unknown third parties; (2) unwillingness by a customer or supplier to provide complete or accurate contact information, financial references, or business affiliations; (3) attempts by a customer or supplier to maintain a high and unusual degree of secrecy with respect to the transaction, such as a request that normal business records not be kept; (4) purchases or sales that are unusual for the particular customer or supplier or type of customer or supplier; and (5) purchases or sales that are not in conformity with standard industry practice. For example, one money laundering scheme observed in this industry involved a customer who ordered items, paid for them in cash, cancelled the order, and

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participation in money laundering scheme; sentence enhancement based on willful blindness of certain funds received derived from narcotics trafficking).

then received a large refund.[9] In one case, funds were laundered through large cash purchases of a dealer's gold at artificially inflated prices, followed by re-purchase by the dealer of the same gold at lower prices.[10] A dealer should make reasonable inquiries when transactions appear to vary from standard industry practice, or from the standard practice of an established customer or supplier. Over- or under-invoicing, structured, complex, or multiple invoice requests, and high-dollar shipments that are over- or under-insured may all be indicia that a transaction involves money laundering or terrorist financing.

The list of factors contained in the proposed rule is intended to provide examples of indicia of illegal activity, and is by no means exhaustive. Determinations as to whether a transaction should be refused or terminated must be based on the facts and circumstances relating to the transaction and the dealer's knowledge of the customer or supplier in question. It is not intended that dealers automatically refuse to engage in or terminate transactions simply because such transactions involve one or more of the factors listed in the rule. Rather, it is intended that dealers will develop procedures for identifying transactions involving potentially illegal activity, and procedures setting forth the actions that a dealer will take in response to such transactions.

Section 103.140(c)(2) requires that a dealer designate a compliance officer to be responsible for administering the anti-money laundering program. The person (or group of persons) should be competent and knowledgeable regarding BSA requirements and money laundering issues and risks, and should be empowered with full responsibility and authority to develop and enforce appropriate policies and procedures throughout the

[9] See United States v. Huppert, 917 F.2d 507 (11th Cir. 1990).
[10] See Finkelstein, supra n. 8.

dealer's business. The role of the compliance officer is to ensure that (1) the program is being implemented effectively; (2) the program is updated as necessary; and (3) appropriate persons are trained in accordance with the rule. Whether the compliance officer is dedicated full time to BSA compliance would depend upon the size and complexity of the dealer's business and the risks posed. In all cases, the person responsible for the supervision of the overall program should be an officer or employee of the dealer.

Section 103.140(c)(3) requires that a dealer provide for training of appropriate persons. Employee training is an integral part of any anti-money laundering program. Employees of the dealer must be trained in BSA requirements relevant to their functions and in recognizing possible signs of money laundering that could arise in the course of their duties, so that they can carry out their responsibilities effectively. Such training could be conducted by internal or external seminars, and could include videos, computer-based training, booklets, etc. The level, frequency, and focus of the training should be determined by the responsibilities of the employees and the extent to which their functions bring them in contact with BSA requirements or possible money laundering activity. Consequently, the training program should provide both a general awareness of overall BSA requirements and money laundering issues, as well as more job-specific guidance regarding particular employees' roles and functions in the anti-money laundering program.[11] For those employees whose duties bring them in contact with BSA requirements or possible money laundering activity, the requisite training should

[11] Appropriate topics for an anti-money laundering program include, but are not limited to: BSA requirements, a description of money laundering, how money laundering is carried out, what types of activities and transactions should raise concerns, what steps should be followed when suspicions arise, and the need to review OFAC and other government lists.

occur when the employee assumes those duties. Moreover, these employees should receive periodic updates and refreshers regarding the anti-money laundering program.

Section 103.140(c)(4) requires that a dealer conduct periodic testing of its program, in order to ensure that the program is indeed functioning as designed. Such testing should be accomplished by personnel knowledgeable regarding BSA requirements. Testing may be accomplished either by dealer employees or unaffiliated service providers so long as those same individuals are not involved in the operation or oversight of the program. The frequency of such a review would depend upon factors such as the size and complexity of the dealer and the extent to which its business model may be more subject to money laundering than other institutions. Any useful recommendations resulting from such review should be implemented promptly or reviewed by senior management.

Section 103.140(d) provides that a dealer must develop and implement an anti-money laundering program within 90 days after enactment of a final rule based on the Notice, or not later than 90 days after the date a person becomes a dealer for purposes of the rule.

III. Regulatory Flexibility Act

It is hereby certified, pursuant to the Regulatory Flexibility Act (5 U.S.C. 601 et seq.), that the proposed rule is not likely to have a significant economic impact on a substantial number of small entities. Because the requirements of the proposed rule closely parallel the requirements for anti-money laundering programs for all financial institutions mandated by section 352 of the Act, the costs associated with the establishment and implementation of anti-money laundering programs are attributable to

the statute and not the proposed rule. Moreover, FinCEN believes that the definition of "dealer" in section 103.140(a)(1), which excludes dealers who have less than $50,000 in gross proceeds in a year, will exclude most small dealers from the requirements of the rule.

Furthermore, the proposed rule provides for substantial flexibility in how each dealer may meet its requirements. This flexibility is designed to account for differences among dealers, including size. In this regard, the costs associated with developing and implementing an anti-money laundering program will be commensurate with the size of a dealer. If a dealer is small, the burden to comply with section 352 and the proposed rule should be similarly small.

FinCEN specifically solicits comment on the impact of section 352 and the proposed rule on small dealers, particularly whether the proposed $50,000 threshold should be higher or lower, and whether an alternative threshold (such as one based upon specific physical quantities of precious metals, stones, or jewels, or other types of thresholds) would be more appropriate.

IV. Paperwork Reduction Act

The collection of information contained in this proposed rule has been submitted to the Office of Management and Budget for review under the requirements of the Paperwork Reduction Act, 44 U.S.C. 3507(d). An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a valid control number assigned by OMB.

Comments concerning the collection of information in the proposed rule should be sent (preferably by fax (202-395-6974)) to the Desk Officer for the Department of the

Treasury, Office of Information and Regulatory Affairs, Office of Management and Budget, Paperwork Reduction Project (1506), Washington, D.C. 20503 (or by the Internet to jlackeyj@omb.eop.gov), with a copy to FinCEN by mail or the Internet at the addresses previously specified.

FinCEN specifically invites comments on: (a) whether the proposed collection of information is necessary for the proper performance of the mission of FinCEN, and whether the information shall have practical utility; (b) the accuracy of the estimate of the burden of the collection of information (see below), including the number of dealers (as defined in section 103.140(a)(1)) who will be subject to the requirements of the proposed rule; (c) ways to enhance the quality, utility, and clarity of the information collection; (d) ways to minimize the burden of the information collection, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to maintain the information.

The collection of information is the recordkeeping requirement in section 103.140(b). The information will be used by federal agencies to verify compliance by dealers with the provisions of sections 103.140 and 103.141. The collection of information is mandatory.

Estimated Number of Recordkeepers: 20,000.

Estimated Average Annual Burden Per Recordkeeper: The estimated average burden associated with the recordkeeping requirement in section 103.140(b) rule is 1 hour per recordkeeper.

Estimated Total Annual Recordkeeping Burden: 20,000 hours.

V. Executive Order 12866

It has been determined that this proposed rule is not a significant regulatory action for purposes of Executive Order 12866. Accordingly, a regulatory impact analysis is not required.

List of Subjects in 31 CFR Part 103

Administrative practice and procedure, Authority delegations (Government agencies), Banks and banking, Currency, Investigations, Law enforcement, Reporting and recordkeeping requirements.

Authority and Issuance

For the reasons set forth in the preamble, part 103 of title 31 of the Code of Federal Regulations is proposed to be amended as follows:

PART 103 – FINANCIAL RECORDKEEPING AND REPORTING OF CURRENCY AND FINANCIAL TRANSACTIONS

1. The authority citation for part 103 continues to read as follows:

Authority: 12 U.S.C. 1829b and 1951-1959; 31 U.S.C. 5311-5314 and 5316-5332; title III, secs. 312, 313, 314, 326, 352, Pub. L. 107-56, 115 Stat. 307.

2. Subpart I of part 103 is amended by adding new §103.140 to read as follows:

§ 103.140 Anti-money laundering programs for dealers in precious metals, precious stones, or jewels.

(a) Definitions. For purposes of this section:

(1) Dealer. (i) Except as provided in paragraph (a)(1)(ii) of this section, the term "dealer" means a person engaged in the business of purchasing and selling jewels,

precious metals, or precious stones, or jewelry composed of jewels, precious metals, or precious stones, and who, during the prior calendar or tax year:

(A) Purchased more than $50,000 in jewels, precious metals, or precious stones, or jewelry composed of jewels, precious metals, or precious stones; or

(B) Received more than $50,000 in gross proceeds from transactions in jewels, precious metals, precious stones, and jewelry composed of jewels, precious metals, or precious stones.

(ii) The term "dealer" does not include:

(A) A retailer, i.e., a person engaged in the business of sales to the public of jewels, precious metals, or precious stones, or jewelry composed thereof, other than a retailer that, during the prior calendar or tax year, purchased more than $50,000 in jewels, precious metals, precious stones, or jewelry composed of jewels, precious metals, or precious stones, from persons other than dealers (such as members of the general public or persons engaged in other businesses); or

(B) A person who engages in transactions in jewels, precious metals, or precious stones for purposes of fabricating finished goods that contain minor amounts of, or the value of which is not significantly attributable to, such precious metals, precious stones, or jewels.

(2) Jewel means an organic substance with gem quality market-recognized beauty, rarity, and value, and includes pearl, amber, and coral.

(3) Precious metal means:

(i) Gold, iridium, osmium, palladium, platinum, rhodium, ruthenium, or silver, having a level of purity of 500 or more parts per thousand; and

(ii) An alloy containing 500 or more parts per thousand, in the aggregate, of two or more of the metals listed in paragraph (a)(3)(i) of this section.

(4) Precious stone means an inorganic substance with gem quality market-recognized beauty, rarity, and value, and includes diamond, corundum (including rubies and sapphires), beryl (including emeralds and aquamarines), chrysoberyl, spinel, topaz, zircon, tourmaline, garnet, crystalline and cryptocrystalline quartz, olivine peridot, jadeite jade, nephrite jade, spodumene, feldspar, turquoise, lapis lazuli, and opal.

(5) Person shall have the same meaning as provided in § 103.11(z).

(b) Anti-money laundering program requirement. Each dealer shall develop and implement a written anti-money laundering program reasonably designed to prevent the dealer from being used to facilitate money laundering and the financing of terrorist activities. The program must be approved by senior management. A dealer shall make its anti-money laundering program available to the Department of Treasury or its designee upon request.

(c) Minimum requirements. At a minimum, the anti-money laundering program shall:

(1) Incorporate policies, procedures, and internal controls based upon the dealer's assessment of the money laundering and terrorist financing risks associated with its line(s) of business. Policies, procedures, and internal controls developed and implemented by a dealer under this section shall include provisions for complying with the applicable requirements of the Bank Secrecy Act (31 U.S.C. 5311 et seq.), and this part.

(i) For purposes of making the risk assessment required by paragraph (c)(1) of this section, a dealer shall take into account all relevant factors including the following:

(A) The type(s) of products the dealer buys and sells, as well as the nature of the dealer's customers, suppliers, distribution channels, and geographic locations;

(B) The extent to which the dealer engages in transactions other than with established customers or sources of supply; and

(C) Whether the dealer engages in transactions for which payment or account reconciliation is routed to or from accounts located in jurisdictions that have been identified by the Department of State as a sponsor of international terrorism under 22 U.S.C. 2371; designated as non-cooperative with international anti-money laundering principles or procedures by an intergovernmental group or organization of which the United States is a member and with which designation the United States representative or organization concurs; or designated by the Secretary of the Treasury pursuant to 31 U.S.C. 5318A as warranting special measures due to money laundering concerns.

(ii) A dealer's program shall incorporate policies, procedures, and internal controls to assist the dealer in identifying transactions that may involve use of the dealer to facilitate money laundering or terrorist financing, including provisions for making reasonable inquiries to determine whether a transaction involves money laundering or terrorist financing, and for refusing to consummate, withdrawing from, or terminating such transactions. Factors that may indicate a transaction is designed to involve use of the dealer to facilitate money laundering or terrorist financing include, but are not limited to:

(A) Unusual payment methods, such as the use of large amounts of cash, multiple or sequentially numbered money orders, traveler's checks, or cashier's checks, or payment from third-parties;

(B) Unwillingness by a customer or supplier to provide complete or accurate contact information, financial references, or business affiliations;

(C) Attempts by a customer or supplier to maintain a high degree of secrecy with respect to the transaction, such as a request that normal business records not be kept;

(D) Purchases or sales that are unusual for the particular customer or supplier, or type of customer or supplier; and

(E) Purchases or sales that are not in conformity with standard industry practice.

(2) Designate a compliance officer who will be responsible for ensuring that:

(i) The anti-money laundering program is implemented effectively;

(ii) The anti-money laundering program is updated as necessary to reflect changes in the risk assessment, current requirements of this part, and further guidance issued by the Department of the Treasury; and

(iii) Appropriate personnel are trained in accordance with paragraph (c)(3) of this section;

(3) Provide for on-going education and training of appropriate persons concerning their responsibilities under the program; and

(4) Provide for independent testing to monitor and maintain an adequate program. The scope and frequency of the testing shall be commensurate with the risk assessment conducted by the dealer in accordance with paragraph (c)(1) of this section. Such testing may be conducted by an officer or employee of the dealer, so long as the tester is not the

person designated in paragraph (c)(2) of this section or a person involved in the operation of the program.

(d) Effective date. A dealer must develop and implement an anti-money laundering program that complies with the requirements of this section on or before [insert date that is 90 days after the date on which the final regulation to which this notice of proposed rulemaking relates is published in the Federal Register], or not later than 90 days after the date a dealer becomes subject to the requirements of this section.

DATED: ______________________

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James F. Sloan
Director,
Financial Crimes Enforcement Network

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(BILLING CODE: 4810-02-P)

DEPARTMENT OF THE TREASURY

31 CFR Part 103

RIN 1506-AA28

RIN 1506-AA38

Financial Crimes Enforcement Network; Anti-Money Laundering Programs for Travel Agencies

AGENCY: Financial Crimes Enforcement Network (FinCEN), Treasury.

ACTION: Advance Notice of Proposed Rulemaking.

SUMMARY: FinCEN is in the process of implementing the requirements delegated to it under the USA PATRIOT Act of 2001, in particular the requirements pursuant to sections 352 and 326 of the Act that require financial institutions to establish anti-money laundering compliance and customer identification programs. Pursuant to 31 U.S.C. 5312(a)(2)(Q), the term "financial institution" is defined to include a "travel agency." FinCEN is issuing this advance notice of proposed rulemaking (ANPRM) to solicit public comments on a wide range of questions pertaining to this requirement, including how to define the term travel agency.

DATES: Written comments may be submitted on or before [INSERT DATE THAT IS 45 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER].

ADDRESSES: Because paper mail in the Washington area may be subject to delay, commenters are encouraged to e-mail comments. Comments may be submitted by electronic mail to regcomments@fincen.treas.gov with the caption in the body of the text, "ATTN: ANPRM - Section 352 – Travel Agency Regulations." Comments may be

mailed to FinCEN, P.O. Box 39, Vienna, VA 22183, ATTN: ANPRM - Section 352 – Travel Agency Regulations. Comments should be sent by one method only. Comments may be inspected at FinCEN between 10 a.m. and 4 p.m., in the FinCEN Reading Room in Washington, D.C. Persons wishing to inspect the comments submitted must request an appointment by telephoning (202) 354-6400 (not a toll-free number).

FOR FURTHER INFORMATION CONTACT: Office of Chief Counsel, FinCEN, (703) 905-3590; the Office of the General Counsel, (202) 622-1927; or the Office of the Assistant General Counsel (Banking and Finance), (202) 622-0480 (not toll-free numbers).

SUPPLEMENTARY INFORMATION:

I. Background

On October 26, 2001, the President signed into law the Uniting and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism (USA PATRIOT Act) Act of 2001 (Public Law 107-56) (the Act). Title III of the Act makes a number of amendments to the anti-money laundering provisions of the Bank Secrecy Act (BSA), which are codified in subchapter II of chapter 53 of title 31, United States Code. These amendments are intended to make it easier to prevent, detect, and prosecute international money laundering and the financing of terrorism. Section 352(a) of the Act, which became effective on April 24, 2002, amended section 5318(h) of the BSA. As amended, section 5318(h)(1) requires every financial institution to establish an anti-money laundering program that includes, at a minimum: (i) the development of internal policies, procedures, and controls; (ii) the designation of a compliance officer; (iii) an ongoing employee training program; and (iv) an independent audit function to test

programs. When prescribing minimum standards for anti-money laundering programs, section 352 directs the Treasury to consider the extent to which such standards are commensurate with the size, location, and activities of the financial institutions to which such regulations apply.

As a "travel agency" is defined as a financial institution under the BSA, 31 U.S.C. 5312(a)(2)(Q), it is subject to the anti-money laundering program requirement. On April 29, 2002, FinCEN temporarily exempted certain financial institutions, including travel agencies, from the requirement to establish an anti-money laundering compliance program. The purpose of the deferral was to enable FinCEN to study the affected industries and consider to what extent anti-money laundering program requirements could best be applied, taking into account the specific characteristics of the various entities defined as financial institutions by the BSA. [1]

In addition, section 326 of the Act added new subsection (l) to 31 U.S.C. 5318, which requires Treasury to prescribe regulations setting forth minimum standards for financial institutions to identify customers applying to open accounts. Section 326 applies to all BSA financial institutions that open accounts for their customers.

FinCEN is proceeding with this ANPRM because of questions about travel agencies and money laundering that make it difficult to assess the benefits and burdens associated with imposition of anti-money laundering regulations on this industry. Through this process, FinCEN hopes to solicit sufficient information to enable it to determine whether to go forward with a Notice of Proposed Rulemaking, as well as the scope of entities and procedures that any such Notice should encompass.

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[1] See 31 CFR 103.170, as codified by interim final rule published at 67 FR 21110 (April 29, 2002), as amended at 67 FR 67547 (November 6, 2002) and corrected at 67 FR 68935 (November 14, 2002).

II. Issues for Comment

1. How should a travel agency be defined? Should there be a minimum threshold value in the definition?

Although the BSA identifies a travel agency as a financial institution, the statute contains no definition of the term, nor has FinCEN had an occasion to define the term in a regulation. Thus, the first step in addressing the appropriateness of issuing anti-money laundering regulations is determining a functional definition of a travel agency. The legislative history of the BSA provides no insight into how Congress intended the term to be defined.

As the name implies, a travel agency offers its services in the capacity of an agent, and not as a principal. A travel agency offers travel and tourism related services to the public as a result of agency agreements with airlines, cruise lines, hotels, and other suppliers of travel-related services. It may contract directly with suppliers such as hotels, car rental companies, and tour operators, or may contract with a coordinating body such as the Airlines Reporting Corporation (ARC)[2] and the International Airlines Travel Agency Network (IATAN). Travel agencies also may provide financial services such as traveler's checks to their customers, and may offer travel-related insurance. Travel agencies that offer such financial services in conjunction with travel services are considered financial institutions for the purpose of consumer privacy regulations.[3]

[2] ARC provides a mechanism that carriers may use to appoint travel agents, and such agents are then entitled to use ARC standard ticket stock for participating carriers, which comprise the vast majority of domestic and international carriers. ARC requires travel agents to obtain and maintain an irrevocable letter of credit as bond.

[3] See 16 CFR 313.3 (k)(2)(ix) (Federal Trade Commission regulations governing privacy of consumer information).

For purposes of this ANPRM, FinCEN is using the following functional definition of travel agency: "Any person who sells, as an agent and not as a principal, the following travel services: airline tickets, rail tickets, hotel and motel reservations, and cruise reservations, or some combination of those services." This definition excludes direct sales by service providers such as hotels and tour buses. These principals are excluded because their inclusion appears to be at odds with the use of the term "agency" in the BSA definition (such entities are providers of travel-related services, rather than travel agents).

According to the Small Business Administration (SBA), most travel agencies are small businesses.[4] Of the 22,687 travel agencies identified by the SBA operating out of 29,332 establishments, only 450 fall outside the SBA definition of a small business in this industry. These larger businesses generate 47% of all industry revenue.[5] FinCEN's regulations in the past have recognized that businesses that do not transact in sufficient dollar amounts or volume may not present sufficient money laundering risk to require the imposition of federally mandated programs. For example, under the BSA, money services businesses other than money transmitters (currency exchangers and check cashers, as well as issuers, sellers, and redeemers of traveler's checks and money orders) are defined as financial institutions only if they transact over $1,000 in covered transactions for any one person in any one day.[6] This threshold reflects the judgment that businesses that never engage in transactions above that level fail to present a money laundering risk sufficient to justify the regulatory burden. FinCEN solicits comment on

[4] See 67 FR 38184 (May 31, 2002) (raising ceiling for defining a travel agency as a small business to $3 million in total revenue, a definition encompassing 98% of travel agencies).
[5] Id.
[6] 31 CFR 103.11(uu)(1)-(4).

whether, if travel agencies are required to implement anti-money laundering programs, there should be a monetary threshold of some kind in defining a travel agency for purposes of the BSA. Commenters should address whether any such threshold should be transaction based, as with the money services business rules, or on an annual gross income, or some other basis.

2. What is the potential money laundering risk posed by travel agencies? Are there different kinds of travel agencies or different services offered that pose different money laundering risks?

Although some travel agencies perform some of the functions of traditional financial institutions, such as selling traveler's checks, such agencies, to the extent they meet the regulatory threshold, would be considered money services businesses under 31 CFR Part 103.11(uu)(4). The focus of this ANPRM is on the risks unique to travel agencies' provision of travel-related services. Within this focus, the industry does present some potential money laundering risks. For example, some travel agencies have a significant portion of their clients pay for the agencies' products and services in cash. While the risk of money laundering is minimized, to some extent, by the existing obligation on all travel agencies to report, pursuant to 26 U.S.C. 6050I, 31 U.S.C. 5331, and 31 CFR 103.30, the receipt of cash or monetary instruments in excess of $10,000,[7] a rule that requires an anti-money laundering compliance or customer identification program may alleviate further the money laundering risk associated with the cash intensive nature of some travel agencies. Moreover, some travel agencies are associated with ancillary businesses, including money services businesses offering money transfer

[7] Sellers of travel fall within the type of retail business required to report receipts of monetary instruments (cashier's checks, traveler's checks, money orders) that have face amounts of less than $10,000 and which

and check cashing, that pose additional money laundering risk. To the extent customers wish to avoid the recordkeeping and reporting requirements applicable to the money services side of the business, they may try to route their transactions through the unregulated travel agency side of the business. Instead of obtaining a money order or traveler's check to make an illicit payment (which would be subject to FinCEN's recordkeeping rules if over $3,000), a money launderer could buy an expensive airline ticket for another person, who could then exchange it for a legitimate-seeming refund.

FinCEN has received reports indicating that some travel agencies (or their customers) have engaged in structuring sequential deposits and withdrawals of cash near the reporting threshold of $10,000. There have also been reports of some travel agencies structuring outgoing wire transfers in small amounts to avoid BSA recordkeeping requirements. Some travel agents have been observed receiving unusual wire transfers from foreign countries or wire transfers of unusually large amounts.

In addition, travel agencies reportedly have been used to transfer value through the provision of in-kind services. A travel agent sending groups to a foreign country, for example, can make an offsetting payment in a foreign entity's U.S. or other account and instruct that entity to cover the costs of the group during their trip. This method is one way that businesses involved in informal value transfer systems, such as hawala,[8] can transfer funds between entities in various countries.

Travel agencies may need to have an understanding of the identity of customers who participate in transactions with money laundering risk. For purchases of travel services involving large sums of cash, knowing the customer's identity may be an

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are used to make a purchase of greater than $10,000. See 31 CFR 103.30.

[8] See Report to Congress in Accordance with Section 359 of the USA Patriot Act (November 22, 2002),

essential part of an effective anti-money laundering program. Customers may request complex invoicing arrangements or payment arrangements or may structure their cash payments to avoid BSA reports. While travel agencies may scrutinize non-cash transactions to manage fraud risk, they are undoubtedly less aware of possible money laundering risk with both cash and non-cash transactions.

Accordingly, FinCEN solicits comments on the existence of the above, and other, types of risks in the travel agency business. Specifically, FinCEN is interested in identifying risks in the products and services that travel agencies provide that make them uniquely susceptible to money laundering, as opposed to the risks inherent in all businesses that sell products or services to the public that may be purchased with tainted funds. Such heightened risks include, for example, the ability to transfer funds, even with a sizable penalty or cost, from one person to another; the ability to pay in funds and, in return, receive funds from the travel agency or related business that have the appearance of legitimacy and no ties to incoming funds. Furthermore, should regulatory distinctions based on money laundering risk be made between travel agencies that restrict their sales to domestic travel and those that handle international travel? Are there other functional distinctions that should be made?

3. Should travel agencies be exempt from coverage under sections 352 and 326 of the Patriot Act?

Based on the determination of the extent of the risk of money laundering within the travel agency industry, the question arises as to whether the industry should be exempt under sections 352 and 326 of the Act. If the risk of money laundering in the travel agency industry is determined to be minimal such that it does not justify the

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available on FinCEN's website at www.fincen.gov under Publications, Reports.

imposition of a regulatory burden, it might be reasonable to exempt the industry from coverage of these provisions. This judgment will be based on the existing risks of money laundering, the potential risks of money laundering, as well as the volume of possible illicit funds that may flow through travel agencies.

In light of these issues, FinCEN would like to solicit comments with regard to the issue of whether there should be an exemption from these provisions for travel agencies. These comments should be designed to enable FinCEN to decide whether or not to propose the promulgation of an appropriate regulation designed to provide protection for the travel agency industry with regard to the risk of money laundering.

4. If travel agencies, or some subset of the industry, should be subject to the anti-money laundering program requirements, how should the program be structured?

In applying section 352 to travel agencies, FinCEN must take into account which requirements are "commensurate with the size, location, and activities" of this industry. In undertaking this review, FinCEN recognizes that travel agencies likely have some programs already in place to meet existing legal obligations. For example, as a nonfinancial trade or business, travel agencies are required to report on Form 8300 the receipt of over $10,000 in currency and certain monetary instruments. Travel agencies also may have procedures in place to protect themselves against fraud. Such procedures may be sufficient in themselves given the money laundering risk in the industry, or they may serve as a foundation on which additional anti-money laundering program requirements could be built. FinCEN therefore seeks comment on what types of

programs travel agencies have in place to prevent fraud and illegal activities, and the applicability of such programs to the prevention of money laundering.

5. Do travel agencies maintain "accounts" for their customers?

Section 326 requires the setting of minimum standards for identification of customers "in connection with the opening of an account at a financial institution." Section 311 of the Patriot Act provides a definition of "account" for banks, but requires the Secretary to promulgate a regulation defining "account" for non-bank financial institutions. Although such a regulation has yet to be issued, the definition for banks ("a formal banking or business relationship established to provide regular services, dealings, and other financial transactions") is a useful starting point. This definition incorporates two key concepts: (1) formality of the business relationship, and (2) regularity of dealings. In light of these concepts, FinCEN solicits comments as to whether (and to what extent) travel agencies maintain accounts for their customers. If so, what kinds of services do travel agencies provide to account holders? Are these account relationships ongoing? Are accounts established to receive recurring payments from a customer, or are additional services provided to the accountholder?

III. Conclusion

With this ANPRM, FinCEN is seeking input to assist it in determining how to implement the requirements of sections 352 and 326 of the Act with respect to travel agencies. FinCEN welcomes comments on all aspects of potential regulation and encourages all interested parties to provide their views.

IV. Executive Order 12866

Because this is an ANPRM, FinCEN does not know whether or in what form it may issue a regulation pursuant to sections 352 and 326 of the Act affecting travel agencies. Accordingly, FinCEN does not know whether potential regulations will constitute a significant regulatory action under the Executive Order. This ANPRM neither establishes nor proposes any regulatory requirements. FinCEN has submitted a notice of planned regulatory action to OMB for review. Because this ANPRM does not contain a specific proposal, information is not available with which to prepare an economic analysis. FinCEN will prepare a preliminary analysis if it proceeds with a proposed rule that constitutes a significant regulatory action.

Accordingly, FinCEN solicits comments, information, and data on the potential effects of any potential regulation. FinCEN will carefully consider the costs and benefits associated with this rulemaking.

DATED: ____________________

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James F. Sloan

Director,

Financial Crimes Enforcement Network

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(BILLING CODE: 4810-02-P)

DEPARTMENT OF THE TREASURY

31 CFR Part 103

RIN 1506-AA28

RIN 1506-AA41

Financial Crimes Enforcement Network; Anti-Money Laundering Programs for Businesses Engaged in Vehicle Sales

AGENCY: Financial Crimes Enforcement Network (FinCEN), Treasury.

ACTION: Advance Notice of Proposed Rulemaking.

SUMMARY: FinCEN is in the process of implementing the requirements delegated to it under the USA PATRIOT Act of 2001, in particular the requirements pursuant to sections 352 and 326 of the Act that require financial institutions to establish anti-money laundering compliance and customer identification programs. Pursuant to 31 U.S.C. 5312(a)(2)(T), the term "financial institution" is defined to include a "business engaged in vehicle sales, including automobile, airplane, and boat sales." FinCEN is issuing this advance notice of proposed rulemaking (ANPRM) to solicit public comments on a wide range of questions pertaining to these requirements, including the money laundering risks that are posed by these businesses, whether these businesses should be subject to these requirements, and if so, how the requirements should be structured.

DATES: Written comments may be submitted on or before [INSERT DATE THAT IS 45 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER].

ADDRESSES: Because paper mail in the Washington, D.C., area may be subject to delay, commenters are encouraged to e-mail comments. Comments may be submitted by electronic mail to regcomments@fincen.treas.gov with the caption in the body of the text,

"ATTN: ANPRM - Sections 352 and 326 – Vehicle Seller Regulations." Comments may be mailed to FinCEN, P.O. Box 39, Vienna, VA 22183, ATTN: ANPRM - Sections 352 and 326 – Vehicle Seller Regulations. Comments should be sent by one method only. Comments may be inspected at FinCEN between 10 a.m. and 4 p.m., in the FinCEN Reading Room in Washington, D.C. Persons wishing to inspect the comments submitted must request an appointment by telephoning (202) 354-6400 (not a toll-free number).

FOR FURTHER INFORMATION CONTACT: Office of Chief Counsel, FinCEN, (703) 905-3590; the Office of the General Counsel, (202) 622-1927; or the Office of the Assistant General Counsel (Banking and Finance), (202) 622-0480 (not toll-free numbers).

SUPPLEMENTARY INFORMATION:

I. Background

On October 26, 2001, the President signed into law the Uniting and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism (USA PATRIOT Act) Act of 2001 (Public Law 107-56) (the Act). Title III of the Act makes a number of amendments to the anti-money laundering provisions of the Bank Secrecy Act (BSA), which are codified in subchapter II of chapter 53 of title 31, United States Code. These amendments are intended to promote the prevention, detection, and prosecution of international money laundering and the financing of terrorism. Section 352(a) of the Act, which became effective on April 24, 2002, amended section 5318(h) of the BSA. As amended, section 5318(h)(1) requires every financial institution to establish an anti-money laundering program that includes, at a minimum: (i) the development of internal policies, procedures, and controls; (ii) the designation of a compliance officer;

(iii) an ongoing employee training program; and (iv) an independent audit function to test programs. When prescribing minimum standards for anti-money laundering programs, section 352 directs the Treasury to consider the extent to which such standards are commensurate with the size, location, and activities of the financial institutions to which such regulations apply.

As a "business engaged in vehicle sales" (vehicle seller) is defined as a financial institution under the BSA, 31 U.S.C. 5312(a)(2)(T), it is subject to the anti-money laundering program requirement. On April 29, 2002, and again on November 6, 2002, FinCEN temporarily exempted certain financial institutions, including vehicle sellers, from the requirement to establish an anti-money laundering compliance program. The purpose of the deferral was to enable FinCEN to study the affected industries and consider the extent to which anti-money laundering program requirements should be applied to them, taking into account the specific characteristics of the various entities defined as financial institutions by the BSA.[1]

In addition, section 326 of the Act added new subsection (l) to 31 U.S.C. 5318, which requires Treasury to prescribe regulations setting forth minimum standards for financial institutions to identify customers applying to open accounts. Section 326 applies to all BSA financial institutions that open accounts for their customers.

The business of vehicle sellers encompasses various segments, including sellers of: (1) new land-based vehicles, such as automobiles, trucks, RVs, and motorcycles; (2)

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[1] See 31 CFR 103.170, as codified by interim final rule published at 67 FR 21110 (April 29, 2002), as amended at 67 FR 67547 (November 6, 2002) (as corrected at 67 FR 68935 (November 14, 2002)).

new aircraft, including fixed wing airplanes and helicopters; (3) new boats and ships; and (4) used vehicles (as well as those who broker the sale of used vehicles).[2]

Businesses engaged in the selling of vehicles comprise a significant percentage of the total gross domestic product of the United States, and the vehicles that they collectively sell account for a major portion of U.S. consumption, exports, and other important economic indicia.[3] As such, because of both the economic significance of this industry, and the important and pervasive role that vehicles, and therefore vehicles sales, play in the United States, this ANPRM is intended to assist FinCEN in striking a balance between the important statutory requirements of the Act, and the important benefits that vehicle sellers provide to our country.

Some vehicle sellers are tied to the manufacturing of the vehicles, while others may not be. While some vehicle sellers are publicly traded companies, most are privately held or family owned. Some may be characterized as wholesale sellers of vehicles, while others are engaged in retail sales of the vehicles. In each segment, there is often substantial variety in function and practice.

Vehicle sellers range in size from very large entities that sell vehicles with a total value that is measured in billions of dollars annually, to very small entities (such as a neighborhood used car dealer) that may only sell a few vehicles each year. Vehicle sellers may sell either new or used vehicles, and may sell to customers domestic or foreign, or both. Moreover, the characteristics of vehicle sellers often vary based on the

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[2] FinCEN does not intend to impose anti-money laundering program obligations on individuals in connection with the sale of their own personal vehicle to others, whether as a "trade-in" with a retail vehicle dealer or by private sale with another party, unless an individual is engaged in the business of selling vehicles.

[3] According to the Department of Transportation, in the year 2000 there were 8,847,000 new automobiles, 578,700 boats, and 3,285 civilian aircraft sold at retail. U.S. Dept. of Transportation Bureau of Transportation Statistics, National Transportation Statistics 2002 (GPO July 2002).

type of vehicles sold. For example, retail sellers of large, multi-engine commercial aircraft are generally much larger businesses than sellers of small, general aviation aircraft, reflecting the capital and business risks needed to maintain inventory. In a like manner, sales of large marine ships in excess of 100,000 deadweight tons are conducted very differently than sales of pleasure watercraft, such as sail boats. Similarly, sellers of used vehicles often have different characteristics than sellers of new vehicles, reflecting the different relationships with vehicle manufacturers and the differences in these markets.

II. Issues for Comment

1. What is the potential money laundering risk posed by vehicle sellers? Do money laundering risks vary by (1) vehicle type (e.g., boat, airplane, automobile); (2) market (wholesale vs. retail); or (3) business line (international sales, sales to governments)?

The threshold issue being addressed by this ANPRM is the extent to which vehicle sellers pose a significant risk of money laundering.[4] For example, a money laundering risk is presented where a vehicle is purchased with cash.[5] This is particularly true for the placement stage of money laundering; that is, where the money launderer seeks to cleanse illegal proceeds by introducing them into the financial system. A large cash purchase of an expensive vehicle could form the placement stage for a money

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[4] For the purpose of this ANPRM, FinCEN is focusing on the money laundering risks associated with the sale of the vehicles themselves, and not with the financing of such sales. Although some vehicle sellers that provide financing for their products (generally through a finance subsidiary) perform a function similar to that of traditional financial institutions such as banks and loan companies, that function will be addressed separately by a proposed rule to be issued that will require loan and finance companies to have anti-money laundering programs.

[5] Recently, in Operation Lightning Strike, manufacturers of illegal liquor were convicted of laundering the illegal proceeds of untaxed liquor sales by using cash transactions and purchasing a number of vehicles in the names of other family members.

laundering scheme.[6] While the risk of money laundering is minimized, to some extent, by the existing obligation on all vehicle sellers to report, pursuant to 26 U.S.C. 6050I, 31 U.S.C. 5331, and 31 CFR 103.30, the receipt of cash or monetary instruments in excess of $10,000,[7] a rule that requires an anti-money laundering compliance or customer identification program may alleviate further the money laundering risk associated with large cash purchases. In response to documented instances of abuse, industry associations representing new car dealers have already taken steps to guard against the laundering of illicit proceeds through the purchase of automobiles with cash, providing their members with educational materials concerning their legal obligations and cash-related money laundering red flags.

The next stage of money laundering, the layering stage, involves the distancing of illegal funds from their criminal source through the creation of complex layers of financial transactions. Examples of layering through the vehicle sellers industry might include trading in vehicles for other vehicles and engaging in successive transactions of buying and selling both new and used vehicles.

Vehicle sales businesses also could be used for integrating illicit income into assets that appear legitimate. Integration occurs when illegal funds appear to have been derived from a legitimate source. This could occur, for instance, when the funds or vehicles received from the vehicle seller in the aftermath of the layering transactions are held out as coming from a legitimate source.

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[6] See, e.g., U.S. v. Cruz, 993 F.2d 164 (8th Cir. 1993) (narcotics dealer laundered proceeds by purchasing three automobiles for cash in amount that greatly exceeded his stated income).

[7] Sellers of vehicles for personal consumption (as opposed to commercial sales) fall within the type of retail business required to report receipts of monetary instruments (cashier's checks, traveler's checks, money orders) that have face amounts of less than $10,000 and which are used to make a purchase of greater than $10,000. See 31 CFR 103.30.

Vehicle sellers may need to have an understanding of the identity of customers who participate in transactions with money laundering risk. For purchases of vehicles involving large sums of cash, knowing the customer's identity may be an essential part of an effective anti-money laundering program. Customers may request complex invoicing arrangements or payment arrangements or may structure their cash payments to avoid BSA reports. While vehicle sellers may scrutinize non-cash transactions to manage fraud risk, they are undoubtedly less aware of possible money laundering risk with both cash and non-cash transactions.

FinCEN has received reports indicating that some vehicle sellers have engaged in structuring[8] sequential deposits of cash near the reporting threshold of $10,000. FinCEN also has received reports of the purchase of automobiles with structured checks and money orders. Other instances of suspicious activity reported to FinCEN concerning this industry include consumer loan fraud and check fraud. These instances all involve the placement stage of money laundering.

Accordingly, FinCEN solicits comments on the existence of the above, and other, types of risks in the vehicle sellers business. Specifically, FinCEN is interested in identifying risks in the products that vehicle sellers provide that make them uniquely susceptible to money laundering, as opposed to the risks inherent in all businesses that sell products or services to the public that may be purchased with tainted funds. Such heightened risks include, for example, the payment of funds to the seller by third parties on behalf of customers, particularly from jurisdictions with lax money laundering controls, and the ability to pay funds to the vehicle seller and, in return, receive funds

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[8] Structuring refers to the breaking up of a transaction into multiple smaller transactions to evade recordkeeping or reporting requirements.

from the seller that have the appearance of legitimacy. FinCEN further seeks comment on whether differentiation should be made for lines of business that appear to have minimal money laundering risks, such as the sale of vehicles to federal, state, and local governments. Are there other functional distinctions that should be made?

2. Should vehicle sellers be exempt from coverage under sections 352 and 326 of the Patriot Act?

Based on the determination of the extent of the risk of money laundering posed by vehicle sellers, the question arises as to whether the industry should be exempt under sections 352 and 326 of the Act. If the risk of money laundering in the vehicle sellers industry is determined to be minimal such that it does not justify the imposition of a regulatory burden, it might be reasonable to exempt the industry from coverage of these provisions. This judgment will be based on the existing risks of money laundering, the potential risks of money laundering, as well as the volume of possible illicit funds that may flow through vehicle sellers.

In light of these issues, FinCEN would like to solicit comments with regard to the issue of whether there should be an exemption from these provisions for vehicle sellers, or any category thereof. These comments should be designed to enable FinCEN to decide whether or not to propose an appropriate regulation designed to provide protection for the vehicle seller industry from the risks of money laundering.

3. If vehicle sellers, or some subset of the industry, should be subject to the anti-money laundering program requirements, how should the program be structured?

In applying section 352 of the Act to vehicle sellers, FinCEN must take into account which requirements are "commensurate with the size, location, and activities" of this industry. In undertaking this review, FinCEN recognizes that vehicle sellers likely have some programs already in place to meet existing legal obligations. For example, as a nonfinancial trade or business, vehicle sellers are required to report on Form 8300 the receipt of over $10,000 in currency and certain monetary instruments. Vehicle sellers also may have procedures in place to protect themselves against fraud. Such procedures may be sufficient in themselves, given the money laundering risk in the industry, or they may serve as a foundation on which additional anti-money laundering program requirements could be based. FinCEN therefore seeks comment on the particular elements that should be included in any required anti-money laundering program, should it be determined that such a requirement should be imposed on this industry. In this regard, comment is requested regarding the types of programs vehicle sellers currently have in place to prevent fraud and illegal activities, and the applicability of such programs to the prevention of money laundering.

4. How should a vehicle seller be defined? Should there be a minimum threshold value in the definition? Should it include wholesale and retail sellers? Should sellers of used vehicles be included?

In the event FinCEN determines to propose requirements on vehicle sellers under sections 352 and 326 of the Act, it will be necessary to define the term vehicle seller. Although the BSA identifies a vehicle seller as a financial institution, the statute contains no definition of the term, other than to state that it includes sellers of automobiles, airplanes, and boats. The legislative history of the BSA provides no insight into how

Congress intended the term to be defined, nor has FinCEN had an occasion to define the term in a regulation.

As discussed above, vehicle sellers form an extremely large and diverse industry, accounting for a major portion of American consumption as well as exports. Given this diversity in the vehicle sellers industry, the risks of money laundering and the costs of preventive programs can vary widely. Thus, FinCEN solicits comment on whether any proposed rule should limit the definition to sellers of particular types of vehicles, to retail or wholesale vehicle sellers, or sellers of new or used vehicles. In addition, FinCEN's regulations in the past have recognized that businesses that do not transact in sufficient dollar amounts or volume, or in cash or monetary instruments, may not present sufficient money laundering risk to require the imposition of federally mandated programs. For example, under the BSA, money services businesses other than money transmitters (currency exchangers, check cashers, and issuers, sellers, and redeemers of traveler's checks and money orders) are defined as financial institutions only if they transact over $1,000 in covered transactions for any one person in any one day.[9] This threshold reflects the judgment that businesses that never engage in transactions above that level fail to present a money laundering risk sufficient to justify the regulatory burden. FinCEN solicits comment on whether, if vehicle sellers are required to implement anti-money laundering programs, there should be a monetary threshold of some kind in defining a vehicle seller for purposes of the BSA. Commenters should address whether any such threshold should be transaction based, as with the money services business rules, or on an annual gross income, or some other basis.

5. Do vehicle sellers maintain "accounts" for their customers?

Section 326 requires the setting of minimum standards for identification of customers "in connection with the opening of an account at a financial institution." Section 311 of the Patriot Act provides a definition of "account" for banks, but requires the Secretary to promulgate a regulation defining "account" for non-bank financial institutions. Although such a regulation has yet to be issued, the definition for banks ("a formal banking or business relationship established to provide regular services, dealings, and other financial transactions") is a useful starting point. This definition incorporates two key concepts: (1) formality of the business relationship, and (2) regularity of dealings. In light of these concepts, FinCEN solicits comments as to whether (and to what extent) vehicle sellers maintain accounts for their customers, in addition to fleet accounts. What kinds of services do vehicle sellers provide to any such account holders (including fleet accountholders)? Are these account relationships ongoing? Are accounts established to receive recurring payments from a customer, or are additional services provided to the accountholder?

III. Conclusion

With this ANPRM, FinCEN is seeking input to assist it in determining how to implement the requirements of sections 352 and 326 of the Act with respect to vehicle sellers. FinCEN welcomes comments on all aspects of this potential regulation and encourages all interested parties to provide their views.

IV. Executive Order 12866

Because this is an ANPRM, FinCEN does not know whether or in what form it may issue a regulation pursuant to sections 352 and 326 of the Act affecting vehicle sellers. Accordingly, FinCEN does not know whether potential regulations will

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[9] 31 CFR 103.11(uu).

constitute a significant regulatory action under the Executive Order. This ANPRM neither establishes nor proposes any regulatory requirements. FinCEN has submitted a notice of planned regulatory action to OMB for review. Because this ANPRM does not contain a specific proposal, information is not available with which to prepare an economic analysis. FinCEN will prepare a preliminary analysis if it proceeds with a proposed rule that constitutes a significant regulatory action.

Accordingly, FinCEN solicits comments, information, and data on the potential effects of any potential regulation. FinCEN will carefully consider the costs and benefits associated with this rulemaking.

DATED: ________________

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James F. Sloan
Director,
Financial Crimes Enforcement Network

(BILLING CODE: 4810-02-P)

DEPARTMENT OF THE TREASURY

31 CFR Part 103

RIN 1506-AA28

RIN 1506-AA41

Financial Crimes Enforcement Network; Anti-Money Laundering Programs for Businesses Engaged in Vehicle Sales

AGENCY: Financial Crimes Enforcement Network (FinCEN), Treasury.

ACTION: Advance Notice of Proposed Rulemaking.

SUMMARY: FinCEN is in the process of implementing the requirements delegated to it under the USA PATRIOT Act of 2001, in particular the requirements pursuant to sections 352 and 326 of the Act that require financial institutions to establish anti-money laundering compliance and customer identification programs. Pursuant to 31 U.S.C. 5312(a)(2)(T), the term "financial institution" is defined to include a "business engaged in vehicle sales, including automobile, airplane, and boat sales." FinCEN is issuing this advance notice of proposed rulemaking (ANPRM) to solicit public comments on a wide range of questions pertaining to these requirements, including the money laundering risks that are posed by these businesses, whether these businesses should be subject to these requirements, and if so, how the requirements should be structured.

DATES: Written comments may be submitted on or before [INSERT DATE THAT IS 45 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER].

ADDRESSES: Because paper mail in the Washington, D.C., area may be subject to delay, commenters are encouraged to e-mail comments. Comments may be submitted by electronic mail to regcomments@fincen.treas.gov with the caption in the body of the text,

"ATTN: ANPRM - Sections 352 and 326 – Vehicle Seller Regulations." Comments may be mailed to FinCEN, P.O. Box 39, Vienna, VA 22183, ATTN: ANPRM - Sections 352 and 326 – Vehicle Seller Regulations. Comments should be sent by one method only. Comments may be inspected at FinCEN between 10 a.m. and 4 p.m., in the FinCEN Reading Room in Washington, D.C. Persons wishing to inspect the comments submitted must request an appointment by telephoning (202) 354-6400 (not a toll-free number).

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SUPPLEMENTARY INFORMATION:

I. Background

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(iii) an ongoing employee training program; and (iv) an independent audit function to test programs. When prescribing minimum standards for anti-money laundering programs, section 352 directs the Treasury to consider the extent to which such standards are commensurate with the size, location, and activities of the financial institutions to which such regulations apply.

As a "business engaged in vehicle sales" (vehicle seller) is defined as a financial institution under the BSA, 31 U.S.C. 5312(a)(2)(T), it is subject to the anti-money laundering program requirement. On April 29, 2002, and again on November 6, 2002, FinCEN temporarily exempted certain financial institutions, including vehicle sellers, from the requirement to establish an anti-money laundering compliance program. The purpose of the deferral was to enable FinCEN to study the affected industries and consider the extent to which anti-money laundering program requirements should be applied to them, taking into account the specific characteristics of the various entities defined as financial institutions by the BSA.[1]

In addition, section 326 of the Act added new subsection (l) to 31 U.S.C. 5318, which requires Treasury to prescribe regulations setting forth minimum standards for financial institutions to identify customers applying to open accounts. Section 326 applies to all BSA financial institutions that open accounts for their customers.

The business of vehicle sellers encompasses various segments, including sellers of: (1) new land-based vehicles, such as automobiles, trucks, RVs, and motorcycles; (2)

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new aircraft, including fixed wing airplanes and helicopters; (3) new boats and ships; and (4) used vehicles (as well as those who broker the sale of used vehicles).[2]

Businesses engaged in the selling of vehicles comprise a significant percentage of the total gross domestic product of the United States, and the vehicles that they collectively sell account for a major portion of U.S. consumption, exports, and other important economic indicia.[3] As such, because of both the economic significance of this industry, and the important and pervasive role that vehicles, and therefore vehicles sales, play in the United States, this ANPRM is intended to assist FinCEN in striking a balance between the important statutory requirements of the Act, and the important benefits that vehicle sellers provide to our country.

Some vehicle sellers are tied to the manufacturing of the vehicles, while others may not be. While some vehicle sellers are publicly traded companies, most are privately held or family owned. Some may be characterized as wholesale sellers of vehicles, while others are engaged in retail sales of the vehicles. In each segment, there is often substantial variety in function and practice.

Vehicle sellers range in size from very large entities that sell vehicles with a total value that is measured in billions of dollars annually, to very small entities (such as a neighborhood used car dealer) that may only sell a few vehicles each year. Vehicle sellers may sell either new or used vehicles, and may sell to customers domestic or foreign, or both. Moreover, the characteristics of vehicle sellers often vary based on the

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[2] FinCEN does not intend to impose anti-money laundering program obligations on individuals in connection with the sale of their own personal vehicle to others, whether as a "trade-in" with a retail vehicle dealer or by private sale with another party, unless an individual is engaged in the business of selling vehicles.

[3] According to the Department of Transportation, in the year 2000 there were 8,847,000 new automobiles, 578,700 boats, and 3,285 civilian aircraft sold at retail. U.S. Dept. of Transportation Bureau of Transportation Statistics, National Transportation Statistics 2002 (GPO July 2002).

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II. Issues for Comment

1. What is the potential money laundering risk posed by vehicle sellers? Do money laundering risks vary by (1) vehicle type (e.g., boat, airplane, automobile); (2) market (wholesale vs. retail); or (3) business line (international sales, sales to governments)?

The threshold issue being addressed by this ANPRM is the extent to which vehicle sellers pose a significant risk of money laundering.[4] For example, a money laundering risk is presented where a vehicle is purchased with cash.[5] This is particularly true for the placement stage of money laundering; that is, where the money launderer seeks to cleanse illegal proceeds by introducing them into the financial system. A large cash purchase of an expensive vehicle could form the placement stage for a money

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The next stage of money laundering, the layering stage, involves the distancing of illegal funds from their criminal source through the creation of complex layers of financial transactions. Examples of layering through the vehicle sellers industry might include trading in vehicles for other vehicles and engaging in successive transactions of buying and selling both new and used vehicles.

Vehicle sales businesses also could be used for integrating illicit income into assets that appear legitimate. Integration occurs when illegal funds appear to have been derived from a legitimate source. This could occur, for instance, when the funds or vehicles received from the vehicle seller in the aftermath of the layering transactions are held out as coming from a legitimate source.

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[6] See, e.g., U.S. v. Cruz, 993 F.2d 164 (8th Cir. 1993) (narcotics dealer laundered proceeds by purchasing three automobiles for cash in amount that greatly exceeded his stated income).
[7] Sellers of vehicles for personal consumption (as opposed to commercial sales) fall within the type of retail business required to report receipts of monetary instruments (cashier's checks, traveler's checks, money orders) that have face amounts of less than $10,000 and which are used to make a purchase of greater than $10,000. See 31 CFR 103.30.

Vehicle sellers may need to have an understanding of the identity of customers who participate in transactions with money laundering risk. For purchases of vehicles involving large sums of cash, knowing the customer's identity may be an essential part of an effective anti-money laundering program. Customers may request complex invoicing arrangements or payment arrangements or may structure their cash payments to avoid BSA reports. While vehicle sellers may scrutinize non-cash transactions to manage fraud risk, they are undoubtedly less aware of possible money laundering risk with both cash and non-cash transactions.

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from the seller that have the appearance of legitimacy. FinCEN further seeks comment on whether differentiation should be made for lines of business that appear to have minimal money laundering risks, such as the sale of vehicles to federal, state, and local governments. Are there other functional distinctions that should be made?

2. Should vehicle sellers be exempt from coverage under sections 352 and 326 of the Patriot Act?

Based on the determination of the extent of the risk of money laundering posed by vehicle sellers, the question arises as to whether the industry should be exempt under sections 352 and 326 of the Act. If the risk of money laundering in the vehicle sellers industry is determined to be minimal such that it does not justify the imposition of a regulatory burden, it might be reasonable to exempt the industry from coverage of these provisions. This judgment will be based on the existing risks of money laundering, the potential risks of money laundering, as well as the volume of possible illicit funds that may flow through vehicle sellers.

In light of these issues, FinCEN would like to solicit comments with regard to the issue of whether there should be an exemption from these provisions for vehicle sellers, or any category thereof. These comments should be designed to enable FinCEN to decide whether or not to propose an appropriate regulation designed to provide protection for the vehicle seller industry from the risks of money laundering.

3. If vehicle sellers, or some subset of the industry, should be subject to the anti-money laundering program requirements, how should the program be structured?

In applying section 352 of the Act to vehicle sellers, FinCEN must take into account which requirements are "commensurate with the size, location, and activities" of this industry. In undertaking this review, FinCEN recognizes that vehicle sellers likely have some programs already in place to meet existing legal obligations. For example, as a nonfinancial trade or business, vehicle sellers are required to report on Form 8300 the receipt of over $10,000 in currency and certain monetary instruments. Vehicle sellers also may have procedures in place to protect themselves against fraud. Such procedures may be sufficient in themselves, given the money laundering risk in the industry, or they may serve as a foundation on which additional anti-money laundering program requirements could be based. FinCEN therefore seeks comment on the particular elements that should be included in any required anti-money laundering program, should it be determined that such a requirement should be imposed on this industry. In this regard, comment is requested regarding the types of programs vehicle sellers currently have in place to prevent fraud and illegal activities, and the applicability of such programs to the prevention of money laundering.

4. How should a vehicle seller be defined? Should there be a minimum threshold value in the definition? Should it include wholesale and retail sellers? Should sellers of used vehicles be included?

In the event FinCEN determines to propose requirements on vehicle sellers under sections 352 and 326 of the Act, it will be necessary to define the term vehicle seller. Although the BSA identifies a vehicle seller as a financial institution, the statute contains no definition of the term, other than to state that it includes sellers of automobiles, airplanes, and boats. The legislative history of the BSA provides no insight into how

Congress intended the term to be defined, nor has FinCEN had an occasion to define the term in a regulation.

As discussed above, vehicle sellers form an extremely large and diverse industry, accounting for a major portion of American consumption as well as exports. Given this diversity in the vehicle sellers industry, the risks of money laundering and the costs of preventive programs can vary widely. Thus, FinCEN solicits comment on whether any proposed rule should limit the definition to sellers of particular types of vehicles, to retail or wholesale vehicle sellers, or sellers of new or used vehicles. In addition, FinCEN's regulations in the past have recognized that businesses that do not transact in sufficient dollar amounts or volume, or in cash or monetary instruments, may not present sufficient money laundering risk to require the imposition of federally mandated programs. For example, under the BSA, money services businesses other than money transmitters (currency exchangers, check cashers, and issuers, sellers, and redeemers of traveler's checks and money orders) are defined as financial institutions only if they transact over $1,000 in covered transactions for any one person in any one day.[9] This threshold reflects the judgment that businesses that never engage in transactions above that level fail to present a money laundering risk sufficient to justify the regulatory burden. FinCEN solicits comment on whether, if vehicle sellers are required to implement anti-money laundering programs, there should be a monetary threshold of some kind in defining a vehicle seller for purposes of the BSA. Commenters should address whether any such threshold should be transaction based, as with the money services business rules, or on an annual gross income, or some other basis.

5. Do vehicle sellers maintain "accounts" for their customers?

Section 326 requires the setting of minimum standards for identification of customers "in connection with the opening of an account at a financial institution." Section 311 of the Patriot Act provides a definition of "account" for banks, but requires the Secretary to promulgate a regulation defining "account" for non-bank financial institutions. Although such a regulation has yet to be issued, the definition for banks ("a formal banking or business relationship established to provide regular services, dealings, and other financial transactions") is a useful starting point. This definition incorporates two key concepts: (1) formality of the business relationship, and (2) regularity of dealings. In light of these concepts, FinCEN solicits comments as to whether (and to what extent) vehicle sellers maintain accounts for their customers, in addition to fleet accounts. What kinds of services do vehicle sellers provide to any such account holders (including fleet accountholders)? Are these account relationships ongoing? Are accounts established to receive recurring payments from a customer, or are additional services provided to the accountholder?

III. Conclusion

With this ANPRM, FinCEN is seeking input to assist it in determining how to implement the requirements of sections 352 and 326 of the Act with respect to vehicle sellers. FinCEN welcomes comments on all aspects of this potential regulation and encourages all interested parties to provide their views.

IV. Executive Order 12866

Because this is an ANPRM, FinCEN does not know whether or in what form it may issue a regulation pursuant to sections 352 and 326 of the Act affecting vehicle sellers. Accordingly, FinCEN does not know whether potential regulations will

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[9] 31 CFR 103.11(uu).

constitute a significant regulatory action under the Executive Order. This ANPRM neither establishes nor proposes any regulatory requirements. FinCEN has submitted a notice of planned regulatory action to OMB for review. Because this ANPRM does not contain a specific proposal, information is not available with which to prepare an economic analysis. FinCEN will prepare a preliminary analysis if it proceeds with a proposed rule that constitutes a significant regulatory action.

Accordingly, FinCEN solicits comments, information, and data on the potential effects of any potential regulation. FinCEN will carefully consider the costs and benefits associated with this rulemaking.

DATED: ___________________

____
James F. Sloan
Director,
Financial Crimes Enforcement Network

Bureau of the
Public
United States Department of the Treasury

Treasury Suspends Sales of State and Local Government Series Securities

FOR IMMEDIATE RELEASE

February 19, 2003

The Treasury Department announced today the suspension of sales of State and Local Government series (SLGS) nonmarketable Treasury securities until further notice, effective immediately. This suspension is necessary because the statutory debt ceiling has not been raised. The suspension will facilitate Treasury's managing debt subject to limit.

The suspension applies to demand deposit and time deposit securities. Subscriptions for SLGS received by the Bureau of the Public Debt prior to this announcement will be issued on the date requested. New subscriptions for SLGS will not be accepted until the suspension is lifted. The Internal Revenue Service has issued guidance to affected entities in Rev. Proc. 95-47, 1995-2 C.B. 417, which is available in the "Tax Exempt Bond Tax Kit" which can be found by following the link labeled "More Topics for Tax Exempt Bonds" at www.irs.gov/bonds.

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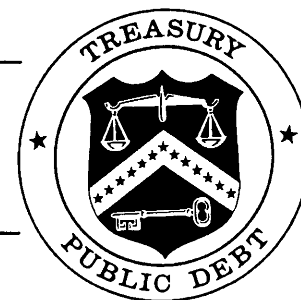
U.S. Department of the Treasury, Bureau of the Public Debt

Last Updated November 3, 2004

JS -44

PUBLIC DEBT NEWS



Department of the Treasury • Bureau of the Public Debt • Washington, DC 20239

TREASURY SECURITY AUCTION RESULTS
BUREAU OF THE PUBLIC DEBT - WASHINGTON DC

FOR IMMEDIATE RELEASE
February 19, 2003

CONTACT: Office of Financing
202-691-3550

RESULTS OF TREASURY'S AUCTION OF 4-WEEK BILLS

Term: 28-Day Bill
Issue Date: February 20, 2003
Maturity Date: March 20, 2003
CUSIP Number: 912795MD0

High Rate: 1.155% Investment Rate 1/: 1.174% Price: 99.910

All noncompetitive and successful competitive bidders were awarded securities at the high rate. Tenders at the high discount rate were allotted 82.18%. All tenders at lower rates were accepted in full.

AMOUNTS TENDERED AND ACCEPTED (in thousands)

Tender Type	Tendered	Accepted
Competitive	$ 43,409,359	$ 19,964,919
Noncompetitive	35,716	35,716
FIMA (noncompetitive)	0	0
SUBTOTAL	43,445,075	20,000,635
Federal Reserve	1,510,738	1,510,738
TOTAL	$ 44,955,813	$ 21,511,373

Median rate 1.150%: 50% of the amount of accepted competitive tenders was tendered at or below that rate. Low rate 1.130%: 5% of the amount of accepted competitive tenders was tendered at or below that rate.

Bid-to-Cover Ratio = 43,445,075 / 20,000,635 = 2.17

1/ Equivalent coupon-issue yield.

PRESS ROOM

FROM THE OFFICE OF PUBLIC AFFAIRS

To view or print the PDF content on this page, download the free Adobe® Acrobat® Reader®.

February 19, 2003
JS-46

Treasury Letter to Congress on the Debt Limit

Debt Limit

Related Documents:

- "Treasury Letter to Congress on the Debt Limit"

February 19, 2003

The Honorable Dennis Hastert
Speaker of the House
United States House of Representatives
Washington, D.C. 20515

Dear Mr. Speaker:

In December of last year, Deputy Secretary Kenneth Dam wrote Congress requesting an increase in the statutory debt limit. Because the debt limit has not yet been raised, I must inform Congress that, pursuant to 5 U.S.C. § 8438(h)(2), it is my determination that, by reason of the public debt limit, I will be unable to fully invest the Government Securities Investment Fund ("G-Fund") of the Federal Employees Retirement System in special interest-bearing Treasury securities, beginning on February 20, 2003. The statute governing G-Fund investments explicitly authorizes the Secretary of the Treasury to suspend this G-Fund investment to avoid breaching the statutory debt limit. Such a suspension action was taken by my predecessors both last year and also in 1995.

G-Fund beneficiaries are fully protected and will suffer no adverse consequences from this action. The statute ensures that once the Secretary of the Treasury can make the G-Fund whole without exceeding the public debt limit, he is to do so. Under the governing law in this case, the G-Fund will receive complete restoration of all funds temporarily affected by this necessary action, including full and automatic restoration of any interest that would have been credited to the Fund. In short, the result on the G-Fund and its beneficiaries will be the same as if this temporary action had never taken place.

I know that you share the President's and my commitment to maintaining the full faith and credit of the U.S. government, especially at this critical time. Together we must continue working to enact an increase in the statutory debt limit as quickly as possible to avoid any negative repercussions at home or abroad.

Sincerely,

John W. Snow

Also sent to:

Rep. DeLay - House Majority Leader

Rep. Pelosi - House Minority Leader

Rep. Thomas - Ways & Means Chairman

Rep. Rangel - Ways & Means Ranking Member

Rep. Nussle - Budget Committee Chairman

Rep. Spratt - Budget Committee Ranking Member

Rep. Oxley - Financial Services Committee Chairman

Rep. Frank - Financial Services Ranking Member

Rep. Davis - Government Reform Chairman

Rep. Waxman - Government Reform Ranking Member

Sen. Frist - Senate Majority Leader

Sen. Daschle - Senate Minority Leader

Sen. Stevens - President Pro Tempore of the Senate

Sen. Grassley - Finance Chairman

Sen. Baucus - Finance Ranking Member

Sen. Shelby - Banking, Housing, and Urban Affairs Chairman

Sen. Sarbanes - Banking, Housing, and Urban Affairs Ranking Member

Sen. Nickles - Budget Chairman

Sen. Conrad - Budget Ranking Member

Sen. Collins - Governmental Affairs Chairman

Sen. Lieberman - Governmental Affairs Ranking Member

DEPARTMENT OF THE TREASURY

TREASURY NEWS

OFFICE OF PUBLIC AFFAIRS • 1500 PENNSYLVANIA AVENUE, N.W. • WASHINGTON, D.C. • 20220 • (202) 622-2960

EMBARGOED UNTIL 11:00 A.M.
FEBRUARY 20, 2003

CONTACT: Office of Financing
202/691-3550

TREASURY OFFERS 13-WEEK AND 26-WEEK BILLS

The Treasury will auction 13-week and 26-week Treasury bills totaling $35,000 million to refund an estimated $28,989 million of publicly held 13-week and 26-week Treasury bills maturing February 27, 2003, and to raise new cash of approximately $6,011 million. Also maturing is an estimated $16,000 million of publicly held 4-week Treasury bills, the disposition of which will be announced February 24, 2003.

The Federal Reserve System holds $12,860 million of the Treasury bills maturing on February 27, 2003, in the System Open Market Account (SOMA). This amount may be refunded at the highest discount rate of accepted competitive tenders either in these auctions or the 4-week Treasury bill auction to be held February 25, 2003. Amounts awarded to SOMA will be in addition to the offering amount.

Up to $1,000 million in noncompetitive bids from Foreign and International Monetary Authority (FIMA) accounts bidding through the Federal Reserve Bank of New York will be included within the offering amount of each auction. These noncompetitive bids will have a limit of $100 million per account and will be accepted in the order of smallest to largest, up to the aggregate award limit of $1,000 million.

TreasuryDirect customers have requested that we reinvest their maturing holdings of approximately $1,111 million into the 13-week bill and $990 million into the 26-week bill.

The allocation percentage applied to bids awarded at the highest discount rate will be rounded up to the next hundredth of a whole percentage point, e.g., 17.13%.

This offering of Treasury securities is governed by the terms and conditions set forth in the Uniform Offering Circular for the Sale and Issue of Marketable Book-Entry Treasury Bills, Notes, and Bonds (31 CFR Part 356, as amended).

Details about each of the new securities are given in the attached offering highlights.

oOo

Attachment

JS 47

HIGHLIGHTS OF TREASURY OFFERINGS OF BILLS
TO BE ISSUED FEBRUARY 27, 2003

February 20, 2003

Offering Amount	$18,000 million	$17,000 million
Maximum Award (35% of Offering Amount)	$ 6,300 million	$ 5,950 million
Maximum Recognized Bid at a Single Rate	$ 6,300 million	$ 5,950 million
NLP Reporting Threshold	$ 6,300 million	$ 5,950 million
NLP Exclusion Amount	$ 5,200 million	None
Description of Offering:		
Term and type of security	91-day bill	182-day bill
CUSIP number	912795 MP 3	912795 NK 3
Auction date	February 24, 2003	February 24, 2003
Issue date	February 27, 2003	February 27, 2003
Maturity date	May 29, 2003	August 28, 2003
Original issue date	November 29, 2002	February 27, 2003
Currently outstanding	$20,593 million	---
Minimum bid amount and multiples	$1,000	$1,000

The following rules apply to all securities mentioned above:

Submission of Bids:

Noncompetitive bids: Accepted in full up to $1 million at the highest discount rate of accepted competitive bids.

Foreign and International Monetary Authority (FIMA) bids: Noncompetitive bids submitted through the Federal Reserve Banks as agents for FIMA accounts. Accepted in order of size from smallest to largest with no more than $100 million awarded per account. The total noncompetitive amount awarded to Federal Reserve Banks as agents for FIMA accounts will not exceed $1,000 million. A single bid that would cause the limit to be exceeded will be partially accepted in the amount that brings the aggregate award total to the $1,000 million limit. However, if there are two or more bids of equal amounts that would cause the limit to be exceeded, each will be prorated to avoid exceeding the limit.

Competitive bids:

(1) Must be expressed as a discount rate with three decimals in increments of .005%, e.g., 7.100%, 7.105%.
(2) Net long position (NLP) for each bidder must be reported when the sum of the total bid amount, at all discount rates, and the net long position equals or exceeds the NLP reporting threshold stated above.
(3) Net long position must be determined as of one half-hour prior to the closing time for receipt of competitive tenders.

Receipt of Tenders:

Noncompetitive tenders..... Prior to 12:00 noon eastern standard time on auction day
Competitive tenders........ Prior to 1:00 p.m. eastern standard time on auction day

Payment Terms: By charge to a funds account at a Federal Reserve Bank on issue date, or payment of full par amount with tender. *TreasuryDirect* customers can use the Pay Direct feature, which authorizes a charge to their account of record at their financial institution on issue date.

PRESS ROOM

FROM THE OFFICE OF PUBLIC AFFAIRS

February 20, 2003
JS-48

Treasury Department Statement Regarding the Designation of Ansar al-Islam

The United States government is taking action today to designate Ansar al-Islam (AI), formerly known as Jund al-Islam, as a terrorist group with links to Al-Qa'ida and to notify the United Nations to ensure that any assets or transactions related to this group are frozen internationally. AI is a terrorist group operating in northeastern Iraq with close links to and support from al-Qa'ida. Al-Qa'ida and Usama bin Laden participated in the formation and funding of Ansar al-Islam, and AI has provided safe haven to al-Qa'ida in northeastern Iraq. AI's predecessor, Jund al-Islam, was formed in September 2001. AI came into being with the "blessing" of bin Laden after its leaders visited al-Qa'ida in Afghanistan in 2000 and 2001. Bin Laden provided AI with an estimated $300,000 to $600,000 in seed money. AI has acknowledged that it contracted "Islamic figures abroad" before declaring jihad in northeastern Iraq.

Ansar al-Islam has received training and logistical assistance from al-Qa'ida. Groups of AI's Kurdish members have traveled to Afghanistan to train with al-Qa'ida, while AI's foreign members are believed to be al-Qa'ida-trained veterans of conflicts in Afghanistan and Chechnya.

Ansar al-Islam has a close association with senior al-Qa'ida operative Abu Musab al-Zarqawi, a poisons and chemical weapons expert whose network has established a poison and explosives training camp in the area of northeastern Iraq that is controlled by Ansar al-Islam. Zarqawi's lieutenants help run this camp, which teaches operatives how to produce ricin and other poisons.

Ansar al-Islam (whose cadres include Kurdish, Arab, and Pashtun members) has declared "jihad" against secular and non-Islamic groups in northeastern Iraq and conducts violent attacks against Kurdish groups in the region, such as the Patriotic Union of Kurdistan (PUK).

This action today is yet another step in uncovering the tangled web of al Qa'ida and its alliances throughout the world. Including today's action there are 260 individuals, entities and organizations listed pursuant to the President's Executive Order 13224, whose assets must be frozen in the United States and with whom U.S persons may not do business or support. Since September 11, 2001, $124.5 million has been blocked worldwide. Of that amount, $36.2 million has been blocked in the United States. Over 165 countries and jurisdictions have taken concrete actions to disrupt the financing of terrorism.

PRESS ROOM

FROM THE OFFICE OF PUBLIC AFFAIRS

February 21, 2003
JS-49

U.S. International Reserve Position

The Treasury Department today released U.S. reserve assets data for the latest week. As indicated in this table, U.S. reserve assets totaled $78,500 million as of the end of that week, compared to $78,498 million as of the end of the prior week.

I. Official U.S. Reserve Assets *(in US millions)*						
	February 7, 2003			February 14, 2003		
TOTAL	78,498			78,500		
1. Foreign Currency Reserves [1]	Euro	Yen	TOTAL	Euro	Yen	TOTAL
a. Securities	7,068	13,065	20,133	7,075	13,064	20,139
Of which, issuer headquartered in the U.S.			0			0
b. Total deposits with:						
b.i. Other central banks and BIS	11,569	2,623	14,192	11,573	2,623	14,196
b.ii. Banks headquartered in the U.S.			0			0
b.ii. Of which, banks located abroad			0			0
b.iii. Banks headquartered outside the U.S.			0			0
b.iii. Of which, banks located in the U.S.			0			0
2. IMF Reserve Position [2]			21,763			21,758
3. Special Drawing Rights (SDRs) [2]			11,367			11,365
4. Gold Stock [3]			11,043			11,043
5. Other Reserve Assets			0			0

II. Predetermined Short-Term Drains on Foreign Currency Assets						
	February 7, 2003			February 14, 2003		
	.Euro	Yen	TOTAL	Euro	Yen	TOTAL
1. Foreign currency loans and securities			0			0
2. Aggregate short and long positions in forwards and futures in foreign currencies vis-à-vis the U.S. dollar:						
2.a. Short positions			0			0
2.b. Long positions			0			0
3. Other			0			0

III. Contingent Short-Term Net Drains on Foreign Currency Assets						
	February 7, 2003			February 14, 2003		

	Euro	Yen	TOTAL	Euro	Yen	TOTAL
1. Contingent liabilities in foreign currency			0			0
1.a. Collateral guarantees on debt due within 1 year						
1.b. Other contingent liabilities						
2. Foreign currency securities with embedded options			0			0
3. Undrawn, unconditional credit lines			0			0
3.a. With other central banks						
3.b. With banks and other financial institutions						
Headquartered in the U.S.						
3.c. With banks and other financial institutions						
Headquartered outside the U.S.						
4. Aggregate short and long positions of options in foreign						
Currencies vis-à-vis the U.S. dollar			0			0
4.a. Short positions						
4.a.1. Bought puts						
4.a.2. Written calls						
4.b. Long positions						
4.b.1. Bought calls						
4.b.2. Written puts						

Notes:

1/ Includes holdings of the Treasury's Exchange Stabilization Fund (ESF) and the Federal Reserve's System Open Market Account (SOMA), valued at current market exchange rates. Foreign currency holdings listed as securities reflect marked-to-market values, and deposits reflect carrying values. Foreign Currency Reserves for the latest week may be subject to revision. Foreign Currency Reserves for the prior week are final.

2/ The items, "2. IMF Reserve Position" and "3. Special Drawing Rights (SDRs)," are based on data provided by the IMF and are valued in dollar terms at the official SDR/dollar exchange rate for the reporting date. The entries for the latest week reflect any necessary adjustments, including revaluation, by the U.S. Treasury to the prior week's IMF data. IMF data for the latest week may be subject to revision. IMF data for the prior week are final.

3/ Gold stock is valued monthly at $42.2222 per fine troy ounce.

PUBLIC DEBT NEWS

Department of the Treasury • Bureau of the Public Debt • Washington, DC 20239

FOR IMMEDIATE RELEASE
February 21, 2003

Contact: Office of Financing
(202) 691-3550

TREASURY'S INFLATION-INDEXED SECURITIES MARCH REFERENCE CPI NUMBERS AND DAILY INDEX RATIOS

Public Debt announced today the reference Consumer Price Index (CPI) numbers and daily index ratios for the month of March for the following Treasury inflation-indexed securities:

(1) 3-3/8% 10-year notes due January 15, 2007
(2) 3-5/8% 10-year notes due January 15, 2008
(3) 3-5/8% 30-year bonds due April 15, 2028
(4) 3-7/8% 10-year notes due January 15, 2009
(5) 3-7/8% 30-year bonds due April 15, 2029
(6) 4-1/4% 10-year notes due January 15, 2010
(7) 3-1/2% 10-year notes due January 15, 2011
(8) 3-3/8% 30-1/2-year bonds due April 15, 2032
(9) 3-3/8% 10-year notes due January 15, 2012
(10) 3% 10-year notes due July 15, 2012

This information is based on the non-seasonally adjusted U.S. City Average All Items Consumer Price Index for All Urban Consumers (CPI-U) published by the Bureau of Labor Statistics of the U.S. Department of Labor.

In addition to the publication of the reference CPI's (Ref CPI) and index ratios, this release provides the non-seasonally adjusted CPI-U for the prior three-month period.

The information for April is expected to be released on March 21, 2003.

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March Reference CPI Numbers and Daily Index Ratios Table PDF format (file size-16KB, uploaded-02/21/03)

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U.S. Department of the Treasury, Bureau of the Public Debt

Last Updated January 12, 2005

JS-56

3-3/8% TREASURY 10-YEAR INFLATION-INDEXED NOTES

Due January 15, 2007

Ref CPI and Index Ratios for March 2003

Contact: Office of Financing 202-691-3550

DESCRIPTION:	Series A-2007
CUSIP NUMBER:	9128272M3
DATED DATE:	January 15, 1997
ORIGINAL ISSUE DATE:	February 6, 1997
ADDITIONAL ISSUE DATE:	April 15, 1997
MATURITY DATE:	January 15, 2007
Ref CPI on DATED DATE:	158.43548
TABLE FOR MONTH OF:	March 2003
NUMBER OF DAYS IN MONTH:	31
CPI-U (NSA) November 2002	181.3
CPI-U (NSA) December 2002	180.9
CPI-U (NSA) January 2003	181.7

Month	Calendar Day	Year	Ref CPI	Index Ratio
March	1	2003	180.90000	1.14179
March	2	2003	180.92581	1.14195
March	3	2003	180.95161	1.14212
March	4	2003	180.97742	1.14228
March	5	2003	181.00323	1.14244
March	6	2003	181.02903	1.14260
March	7	2003	181.05484	1.14277
March	8	2003	181.08065	1.14293
March	9	2003	181.10645	1.14309
March	10	2003	181.13226	1.14326
March	11	2003	181.15806	1.14342
March	12	2003	181.18387	1.14358
March	13	2003	181.20968	1.14374
March	14	2003	181.23548	1.14391
March	15	2003	181.26129	1.14407
March	16	2003	181.28710	1.14423
March	17	2003	181.31290	1.14440
March	18	2003	181.33871	1.14456
March	19	2003	181.36452	1.14472
March	20	2003	181.39032	1.14488
March	21	2003	181.41613	1.14505
March	22	2003	181.44194	1.14521
March	23	2003	181.46774	1.14537
March	24	2003	181.49355	1.14554
March	25	2003	181.51935	1.14570
March	26	2003	181.54516	1.14586
March	27	2003	181.57097	1.14602
March	28	2003	181.59677	1.14619
March	29	2003	181.62258	1.14635
March	30	2003	181.64839	1.14651
March	31	2003	181.67419	1.14668

3-5/8% TREASURY 10-YEAR INFLATION-INDEXED NOTES

Due January 15, 2008

Ref CPI and Index Ratios for March 2003

Contact: Office of Financing 202-691-3550

DESCRIPTION:	Series A-2008
CUSIP NUMBER:	9128273T7
DATED DATE:	January 15, 1998
ORIGINAL ISSUE DATE:	January 15, 1998
ADDITIONAL ISSUE DATE:	October 15, 1998
MATURITY DATE:	January 15, 2008
Ref CPI on DATED DATE:	161.55484
TABLE FOR MONTH OF:	March 2003
NUMBER OF DAYS IN MONTH:	31
CPI-U (NSA) November 2002	181.3
CPI-U (NSA) December 2002	180.9
CPI-U (NSA) January 2003	181.7

Month	Calendar Day	Year	Ref CPI	Index Ratio
March	1	2003	180.90000	1.11974
March	2	2003	180.92581	1.11990
March	3	2003	180.95161	1.12006
March	4	2003	180.97742	1.12022
March	5	2003	181.00323	1.12038
March	6	2003	181.02903	1.12054
March	7	2003	181.05484	1.12070
March	8	2003	181.08065	1.12086
March	9	2003	181.10645	1.12102
March	10	2003	181.13226	1.12118
March	11	2003	181.15806	1.12134
March	12	2003	181.18387	1.12150
March	13	2003	181.20968	1.12166
March	14	2003	181.23548	1.12182
March	15	2003	181.26129	1.12198
March	16	2003	181.28710	1.12214
March	17	2003	181.31290	1.12230
March	18	2003	181.33871	1.12246
March	19	2003	181.36452	1.12262
March	20	2003	181.39032	1.12278
March	21	2003	181.41613	1.12294
March	22	2003	181.44194	1.12310
March	23	2003	181.46774	1.12326
March	24	2003	181.49355	1.12342
March	25	2003	181.51935	1.12358
March	26	2003	181.54516	1.12374
March	27	2003	181.57097	1.12390
March	28	2003	181.59677	1.12406
March	29	2003	181.62258	1.12422
March	30	2003	181.64839	1.12438
March	31	2003	181.67419	1.12454

3-5/8% TREASURY 30-YEAR INFLATION-INDEXED BONDS

Due April 15, 2028

Ref CPI and Index Ratios for March 2003

Contact: Office of Financing 202-691-3550

DESCRIPTION:	Bonds of April 2028
CUSIP NUMBER:	912810FD5
DATED DATE:	April 15, 1998
ORIGINAL ISSUE DATE:	April 15, 1998
ADDITIONAL ISSUE DATE:	July 15, 1998
MATURITY DATE:	April 15, 2028
Ref CPI on DATED DATE:	161.74000
TABLE FOR MONTH OF:	March 2003
NUMBER OF DAYS IN MONTH:	31
CPI-U (NSA) November 2002	181.3
CPI-U (NSA) December 2002	180.9
CPI-U (NSA) January 2003	181.7

Month	Calendar Day	Year	Ref CPI	Index Ratio
March	1	2003	180.90000	1.11846
March	2	2003	180.92581	1.11862
March	3	2003	180.95161	1.11878
March	4	2003	180.97742	1.11894
March	5	2003	181.00323	1.11910
March	6	2003	181.02903	1.11926
March	7	2003	181.05484	1.11942
March	8	2003	181.08065	1.11958
March	9	2003	181.10645	1.11974
March	10	2003	181.13226	1.11990
March	11	2003	181.15806	1.12006
March	12	2003	181.18387	1.12022
March	13	2003	181.20968	1.12038
March	14	2003	181.23548	1.12054
March	15	2003	181.26129	1.12070
March	16	2003	181.28710	1.12086
March	17	2003	181.31290	1.12101
March	18	2003	181.33871	1.12117
March	19	2003	181.36452	1.12133
March	20	2003	181.39032	1.12149
March	21	2003	181.41613	1.12165
March	22	2003	181.44194	1.12181
March	23	2003	181.46774	1.12197
March	24	2003	181.49355	1.12213
March	25	2003	181.51935	1.12229
March	26	2003	181.54516	1.12245
March	27	2003	181.57097	1.12261
March	28	2003	181.59677	1.12277
March	29	2003	181.62258	1.12293
March	30	2003	181.64839	1.12309
March	31	2003	181.67419	1.12325

3-7/8% TREASURY 10-YEAR INFLATION-INDEXED NOTES

Due January 15, 2009

Ref CPI and Index Ratios for March 2003

Contact: Office of Financing 202-691-3550

DESCRIPTION:	Series A-2009
CUSIP NUMBER:	9128274Y5
DATED DATE:	January 15, 1999
ORIGINAL ISSUE DATE:	January 15, 1999
ADDITIONAL ISSUE DATE:	July 15, 1999
MATURITY DATE:	January 15, 2009
Ref CPI on DATED DATE:	164.00000
TABLE FOR MONTH OF:	March 2003
NUMBER OF DAYS IN MONTH:	31

CPI-U (NSA) November 2002	181.3
CPI-U (NSA) December 2002	180.9
CPI-U (NSA) January 2003	181.7

Month	Calendar Day	Year	Ref CPI	Index Ratio
March	1	2003	180.90000	1.10305
March	2	2003	180.92581	1.10321
March	3	2003	180.95161	1.10336
March	4	2003	180.97742	1.10352
March	5	2003	181.00323	1.10368
March	6	2003	181.02903	1.10384
March	7	2003	181.05484	1.10399
March	8	2003	181.08065	1.10415
March	9	2003	181.10645	1.10431
March	10	2003	181.13226	1.10447
March	11	2003	181.15806	1.10462
March	12	2003	181.18387	1.10478
March	13	2003	181.20968	1.10494
March	14	2003	181.23548	1.10509
March	15	2003	181.26129	1.10525
March	16	2003	181.28710	1.10541
March	17	2003	181.31290	1.10557
March	18	2003	181.33871	1.10572
March	19	2003	181.36452	1.10588
March	20	2003	181.39032	1.10604
March	21	2003	181.41613	1.10620
March	22	2003	181.44194	1.10635
March	23	2003	181.46774	1.10651
March	24	2003	181.49355	1.10667
March	25	2003	181.51935	1.10683
March	26	2003	181.54516	1.10698
March	27	2003	181.57097	1.10714
March	28	2003	181.59677	1.10730
March	29	2003	181.62258	1.10745
March	30	2003	181.64839	1.10761
March	31	2003	181.67419	1.10777

3-7/8% TREASURY 30-YEAR INFLATION-INDEXED BONDS

Due April 15, 2029

Ref CPI and Index Ratios for March 2003

Contact: Office of Financing 202-691-3550

DESCRIPTION:	Bonds of April 2029
CUSIP NUMBER:	912810FH6
DATED DATE:	April 15, 1999
ORIGINAL ISSUE DATE:	April 15, 1999
ADDITIONAL ISSUE DATE:	October 15, 1999
	October 15, 2000
MATURITY DATE:	April 15, 2029
Ref CPI on DATED DATE:	164.39333
TABLE FOR MONTH OF:	March 2003
NUMBER OF DAYS IN MONTH:	31
CPI-U (NSA) November 2002	181.3
CPI-U (NSA) December 2002	180.9
CPI-U (NSA) January 2003	181.7

Month	Calendar Day	Year	Ref CPI	Index Ratio
March	1	2003	180.90000	1.10041
March	2	2003	180.92581	1.10057
March	3	2003	180.95161	1.10072
March	4	2003	180.97742	1.10088
March	5	2003	181.00323	1.10104
March	6	2003	181.02903	1.10119
March	7	2003	181.05484	1.10135
March	8	2003	181.08065	1.10151
March	9	2003	181.10645	1.10167
March	10	2003	181.13226	1.10182
March	11	2003	181.15806	1.10198
March	12	2003	181.18387	1.10214
March	13	2003	181.20968	1.10229
March	14	2003	181.23548	1.10245
March	15	2003	181.26129	1.10261
March	16	2003	181.28710	1.10276
March	17	2003	181.31290	1.10292
March	18	2003	181.33871	1.10308
March	19	2003	181.36452	1.10324
March	20	2003	181.39032	1.10339
March	21	2003	181.41613	1.10355
March	22	2003	181.44194	1.10371
March	23	2003	181.46774	1.10386
March	24	2003	181.49355	1.10402
March	25	2003	181.51935	1.10418
March	26	2003	181.54516	1.10433
March	27	2003	181.57097	1.10449
March	28	2003	181.59677	1.10465
March	29	2003	181.62258	1.10481
March	30	2003	181.64839	1.10496
March	31	2003	181.67419	1.10512

4-1/4% TREASURY 10-YEAR INFLATION-INDEXED NOTES

Due January 15, 2010

Ref CPI and Index Ratios for March 2003

Contact: Office of Financing 202-691-3550

DESCRIPTION:	Series A-2010
CUSIP NUMBER:	9128275W8
DATED DATE:	January 15, 2000
ORIGINAL ISSUE DATE:	January 18, 2000
ADDITIONAL ISSUE DATE:	July 17, 2000
MATURITY DATE:	January 15, 2010
Ref CPI on DATED DATE:	168.24516
TABLE FOR MONTH OF:	March 2003
NUMBER OF DAYS IN MONTH:	31
CPI-U (NSA) November 2002	181.3
CPI-U (NSA) December 2002	180.9
CPI-U (NSA) January 2003	181.7

Month	Calendar Day	Year	Ref CPI	Index Ratio
March	1	2003	180.90000	1.07522
March	2	2003	180.92581	1.07537
March	3	2003	180.95161	1.07552
March	4	2003	180.97742	1.07568
March	5	2003	181.00323	1.07583
March	6	2003	181.02903	1.07598
March	7	2003	181.05484	1.07614
March	8	2003	181.08065	1.07629
March	9	2003	181.10645	1.07644
March	10	2003	181.13226	1.07660
March	11	2003	181.15806	1.07675
March	12	2003	181.18387	1.07690
March	13	2003	181.20968	1.07706
March	14	2003	181.23548	1.07721
March	15	2003	181.26129	1.07736
March	16	2003	181.28710	1.07752
March	17	2003	181.31290	1.07767
March	18	2003	181.33871	1.07782
March	19	2003	181.36452	1.07798
March	20	2003	181.39032	1.07813
March	21	2003	181.41613	1.07828
March	22	2003	181.44194	1.07844
March	23	2003	181.46774	1.07859
March	24	2003	181.49355	1.07874
March	25	2003	181.51935	1.07890
March	26	2003	181.54516	1.07905
March	27	2003	181.57097	1.07920
March	28	2003	181.59677	1.07936
March	29	2003	181.62258	1.07951
March	30	2003	181.64839	1.07966
March	31	2003	181.67419	1.07982

3-1/2% TREASURY 10-YEAR INFLATION-INDEXED NOTES

Due January 15, 2011

Ref CPI and Index Ratios for March 2003

Contact: Office of Financing 202-691-3550

DESCRIPTION:	Series A-2011
CUSIP NUMBER:	9128276R8
DATED DATE:	January 15, 2001
ORIGINAL ISSUE DATE:	January 16, 2001
ADDITIONAL ISSUE DATE:	July 16, 2001
MATURITY DATE:	January 15, 2011
Ref CPI on DATED DATE:	174.04516
TABLE FOR MONTH OF:	March 2003
NUMBER OF DAYS IN MONTH:	31
CPI-U (NSA) November 2002	181.3
CPI-U (NSA) December 2002	180.9
CPI-U (NSA) January 2003	181.7

Month	Calendar Day	Year	Ref CPI	Index Ratio
March	1	2003	180.90000	1.03939
March	2	2003	180.92581	1.03953
March	3	2003	180.95161	1.03968
March	4	2003	180.97742	1.03983
March	5	2003	181.00323	1.03998
March	6	2003	181.02903	1.04013
March	7	2003	181.05484	1.04028
March	8	2003	181.08065	1.04042
March	9	2003	181.10645	1.04057
March	10	2003	181.13226	1.04072
March	11	2003	181.15806	1.04087
March	12	2003	181.18387	1.04102
March	13	2003	181.20968	1.04116
March	14	2003	181.23548	1.04131
March	15	2003	181.26129	1.04146
March	16	2003	181.28710	1.04161
March	17	2003	181.31290	1.04176
March	18	2003	181.33871	1.04191
March	19	2003	181.36452	1.04205
March	20	2003	181.39032	1.04220
March	21	2003	181.41613	1.04235
March	22	2003	181.44194	1.04250
March	23	2003	181.46774	1.04265
March	24	2003	181.49355	1.04280
March	25	2003	181.51935	1.04294
March	26	2003	181.54516	1.04309
March	27	2003	181.57097	1.04324
March	28	2003	181.59677	1.04339
March	29	2003	181.62258	1.04354
March	30	2003	181.64839	1.04369
March	31	2003	181.67419	1.04383

3-3/8% TREASURY 30-1/2-YEAR INFLATION-INDEXED BONDS
Due April 15, 2032

Ref CPI and Index Ratios for March 2003

Contact: Office of Financing 202-691-3550

DESCRIPTION:	Bonds of April 2032
CUSIP NUMBER:	912810FQ6
DATED DATE:	October 15, 2001
ORIGINAL ISSUE DATE:	October 15, 2001
ADDITIONAL ISSUE DATE:	
MATURITY DATE:	April 15, 2032
Ref CPI on DATED DATE:	177.50000
TABLE FOR MONTH OF:	March 2003
NUMBER OF DAYS IN MONTH:	31
CPI-U (NSA) November 2002	181.3
CPI-U (NSA) December 2002	180.9
CPI-U (NSA) January 2003	181.7

Month	Calendar Day	Year	Ref CPI	Index Ratio
March	1	2003	180.90000	1.01915
March	2	2003	180.92581	1.01930
March	3	2003	180.95161	1.01945
March	4	2003	180.97742	1.01959
March	5	2003	181.00323	1.01974
March	6	2003	181.02903	1.01988
March	7	2003	181.05484	1.02003
March	8	2003	181.08065	1.02017
March	9	2003	181.10645	1.02032
March	10	2003	181.13226	1.02046
March	11	2003	181.15806	1.02061
March	12	2003	181.18387	1.02075
March	13	2003	181.20968	1.02090
March	14	2003	181.23548	1.02104
March	15	2003	181.26129	1.02119
March	16	2003	181.28710	1.02134
March	17	2003	181.31290	1.02148
March	18	2003	181.33871	1.02163
March	19	2003	181.36452	1.02177
March	20	2003	181.39032	1.02192
March	21	2003	181.41613	1.02206
March	22	2003	181.44194	1.02221
March	23	2003	181.46774	1.02235
March	24	2003	181.49355	1.02250
March	25	2003	181.51935	1.02264
March	26	2003	181.54516	1.02279
March	27	2003	181.57097	1.02294
March	28	2003	181.59677	1.02308
March	29	2003	181.62258	1.02323
March	30	2003	181.64839	1.02337
March	31	2003	181.67419	1.02352

3-3/8% TREASURY 10-YEAR INFLATION-INDEXED NOTES

Due January 15, 2012

Ref CPI and Index Ratios for March 2003

Contact: Office of Financing 202-691-3550

DESCRIPTION:	Series A-2012
CUSIP NUMBER:	9128277J5
DATED DATE:	January 15, 2002
ORIGINAL ISSUE DATE:	January 15, 2002
ADDITIONAL ISSUE DATE:	
MATURITY DATE:	January 15, 2012
Ref CPI on DATED DATE:	177.56452
TABLE FOR MONTH OF:	March 2003
NUMBER OF DAYS IN MONTH:	31
CPI-U (NSA) November 2002	181.3
CPI-U (NSA) December 2002	180.9
CPI-U (NSA) January 2003	181.7

Month	Calendar Day	Year	Ref CPI	Index Ratio
March	1	2003	180.90000	1.01878
March	2	2003	180.92581	1.01893
March	3	2003	180.95161	1.01908
March	4	2003	180.97742	1.01922
March	5	2003	181.00323	1.01937
March	6	2003	181.02903	1.01951
March	7	2003	181.05484	1.01966
March	8	2003	181.08065	1.01980
March	9	2003	181.10645	1.01995
March	10	2003	181.13226	1.02009
March	11	2003	181.15806	1.02024
March	12	2003	181.18387	1.02038
March	13	2003	181.20968	1.02053
March	14	2003	181.23548	1.02067
March	15	2003	181.26129	1.02082
March	16	2003	181.28710	1.02096
March	17	2003	181.31290	1.02111
March	18	2003	181.33871	1.02126
March	19	2003	181.36452	1.02140
March	20	2003	181.39032	1.02155
March	21	2003	181.41613	1.02169
March	22	2003	181.44194	1.02184
March	23	2003	181.46774	1.02198
March	24	2003	181.49355	1.02213
March	25	2003	181.51935	1.02227
March	26	2003	181.54516	1.02242
March	27	2003	181.57097	1.02256
March	28	2003	181.59677	1.02271
March	29	2003	181.62258	1.02285
March	30	2003	181.64839	1.02300
March	31	2003	181.67419	1.02314

3% TREASURY 10-YEAR INFLATION-INDEXED NOTES
Due July 15, 2012

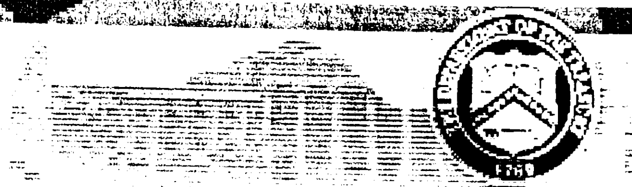
Ref CPI and Index Ratios for March 2003

Contact: Office of Financing 202-691-3550

DESCRIPTION:	Series C-2012
CUSIP NUMBER:	912828AF7
DATED DATE:	July 15, 2002
ORIGINAL ISSUE DATE:	July 15, 2002
ADDITIONAL ISSUE DATE:	October 15, 2002 January 15, 2003
MATURITY DATE:	July 15, 2012
Ref CPI on DATED DATE:	179.80000
TABLE FOR MONTH OF:	March 2003
NUMBER OF DAYS IN MONTH:	31
CPI-U (NSA) November 2002	181.3
CPI-U (NSA) December 2002	180.9
CPI-U (NSA) January 2003	181.7

Month	Calendar Day	Year	Ref CPI	Index Ratio
March	1	2003	180.90000	1.00612
March	2	2003	180.92581	1.00626
March	3	2003	180.95161	1.00640
March	4	2003	180.97742	1.00655
March	5	2003	181.00323	1.00669
March	6	2003	181.02903	1.00684
March	7	2003	181.05484	1.00698
March	8	2003	181.08065	1.00712
March	9	2003	181.10645	1.00727
March	10	2003	181.13226	1.00741
March	11	2003	181.15806	1.00755
March	12	2003	181.18387	1.00770
March	13	2003	181.20968	1.00784
March	14	2003	181.23548	1.00798
March	15	2003	181.26129	1.00813
March	16	2003	181.28710	1.00827
March	17	2003	181.31290	1.00841
March	18	2003	181.33871	1.00856
March	19	2003	181.36452	1.00870
March	20	2003	181.39032	1.00884
March	21	2003	181.41613	1.00899
March	22	2003	181.44194	1.00913
March	23	2003	181.46774	1.00928
March	24	2003	181.49355	1.00942
March	25	2003	181.51935	1.00956
March	26	2003	181.54516	1.00971
March	27	2003	181.57097	1.00985
March	28	2003	181.59677	1.00999
March	29	2003	181.62258	1.01014
March	30	2003	181.64839	1.01028
March	31	2003	181.67419	1.01042

PRESS ROOM



FROM THE OFFICE OF PUBLIC AFFAIRS

February 21, 2003
JS-51

MEDIA ADVISORY
Treasury, Homeland Security, Justice Departments Join to Celebrate Law Enforcement

Ceremony will also highlight the realignment of law enforcement responsibilities.

On Tuesday, February 25, 2003, Treasury Secretary John Snow, Homeland Security Secretary Tom Ridge and Deputy Attorney General Larry Thompson will join in a ceremony to celebrate law enforcement and highlight the transfer of agencies and new enforcement responsibilities.

The ceremony will take place at Lisner Auditorium on the The George Washington University campus. Law enforcement officials from the three departments and the realigned bureaus and agencies will attend.

Participating:

Commissioner Robert C. Bonner U.S. Customs Service
Director W. Ralph Basham U.S. Secret Service
Director Connie L. Patrick – Federal Law Enforcement Training Center
Director Bradley A. Buckles – Bureau of Alcohol, Tobacco, Firearms and Explosives

Tuesday, February 25, 2003

3:00PM

Law Enforcement Day Celebration
Treasury Secretary John Snow
Homeland Security Secretary Tom Ridge
Deputy Attorney General Larry Thompson
Lisner Auditorium
The George Washington University
730 21st Street, N.W.
Washington, DC 20052

MEDIA NOTES:

• The event is OPEN PRESS. Members of the media should go to the media check-in table located in the Lisner Auditorium lobby no later than 2:30PM to receive event credentials. Prior notification is not requested, but a government issued press pass is required. Credentials will only be available on-site and not prior to the event.

• Video photographers may arrive for set up at 1:30PM; set up must be complete by 2:30PM. TV lighting. Mult box.

- No press availability is planned for this event.

PRESS ROOM

FROM THE OFFICE OF PUBLIC AFFAIRS

February 21, 2003
JS-52

Treasury Statement Regarding Uruguay-IMF Discussions

We welcome the positive outcome of discussions between Uruguay's authorities and IMF staff and management. We look forward to timely review by the IMF Board of Uruguay's economic program and welcome this important step to restored economic growth.

Immediate Release
Saturday, February 22, 2003

Contact: Public Affairs
(202) 622-2960

Post-G7 Statement by United States Treasury Secretary John Snow

(Paris, France) -- I was pleased this weekend to join – for the first time – the G-7 Finance Ministers and Central Bank Governors. I enjoyed meeting with my colleagues and valued the opportunity to exchange views and work together on key issues that we face in the global economy.

The strength of the international economy is tied to the performance of the domestic U.S. economy. As the world's largest economy, if we grow, if we see improvement in our own economy, that will boost the world economy. That's why strengthening our own economic recovery is so important, and why President Bush's jobs and growth package is so critical - not just to the U.S. economy – but to the international economy. If we get moving on a higher growth path, two things will happen: 1) more Americans who want work can find a job, and 2) and the economies of Europe, Japan, South America and every other corner of the world will get a lift – therefore employing millions, and raising the standard of living for millions of families across the world. Within the international community, the United States must lead by example – and we are not growing fast enough or strongly enough. I am convinced that enactment of President Bush's jobs and growth plan is important not just for the United States, but for global economic growth as well, and accordingly in each and every meeting this weekend I laid out for my colleagues how President Bush's economic growth proposals will build on the proven strength of the U.S. economy – generating jobs, encouraging savings and investment, and promoting entrepreneurship. Each G7 nation must take its own steps – appropriate to its own respective set of conditions – to spur growth. That's important, since our prosperity is tied to stronger growth outside of the United States.

In addition to growth, we discussed the key role of sound corporate governance in financial stability, efficient capital markets and sustained growth. I outlined the steps the United States has taken to strengthen corporate governance pursuant to the President's Ten Point Plan and the Sarbanes-Oxley legislation, and my colleagues described the steps their governments were taking to address corporate governance as well. We focused on the centrality of market discipline – as well as the quality of corporate financial disclosure and effective regulation – in achieving our shared goals in this area.

JS-53

We extended our strong support for the ongoing work of the various international bodies focusing on auditing, accounting, and related corporate governance issues.
We also discussed our common unwavering commitment to combating financial crime and terrorist financing as a critical component of the war on terrorism. We agreed to contribute technical assistance to priority countries, and urge the IMF and World Bank, in coordination with the UN, to continue to do so as well. We encourage the ongoing efforts of FATF to foster the effective implementation of the UNSC Resolutions regarding assets freezing, and we recognize the need for greater oversight of informal financial sectors and the need for total integrity of charities so they don't unwittingly become vehicles of terrorist financing.

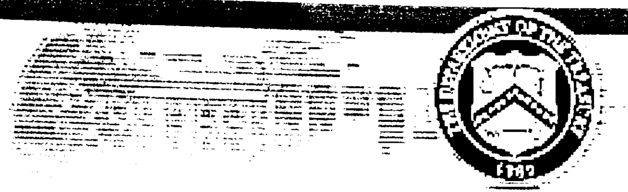
Another subject we addressed was improving the framework for preventing and resolving financial crises in emerging market countries. This subject remains a priority for the G-7. We had a good discussion of the role collective action clauses play in advancing this objective, and broad support was reaffirmed for this approach. Viewing this in conjunction with steps the private sector has taken in embracing collective action clauses – as well as indications of support from other sovereigns -- I am encouraged we are making progress on this important issue. It is imperative that parties to sovereign debt transactions continue to focus on the use of collective action clauses in their transactions.

We also had a good discussion about development issues and aid effectiveness. Our goal is greater economic growth and prosperity in developing countries. Therefore I emphasized the importance of rewarding countries with strong policy performance, measuring concrete results of our assistance, and strengthening management of public resources. I explained how our Millennium Challenge Account is designed to accomplish these goals. International financial institutions – such as the World Bank – can improve aid effectiveness for the world's poorest nations by further embracing these objectives.

I want to note in closing the importance of free trade to the overall goal of global economic growth. In this light, I am encouraged many of my G7 colleagues agree to work with our trade ministers and the international financial institutions to support the objectives of the WTO negotiations under the Doha Development Agenda, focusing in particular on the financial services and agriculture sectors and the need for results-oriented trade related capacity building. Reducing barriers to trade is also needed to spur global economic growth.

Thank you.

PRESS ROOM



FROM THE OFFICE OF PUBLIC AFFAIRS

April 12, 2003
2003-4-12-13-10-1-15576

Statement of G-7 Finance Ministers and Central Bank Governors April 2003

We met today at a time in which the world economy faces many challenges. In this light, we reaffirm our commitment to multilateral cooperation.

Growth in most of our economies has been subdued, though uncertainties have diminished. A strong and lasting recovery is essential for our own countries and for the world. To this end, we each commit to pursue sound macroeconomic policies that support sustained growth. In a low inflation, low interest rate environment, there is potential for higher growth through productivity-enhancing structural reforms, and to buttress investor confidence through continued improvements in corporate governance practices, market discipline, and transparency. We will respond as needed to developments in the economic environment. We will continue to monitor exchange markets closely and cooperate as appropriate. We underscore the importance to global growth and poverty reduction of successful trade liberalization through the timely implementation of the Doha Development Agenda, notably in financial services.

We encourage all emerging market countries to pursue sound policies and to enhance their investment climates. These policies will help attract financial flows, importantly including foreign direct investment, to reduce external vulnerabilities, and to support sustained growth. We welcome the strong macroeconomic policies and ambitious structural reforms that Brazil's authorities are implementing.

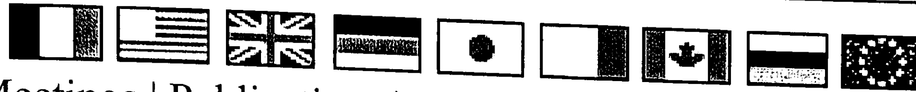
We reiterate our commitment to strengthen crisis prevention and resolution measures. We are pleased to see progress being made on each element of our Action Plan of last April, as detailed in the accompanying update. We will continue to work to further implementation in this area.

We reaffirm our strong commitment to combat terrorist financing and pledge to maintain the momentum we have achieved thus far. We will work with the Financial Action Task Force, the UN, and the International Financial Institutions to implement the work plan that we endorsed in February. We welcome the Action Plan of the IMF and World Bank, and are encouraged by the progress of the Pilot Program agreed with FATF; we urge them to successfully carry forward this important initiative. We look forward to revised FATF recommendations by June, establishing an enhanced standard in the fight against financial crime.

We reaffirm our February commitment to address the challenge of global poverty and our support for the Millennium Development Goals and the Monterrey consensus. Achieving these will require mobilization of greater financial resources by developed and developing countries. We will continue to focus on the goals and their financing, including facilities, with a view to progress by Evian. Aid is most effective in countries with sound policies, good governance, and an environment conducive to private sector-led growth. We reiterate our support for NEPAD principles. We will develop an approach for dealing with non-IDA countries within the Paris Club for consideration at our May meeting. We also encourage developing countries, working with the World Bank, to integrate trade objectives as key elements of their PRSPs and CAS lending programs.

We recognize the need for a multilateral effort to help Iraq. We support a further UN Security Council resolution. The IMF and the World Bank should play their

normal role in rebuilding and developing Iraq, recognizing that the Iraqi people have the ultimate responsibility to implement the right policies and build their own future. It is important to address the debt issue and we are looking forward to the early engagement of the Paris Club.



Statement of G-7 Finance Ministers and Central Bank Governors
February 22, 2003
Paris, France

Our economies are experiencing slower growth, yet they remain resilient. Geopolitical uncertainties have increased. We remain confident in the underlying strength of our economies and in their capacity to grow more vigorously.

We recognise the imperative for higher growth rates and resolve to take steps to achieve this result. To this end, Europe is committed to accelerating labour, product and capital market reforms to achieve a more flexible economy ; Japan has reiterated its commitment to structural reforms, including in the financial and corporate sectors ; the US is implementing action to create jobs, encourage capital formation and savings and raise productivity growth. We also remain steadfast in our commitment to ensure sustainable public finances and price stability. We are all committed to the Doha Development Agenda and to meeting its overall timetable and interim milestones.

We will continue to cooperate closely. If the economic outlook weakens, we are prepared to respond as appropriate. We will continue to monitor exchange markets closely and cooperate as appropriate.

To strengthen corporate governance and to bolster further investor confidence, we are implementing ambitious domestic reforms. Strengthened market discipline, improved corporate disclosure, increased transparency and effective regulation are common principles that underpin sound financial systems and ensure their coherence. We support the work of the Financial Stability Forum and other fora, covering independent auditing, high-quality accounting standards, sound corporate governance and financial information quality. We will review the progress of their work.

We encourage developing and emerging market countries to pursue sound policies and to enhance their investment climates. These policies will help attract foreign direct investment, reduce external vulnerabilities and raise sustained growth. We welcome Brazil's pursuit of sound economic policies and social reforms. As Argentina moves forward to fulfill its commitments agreed with the IMF, we look forward to the authorities restoring contract enforcement and engaging in a dialogue with its private creditors. We welcome Turkey's commitment to economic and financial stabilization as agreed with the IMF.

We are implementing our April 2002 action plan to prevent and resolve financial crises in emerging market countries. Progress has been made in ensuring greater discipline through clarifying normal and exceptional access to official finance in crisis situations. We welcome the positive response of the private sector to collective action clauses and its on-going work with the public sector on model clauses. We look forward to the early adoption of effective collective action clauses and to the discussion of a concrete proposal from the IMF on a sovereign debt restructuring mechanism at its Spring meeting. As a complement, we welcome work on a code of good conduct based on negotiating principles. We urge the IMF to enhance crisis prevention, including by making its surveillance more effective.

We urge all countries to implement and enforce laws to combat the financing of terrorism. We will continue to provide technical assistance to countries that lack appropriate measures to combat terrorist financing. We urge the IMF and the World Bank to step up their assessments and their provision of technical assistance in coordination with the United Nations and to present an action plan at the Spring meetings. We urge the Financial Action Task Force to foster effective asset freezing. We encourage more effective oversight of informal financial institutions and charities and we look forward to revised Financial Action Task Force recommendations by June.

We urge all OECD countries to implement the standards set out in the OECD's 2000 report on access to bank information and to ensure effective exchange of information for all tax purposes. A level playing field is crucial to avoid tax evasion shifting from those countries that engage in exchange of information to those that do not.

Our duty, our responsibility for the prosperity and sustainable development of the world require us to address vigorously the challenge of global poverty. To build on the positive outcomes of Monterrey and Johannesburg, developed and developing countries should mobilize greater financial resources and improve aid effectiveness by setting and achieving measurable results and adopting growth-oriented policies. We reaffirm our support for the Millennium Development Goals, including on health, education and water supply and sanitation, as well as to the completion of the Highly-Indebted Poor Countries (HIPC) initiative and of the Global Health Fund. Their achievement calls for an increased volume of development resources. We have made progress particularly on HIV/AIDS and will continue to focus on the Goals and their financing, including facilities, with a view to making further progress by Evian. Consistent with the G8 Africa Action Plan, we are ready to provide substantial support to African countries that implement New Partnership for Africa's Development (NEPAD) principles and are committed to improving governance and demonstrate solid policy performance. We recognize the fundamental importance of rules-based trade in driving economic growth and poverty reduction.

Source: G8 Evian Summit Website

G8 CENTRE
TOP OF PAGE

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PUBLIC DEBT NEWS

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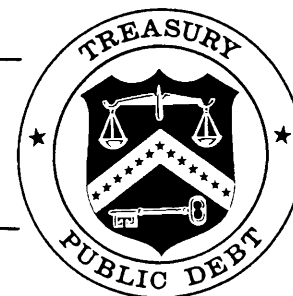


TREASURY SECURITY AUCTION RESULTS
BUREAU OF THE PUBLIC DEBT - WASHINGTON DC

FOR IMMEDIATE RELEASE
February 24, 2003

CONTACT: Office of Financing
202-691-3550

RESULTS OF TREASURY'S AUCTION OF 13-WEEK BILLS

Term: 91-Day Bill
Issue Date: February 27, 2003
Maturity Date: May 29, 2003
CUSIP Number: 912795MP3

High Rate: 1.175% Investment Rate 1/: 1.195% Price: 99.703

All noncompetitive and successful competitive bidders were awarded securities at the high rate. Tenders at the high discount rate were allotted 33.39%. All tenders at lower rates were accepted in full.

AMOUNTS TENDERED AND ACCEPTED (in thousands)

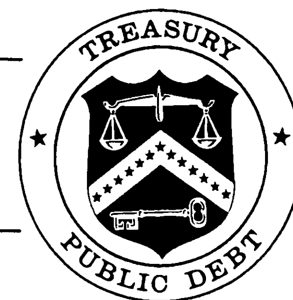
Tender Type	Tendered	Accepted
Competitive	$ 34,271,600	$ 16,120,469
Noncompetitive	1,539,357	1,539,357
FIMA (noncompetitive)	340,700	340,700
SUBTOTAL	36,151,657	18,000,526 2/
Federal Reserve	5,346,118	5,346,118
TOTAL	$ 41,497,775	$ 23,346,644

Median rate 1.165%: 50% of the amount of accepted competitive tenders was tendered at or below that rate. Low rate 1.140%: 5% of the amount of accepted competitive tenders was tendered at or below that rate.

Bid-to-Cover Ratio = 36,151,657 / 18,000,526 = 2.01

1/ Equivalent coupon-issue yield.
2/ Awards to TREASURY DIRECT = $1,209,215,000

PUBLIC DEBT NEWS



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TREASURY SECURITY AUCTION RESULTS
BUREAU OF THE PUBLIC DEBT - WASHINGTON DC

FOR IMMEDIATE RELEASE
February 24, 2003

CONTACT: Office of Financing
202-691-3550

RESULTS OF TREASURY'S AUCTION OF 26-WEEK BILLS

Term:	182-Day Bill
Issue Date:	February 27, 2003
Maturity Date:	August 28, 2003
CUSIP Number:	912795NK3

High Rate: 1.175% Investment Rate 1/: 1.198% Price: 99.406

All noncompetitive and successful competitive bidders were awarded securities at the high rate. Tenders at the high discount rate were allotted 41.35%. All tenders at lower rates were accepted in full.

AMOUNTS TENDERED AND ACCEPTED (in thousands)

Tender Type	Tendered	Accepted
Competitive	$ 38,191,047	$ 15,035,272
Noncompetitive	1,421,503	1,421,503
FIMA (noncompetitive)	543,900	543,900
SUBTOTAL	40,156,450	17,000,675 2/
Federal Reserve	5,636,302	5,636,302
TOTAL	$ 45,792,752	$ 22,636,977

Median rate 1.170%: 50% of the amount of accepted competitive tenders was tendered at or below that rate. Low rate 1.140%: 5% of the amount of accepted competitive tenders was tendered at or below that rate.

Bid-to-Cover Ratio = 40,156,450 / 17,000,675 = 2.36

1/ Equivalent coupon-issue yield.
2/ Awards to TREASURY DIRECT = $1,043,211,000

http://www.publicdebt.treas.gov

JS-55

DEPARTMENT OF THE TREASURY

TREASURY NEWS

OFFICE OF PUBLIC AFFAIRS • 1500 PENNSYLVANIA AVENUE, N.W. • WASHINGTON, D.C. • 20220 • (202) 622-2960

EMBARGOED UNTIL 11:00 A.M.
February 24, 2003

Contact: Office of Financing
202/691-3550

TREASURY OFFERS 4-WEEK BILLS

The Treasury will auction 4-week Treasury bills totaling $25,000 million to refund an estimated $16,000 million of publicly held 4-week Treasury bills maturing February 27, 2003, and to raise new cash of approximately $9,000 million.

Tenders for 4-week Treasury bills to be held on the book-entry records of *TreasuryDirect* will not be accepted.

The Federal Reserve System holds $12,860 million of the Treasury bills maturing on February 27, 2003, in the System Open Market Account (SOMA). This amount may be refunded at the highest discount rate of accepted competitive tenders in this auction up to the balance of the amount not awarded in today's 13-week and 26-week Treasury bill auctions. Amounts awarded to SOMA will be in addition to the offering amount.

Up to $1,000 million in noncompetitive bids from Foreign and International Monetary Authority (FIMA) accounts bidding through the Federal Reserve Bank of New York will be included within the offering amount of the auction. These noncompetitive bids will have a limit of $100 million per account and will be accepted in the order of smallest to largest, up to the aggregate award limit of $1,000 million.

The allocation percentage applied to bids awarded at the highest discount rate will be rounded up to the next hundredth of a whole percentage point, e.g., 17.13%.

This offering of Treasury securities is governed by the terms and conditions set forth in the Uniform Offering Circular for the Sale and Issue of Marketable Book-Entry Treasury Bills, Notes, and Bonds (31 CFR Part 356, as amended).

Details about the new security are given in the attached offering highlights.

oOo

Attachment

JS-56

HIGHLIGHTS OF TREASURY OFFERING
OF 4-WEEK BILLS TO BE ISSUED FEBRUARY 27, 2003

February 24, 2003

Offering Amount........................$25,000 million
Maximum Award (35% of Offering Amount)...$ 8,750 million
Maximum Recognized Bid at a Single Rate..$ 8,750 million
NLP Reporting Threshold.................$ 8,750 million
NLP Exclusion Amount....................$ 9,400 million

Description of Offering:

Term and type of security...........28-day bill
CUSIP number........................912795 ME 8
Auction date........................February 25, 2003
Issue date..........................February 27, 2003
Maturity date.......................March 27, 2003
Original issue date.................September 26, 2002
Currently outstanding...............$36,936 million
Minimum bid amount and multiples....$1,000

Submission of Bids:

Noncompetitive bids: Accepted in full up to $1 million at the highest discount rate of accepted competitive bids.

Foreign and International Monetary Authority (FIMA) bids: Noncompetitive bids submitted through the Federal Reserve Banks as agents for FIMA accounts. Accepted in order of size from smallest to largest with no more than $100 million awarded per account. The total noncompetitive amount awarded to Federal Reserve Banks as agents for FIMA accounts will not exceed $1,000 million. A single bid that would cause the limit to be exceeded will be partially accepted in the amount that brings the aggregate award total to the $1,000 million limit. However, if there are two or more bids of equal amounts that would cause the limit to be exceeded, each will be prorated to avoid exceeding the limit.

Competitive bids:

(1) Must be expressed as a discount rate with three decimals in increments of .005%, e.g., 4.215%.

(2) Net long position (NLP) for each bidder must be reported when the sum of the total bid amount, at all discount rates, and the net long position equals or exceeds the NLP reporting threshold stated above.

(3) Net long position must be determined as of one half-hour prior to the closing time for receipt of competitive tenders.

Receipt of Tenders:

Noncompetitive tenders:
Prior to 12:00 noon eastern standard time on auction day

Competitive tenders:
Prior to 1:00 p.m. eastern standard time on auction day

Payment Terms: By charge to a funds account at a Federal Reserve Bank on issue date.

DEPARTMENT OF THE TREASURY

TREASURY NEWS

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EMBARGOED UNTIL 11:00 A.M.
February 24, 2003

CONTACT: Office of Financing
202/691-3550

TREASURY OFFERS 2-YEAR NOTES

The Treasury will auction $27,000 million of 2-year notes to refund $20,022 million of publicly held notes maturing February 28, 2003, and to raise new cash of approximately $6,978 million.

In addition to the public holdings, Federal Reserve Banks hold $8,333 million of the maturing notes for their own accounts, which may be refunded by issuing an additional amount of the new security.

Up to $1,000 million in noncompetitive bids from Foreign and International Monetary Authority (FIMA) accounts bidding through the Federal Reserve Bank of New York will be included within the offering amount of the auction. These noncompetitive bids will have a limit of $100 million per account and will be accepted in the order of smallest to largest, up to the aggregate award limit of $1,000 million.

TreasuryDirect customers requested that we reinvest their maturing holdings of approximately $565 million into the 2-year note.

The auction will be conducted in the single-price auction format. All competitive and noncompetitive awards will be at the highest yield of accepted competitive tenders. The allocation percentage applied to bids awarded at the highest yield will be rounded up to the next hundredth of a whole percentage point, e.g., 17.13%.

The notes being offered today are eligible for the STRIPS program.

This offering of Treasury securities is governed by the terms and conditions set forth in the Uniform Offering Circular for the Sale and Issue of Marketable Book-Entry Treasury Bills, Notes, and Bonds (31 CFR Part 356, as amended).

Details about the new security are given in the attached offering highlights.

oOo

Attachment

JS-57

HIGHLIGHTS OF TREASURY OFFERING TO THE PUBLIC OF
2-YEAR NOTES TO BE ISSUED FEBRUARY 28, 2003

February 24, 2003

Offering Amount ....$27,000 million
Maximum Award (35% of Offering Amount) ....$ 9,450 million
Maximum Recognized Bid at a Single Rate ....$ 9,450 million
NLP Reporting Threshold ....$ 9,450 million

Description of Offering:
Term and type of security ....2-year notes
Series H-2005
CUSIP number ....912828 AV 2
Auction date ....February 26, 2003
Issue date ....February 28, 2003
Dated date ....February 28, 2003
Maturity date ....February 28, 2005
Interest rate ....Determined based on the highest accepted competitive bid
Yield ....Determined at auction
Interest payment dates ....The last calendar day of August and February through February 28, 2005
Minimum bid amount and multiples $1,000
Accrued interest payable by investor ....None
Premium or discount ....Determined at auction

STRIPS Information:
Minimum amount required $1,000
Corpus CUSIP number ....912820 HS 9
Due date(s) and CUSIP number(s)
for additional TINT(s) ....February 28, 2005 - - 912833 ZE 3

Submission of Bids:
Noncompetitive bids:
Accepted in full up to $5 million at the highest accepted yield.
Foreign and International Monetary Authority (FIMA) bids: Noncompetitive bids submitted through the Federal Reserve Banks as agents for FIMA accounts. Accepted in order of size from smallest to largest with no more than $100 million awarded per account. The total noncompetitive amount awarded to Federal Reserve Banks as agents for FIMA accounts will not exceed $1,000 million. A single bid that would cause the limit to be exceeded will be partially accepted in the amount that brings the aggregate award total to the $1,000 million limit. However, if there are two or more bids of equal amounts that would cause the limit to be exceeded, each will be prorated to avoid exceeding the limit.
Competitive bids:
(1) Must be expressed as a yield with three decimals, e.g., 7.123%.
(2) Net long position for each bidder must be reported when the sum of the total bid amount, at all yields, and the net long position equals or exceeds the NLP reporting threshold stated above.
(3) Net long position must be determined as of one half-hour prior to the closing time for receipt of competitive tenders.

Receipt of Tenders:
Noncompetitive tenders:
Prior to 12:00 noon eastern standard time on auction day.
Competitive tenders:
Prior to 1:00 p.m. eastern standard time on auction day.

Payment Terms: By charge to a funds account at a Federal Reserve Bank on issue date, or payment of full par amount with tender. *TreasuryDirect* customers can use the Pay Direct feature which authorizes a charge to their account of record at their financial institution on issue date.

PRESS ROOM

FROM THE OFFICE OF PUBLIC AFFAIRS

February 25, 2003
JS-58

**Remarks of Under Secretary of the Treasury for Domestic Finance
Peter R. Fisher to the Bloomberg
Outlook for U.S. Bonds 2003
New York, NY**

The Treasury issues marketable securities on a regular and predicable schedule in order to capture a liquidity premium from investors and, thereby, achieve lower borrowing costs over time. To do this we need to issue enough but not too much in each of our auctions. This is easy to say but difficult to accomplish. How to issue "enough but not too much" in each auction across the yield curve is the greatest challenge we face in managing the government's debt.

A year ago I spoke to you about the challenge we face in managing our marketable debt on a regular and predictable basis in a changing world. My message was that a schedule of regular and predictable auctions has never – and could never – mean that debt management practices do not change. Our mix of instruments, our borrowing requirements and our maturity structure are always changing.

Today I will focus on the challenge of issuing "enough but not too much" at each auction in the face of continuous change in our borrowing requirements. But first, let me begin at the beginning.

The objective of federal debt management is to meet the government's financing needs at the lowest cost over time. The dominant constraint we face is that we see the future imperfectly; we must always make decisions in conditions of uncertainty about the future path of our financing needs.

Our MO – our modus operandi – is that we issue securities on a regular and predictable schedule and we try to limit changes in auction sizes. Investors and dealers rely upon routine availability of Treasury securities both as a source for constant duration matching and as a liquid vehicle for financial intermediation. As a consequence, they tend to pay a slight premium for our newly issued securities. By capturing this premium, we lower our borrowing costs.

The regularity and predictability of our auction cycle also supports the liquidity of our secondary market which, in turn, supports demand for our auctions.

Changes in debt management are regularly and predictably announced at our quarterly refundings. We strive to make our actions transparent and understandable. Ex ante market participants may not be able to predict exactly what changes we will make but ex post market participants should be able to understand our actions in light of our objective (lowest cost over time) and our constraints (uncertain financing needs).

For all this to work in practice, we need to issue "enough but not too much" at each auction. Neither is a concrete limit. Too little and we cannot sustain a deep and liquid secondary market for our securities. Too much and we create concern among primary market participants that they may find it difficult to distribute their holdings in the secondary market. Matching these market size constraints with our aggregate borrowing needs is surprisingly difficult.

First, economic and financial conditions are always changing the demand for our instruments so that the apparent optimal auction size at any one maturity point, in any one year, may not be the same in another year. Second, our forecasts are less than perfect so we must always somehow distribute the deviations from forecasts across our maturity points. Finally, in adjusting auction sizes over time we must manage both levels and rates of change for each maturity point: we want to issue enough but not too much at each point and we want to limit the rate of change of auction amounts at each maturity point as well.

So how do we know whether we are issuing "enough but not too much" at each maturity point? How do we know that we are doing our best to capture the liquidity premium at each and at all of our auctions? How do we know whether, in the face of changing financing needs, we are adjusting our maturity profile too quickly or too slowly?

Unfortunately, we don't – or, more precisely, I am not yet satisfied that we do. But we are working hard to articulate better measures of our performance.

A clearer, more complete understanding of auction performance, and of the intersection of primary and secondary market liquidity, will be the most direct measure of whether we are offering enough but not too much in each auction. A fuller picture of our maturity profile, and its changes across time, will provide us a better gauge of whether we are adjusting the number, range and size of our offerings too quickly or too slowly.

At our last quarterly refunding, we released a number of new charts and we discussed these charts with the Treasury Borrowing Advisory Committee. These included some unconventional measures of both auction outcomes and our maturity profile.

For auction performance, I am convinced that we need to look beyond the traditional measures such as bid-to-cover. Bid-to-cover reflects the primary dealers' commitment to meet their role as counterparties to the Federal Reserve Bank in addition to the underlying demand for Treasuries. We need to develop measures that tell us more about that underlying demand because this ultimately determines whether we are meeting our objective of lowest cost financing over time. We also need to develop measures that will help us better understand the relationship between the primary market and the secondary market. We need to measure the range of auction outcomes for each maturity point as they accumulate over time, so that we can observe in as many ways as possible the market's assessment of whether we are issuing enough but not too much.

The average maturity of our total outstanding debt may be of interest to historians and economists but it is not a particularly useful metric for the debt manager. It moves so slowly it's almost inert. Having served as the Under Secretary for almost two years now, I am now responsible for roughly 2/28ths of the maturity structure of the federal marketable debt. (Had we not suspended the long bond, I would only be responsible for 2/30ths.)

At the other end of the spectrum, there is much (understandable) market attention to the nominal size of each auction we hold, relative to recent previous auctions. But this has a different kind of inertia. We can easily see the nominal changes in each auction size from quarter to quarter so movements in these dollar amounts tends to dominate market attention and our refinancing decisions. What is harder to see, but much more important, is the future sustainability of a given maturity profile in light of our (albeit imperfect) forecast financing requirements.

In one of the charts released at the refunding, we introduced the concept of "constant issuance maturity" which depicts for each quarter what that quarter's issuance pattern would have produced as an average maturity if it were to have been sustained for ten years. Given the imprecision of our forecasts, this is not a realistic hypothesis. But it is interesting to see whether the issuance pattern itself would have been sustainable.

The surprising result is that this measure of our issuance pattern has been highly volatile over time, abruptly swinging long and short. This suggests that on a number of occasions our issuance pattern itself has not been sustainable, setting up the need for subsequent changes and, thus, the series' volatility.

It is entirely to be expected, and appropriate, that variance in revenues (positive or negative) will first be absorbed by changes in bill issuance. We auction bills every week and coupon instruments only monthly and quarterly. But eventually, decisions must be made to distribute changes in our financing needs across the curve – consistent with our aim to issue enough but not too much at each of our different maturities.

In order to assess whether we are adjusting our maturity profile too quickly or too slowly, we need a better understanding of the sustainability of our maturity distribution. A concept like constant issuance maturity may provide just such a measure.

I am frequently asked why we don't renew issuance of the long-bond in order to "lock in" these currently "low" rates. When I am asked this question, I know that I am talking to someone who does not understand the Treasury's debt management strategy. I also realize that I must also be talking to someone who has exceptional confidence in the accuracy of their ten-year forward forecast of ten and thirty year rates. Does anyone actually think that a small group of Treasury officials is better than the market at forecasting long term interest rates? Regular and predictable issuance assures the market that we will not make the mistake of trying.

So whenever I hear the idea of our "locking in" low, long-term rates I know that it must be time to give another speech about our pattern of regular and predictable issuance.

We give up the opportunity to time the market so that we can capture the liquidity premium in all of our auctions. If we were to try to time the market we would introduce much greater uncertainty to our borrowing pattern, raising the risk premium that we would have to pay investors and losing the liquidity premium we now capture as a cost saving.

If the United States Treasury were actually a market timer we would do great damage to the efficiency of our capital markets. We would raise our cost of borrowing, and potentially the cost of borrowing for others. We do make changes in our borrowing pattern, but they are not a function of our expectation for shifts in the shape of the yield curve. Rather, the changes we make are a consequence of the changes in our expected financing needs and changes in our understanding of how best to achieve the lowest borrowing costs over time.

As changes in our borrowing pattern become necessary we will continue to announce them at our regular and predictable quarterly refundings. We will hold our auctions on a regular and predictable schedule. We will strive to issue in amounts that are enough to sustain the liquidity of our secondary market but not too much to eliminate the on-the-run premium. We will also continue to look for better measures of our own performance and to learn from our past actions.

Setting debt management on a path of continuous improvement, while we strive to be regular, predictable and transparent in the implementation of changes to our practices, is the only way we will achieve our objective of lowest cost financing over time.

DEPARTMENT OF THE TREASURY

TREASURY NEWS

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EMBARGOED UNTIL 11:00 A.M.
February 25, 2003

CONTACT: Office of Financing
202/691-3550

TREASURY OFFERS CASH MANAGEMENT BILLS

The Treasury will auction approximately $26,000 million of 14-day Treasury cash management bills to be issued March 3, 2003.

Tenders for Treasury cash management bills to be held on the book-entry records of *TreasuryDirect* will not be accepted.

Up to $1,000 million in noncompetitive bids from Foreign and International Monetary Authority (FIMA) accounts bidding through the Federal Reserve Bank of New York will be included within the offering amount of the auction. These noncompetitive bids will have a limit of $100 million per account and will be accepted in the order of smallest to largest, up to the aggregate award limit of $1,000 million.

The allocation percentage applied to bids at the highest discount rate will be rounded up to the next hundredth of a whole percentage point, e.g., 17.13%.

This offering of Treasury securities is governed by the terms and conditions set forth in the Uniform Offering Circular for the Sale and Issue of Marketable Book-Entry Treasury Bills, Notes, and Bonds (31 CFR Part 356, as amended).

Details about the new security are given in the attached offering highlights.

oOo

Attachment

JS-59

HIGHLIGHTS OF TREASURY OFFERING
OF 14-DAY CASH MANAGEMENT BILLS

February 25, 2003

Offering Amount .... $26,000 million
Maximum Award (35% of Offering Amount) .. $ 9,100 million
Maximum Recognized Bid at a Single Rate . $ 9,100 million
NLP Reporting Threshold .... $ 9,100 million

Description of Offering:
Term and type of security ....14-day Cash Management Bill
CUSIP number ....912795 MX 6
Auction date ....February 27, 2003
Issue date ....March 3, 2003
Maturity date ....March 17, 2003
Original issue date ....March 3, 2003
Currently outstanding .... ---
Minimum bid amount and multiples ...$1,000

Submission of Bids:
Noncompetitive bids: Accepted in full up to $1 million at the highest discount rate of accepted competitive bids.
Foreign and International Monetary Authority (FIMA) bids: Noncompetitive bids submitted through the Federal Reserve Banks as agents for FIMA accounts. Accepted in order of size from smallest to largest with no more than $100 million awarded per account. The total noncompetitive amount awarded to Federal Reserve Banks as agents for FIMA accounts will not exceed $1,000 million. A single bid that would cause the limit to be exceeded will be partially accepted in the amount that brings the aggregate award total to the $1,000 million limit. However, if there are two or more bids of equal amounts that would cause the limit to be exceeded, each will be prorated to avoid exceeding the limit.
Competitive bids:
(1) Must be expressed as a discount rate with three decimals in increments of .005%, e.g., 7.100%, 7.105%.
(2) Net long position (NLP) for each bidder must be reported when the sum of the total bid amount, at all discount rates, and the net long position equals or exceeds the NLP reporting threshold stated above.
(3) Net long position must be determined as of one half-hour prior to the closing time for receipt of competitive tenders.

Receipt of Tenders:
Noncompetitive tenders:
Prior to 12:00 noon eastern standard time on auction day
Competitive tenders:
Prior to 1:00 p.m. eastern standard time on auction day

Payment Terms: By charge to a funds account at a Federal Reserve Bank on issue date.

PUBLIC DEBT NEWS

Department of the Treasury • Bureau of the Public Debt • Washington, DC 20239

TREASURY SECURITY AUCTION RESULTS
BUREAU OF THE PUBLIC DEBT - WASHINGTON DC

FOR IMMEDIATE RELEASE
February 25, 2003

CONTACT: Office of Financing
202-691-3550

RESULTS OF TREASURY'S AUCTION OF 4-WEEK BILLS

Term: 28-Day Bill
Issue Date: February 27, 2003
Maturity Date: March 27, 2003
CUSIP Number: 912795ME8

High Rate: 1.220% Investment Rate 1/: 1.240% Price: 99.905

All noncompetitive and successful competitive bidders were awarded securities at the high rate. Tenders at the high discount rate were allotted 12.13%. All tenders at lower rates were accepted in full.

AMOUNTS TENDERED AND ACCEPTED (in thousands)

Tender Type	Tendered	Accepted
Competitive	$ 38,907,831	$ 24,944,096
Noncompetitive	56,209	56,209
FIMA (noncompetitive)	0	0
SUBTOTAL	38,964,040	25,000,305
Federal Reserve	1,877,687	1,877,687
TOTAL	$ 40,841,727	$ 26,877,992

Median rate 1.205%: 50% of the amount of accepted competitive tenders was tendered at or below that rate. Low rate 1.150%: 5% of the amount of accepted competitive tenders was tendered at or below that rate.

Bid-to-Cover Ratio = 38,964,040 / 25,000,305 = 1.56

1/ Equivalent coupon-issue yield.

http://www.publicdebt.treas.gov

JS-60

PRESS ROOM

FROM THE OFFICE OF PUBLIC AFFAIRS

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February 25, 2003
JS-61

Treasury Department Announces a Regulation Implementing the Definitions in the Terrorism Risk Insurance Act

The Treasury Department today announced the first round of regulations under the Terrorism Risk Insurance Act of 2002, which was signed into law by President Bush on November 26, 2002.

Today's regulation addresses definitions under the Terrorism Risk Insurance Act. The regulation builds upon previously issued interim guidance that was designed to assist insurers in determining how they may comply with certain immediately applicable provisions of the Terrorism Risk Insurance Act prior to the issuance of regulations by the Treasury. Insurers and other interested parties will have the opportunity to submit formal comments on the regulation, and the comment period will last for 30 days from the date of the regulation's publication in the Federal Register.

"As promised when we issued interim guidance, regulations on the issues addressed in interim guidance are now being promulgated, and interested parties will have the opportunity to submit comments on the new regulations," said Treasury Assistant Secretary Wayne Abernathy, who oversees the Terrorism Risk Insurance Program. "We anticipate continuing to benefit from thoughtful input as we move forward." This first interim final regulation on the Terrorism Risk Insurance Act sets forth the key definitions that lay the groundwork for implementation of the Act. Subsequent regulations will follow in the coming weeks on other issues that were addressed in interim guidance, such as the disclosure requirements and the "make available" requirement, and on the treatment of State residual market entities and State workers' compensation funds.

Today's interim final regulation codifies and provides further clarification of the definitions in the Terrorism Risk Insurance Act. Key definitions of the Act that are addressed in the interim final regulation include: act of terrorism; affiliate; control; insurer; insured loss; property and casualty insurance; and insurer deductible. While previously issued interim guidance formed the basis for much of the regulation, important clarifications are made in a number of areas, such as making it clear that personal insurance is not part of the Program. In addition, the interim final regulation addresses the definition of control and related issues under the Act. Determining control under the Act is important as affiliate insurers must be consolidated with the parent company for purposes of calculating an insurer's deductible. The control provisions of the regulation strike a balance between the requirements of the Act, state regulatory authority, and the need to maintain the integrity of the Program and treat insurers comparably.

Treasury is also soliciting comments in several areas, including comments on how the Program should treat multiple controlling owners of an insurer and how Treasury might prevent evasion of insurer deductible and other Program requirements by certain newly formed insurance companies. This interim final regulation, previously issued interim guidance notices, and other information related to the Terrorism Risk Insurance Program can be found at www.treasury.gov/trip.

Related Documents:

JS-61

Billing Code 4810-25-M

DEPARTMENT OF THE TREASURY

Departmental Offices

31 CFR Part 50

RIN 1505-AA96

Terrorism Risk Insurance Program

AGENCY: Departmental Offices, Treasury.

ACTION: Interim final rule with request for comments.

SUMMARY: The Department of the Treasury (Treasury) is issuing this interim final rule as part of its implementation of Title I of the Terrorism Risk Insurance Act of 2002 (Act). That Act established a temporary Terrorism Risk Insurance Program (Program) under which the Federal Government will share the risk of insured loss from certified acts of terrorism with commercial property and casualty insurers until the Program sunsets on December 31, 2005. This interim final rule sets forth the purpose and scope of the Program and key definitions that Treasury will use in implementing the Program. In general, this interim final rule incorporates interim guidance previously issued by Treasury concerning these definitions. However, the preamble indicates those areas in which Treasury has modified the interim guidance. This interim final rule is the first of a series of regulations Treasury will issue to implement the Program.

DATES: This interim rule is effective [INSERT DATE OF PUBLICATION IN THE FEDERAL REGISTER]. Written comments on this interim final rule may be submitted to the Treasury Department on or before [INSERT DATE THAT IS [30] DAYS AFTER PUBLICATION IN THE FEDERAL REGISTER].

ADDRESSES: Submit comments (if hard copy, preferably an original and two copies) to Office of Financial Institutions Policy, Attention: Terrorism Risk Insurance Program Public Comment Record, Room 3160 Annex, Department of the Treasury, 1500 Pennsylvania Ave., N.W., Washington, DC 20220. Because paper mail in the Washington, DC area may be subject to delay, it is recommended that comments be submitted by electronic mail to: triacomments@do.treas.gov. Please include your name, affiliation, address, e-mail address and telephone number in your comment. All comments should be captioned with "[INSERT DATE OF PUBLICATION IN THE FEDERAL REGISTER] TRIA Comments." Comments will be available for public inspection by appointment only at the Reading Room of the Treasury Library. To make appointments, call (202) 622-0990 (not a toll-free number).

FOR FURTHER INFORMATION CONTACT: Mario Ugoletti, Deputy Director, Office of Financial Institutions Policy (202) 622-2730 or Martha Ellett, Attorney-Advisor, Office of the Assistant General Counsel (Banking & Finance), (202) 622-0480 (not toll-free numbers).

SUPPLEMENTARY INFORMATION:

I. Background

A. Terrorism Risk Insurance Act of 2002

On November 26, 2002, President Bush signed into law the Terrorism Risk Insurance Act of 2002 (Public Law 107-297, 116 Stat. 2322). The Act was effective immediately. Title I of the Act establishes a temporary federal program of shared public and private compensation for insured commercial property and casualty losses resulting from an act of terrorism as defined in the Act and certified by the Secretary of the Treasury, in concurrence with the Secretary of State and the Attorney General. The Act authorizes Treasury to administer and implement the Terrorism Risk Insurance Program, including the issuance of regulations and procedures. The Program will sunset on December 31, 2005.

The Act's purposes are to address market disruptions, ensure the continued widespread availability and affordability of commercial property and casualty insurance for terrorism risk and to allow for a transition period for the private markets to stabilize and build capacity while preserving State insurance regulation and consumer protections.

The amount of Federal payment for an insured loss resulting from an act of terrorism is to be determined based upon the insurance company deductibles and excess loss sharing with the Federal Government, as specified by the Act. Thus, the Program provides a Federal reinsurance backstop for a temporary period of time. The Act also provides Treasury with authority to recoup Federal payments made under the Program through policyholder surcharges, up to a maximum annual limit.

Each entity that meets the definition of "insurer"(well over 2000 firms) must participate in the Program. From the date of enactment of the Act through the last day of Program Year 2 (December 31, 2004), insurers under the Program must "make available" terrorism risk insurance in their commercial property and casualty insurance policies and

To assist insurers, policyholders and other interested parties in complying with immediately applicable and time sensitive requirements of the Act prior to the issuance of these and future regulations, Treasury issued interim guidance in three separate notices. Treasury publicly released these interim guidance notices on its Program website, www.treasury.gov/trip, and published each notice in the Federal Register.

Treasury released the first notice of Interim Guidance on December 3, 2002, within a week of the Act's enactment (Interim Guidance I). Interim Guidance I was published at 67 FR 76206 on December 11, 2002 and addressed several issues pertaining to immediately applicable provisions of the Act, including statutory disclosure obligations of insurers as conditions for Federal payment under the Program and the requirement that an insurer "make available" terrorism risk insurance. The disclosure guidance in Interim Guidance I references certain model forms of the National Association of Insurance Commissioners (NAIC) and provides safe harbor for those insurers that make use of such forms prior to the issuance of regulations, but Interim Guidance I stated that these forms are not the exclusive means by which insurers could comply with the disclosure conditions prior to the issuance of regulations. Interim Guidance I also provided guidance concerning the "direct earned premium" on lines of property and casualty insurance to enable insurers to calculate their "insurer deductible" and enable insurers to price and disclose their premiums for terrorism risk insurance to policyholders within statutory time periods.

On December 18, 2002, Treasury issued a second notice of interim guidance. This interim guidance was published at 67 FR 78864 on December 26, 2002 (Interim Guidance II). Interim Guidance II further addressed the statutory categories of "insurers"

that are required to participate in the Program, including their "affiliates"; provided clarification on the scope of "insured loss" covered by the Program and provided additional guidance to enable eligible surplus line carriers listed on the Quarterly Listing of Alien Insurers of the NAIC or federally approved insurers to calculate their insurer deductible for purposes of the Program.

On January 22, 2003, Treasury issued a third notice of interim guidance, published at 68 FR 4544 on January 29, 2003 (Interim Guidance III). Interim Guidance III further clarified certain disclosure and certification questions, issues for non-U.S. insurers, and the scope of the term "insured loss" under the Act.

In issuing each notice of Interim Guidance, Treasury stated that the Interim Guidance may be relied upon by insurers until superseded by regulations or a subsequent notice. Treasury provided safe harbors for actions by those insurers taken in accordance with, and in reliance on, the interim guidance for the time period prior to the issuance of regulations. Treasury now is issuing an interim final rule with request for comment. The interim final rule addresses certain general Program provisions and Program definitions. Treasury is also issuing a companion proposed rule with request for comment.

II. Analysis of the Interim Final Rule

The interim final rule establishes a new Part 50 in Title 31 of the Code of Federal Regulations, 31 CFR Part 50. Part 50 eventually will include other regulations deemed necessary by Treasury to implement the Program. Subpart A of new Part 50 contains certain general provisions and definitions of Program terms.

Some of the definitions are taken virtually verbatim from the Act because they do not need further clarification and are included in the interim final regulations primarily

for ease of reference. In addition, the interim final rule generally incorporates the interim guidance provided previously by Treasury as it pertains to Program terms, for example, the terms "insurer," "affiliate", "property and casualty insurance" and "direct earned premium." In several areas, the interim final regulation makes clarifying modifications to, or supplements, the interim guidance. For example, the interim final rule clarifies and emphasizes that the Program covers only commercial lines of property and casualty insurance, subject to the inclusions and exclusions of certain lines of insurance as set forth in the definition of property and casualty insurance in section 102(12) of the Act. The Program does not cover personal lines of property and casualty insurance, even if the latter are reported by an insurer on the NAIC's Exhibit of Premiums and Losses (commonly know as Statutory Page 14).

In implementing the Program, Treasury has been guided by several goals. First, we strive to implement the Act in a transparent and effective manner that, for example, treats comparably those insurers required to participate in the Program and that provides necessary information to policyholders in a useful and efficient manner. Second, Treasury seeks to rely as much as possible on the State insurance regulatory structure. In that regard, Treasury is closely coordinating with the NAIC in implementing definitions and other aspects of the Program. Third, to the extent possible within statutory constraints, Treasury seeks to allow insurers to participate in the Program in a manner consistent with their normal course of business. Finally, given the temporary and transitional nature of the Program, Treasury is guided by the Act's goal for insurers to develop their own capacity, resources and mechanisms for terrorism risk insurance coverage when the Program expires.

Key Program definitions contained in the interim final regulation are analyzed below.

A. What is an "act of terrorism" under the Program?

The Program definition of "act of terrorism" in the interim final rule is the same definition that is contained in section 102(1) of the Act. Section 106(a)(2) of the Act provides that the Act's definition is the exclusive definition of the term "act of terrorism" for purposes of compensation for insured losses under the Act. The Act's definition requires a certification by the Treasury Secretary, in concurrence with the Secretary of State and the Attorney General of the United States, that an act is an act of terrorism within the statutory parameters. These parameters include an act that is violent or dangerous to human life, property or infrastructure; that has resulted in damage within the United States, or outside the United States in the case of certain air carriers or vessels or if on the premises of a U.S. mission; and that has been committed by individual(s) on behalf of any foreign person or foreign interest, as part of an effort to coerce the U.S. civilian population or to influence the policy or affect the conduct of the U.S. government by coercion.

Thus, for example, acts of domestic civil disturbance would not be covered by the Act's definition of "act of terrorism" or therefore, by the Program. As in the Act, the interim final rule provides that the Secretary's determination or certification with regard to an act is final and is not subject to judicial review. An act of terrorism must meet a $5,000,000 *de minimis* aggregate loss requirement before it may be certified. The Act also provides that an act is not certifiable if committed as part of a course of war declared by Congress, except with respect to workers compensation coverage.

B. What Entities Must Participate in the Program ("Affiliate", "Control", Insurer")?

1. Mandatory participation of insurers

The general provisions of the interim final rule incorporate the Act's requirement in section 103(a)(3) that each entity meeting the definition of "insurer" under the Act must participate in the Program.

2. "Insurer"

The interim final rule incorporates the statutory definition of "insurer" and generally incorporates the guidance set forth in Interim Guidance II concerning the categories of insurer and the definition of affiliate. To participate in the Program, an entity, including an affiliate of an insurer, must itself meet all of the requirements of section 102(6)(A),(B) and, as the Treasury may prescribe, (C). This means that to be an insurer, an entity must 1) fall within one of the categories in section 102(6)(A) described below, and 2) must receive direct earned premiums as required by section 102(6)(B) and 3) must meet any additional criteria established by Treasury pursuant to section 102(6)(C).

a. Must Fall Within a Category of Insurers in Section 102(6)(A)

First, an insurer must fall within at least one of the following several categories set forth in section 102(6)(A):

(i) Licensed or admitted to engage in the business of providing primary or excess insurance in any State ("State" includes the District of Columbia and territories of the United States);

(ii) Not so licensed or admitted, but is an eligible surplus line carrier listed on the Quarterly Listing of Alien Insurers of the National Association of Insurance Commissioners;

(iii) Approved for the purpose of offering property and casualty insurance by a Federal agency in connection with maritime, energy or aviation activity; or

(iv) A State residual market insurance entity or State workers' compensation fund.

Consistent with Interim Guidance II, the interim final rule provides that an entity that falls within two categories will be considered by Treasury to fall within the first category it meets under section 102(6)(A)(i)-(v). Therefore, if an entity is a federally approved insurer under section 102(6)(A)(iii) and is licensed or admitted in any State, it will be treated under the Program as a State licensed or admitted insurer under section 102(6)(A)(i).

In each of the categories of insurer in section 102(6)(A)(i)-(iv), the insurer has a pre-existing State or NAIC regulatory framework, or has a relationship with a Federal or State program. In developing this interim final rule, Treasury considers such a nexus between an insurer and a Federal or State program or regulatory authority to be extremely important to the effective and efficient administration of the Program. A pre-existing nexus between an insurer and a regulatory structure, for example, assists Treasury in ensuring the financial integrity of participating entities, in obtaining necessary data to implement and evaluate the Program and in carrying out Treasury's surcharge and recoupment, audit and enforcement responsibilities under the Act. Treasury's emphasis on such a nexus is also in accord with the temporary nature of the Program and other aspects of the Program's statutory structure.

"State Licensed or Admitted"

Insurers under clause (i) of section 102 (6)(A) include all entities that are licensed or admitted by a State's insurance regulatory authority. This group of insurers includes captive insurers, risk retention groups, and farm and county mutuals, if such entities are State licensed or admitted. The Program treats all State licensed or approved insurers consistently in accord with the plain language of section 102(6)(A)(i). This treatment also furthers other statutory objectives such as ensuring that policyholders have widespread access to the terrorism risk insurance benefits of Program, and spreading potential costs of the Program associated with any federal loss-sharing payments. (For example, see the cost spreading provisions in connection with recoupment as required by section 103(e)(7) and in connection with surcharges as required by section 103(e)(8) to be applied to all commercial property and casualty policyholders).

Other Categories of Insurers

The NAIC has established criteria for approval of eligible surplus line carriers for listing on the NAIC's Quarterly Listing of Alien Insurers. Federally approved insurers under section 102(6)(A)(iii) are addressed in detail below. Treasury intends to issue additional regulations to apply the provisions of the Act to insurers in clause (iv) of State residual market insurance entities and State workers' compensation funds pursuant to section 103(d)

As described above, all State licensed or admitted captive insurers are insurers within the Program under section 102(6)(A)(i). Treasury may, in consultation with the NAIC or the appropriate State regulatory authority, apply the provisions of the Act to "other classes or types of captive insurers and other self insurance arrangements"

pursuant to section 103(f) of the Act, but only if such an application is determined before the occurrence of an act of terrorism and all of the provisions of the Act are applied comparably to such entities. Treasury has engaged in consultations, but has not yet made a decision regarding the participation in the Program of captives and other self insurance arrangements that do not fall into other categories in clauses (i)-(iv).

b. Must Receive Direct Earned Premiums As Required by Section 102(6)(B)

The second criteria an entity must meet to be an insurer for purposes of the Program is prescribed by section 102(6)(B). In addition to falling within a category in section 102(6)(A), to be an "insurer" under the Act, an entity must receive "direct earned premiums" (as defined) on any type of commercial property and casualty insurance (as defined). The key aspect of this requirement in the statutory definition of insurer is the Act's specification of a direct measure of premium income as opposed, for example, to a net measure of premium income which accounts for reinsurance. Although the legislative history and design of the Act envision reinsurance arrangements as an important component of capacity within the insurance market, the Act excludes reinsurance from the Program. (Section 103(g) of the Act provides that the Act does not limit or prevent "insurers" from obtaining reinsurance coverage for "insurer deductibles" or "insured losses" retained by insurers.) Therefore, consistent with the Act and Treasury's Interim Guidance II, the interim final rule provides that, if an entity does not receive direct earned premiums as required by section 102(6)(B), and subject to statutory exceptions, then the entity is not an "insurer" under the Act. In that regard, Section 102(6)(B) excepts State residual market insurance entities from the direct earned premium requirement.

c. Must Meet Additional Criteria Prescribed by Treasury Under Section 102(6)(C)

In addition to the requirements of Section 102(6)(A) and (B) described above, Section 102(6)(C) of the Act requires that an insurer also meet "any other criteria that the Secretary of the Treasury may reasonably prescribe." The interim final rule does not prescribe additional criteria under section 106 (C). Published elsewhere in this separate part of the Federal Register is a notice of proposed rulemaking in which Treasury solicits public comment on whether the Secretary should prescribe other criteria for certain insurers pursuant to the authority provided by section 102(6)(C) and, if so, what criteria Treasury should prescribe. In this regard, in the notice of proposed rulemaking Treasury solicits comment on appropriate criteria to prevent participation in the Program by newly formed insurance companies deemed by Treasury to be established for the purpose of evading the insurer deductible requirements of the Act and the Program. As stated in the notice of proposed rulemaking, Treasury's objectives are to encourage new sources of capital in the market for terrorism risk insurance, and at the same time, ensure the integrity of the Program and provide comparable treatment of Program participants. Accordingly, the intent of any additional criteria, if proposed, is not to discourage Program participation by newly formed commercial property and casualty insurance companies in their normal course of business, but to administer the Program effectively and fairly, including preventing evasion of insurer deductible requirements by special purpose entities formed to provide terrorism risk only coverage.

Also in the notice of proposed rulemaking published elsewhere in this separate part of the Federal Register, Treasury is solicits comment on appropriate additional

criteria, including financial standards, that should be proposed for federally approved insurers under Treasury's authority in section 102(6)(C). One reason for imposing additional criteria on federally approved insurers is because there are no uniform requirements or standards for federal approval under various federal programs. Although some federal programs impose minimum financial standards, others do not. Therefore, Treasury is considering whether additional criteria for federally approved insurers should be proposed to promote the financial integrity of the Program and to otherwise effectively administer the Program. In addition, in the notice of proposed rulemaking published elsewhere in this separate part of the Federal Register, Treasury solicits comment on criteria that Treasury should propose and prescribe under section 102(6)(C) to ensure that payments under the Program do not benefit entities with connections to terrorist organizations.

d. "Federally Approved" Insurer

If an entity does not fall within section 102(6)(A)(i) or (ii), but is approved or accepted by a Federal agency to offer property and casualty insurance in connection with maritime, energy or aviation activities; receives direct earned premiums for any type of commercial property and casualty insurance as required by 102(6)(B), and, if prescribed, meets any criteria established by Treasury under 102(6)(C), then, such an entity is considered by Treasury to be a federally approved "insurer" under section 102(6)(A)(iii).

As reflected in Interim Guidance II, this interim final rule provides that the scope of insurance coverage (insured losses) under the Program for federally approved insurers under section 102(6)(A)(iii) is only to the extent of federal approval of the commercial property and casualty insurance coverage approved by the Federal Agency in connection

with maritime, energy or aviation activity. Insured losses under other insurance coverage that may be offered by a federally approved insurer under section 102(6)(A)(iii) is not covered by the Program. This treatment of federally approved insurers is in accord with the statutory language of the Act in section 102(6)(A)(iii) ("approved for the purpose of offering property and casualty insurance by a Federal agency in connection with maritime, energy or aviation activity"). This treatment is also in accord with Treasury's consideration of a pre-existing nexus (for example, the nexus of State-licensing or NAIC approval for listing on the Quarterly Listing of Alien Insurers) as very important to the effective and efficient administration of the Program. This nexus is considered by Treasury to be an important aid in ensuring financial integrity of participants in the Program, in obtaining data, and in connection with recoupment, audit and enforcement responsibilities, among others. In addition, this treatment is consistent with the temporary nature and other statutory structure of the Program. Treasury recognizes that it is possible to interpret section 102(6)(A)(iii) more broadly, but for reasons stated above has determined that the narrower reading is not only in accord with the statutory language but serves other important purposes in the administration of the Program.

Examples of federally approved insurers under section 102(6)(A)(iii) are those insurers that do not fall within section 102(6)(A)(i) or (ii), and are approved or accepted by a Federal agency under the following federal programs and statutes:

- Approval of Underwriters for Marine Hull Insurance (Maritime Administration, U.S. Department of Transportation)
- Aircraft Accident Liability Insurance (U.S. Department of Transportation)
- Oil Spill Financial Responsibility for Offshore Facilities (Minerals Management

Service, U.S. Department of the Interior

• Oil Spill Financial Responsibility for Vessels (United States Coast Guard, U.S. Department of Transportation)

• Longshoremen's and Harbor Workers' Compensation Act (Employment Standards Administration, U.S. Department of Labor)

• Price Anderson Act (Nuclear Regulatory Commission, U.S. Department of Energy)

The above list of Federal insurance programs contains an addition to the list contained in Interim Guidance II through the express inclusion of insurers approved or accepted under the Price Anderson Act. This list is provided as a starting reference point and is not exclusive. Any entity that is approved or accepted by a U.S. agency to offer commercial property and casualty insurance in connection with maritime, energy or aviation activities by a program that is not listed above is particularly encouraged to advise the designated Treasury contacts provided by this rule with the name of the program and the name of the Federal agency that approved or accepted them.

Treasury is not prescribing additional criteria under section 102(6)(C) in the interim final rule for federally approved insurers, but solicits comments elsewhere in this separate part of the Federal Register on whether and what additional criteria should be prescribed for federally approved insurer.

3. "Affiliates"

The definition of "insurer" in section 102(6) includes "any affiliate thereof." Section 102(2) of the Act defines "affiliate" to mean "with respect to any insurer, any entity that controls, is controlled by or is under common control with the

insurer"(emphasis supplied). Any affiliate that does not meet the definition of insurer, for example, it does not fall into any of the categories in section 102(6)(A) or does not receive direct earned premiums for commercial property and casualty insurance as required by section 102(6)(B), is not an "insurer" for purposes of the Program. Consistent with Interim Guidance II, and the definition of "control" discussed below, Treasury will treat the parent company, and all affiliates that meet the requirements of "insurer" in section 102(6)(A), (B) and (C), collectively as one "insurer" for purposes of calculating the direct earned premiums on which the insurer deductible is based under the Program. This consolidated treatment is also in accord with the Conference Report to accompany the Act, which states, in the explanation of section 102 of the Act, that "the terms 'affiliate' and 'control' are meant to ensure that affiliated insurers are treated as a consolidated entity for calculating direct earned premiums." H.R. Conf. Rep. No. 107-779 (2002).

For example, if an insurance company is licensed or admitted to engage in the business of providing primary or excess insurance in a State and receives direct earned premiums as required in section 102(6)(B), and three out of four of its affiliate insurance companies also are State licensed and meet the requirements of section 102(6)(B)and (C), then the parent company and the three affiliates that meet the definition of "insurer" are, collectively, one insurer for purposes of calculating and consolidating direct earned premiums and calculating insurer deductibles under the Program. The affiliate that does not fall within one of the categories in section 102(6)(A) or fails to meet all the requirements to be an "insurer" under section 102(6) is not included in the Program.

As discussed previously in Interim Guidance II, if an entity is "under common control with the insurer," and that entity meets the requirements to be an "insurer" in section 102(6)(A)-(C), Treasury will consider that entity collectively with the other insurer (its affiliate) as one "insurer" for the Program purposes of consolidating direct earned premiums and calculating the insurer deductible. For example, assume that two insurance companies are licensed to engage in the business of providing primary or excess insurance in any State (either in one State or in separate States) and both receive direct earned premiums as required by section 102(6)(B). Each company, would meet the definition of "insurer." Assume additionally that the common parent of the two companies does not fall into any of the categories in section 102(6)(A). Treasury will consider the two affiliated companies to be, collectively, one insurer for purposes of calculating and consolidating direct earned premiums and their insurer deductible under the Program, but their parent company is not an insurer and not included in the Program.

4. "Control"

Related to the definition of insurer and affiliate is the definition of "control" in Section 102(3)(A)-(C) of the Act. The definition and determination of "control" for purposes of the Program is used by Treasury to calculate the insurer deductible on a consolidated basis for an insurer "including any affiliate thereof"(see discussion of affiliate above). Under the Act, an entity is in control of another entity if the statutory definition is met under section 102(3)(A) <u>or</u> (B), <u>or</u> if Treasury makes a determination under (C) that the entity directly or indirectly exercises a controlling influence over the management or policies of the other entity. Each category of control for purposes of the Program is described below with examples.

a. "Owns, Controls or has the Power to Vote" 25 Percent of Voting Securities

Section 102(3)(A) provides that an entity has "control" over another if the entity directly or indirectly or acting through 1 or more other persons owns, controls or has power to vote, 25 percent or more of any class of voting securities of the other entity. For example, if Insurer X owns, or has the power to vote, 25 percent or more of any class of voting securities of Insurer Y, then Insurer X is in control of Insurer Y under section 102(3)(A). This control relationship means, among other things, that Treasury will consolidate the direct earned premiums of these two insurers under Insurer X for purposes of calculating the insurer deductible and evaluating a claim for federal payment.

Published elsewhere in this separate part of the Federal Register is a notice of proposed rulemaking in which Treasury solicits comments on whether the definition of control contained in the interim final rule should be supplemented by proposing a rule to address situations in which a corporate insurance structure may contain multiple insurers that own, control or have the power to vote more than 25 percent of the voting shares of another insurer. Based on available information, such control arrangements exist but they do not appear to be common. In particular, Treasury is considering consolidating direct earned premiums for purposes of calculating the insurer deductible on a pro rata basis among the multiple controlling owners. For example, if Insurer Y owns 40 percent of the voting shares of Insurer Z and Insurer X owns 30 percent of the voting shares of Insurer Z, then a pro rata allocation of premium income and insured loss under the Program would be, respectively, 57 percent and 43 percent.

b. Controls Election of Majority of Directors or Trustees

Pursuant to section 102(3)(B), an entity also is in control over another entity for purposes of the Program if the entity controls in any manner the election of a majority of the directors or trustees of the other entity. For example, even if Insurer A does not own or have the power to vote 25 percent or more of any class of voting securities of Insurer B, if Insurer A controls in any manner the election of a majority of the directors or trustees of Insurer B, then Insurer A "controls" Insurer B under the Act. This means that , for purposes of the Program, Treasury will consolidate the direct earned premiums of these two insurers under Insurer A in calculating the insurer deductible and evaluating a claim for federal payment.

c. Control Determination by Treasury under Section 102(3)(C)

If no control relationship exists on the basis of either section 102(3)(A) or (B), Treasury has authority, under section 102(3)(C), to determine, after notice and opportunity for hearing, that an insurer directly or indirectly exercises a controlling influence over the management or policies of another insurer. To provide further guidance for purposes of a control determination under this subsection (C), the interim final rule establishes several rebuttable presumptions. The first rebuttal presumption under section 102(3)(C) is that an entity is in control of another entity for purposes of the Program (including consolidation of direct earned premiums in calculating the insurer deductible) if a State has determined that a control relationship exists between the two entities. If a State has made such a control determination with regard to two insurers, and the affected insurers wish to rebut the presumption established in this interim final rule, then the insurers may request an informal hearing (*e.g.* exchange of documents) in which they will be given an opportunity by Treasury to present and support their position that

no control relationship exists, prior to a final determination by Treasury.

The second rebuttable presumption Treasury is establishing is that an insurer exercises directly or indirectly a controlling influence over the management or policies of another insurer under section 102(3)(C) if 25 percent or more of capital of a stock insurer, policyholder surplus of a mutual insurer, or corporate capital of other entities qualifying as insurers is provided by another insurer, even in the absence of voting shares or of control of the election of a majority of the directors or trustees of the other insurer. The third rebuttable presumption is that an insurer exercises directly or indirectly a controlling influence over the management or policies of a syndicate insurer if, at any time during the Program Year, the insurer supplies 25 percent or more of the underwriting capacity for that year to the other insurer that is a syndicate consisting of a group including incorporated and individual unincorporated underwriters.

If the affected insurers wish to rebut the presumptions described above and established by this interim final rule, then such insurers may request a hearing in which they will be given an opportunity to rebut the presumption of control by presenting and supporting their position through written submissions to Treasury and, in Treasury's discretion, through informal oral presentation.

Published elsewhere in this separate part of the Federal Register is a notice of proposed rulemaking in which Treasury solicits comment on a pro rata allocation method for control determinations under section 102(3)(C) of the Act, similar to the pro rata method under consideration for controlling insurers under section 102(3)(A), in situations in which multiple insurers each provide 25 percent or more of the capital of a stock insurer, policyholder surplus of a mutual insurer or corporate capital of other entities that meet the definition of insurer under the Act and in the interim final rule. The pro rata approach under consideration by Treasury would treat each insurer on a standalone basis for Program purposes such as calculation of direct earned premiums and the insurer deductible if no insurer provides 25 percent or more of the capital of a stock insurer, policyholder surplus of a mutual insurer or corporate capital of other entities that meet the definition of insurer under the Act and the Program.

At a later date, Treasury will be issuing claims procedures. In accordance with the consolidated treatment of direct earned premiums among insurer affiliates, Treasury anticipates that the controlling insurer will be the insurer that will be required to file any claim with Treasury for federal payment under the Program and that this insurer will receive the federal payment that is to be distributed within the consolidated insurer group in accordance with distribution of risk within the consolidated insurer group. Elsewhere in this separate part of the Federal Register, Treasury solicits comments on various means to ensure the prompt distribution of the federal payment as appropriate to ensure that the purposes of the Program are not thwarted or evaded, and that the ultimate risk bearing entities are treated in an equitable manner, within the Act's requirements.

C. What is the scope of insurance coverage under the Program? ("insured loss",

"property and casualty insurance", "direct earned premium" and insurer deductible")

1. "Insured Loss"

The definition of "insured loss" in the interim final rule incorporates the statutory definition in section 102(5) supplemented by the guidance concerning scope of the term "insured loss" that is contained in Interim Guidance II and Interim Guidance III. Section 102(5) of the Act defines insured loss to mean any loss resulting from a certified "act of terrorism" covered by primary or excess "property and casualty insurance," that is issued by an "insurer," if such loss:

- "occurs within the United States," or
- occurs to an "air carrier"; a U.S. flag vessel or a vessel "based principally in the United States on which United States income tax is paid and whose insurance coverage is subject to regulation in the United States, regardless of where the loss occurs," or
- occurs "at the premises of any United States mission."

In general, if the property and casualty insurance coverage is provided within the geographic and other statutory parameters of the definition of "insured loss" in the Act as described above, and is provided by an "insurer" as defined in section 102(6) of the Act (whether or not the insurer is non-U.S. based or owned), then such losses will be covered by the Program, subject to the conditions for payment and other requirements of the Act. However, if insurance coverage is provided by an entity that is not an "insurer" under the Act, then, even if a loss occurs within the United States, or otherwise meets the definitional parameters of "insured loss," *e.g.* occurs to an air carrier or vessel or mission

as defined in the Act, the loss would not be covered by the Program. In addition, if insurance is provided by a U.S. insurer, but the loss does not fall within the definition of "insured loss," for example, it occurs on foreign soil and not to a U.S. mission or covered air carrier or vessel, then the loss would not be covered by the Program. Section 102(5)(A) provides that "insured losses" means any loss resulting from a certified act of terrorism and covered by primary or excess property and casualty insurance issued by an insurer if such loss occurs within the United States.

As described in Interim Guidance III, insured losses under section 102(5)(B) are only those losses that are incurred by covered air carriers or vessels, if the insured loss occurs beyond the geographic boundaries of the United States as described in Section 102(5)(A). Losses that are incurred by covered air carriers or vessels would include losses covered by insurance coverage provided to those entities (for example, property insurance coverage and liability coverage). Not included under section 102(5)(B) are losses that are not incurred by covered air carriers or vessels, such as losses covered by third party insurance contracts that are separate from the insurance coverage provided to covered air carriers or vessels.

2. "Property and casualty insurance"

Section 102(12) of the Act defines "property and casualty insurance" to mean commercial lines of property and casualty insurance. The statutory definition expressly includes "excess insurance, workers compensation insurance and surety insurance." In addition, the Act specifically excludes (i) federal crop insurance issued or reinsured under the Federal Crop Insurance Act or any other type of crop or livestock insurance that is privately issued or reinsured; (ii) private mortgage insurance as defined in the

Homeowners Protection Act of 1998 or title insurance; (iii) financial guaranty insurance issued by monoline financial guaranty insurance corporations; (iv) insurance for medical malpractice; (v) health or life insurance including group life insurance; (vi) flood insurance provided under the National Flood Insurance Act of 1968; and (vii) reinsurance or retrocessional reinsurance.

Insurance is generally regulated by State law in the United States. There is no uniform or consistent definition of "commercial property and casualty insurance" among the States. In some States, a line of insurance may be considered commercial and in other States the same line of insurance is considered personal. However, as Program administrator, Treasury must designate types or lines of commercial property and casualty insurance on which direct earned premiums and insurer deductibles are to be calculated and for which federal payments will be made for "insured losses" under the Program. Direct earned premiums received by insurers for commercial property and casualty insurance under the Program are the basis for the Program's statutory reinsurance structure, for other terms and for federal payments. In developing a definition of property and casualty insurance for purposes of administrating and implementing the Program, Treasury considered the statutory definition, the Program structure, and effective administration of the Program. In this regard, Treasury also consulted with the NAIC and others regarding State law and premium reports filed with the NAIC.

The interim final rule defines the scope of commercial property and casualty insurance for purposes of the Program to include commercial property and casualty insurance, including those lines of insurance expressly included in section 102(12) of the

Act and excluding those lines of insurance expressly excluded by the same statutory definition. Treasury's interim final rule incorporates the suggested guidance in Interim Guidance I that commercial lines within the following lines of insurance coverage that are reported on the NAIC Annual Statement of the Exhibit of Premiums and Losses--commonly known as Statutory Page 14 are included in the Program: Line 1—Fire; Line 2.1—Allied Lines; Line 3—Farmowners Multiple Peril; Line 5.1—Commercial Multiple Peril (non-liability portion); Line 5.2—Commercial Multiple Peril (liability portion); Line 8—Ocean Marine; Line 9—Inland Marine; Line 16—Workers' Compensation; Line 17—Other Liability; Line 18—Products Liability; Line 19.3—Commercial Auto No-Fault (personal injury protection); Line 19.4—Other Commercial Auto Liability; Line 21.2—Commercial Auto Physical Damage; Line 22—Aircraft (all perils); Line 24—Surety; Line 26—Burglary and Theft; and Line 27—Boiler and Machinery.

The interim final rule also clarifies that premium information on such lines of Statutory Page 14 should only be included in calculating an insurer's direct earned premium and insurer deductible to the extent that coverage is provided for commercial property and casualty exposures. In other words, personal insurance that is reported on the specified covered lines of Statutory Page 14 should be excluded from an insurer's calculation of its direct earned premium and insurer deductible. In making that determination for purposes of the Program, insurers may consider insurance coverage primarily designed to cover personal, family or household purposes to be personal insurance and, therefore, not covered by the Program. Personal insurance policies that include incidental coverage for commercial purposes would be considered to be primarily personal policies. For purposes of the Program, as reflected in this interim final rule,

Treasury considers incidental commercial coverage to exist where less than 25 percent of total premium is attributable to commercial coverage.

In contrast, commercial property and casualty insurance generally is designed to cover the commercial interests of business, civic, not-for-profit or governmental entities, or other similar individuals, organizations, or professional practices. In cases where an insurance policy covers both commercial and personal exposures, and is not primarily a personal policy, insurers should allocate the proportion of risk between commercial and personal components in determining what portion of the policy falls under the Program. In suggesting this allocation, Treasury is not establishing a new reporting requirement at this time, but is suggesting a method by which insurers may calculate their deductibles and for Treasury to verify any claims under the Program.

Insurers that do not report premiums to the NAIC on Statutory Page 14 may use the guidance provided above as an analogy or reference point in determining whether and what lines of their commercial property and casualty insurance are included in the Program and in calculating their direct earned premium and insurer deductible. In this regard, as discussed earlier, the insurance coverage of federally approved insurers within the Program covers only those lines for which the insurer has received federal approval.

3. "Direct earned premium"

Section 102(4) of the Act defines direct earned premium as a "direct earned premium for property and casualty insurance issued by any insurer for insurance against" insured losses as defined in section 102(5). As discussed below, the term "insurer deductible" is based on direct earned premiums received by insurers during specified time periods. Interim Guidance I and II, provided guidance to concerning the term "direct earned

premium" in relation to the terms "insurer deductible", "insured loss" and "property and casualty insurance". The interim final rule reflects this previous guidance but contains further clarifications and supplementary guidance. For insurers that report premiums to the NAIC on Statutory Page 14, "direct earned premium" is the information reported on column 2 for the lines of commercial property and casualty insurance referenced above, with the specified adjustments to remove personal insurance coverage. This interpretation of direct earned premium information is consistent with scope of "insured loss" as defined in the Act and will be used by Treasury to calculate the insurer deductible for these insurers.

Other insurers that are required to participate in the Program but that do not report on Statutory Page 14 may use the discussion above with reference to Statutory Page 14 as an analogy in developing a comparable means by which they may calculate their direct earned premiums. Treasury will use similar premium information (compiled by these entities or their State regulators) to calculate an insurer's deductible. For county or town mutual insurers that do not report to the NAIC, for purposes of calculating direct earned premium, data that is reported to their State regulator or maintained by the insurer should be adjusted to: (1) reflect an appropriate breakdown between commercial and personal risks as outlined above; and (2) if necessary, re-stated to reflect the accrual method of determining direct earned premium versus direct premium. In addition, such entities should also consider other types of payments that compensate an insurer for the risk of loss (for example, assessments, contributions, or other similar concepts) as being equivalent to premium income for purposes of the Program.

Eligible surplus line carrier insurers may determine the scope of insurance coverage and their insurer deductible under the Program for policies that are in-force as of the date of enactment or that are entered into prior to January 1, 2003, with reference to the geographic scope in the definition of "insured loss," and with reference to the covered commercial property and casualty lines of insurance described above. For policies issued by eligible surplus line carriers after January 1, 2003, as stated in Interim Guidance II, the premium for insurance coverage within the geographic scope of "insured loss" must be priced separately by eligible surplus line carrier insurers.

In calculating the appropriate measure of direct earned premium to determine the deductible for Program Year 1, eligible surplus line carriers may use and rely on the same allocation methodologies contained within the NAIC's "Allocation of Surplus Lines and Independently Procured Insurance Premium Tax on Multi-State Risks Model Regulation" for allocating premium between coverage within the geographic scope of "insured loss" and all other coverage to estimate the appropriate percentage of premium income for such policies that applies to such risks.

Similarly, consistent with the scope of insurance coverage under the Program and other limitations that apply to federally approved insurers, such insurers should a use methodology similar to that used by eligible surplus line carriers in calculating the appropriate measure of their direct earned premium.

4. "Insurer Deductible"

The Act defines an "Insurer Deductible" in Section 102(7) for the various "Program Years" and other periods covered by the Program. For example, Section 102(7)(B) defines the insurer deductible for Program Year 1 (January 1, 2003 through December

31, 2003) as "the value of an insurer's direct earned premiums over the calendar year immediately preceding Program Year 1 multiplied by 7 percent". A State licensed or admitted insurer may estimate its insurer deductible by multiplying the applicable percentage (listed in the Act for each of the Program Years) by the direct earned premium information for commercial lines of property and casualty insurance reported on Statutory Page 14 with the appropriate adjustments as described above. Other entities should follow a similar methodology based the definitions of "insured loss," "property and casualty insurance," and "direct earned premium."

Section 102(7)(E) provides Treasury with authority to determine the appropriate methodology for measuring the direct earned premium if an insurer has not had a full year of operations during the calendar year immediately preceding the Program Year.

Because new companies have only had limited business operations, it is likely that their premium income will be somewhat volatile. Such volatility could persist throughout the life of the three-year Program. Thus, to treat these newly formed insurers in a manner that is consistent with other insurers under the Program and to prevent newly formed insurers from having the unfair advantage of lower relative deductibles, this interim final rule specifies that the deductible measure for new companies formed after the date of enactment (November 26) will be based on contemporaneous data for direct earned premium that corresponds to the current Program Year. If a newly formed insurer does not have a full year of operations within a particular Program year, this interim final rule provides that an insurer's direct earned premium for Program year will be annualized to determine an insurer's deductible.

III. Procedural Requirements

The Act established a Program to provide for loss sharing payments by the Federal Government for insured losses resulting from certified acts of terrorism. The Act became effective immediately upon the date of enactment (November 26, 2002). Preemptions of terrorism risk exclusions in policies, mandatory participation provisions, disclosure and other requirements and conditions for federal payment contained in the Act applied immediately to those entities that come within the Act's definition of "insurer." In the near term, Treasury will be issuing additional regulations to implement the Program. This interim final regulation provides critical information concerning the definitions of Program terms that lays the groundwork for Treasury's implementation of the Program. No one can predict if, or when, an act of terrorism may occur. There is an urgent need for Treasury, as Program administrator, to lay the groundwork for Program implementation through interim final regulations to provide clarity and certainty concerning which entities are required to participate in the Program; the scope and conditions of Program coverage; and other implementation issues that immediately affect insurers, their policyholders, State regulators and other interested parties. This includes the need to supplement, or modify as necessary, previously issued interim guidance.

Accordingly, pursuant to 5 U.S.C. 553(b)(B), Treasury has determined that it would be contrary to the public interest to delay the publication of this rule in final form during the pendency of an opportunity for public comment. For the same reasons, pursuant to 5 U.S.C. 553(d)(3), Treasury has determined that there is good cause for the interim final rule to become effective immediately upon publication. While this regulation is effective immediately upon publication, Treasury is seeking public comment on the regulation and will consider all comments in developing a final rule.

This interim final rule is a significant regulatory action and has been reviewed by the Office of Management and Budget under the terms of Executive Order 12866.

Because no notice of proposed rulemaking is required, the provisions of the Regulatory Flexibility Act (5 U.S.C. chapter 6) do not apply. However, the Act and the Program are intended to provide benefits to the U. S. economy and all businesses, including small businesses, by providing a federal reinsurance backstop to commercial property and casualty policyholders and spreading the risk of insured loss resulting from an act of terrorism.

List of Subjects in 31 CFR Part 50

Terrorism risk insurance.

Authority and Issuance

For the reasons set forth above, 31 CFR Subtitle A is amended by adding Part 50 to read as follows:

PART 50 – TERRORISM RISK INSURANCE PROGRAM

Subpart A—General Provisions

Sec.

50.1 Authority, purpose and scope.
50.4 Mandatory participation in Program.
50.5 Definitions.
50.6 Rules of construction for dates.
50.7 Special rules for Interim Guidance safe harbors.

Subpart B – Disclosures as Conditions for Federal Payment [Reserved]

Subpart C—Mandatory Availability [Reserved]

Subpart D—State Residual Market Insurance Entities; Workers' Compensation Funds [Reserved]

Subpart E – Self-Insurance Arrangements; Captives [Reserved]

Subpart F – Claims Procedures [Reserved]

Subpart G – Audit, Investigative and Civil Money Penalty Procedures [Reserved]

Subpart H – Recoupment and Surcharge Procedures [Reserved]

Authority: 5 U.S.C. 301; 31 U.S.C. 321; Title I, Pub. L. 107-297, 116 Stat. 2322 (15 U.S.C 6701 note).

Subpart A – General Provisions

§ 50.1 Authority, purpose and scope.

(a) Authority. This Part is issued pursuant to authority in Title I of the Terrorism Risk Insurance Act of 2002, Pub. L. 107-297, 116 Stat. 2322.

(b) Purpose. This Part contains rules prescribed by the Department of the Treasury to implement and administer the Terrorism Risk Insurance Program.

(c) Scope. This Part applies to insurers subject to the Act and their policyholders.

§ 50.4 Mandatory participation in Program.

Any entity that meets the definition of an insurer under the Act is required to participate in the Program.

§ 50.5 Definitions.

For purposes of this Part:

(a) Act means the Terrorism Risk Insurance Act of 2002.

(b) Act of terrorism. (1) In general. The term act of terrorism means any act that

is certified by the Secretary, in concurrence with the Secretary of State and the Attorney General of the United States:

(i) To be an act of terrorism;

(ii) To be a violent act or an act that is dangerous to human life, property, or infrastructure;

(iii) To have resulted in damage within the United States, or outside of the United States in the case of:

(A) An air carrier (as defined in 49 U.S.C. 40102) or a United States flag vessel (or a vessel based principally in the United States, on which United States income tax is paid and whose insurance coverage is subject to regulation in the United States); or

(B) The premises of a United States mission; and

(iv) To have been committed by an individual or individuals acting on behalf of any foreign person or foreign interest, as part of an effort to coerce the civilian population of the United States or to influence the policy or affect the conduct of the United States Government by coercion.

(2) Limitations. The Secretary is not authorized to certify an act as an act of terrorism if:

(i) The act is committed as part of the course of a war declared by the Congress (except with respect to any coverage for workers' compensation); or

(ii) property and casualty losses resulting from the act, in the aggregate, do not exceed $5,000,000.

(3) Judicial review precluded. The Secretary's certification of an act of terrorism, or determination not to certify an act as an act of terrorism, is final and is not subject to judicial review.

(c)(1) Affiliate means, with respect to an insurer, any entity that controls, is controlled by, or is under common control with the insurer. An affiliate must itself meet the definition of insurer to participate in the Program.

(2) For purposes of paragraph (c)(1) of this section, an insurer has control over another insurer for purposes of the Program if:

(i) An insurer directly or indirectly or acting through one or more other persons owns, controls, or has power to vote 25 percent or more of any class of voting securities of the other insurer;

(ii) An insurer controls in any manner the election of a majority of the directors or trustees of the other insurer; or

(iii) The Secretary determines, after notice and opportunity for hearing, that an insurer directly or indirectly exercises a controlling influence over the management or policies of the other insurer, even if there is no control as defined in paragraph (c)(2)(i) or (c)(2)(ii) of this section.

(3) For purposes of a determination of controlling influence under paragraph (c)(2)(iii) of this section, the following rebuttable presumptions will apply:

(i) If a State has determined that an insurer controls another insurer, there is a rebuttable presumption that the insurer that is determined by the State to control another insurer exercises a controlling influence over the management or policies of the other insurer for purposes of paragraph (c)(2)(iii) of this section; and

(ii) If an insurer provides 25 percent or more of another insurer's capital (in the case of a stock insurer), policyholder surplus (in the case of a mutual insurer), or corporate capital (in the case of other entities that qualify as insurers), there is a rebuttable presumption that the insurer providing such capital, policyholder surplus, or corporate capital exercises a controlling influence over the management or policies of the receiving insurer for purposes of paragraph (c)(2)(iii) of this section.

(iii) If an insurer, at anytime during a Program Year, supplies 25 percent or more of the underwriting capacity for that year to an insurer that is a syndicate consisting of a group including incorporated and individual unincorporated underwriters, there is a rebuttable presumption that the insurer exercises a controlling influence over the syndicate for purposes of paragraph (c)(2)(iii) of this section.

(4) An insurer deemed to be in a control relationship pursuant to paragraph (c)(2)(iii) of this section as a result of the rebuttable presumption in paragraph (c)(3)(i), (ii) or (iii) of this section may request a hearing in which the insurer will be given an opportunity to rebut the presumption of control by presenting and supporting its position through written submissions to Treasury and, in Treasury's discretion, through informal oral presentations.

(d) Direct earned premium means the direct earned premium(s) received by an insurer for commercial property and casualty insurance issued by the insurer against insured losses under the Program.

(1) State licensed or admitted insurers. For a State licensed or admitted insurer that reports to the NAIC, direct earned premium is the premium information for commercial property and casualty insurance coverage reported by the insurer on column

2 of the NAIC Exhibit of Premiums and Losses of the Annual Statement (commonly known as Statutory Page 14). (See definition of property and casualty insurance).

(i) Premium information as reported to the NAIC is included in the calculation of direct earned premiums for purposes of the Program only for commercial property and casualty coverage issued by the insurer.

(ii) Premiums for personal property and casualty insurance coverage (coverage primarily designed to cover personal, family or household risk exposures) are excluded in the calculation of direct earned premiums for purposes of the Program.

(iii) Personal property and casualty insurance coverage that includes incidental coverage for commercial purposes is primarily personal coverage, and therefore premiums are excluded from the calculation of direct earned premium. For purposes of the Program, commercial coverage is incidental if less than 25 percent of the total direct earned premium is attributable to commercial coverage.

(iv) If a property and casualty insurance policy covers both commercial and personal risk exposures and is not primarily a personal insurance policy, insurers may allocate the premiums in accordance with the proportion of risk between commercial and personal components in order to ascertain direct earned premium.

(2) Insurers that do not report to NAIC. An insurer that does not report to the NAIC, but that is licensed or admitted by any State (such as certain farm or county mutual insurers), should use the guidance provided in paragraph (d)(1) of this section to assist in ascertaining its direct earned premium.

(i) Direct earned premium may be ascertained by adjusting data maintained by such insurer or reported by such insurer to its State regulator to reflect a breakdown of

premiums for commercial and personal property and casualty exposure risk as described in paragraph (d)(1) of this section and, if necessary, re-stated to reflect the accrual method of determining direct earned premium versus direct premium.

(ii) Such an insurer should consider other types of payments that compensate the insurer for risk of loss (contributions, assessments, etc.) as part of its direct earned premium.

(3) Certain eligible surplus line carrier insurers. An eligible surplus line carrier insurer listed on the NAIC Quarterly Listing of Alien Insurers must ascertain its direct earned premium as follows:

(i) For policies that were in-force as of November 26, 2002, or entered into prior to January 1, 2003, direct earned premiums are to be determined with reference to the definitions of insured loss and property and casualty insurance by allocating the appropriate portion of premium income that falls within the definition of insured loss. The same allocation methodologies contained within the NAIC's "Allocation of Surplus Lines and Independently Procured Insurance Premium Tax on Multi-State Risks Model Regulation" for allocating premium between coverage within the definition of insured loss and all other coverage to ascertain the appropriate percentage of premium income to be included in direct earned premium may be used; and

(ii) For policies issued after January 1, 2003, premium for insured losses covered by property and casualty insurance under the Program must be priced separately by such eligible surplus line carrier insurers.

(4) Federally approved insurers. A federally approved insurer under section 102(6)(A)(iii) of the Act should use a methodology similar to that specified for eligible

surplus line carrier insurers in paragraph (d)(3) of this section to calculate its direct earned premium. Such calculation should be adjusted to reflect the limitations on scope of insurance coverage under the Program (i.e. to the extent of federal approval of commercial property and casualty insurance in connection with maritime, energy or aviation activities).

(e) Insured loss. (1) The term insured loss means any loss resulting from an act of terrorism (including an act of war, in the case of workers' compensation) that is covered by primary or excess property and casualty insurance issued by an insurer if the loss:

(i) Occurs within the United States;

(ii) Occurs to an air carrier (as defined in 49 U.S.C. 40102), to a United States flag vessel (or a vessel based principally in the United States, on which United States income tax is paid and whose insurance coverage is subject to regulation in the United States), regardless of where the loss occurs; or

(iii) Occurs at the premises of any United States mission.

(2)(i) A loss that occurs to an air carrier (as defined in 49 U.S.C. 40102), to a United States flag vessel, or a vessel based principally in the United States, on which United States income tax is paid and whose insurance coverage is subject to regulation in the United States, is not an insured loss under section 102(5)(B) of the Act unless it is incurred by the air carrier or vessel outside the United States.

(ii) An insured loss to an air carrier or vessel outside the United States under section 102(5)(B) of the Act does not include losses covered by third party insurance contracts that are separate from the insurance coverage provided to the air carrier or vessel.

(f) Insurer means any entity, including any affiliate of the entity, that meets the following requirements:

(1)(i) The entity must fall within at least one of the following categories:

(A) It is licensed or admitted to engage in the business of providing primary or excess insurance in any State (including, but not limited to, State licensed captive insurance companies, State licensed or admitted risk retention groups, and State licensed or admitted farm and county mutuals);

(B) It is not licensed or admitted to engage in the business of providing primary or excess insurance in any State, but is an eligible surplus line carrier listed on the Quarterly Listing of Alien Insurers of the NAIC, or any successor to the NAIC;

(C) It is approved or accepted for the purpose of offering property and casualty insurance by a Federal agency in connection with maritime, energy, or aviation activity, but only to the extent of such federal approval of commercial property and casualty insurance coverage offered by the insurer in connection with maritime, energy or aviation activity;

(D) It is a State residual market insurance entity or State workers' compensation fund; or

(E) As determined by the Secretary, it falls within any other class or type of captive insurer or other self-insurance arrangement by a municipality or other entity, to the extent provided in Treasury regulations issued under section 103(f) of the Act.

(ii) If an entity falls within more than one category described in paragraph (f)(1)(i) of this section, the entity is considered to fall within the first category within which it falls for purposes of the Program;

(2) The entity must receive direct earned premiums for any type of commercial property and casualty insurance coverage, except in the case of:

(i) State residual market insurance entities and State workers' compensation funds, to the extent provided in Treasury regulations; and

(ii) Other classes or types of captive insurers and other self-insurance arrangements by municipalities and other entities, if such entities are included in the Program by Treasury under regulations in this Part.

(3) The entity must meet any other criteria as prescribed by Treasury.

(g) Insurer deductible means:

(1) For an insurer that was in existence on November 26, 2002 and has had a full year of operations during the calendar year immediately preceding the applicable Program Year:

(i) For the Transition Period (November 26, 2002 through December 31, 2002), the value of an insurer's direct earned premiums over calendar 2001, multiplied by 1 percent;

(ii) For Program Year 1 (January 1, 2003 through December 31, 2003), the value of an insurer's direct earned premiums over calendar year 2002, multiplied by 7 percent;

(iii) For Program Year 2 (January 1, 2004 through December 31, 2004), the value of an insurer's direct earned premiums over calendar year 2003, multiplied by 10 percent;

(iv) For Program Year 3 (January 1, 2005 through December 31, 2005), the value of an insurer's direct earned premiums over calendar year 2004, multiplied by 15 percent; and

(2) For an insurer that came into existence after November 26, 2002, the insurer

deductible will be based on data for direct earned premiums for the current Program Year. If the insurer has not had a full year of operations during the applicable Program Year, the direct earned premiums for the current Program Year will be annualized to determine the insurer deductible.

(h) NAIC means the National Association of Insurance Commissioners.

(i) Person means any individual, business or nonprofit entity (including those organized in the form of a partnership, limited liability company, corporation, or association), trust or estate, or a State or political subdivision of a State or other governmental unit.

(j) Program means the Terrorism Risk Insurance Program established by the Act.

(k) Program Years means the Transition Period (November 26, 2002 through December 31, 2002), Program Year 1 (January 1, 2003 through December 31, 2003), Program Year 2 (January 1, 2004 through December 31, 2004), and Program Year 3 (January 1, 2005 through December 31, 2005).

(l) Property and casualty insurance means commercial lines of property and casualty insurance, including excess insurance, workers' compensation insurance, and surety insurance. Property and casualty insurance:

(1) Includes commercial lines within the following lines of insurance from the NAIC's Exhibit of Premiums and Losses (commonly known as Statutory Page 14): Line 1—Fire; Line 2.1—Allied Lines; Line 3—Farmowners Multiple Peril; Line 5.1—Commercial Multiple Peril (non-liability portion); Line 5.2—Commercial Multiple Peril (liability portion); Line 8—Ocean Marine; Line 9—Inland Marine; Line 16—Workers' Compensation; Line 17—Other Liability; Line 18—Products Liability; Line 19.3—

Commercial Auto No-Fault (personal injury protection); Line 19.4—Other Commercial Auto Liability; Line 21.2—Commercial Auto Physical Damage; Line 22—Aircraft (all perils); Line 24—Surety; Line 26—Burglary and Theft; and Line 27—Boiler and Machinery; and

(2) Does not include:

(i) Federal crop insurance issued or reinsured under the Federal Crop Insurance Act (7 U.S.C. 1501 et seq.), or Multiple Peril Crop insurance reported on Line 2.2 of the NAIC's Exhibit of Premiums and Losses (commonly known as Statutory Page 14);

(ii) Private mortgage insurance (as defined in section 2 of the Homeowners Protection Act of 1988 (12 U.S.C. 4901)) or title insurance;

(iii) Financial guaranty insurance issued by monoline financial guaranty insurance corporations;

(iv) Insurance for medical malpractice;

(v) Health or life insurance, including group life insurance;

(vi) Flood insurance provided under the National Flood Insurance Act of 1968 (42 U.S.C. 4001 *et seq*.); or

(vii) Reinsurance or retrocessional reinsurance.

(m) Secretary means the Secretary of the Treasury.

(n) State means any State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Commonwealth of the Northern Mariana Islands, American Samoa, Guam, each of the United States Virgin Islands, and any territory or possession of the Untied States.

(o) Treasury means the United States Department of the Treasury.

(p) United States means the several States, and includes the territorial sea and the continental shelf of the United States, as those terms are defined in the Violent Crime Control and Law Enforcement Act of 1994 (18 U.S.C. 2280 and 2281).

§ 50.6 Rule of construction for dates.

Unless otherwise expressly provided in the regulation, any date in these regulations is intended to be applied so that the day begins at 12:01 a.m. and ends at midnight on that date.

§ 50.7 Special rules for Interim Guidance safe harbors.

(a) An insurer will be deemed to be in compliance with the requirements of the Act to the extent the insurer reasonably relied on Interim Guidance prior to the effective date of applicable regulations.

(b) For purposes of this section, Interim Guidance means the following documents, which are also available from the Department of the Treasury at www.treasury.gov/trip:

(1) Interim Guidance I issued by Treasury on December 3, 2002, and published at 67 FR 76206 (December 11, 2002);

(2) Interim Guidance II issued by Treasury on December 18, 2002, and published at 67 FR 78864 (December 26, 2002); and

(3) Interim Guidance III issued by Treasury on January 22, 2003, and published at 68 FR 4544 (January 29, 2003).

Dated: February ___, 2003

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Wayne A. Abernathy

Assistant Secretary of the Treasury

JS-61

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DEPARTMENT OF THE TREASURY

Departmental Offices

31 CFR Part 50

RIN 1505-AA96

Terrorism Risk Insurance Program

AGENCY: Departmental Offices, Treasury.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Department of the Treasury (Treasury) is issuing this proposed rule as part of its implementation of Title I of the Terrorism Risk Insurance Act of 2002. That Act established a temporary Terrorism Risk Insurance Program (Program) under which the Federal Government will share the risk of insured loss from certified acts of terrorism with commercial property and casualty insurers until the Program sunsets on December 31, 2005. This proposed rule sets forth the purpose and scope of the Program and key definitions that Treasury will use in implementing the Program. In general, the proposed rule incorporates interim guidance previously issued by Treasury concerning these definitions, but with some modifications. This proposed rule, together with the interim

final rule published elsewhere in this separate part of the Federal Register, are the first in a series of regulations Treasury will issue to implement the Act.

DATES: Written comments may be submitted on or before [INSERT DATE THAT IS 30 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER].

ADDRESSES: Submit comments (if hard copy, preferably an original and two copies) to Office of Financial Institutions Policy, Attention: Terrorism Risk Insurance Program Public Comment Record, Room 3160 Annex, Department of the Treasury, 1500 Pennsylvania Ave., N.W., Washington, DC 20220. Because paper mail in the Washington, DC area may be subject to delay, it is recommended that comments be submitted by electronic mail to: triacomments@do.treas.gov. All comments should be captioned with "[INSERT DATE OF PUBLICATION IN THE FEDERAL REGISTER] TRIA Comments." Please include your name, affiliation, address, e-mail address and telephone number in your comment. Comments will be available for public inspection by appointment only at the Reading Room of the Treasury Library. To make appointments, call (202) 622-0990 (not a toll-free number).

FOR FURTHER INFORMATION CONTACT: Mario Ugoletti, Deputy Director, Office of Financial Institutions Policy (202) 622-2730, or Martha Ellett, Attorney-Advisor, Office of the Assistant General Counsel (Banking & Finance), (202) 622-0480 (not toll-free numbers).

SUPPLEMENTARY INFORMATION:

I. The Proposed Rule

Published elsewhere in this separate part of the Federal Register is an interim final rule establishing 31 CFR Part 50, which will comprise Treasury's regulations

implementing the Terrorism Risk Insurance Act of 2002 (the Act). The preamble to the interim final rule explains these provisions of the proposed rule in detail, and the text of the interim final rule serves as the text for this proposed rule.

In addition, Treasury specifically solicits public comment on whether the Secretary should prescribe criteria for certain insurers pursuant to the authority provided to Treasury in section 102(6)(C) and, if so, what criteria Treasury should prescribe. First, Treasury solicits comment on appropriate criteria to prevent participation in the Program by newly formed insurance companies deemed by Treasury to be established for the purpose of evading the insurer deductible requirements of the Act and the Program. In this regard, Treasury's objectives are to encourage new sources of capital in the market for terrorism risk insurance, and at the same time, ensure the integrity of the Program and provide comparable treatment of Program participants. Accordingly, the intent of any additional criteria, if proposed under section 102(6)(C), is not to discourage Program participation by newly formed commercial property and casualty insurance companies in their normal course of business, but to administer the Program effectively and fairly, including preventing evasion of insurer deductible requirements by special purpose entities formed to provide terrorism risk only coverage.

Second, Treasury solicits comment on appropriate additional criteria, including financial standards, that should be proposed for federally approved insurers under Treasury's authority in section 102(6)(C) of the Act. One reason for imposing additional criteria on federally approved insurers is because there are no uniform requirements or standards for federal approval under various federal programs. Although some federal programs impose minimum financial standards, others do not. Therefore, Treasury is

considering whether additional criteria for federally approved insurers should be proposed to promote the financial integrity of the Program and to otherwise effectively administer the Program. Third, Treasury solicits comment on appropriate additional criteria that should be proposed pursuant to section 102(6)(C) to ensure that federal payments made under the Program do not benefit entities with connections to terrorist organizations.

In addition to comments concerning possible additional criteria under section 102(6)(C), Treasury is soliciting comments on whether the definition of control contained in the interim final rule should be supplemented by proposing a rule to address situations in which a corporate insurance structure may contain multiple insurers that own, control or have the power to vote more than 25 percent of the voting shares of another insurer. See Section 102(3)(A) of the Act. Based on available information, such control arrangements exist but they do not appear to be common. In particular, Treasury is considering and solicits comment on consolidating direct earned premiums for purposes of calculating the insurer deductible on a pro rata basis among the multiple controlling owners. For example, if Insurer Y owns 40 percent of the voting shares of Insurer Z and Insurer X owns 30 percent of the voting shares of Insurer Z, then a pro rata allocation of premium income and insured loss under the Program would be, respectively, 57 percent and 43 percent.

Treasury also is considering and solicits comment on a similar pro rata allocation method for control determinations under section 102(3)(C) of the Act in situations in which multiple insurers each provide 25 percent or more of the capital of a stock insurer, policyholder surplus of a mutual insurer or corporate capital of other entities that meet the

definition of insurer under the Act and in the interim final rule. If proposed as considered, this pro rata approach would treat each insurer on a standalone basis for purposes of section 102(3)(C) of the Act if no insurer provides 25 percent or more of the capital of a stock insurer, policyholder surplus of a mutual insurer or corporate capital of other entities that meet the definition of insurer under the Act and the Program.

In accordance with the consolidated treatment of direct earned premiums among insurer affiliates, Treasury anticipates that the controlling insurer will be the insurer that will be required to file any claim with Treasury for federal payment under the Program and that this insurer will receive the federal payment that is to be distributed within the consolidated insurer group in accordance with distribution of risk within the consolidated insurer group. Treasury solicits comments on various means to ensure the prompt and equitable distribution of the federal payment as appropriate to ensure that the purposes of the Program are not thwarted or evaded, and that the ultimate risk bearing entities are treated in an equitable manner, within the Act's requirements.

II. Procedural Requirements

This proposed rule is a significant regulatory action and has been reviewed by the Office of Management and Budget under the terms of Executive Order 12866.

It is hereby certified that this proposed rule will not have a significant economic impact on a substantial number of small entities. The Act requires all licensed or admitted insurers to participate in the Program. This includes all insurers regardless of size or sophistication. The Act also defines property and casualty insurance to mean commercial lines without any reference to the size or scope of the commercial entity. Although the Act affects small insurers, the proposed rule also gives insurers flexibility in

calculating their direct earned premium for policies that have both commercial and personal exposures, and it provides a safe harbor to exclude policies that have incidental coverage for commercial purposes. Accordingly, any economic impact associated with the proposed rule flows from the Act and not the proposed rule. However, the Act and the Program are intended to provide benefits to the U. S. economy and all businesses, including small businesses, by providing a federal reinsurance backstop to commercial property and casualty insurance policyholders and spreading the risk of insured loss resulting from an act of terrorism.

List of Subjects in 31 CFR Part 50

Terrorism risk insurance.

Authority and Issuance

For the reasons set forth above, the Department of the Treasury proposes to adopt as a final rule the interim final rule adding part 50 to 31 CFR subtitle A, as follows:

[The part title and text of proposed Part 50 is the same as the part title and text of Part 50 in the interim final rule published elsewhere in this separate part of this issue of the Federal Register.]

Dated: February ___, 2003

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Wayne A. Abernathy

Assistant Secretary of the Treasury

PRESS ROOM

FROM THE OFFICE OF PUBLIC AFFAIRS

February 22, 2003
JS-62

Post-G7 Statement by United States Treasury Secretary John Snow

(Paris, France) -- I was pleased this weekend to join – for the first time – the G-7 Finance Ministers and Central Bank Governors. I enjoyed meeting with my colleagues and valued the opportunity to exchange views and work together on key issues that we face in the global economy.

The strength of the international economy is tied to the performance of the domestic U.S. economy. As the world's largest economy, if we grow, if we see improvement in our own economy, that will boost the world economy. That's why strengthening our own economic recovery is so important, and why President Bush's jobs and growth package is so critical - not just to the U.S. economy – but to the international economy. If we get moving on a higher growth path, two things will happen: 1) more Americans who want work can find a job, and 2) and the economies of Europe, Japan, South America and every other corner of the world will get a lift – therefore employing millions, and raising the standard of living for millions of families across the world. Within the international community, the United States must lead by example – and we are not growing fast enough or strongly enough. I am convinced that enactment of President Bush's jobs and growth plan is important not just for the United States, but for global economic growth as well, and accordingly in each and every meeting this weekend I laid out for my colleagues how President Bush's economic growth proposals will build on the proven strength of the U.S. economy – generating jobs, encouraging savings and investment, and promoting entrepreneurship. Each G7 nation must take its own steps – appropriate to its own respective set of conditions – to spur growth. That's important, since our prosperity is tied to stronger growth outside of the United States.

In addition to growth, we discussed the key role of sound corporate governance in financial stability, efficient capital markets and sustained growth. I outlined the steps the United States has taken to strengthen corporate governance pursuant to the President's Ten Point Plan and the Sarbanes-Oxley legislation, and my colleagues described the steps their governments were taking to address corporate governance as well. We focused on the centrality of market discipline – as well as the quality of corporate financial disclosure and effective regulation – in achieving our shared goals in this area. We extended our strong support for the ongoing work of the various international bodies focusing on auditing, accounting, and related corporate governance issues.

We also discussed our common unwavering commitment to combating financial crime and terrorist financing as a critical component of the war on terrorism. We agreed to contribute technical assistance to priority countries, and urge the IMF and World Bank, in coordination with the UN, to continue to do so as well. We encourage the ongoing efforts of FATF to foster the effective implementation of the UNSC Resolutions regarding assets freezing, and we recognize the need for greater oversight of informal financial sectors and the need for total integrity of charities so they don't unwittingly become vehicles of terrorist financing.

Another subject we addressed was improving the framework for preventing and resolving financial crises in emerging market countries. This subject remains a priority for the G-7. We had a good discussion of the role collective action clauses play in advancing this objective, and broad support was reaffirmed for this approach. Viewing this in conjunction with steps the private sector has taken in embracing collective action clauses – as well as indications of support from other sovereigns -- I am encouraged we are making progress on this important issue. It is imperative that parties to sovereign debt transactions continue to focus on the

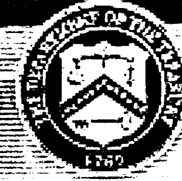
use of collective action clauses in their transactions.

We also had a good discussion about development issues and aid effectiveness. Our goal is greater economic growth and prosperity in developing countries. Therefore I emphasized the importance of rewarding countries with strong policy performance, measuring concrete results of our assistance, and strengthening management of public resources. I explained how our Millennium Challenge Account is designed to accomplish these goals. International financial institutions – such as the World Bank – can improve aid effectiveness for the world's poorest nations by further embracing these objectives.

I want to note in closing the importance of free trade to the overall goal of global economic growth. In this light, I am encouraged many of my G7 colleagues agree to work with our trade ministers and the international financial institutions to support the objectives of the WTO negotiations under the Doha Development Agenda, focusing in particular on the financial services and agriculture sectors and the need for results-oriented trade related capacity building. Reducing barriers to trade is also needed to spur global economic growth.

Thank you.

PRESS ROOM



FROM THE OFFICE OF PUBLIC AFFAIRS

February 24, 2003
2003-2-24-18-17-11-20575

U.S. Treasury Statement Regarding the Decision by Mexico to Issue Bonds with Collective Action Clauses

Mexico announced today its intention to issue external bonds with collective action clauses.

The United States strongly supports and welcomes Mexico's decision. Mexico has been one of the top performing emerging markets in recent years, reflecting the country's sound policies and economic fundamentals. As a solid investment grade borrower, Mexico is making an important contribution to strengthening the international financial system.

PARIS, FEBRUARY 22ND 2003

Contact: Rob Nichols

STATEMENT OF G-7 FINANCE MINISTERS AND CENTRAL BANK GOVERNORS

Our economies are experiencing slower growth, yet they remain resilient. Geopolitical uncertainties have increased. We remain confident in the underlying strength of our economies and in their capacity to grow more vigorously.

We recognise the imperative for higher growth rates and resolve to take steps to achieve this result. To this end, Europe is committed to accelerating labour, product and capital market reforms to achieve a more flexible economy ; Japan has reiterated its commitment to structural reforms, including in the financial and corporate sectors ; the US is implementing action to create jobs, encourage capital formation and savings and raise productivity growth. We also remain steadfast in our commitment to ensure sustainable public finances and price stability. We are all committed to the Doha Development Agenda and to meeting its overall timetable and interim milestones.

We will continue to cooperate closely. If the economic outlook weakens, we are prepared to respond as appropriate. We will continue to monitor exchange markets closely and cooperate as appropriate.

To strengthen corporate governance and to bolster further investor confidence, we are implementing ambitious domestic reforms. Strengthened market discipline, improved corporate disclosure, increased transparency and effective regulation are common principles that underpin sound financial systems and ensure their coherence. We support the work of the Financial Stability Forum and other fora, covering independent auditing, high-quality accounting standards, sound corporate governance and financial information quality. We will review the progress of their work.

We encourage developing and emerging market countries to pursue sound policies and to enhance their investment climates. These policies will help attract foreign direct investment, reduce external vulnerabilities and raise sustained growth. We welcome Brazil's pursuit of sound economic policies and social reforms. As Argentina moves forward to fulfill its commitments agreed with the IMF, we look forward to the authorities restoring contract enforcement and engaging in a dialogue with its private creditors. We welcome Turkey's commitment to economic and financial stabilization as agreed with the IMF.

We are implementing our April 2002 action plan to prevent and resolve financial crises in emerging market countries. Progress has been made in ensuring greater discipline through clarifying normal and exceptional access to official finance in crisis situations. We welcome the positive response of the private sector to collective action clauses and its on-going work with the public sector on model clauses. We look forward to the early

adoption of effective collective action clauses and to the discussion of a concrete proposal from the IMF on a sovereign debt restructuring mechanism at its Spring meeting. As a complement, we welcome work on a code of good conduct based on negotiating principles. We urge the IMF to enhance crisis prevention, including by making its surveillance more effective.

We urge all countries to implement and enforce laws to combat the financing of terrorism. We will continue to provide technical assistance to countries that lack appropriate measures to combat terrorist financing. We urge the IMF and the World Bank to step up their assessments and their provision of technical assistance in coordination with the United Nations and to present an action plan at the Spring meetings. We urge the Financial Action Task Force to foster effective asset freezing. We encourage more effective oversight of informal financial institutions and charities and we look forward to revised Financial Action Task Force recommendations by June.

We urge all OECD countries to implement the standards set out in the OECD's 2000 report on access to bank information and to ensure effective exchange of information for all tax purposes. A level playing field is crucial to avoid tax evasion shifting from those countries that engage in exchange of information to those that do not.

Our duty, our responsibility for the prosperity and sustainable development of the world require us to address vigorously the challenge of global poverty. To build on the positive outcomes of Monterrey and Johannesburg, developed and developing countries should mobilize greater financial resources and improve aid effectiveness by setting and achieving measurable results and adopting growth-oriented policies. We reaffirm our support for the Millennium Development Goals, including on health, education and water supply and sanitation, as well as to the completion of the Highly-Indebted Poor Countries (HIPC) initiative and of the Global Health Fund. Their achievement calls for an increased volume of development resources. We have made progress particularly on HIV/AIDS and will continue to focus on the Goals and their financing, including facilities, with a view to making further progress by Evian. Consistent with the G8 Africa Action Plan, we are ready to provide substantial support to African countries that implement New Partnership for Africa's Development (NEPAD) principles and are committed to improving governance and demonstrate solid policy performance. We recognize the fundamental importance of rules-based trade in driving economic growth and poverty reduction.

JS-62

PRESS ROOM

FROM THE OFFICE OF PUBLIC AFFAIRS

February 26, 2003
JS-63

Deposit Insurance Reform
Testimony of Peter R. Fisher
Under Secretary for Domestic Finance
U.S. Department of the Treasury
Before the
Committee on Banking, Housing and Urban Affairs
United States Senate
February 26, 2003

Mr. Chairman, Senator Sarbanes, and Members of the Committee, I appreciate the opportunity to provide the Administration's views on deposit insurance reform. I also want to commend Chairman Powell and the FDIC staff for their valuable contributions to the discussion of this important issue.

The Administration strongly supports reforms to our deposit insurance system that would, first, merge the bank and thrift insurance funds, second, allow more flexibility in the management of fund reserves while maintaining adequate reserve levels and, third, ensure that all participating institutions fairly share in the maintenance of FDIC resources in accordance with the insurance fund's loss exposure from each institution. The Administration strongly opposes any increases in deposit insurance coverage limits.

Our current deposit insurance system managed by the Federal Deposit Insurance Corporation (FDIC) serves to protect insured depositors from exposure to bank losses and, as a result, helps to promote public confidence in the U.S. banking system. I am concerned today that our deposit insurance system has structural weaknesses that, in the absence of reform, could deepen over time. I want to emphasize that there is no crisis in the FDIC; both of its funds are strong, well managed, with adequate reserves. This is the right time to act – when we do not face a crisis – and the Administration supports legislation focused on the repair of these structural weaknesses.

Increases in FDIC benefits, however, including any increases in the level of insurance coverage, are not part of the solution to these problems and should be avoided. When I testified before this Committee last April, I argued that an increase in deposit insurance coverage limits would serve no sound public policy purpose. Nothing has occurred since then to change that view. The Administration continues to oppose higher coverage limits in any form. Indeed, we feel that the entire issue of coverage limits regrettably diverts attention from the important reforms that are needed.

Merging the Bank and Thrift Insurance Funds

We support a merger of the Bank Insurance Fund (BIF) and Savings Association Insurance Fund (SAIF) as soon as practicable. A larger, combined insurance fund would be better able to diversify risks, and thus withstand losses, than would either fund separately. Merging the funds while the industry is strong and both funds are adequately capitalized would not burden either BIF or SAIF members. A merged fund would also end the possibility that similar institutions could pay significantly different premiums for the same product, as was the case in the recent past and could occur again in the near future without this change. A merger would also recognize changes in the industry. As a result of mergers and consolidations, each

fund now insures deposits of both commercial banks and thrifts. Indeed, commercial banks now account for 45 percent of all SAIF-insured deposits.

Flexibility in the Management of FDIC Reserves

Current law generally requires each insurance fund to maintain reserves equal to 1.25 percent of estimated insured deposits, the "designated reserve ratio." When the reserve ratio falls below this threshold, the FDIC must charge either a premium sufficient to restore the reserve ratio to 1.25 percent within one year, or a minimum of 23 basis points if the reserve ratio would remain below 1.25 percent for a longer period. Since the latter would be expected when the banking system, and probably the economy as well, were under stress, such a sharp increase in industry assessments could have an undesirable pro-cyclical effect, further reducing liquidity precisely when liquidity is needed. Were FDIC fund contributions to come from resources that otherwise might be part of capital, every dollar paid would mean a potential reduction of 10 or 12 dollars in lending, or as much as $12 billion in reduced lending for a $1 billion FDIC replenishment.

Reserves should be allowed to grow when conditions are good. This would enable the fund to better absorb losses under adverse conditions without sharp increases in premiums. In order to achieve this objective and also to account for changing risks to the insurance fund over time, we support greater latitude for the FDIC to alter the designated reserve ratio within statutorily prescribed upper and lower bounds. Within these bounds, the FDIC should provide for public notice and comment concerning any proposed change to the designated reserve ratio. The FDIC should also have discretion in determining how quickly the fund meets the designated reserve ratio as long as the actual reserve ratio is within these bounds. If the reserve ratio were to fall below the lower bound, the FDIC should restore it to within the statutory range promptly, over a reasonable but limited timeframe. We would also support some reduction in the prescribed minimum premium rate – currently 23 basis points – that would be in effect if more than one year were required to restore the fund's reserves.

Nevertheless, as we learned from the deposit insurance experience of the 1980s, flexibility must be tempered by a clear requirement for prudent and timely fund replenishment. The statutory range for the designated reserve ratio should strike an appropriate balance between the burden of pre-funding future losses and the pro-cyclical costs of replenishing the insurance fund in a downturn. A key benefit to giving the FDIC greater flexibility in managing the reserve ratio within statutorily prescribed bounds is the ability to achieve low, stable premiums over time, adequate to meet FDIC needs in bad times, with the least burden on financial institutions and on the economy. We also believe that with this reform, the possibility of recourse to taxpayer resources is even further removed.

Full Risk-Based Shared Funding

Every day that they operate, banks and thrifts benefit from their access to federal deposit insurance. For several years, however, the FDIC has been allowed to obtain premiums for deposit insurance from only a few insured institutions. Currently, over 90 percent of banks and thrifts pay nothing to the FDIC. This is an untenable formula for the long-term stability of the FDIC.

Moreover, current law frustrates one of the most important reforms enacted in the wake of the collapse of the Federal Savings and Loan Insurance Corporation (FSLIC) and the depletion of FDIC reserves: the requirement for risk-based premiums. When 90 percent of the industry pays no premiums, there is little opportunity to do what any prudent insurer would do: adjust premiums for risk. Nearly all banks are treated the same, and lately they have been treated to free service.

For example, today a bank can rapidly increase its insured deposits without paying anything into the insurance fund. As is now well known, some large financial companies have greatly augmented their insured deposits in the past few years by sweeping uninsured funds into their affiliated depository institutions – without

compensating the FDIC at all. Other major financial companies might be expected to do the same in the future. In addition, most of the over 1,100 banks and thrifts chartered after 1996 have never paid a penny in deposit insurance premiums. Yet if insured deposit growth by a relatively few institutions were to cause the reserve ratio to decline below the designated reserve ratio, all banks would be required to pay premiums to raise reserves.

To rectify this "free rider" problem and ensure that institutions appropriately compensate the FDIC commensurate with their risk, Congress should remove the current restrictions on FDIC premium-setting. In order to recognize past payments to build up current reserves, we support the proposal to apply temporary transition credits against future premiums that would be distributed based on a measure of each institution's contribution to the build-up of insurance fund reserves in the early-to-mid 1990s. In addition to transition credits, allowing the FDIC to provide assessment credits on an on-going basis would permit the FDIC to collect payments from institutions more closely in relation to their deposit growth.

We strongly oppose rebates, which would drain the insurance fund of cash. Over much of its history, the FDIC insurance fund reserve ratio remained well above the current target, only to drop into deficit conditions by the beginning of the 1990s. Therefore, it is vital that funds collected in good times, and the earnings on those collections, be available for times when they will be needed.

There are other important structural issues that need to be addressed sooner than later. It would be appropriate to evaluate whether there are changes to the National Credit Union Share Insurance Fund (NCUSIF) that would be suitable in light of the proposed reforms made to FDIC insurance so as to avoid unintended disparities between the two programs. Perhaps even more important is the need to address the long-term funding of supervision by the National Credit Union Administration, particularly in view of recent trends toward conversions from federal to state charters and growing consolidation of credit unions. Similarly, there are structural problems in the funding of the Office of the Comptroller of the Currency and the Office of Thrift Supervision, the resolution of which should not be delayed.

Deposit Insurance Coverage Limits

The improvements to the deposit insurance system that I have just outlined are vital to the system's long-term health.. Other proposals, however, would not contribute to the strength of the taxpayer-backed deposit insurance system and may actually weaken it.

Increasing the general coverage limit up front or through indexation, or raising coverage limits for particular categories of deposits, is unnecessary. Savers do not need an increase in coverage limits and would receive no real financial benefit. Unlike other government benefit programs, there is no need for indexation of deposit insurance coverage because savers can now obtain all the coverage that they desire by using multiple banks and through other means.

Higher coverage limits would not predictably advantage any particular size of banks, would increase all banks' insurance premium costs, and would mean greater taxpayer exposure by adding to the contingent liabilities of the government and weakening market discipline. An increase in coverage limits would reduce – not enhance – competition among banks in general as the efficient and inefficient offer the same investment risk to depositors; in fact, perversely, investors would be drawn at no risk to the worst banks, which usually offer the highest interest rates.

Higher Coverage Limits Not Sought by Savers

First of all, the clamor for raising coverage limits does not come from savers. The evidence that current coverage limits constitute a burden to savers is scant; there has been little demand from depositors for higher maximum levels. The recent consumer finance survey data released by the Federal Reserve confirm what we found in the previous survey, namely that raising the coverage limit would do little, if anything, for most savers. Median family deposit balances are only $4,000 for

transaction account deposits and $15,000 for certificates of deposit, far below the current $100,000 ceiling. The same holds true even when considering only older Americans, a segment of the population with higher bank account usage: median transaction account balances and certificates of deposit total $8,000 and $20,000, respectively, for those households headed by individuals between the ages of 65 and 74.

Examining the Federal Reserve data for retirement accounts shows present maximum deposit insurance coverage to be more than adequate. The median balance across age groups held in IRA/Keogh accounts at insured depository institutions is only $15,000. For the 65 to 69 age group, median household IRA/Keogh deposits total $30,000.

A small group of relatively affluent savers might find greater convenience from increased maximum coverage levels. But it is a tiny group. Only 3.4 percent of households with bank accounts held any uninsured deposits, and the median income of these households was more than double the median income of all depositors in the survey.

Under current rules, these savers have plenty of options, with the market place presenting new options for unlimited deposit insurance coverage without changing federal coverage limits. At little inconvenience, savers with substantial bank deposits – including retirees and those with large bank savings for retirement – may place deposits at any number of banks to obtain as much FDIC coverage as desired. They may also establish accounts within the same bank under different legal capacities, qualifying for several multiples of current maximum coverage limits. Firms are now developing programs for exchanging depositor accounts that could offer seamless means of providing unlimited coverage for depositors without any change in current limits.

One of the fundamental rules of prudent retirement planning is to diversify investment vehicles. Many individuals, including those who are retired or planning for retirement, feel comfortable putting substantial amounts into uninsured mutual funds, money market accounts, and a variety of other investment instruments. Just 21 percent of all IRA/Keogh funds are in insured depository institutions. There is simply no widespread consumer concern about existing coverage limits that would justify extending taxpayer exposure by creating a new government-insured retirement program under the FDIC.

Coverage Limits and Bank Competition

Banks, regardless of size, continue to have little trouble attracting deposits under the existing coverage limits. Federal Reserve data have shown that smaller banks have grown more rapidly and experienced higher rates of growth in both insured and uninsured deposits than have larger banks over the past several years. After adjusting for the effects of mergers, domestic assets of the largest 1,000 commercial banks grew 5.5 percent per year on average from 1994 to 2002; all other banks grew 13.8 percent per year on average. Nor are smaller banks losing the competition for uninsured deposits. Uninsured deposits of the top 1,000 banks grew 9.9 percent annually on average over this period, while such deposits at smaller banks grew on average by 21.4 percent annually.

Higher Coverage Limits for Municipal Funds Erode Discipline

Proposals for substantially higher levels of protection of municipal deposits than of other classes of deposits would exacerbate the inherent moral hazard problems of deposit insurance. Rather than keep funds in local institutions, state and municipal treasurers would have powerful incentives to seek out not the safest institutions in which to place taxpayer funds but rather those offering the highest interest rates. Since these are usually riskier institutions, state and municipal treasurers would be drawn into funding the more troubled banks. Local, well run, healthy banks might have to pay a premium in increased deposit rates to retain municipal business. Today there are incentives for state and local government treasurers to monitor risks taken with large volumes of public sector deposits. Should the FDIC largely

protect these funds, an important source of credit judgment on the lending and investment decisions of local banks would be lost.

Conclusion

In conclusion, I reaffirm the Administration's support for the three-part general framework that I have outlined to correct the structural flaws in the deposit insurance system. I encourage Congress to pursue these improvements with a steady focus on the important work that needs to be done. The Administration does not support legislation that raises deposit insurance coverage limits in any form, and we urge that Congress avoid such an unneeded and counterproductive diversion from real and necessary reform.

PUBLIC DEBT NEWS

Department of the Treasury • Bureau of the Public Debt • Washington, DC 20239

TREASURY SECURITY AUCTION RESULTS
BUREAU OF THE PUBLIC DEBT - WASHINGTON DC

FOR IMMEDIATE RELEASE
February 26, 2003

CONTACT: Office of Financing
202-691-3550

RESULTS OF TREASURY'S AUCTION OF 2-YEAR NOTES

Interest Rate: 1 1/2%
Series: H-2005
CUSIP No: 912828AV2

Issue Date: February 28, 2003
Dated Date: February 28, 2003
Maturity Date: February 28, 2005

High Yield: 1.575% Price: 99.853

All noncompetitive and successful competitive bidders were awarded securities at the high yield. Tenders at the high yield were allotted 90.26%. All tenders at lower yields were accepted in full.

AMOUNTS TENDERED AND ACCEPTED (in thousands)

Tender Type	Tendered	Accepted
Competitive	$ 53,061,300	$ 26,180,222
Noncompetitive	819,852	819,852
FIMA (noncompetitive)	0	0
SUBTOTAL	53,881,152	27,000,074 1/
Federal Reserve	8,332,867	8,332,867
TOTAL	$ 62,214,019	$ 35,332,941

Median yield 1.540%: 50% of the amount of accepted competitive tenders was tendered at or below that rate. Low yield 1.500%: 5% of the amount of accepted competitive tenders was tendered at or below that rate.

Bid-to-Cover Ratio = 53,881,152 / 27,000,074 = 2.00

1/ Awards to TREASURY DIRECT = $650,057,000

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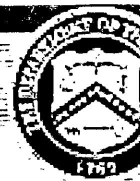


PRESS ROOM

FROM THE OFFICE OF PUBLIC AFFAIRS

February 26, 2003
JS-65

U.S. International Reserve Position

The Treasury Department today released U.S. reserve assets data for the latest week. As indicated in this table, U.S. reserve assets totaled $78,677 million as of the end of that week, compared to $78,406 million as of the end of the prior week.

I. Official U.S. Reserve Assets *(in US millions)*						
	February 14, 2003			February 21, 2003		
TOTAL	78,406			78,677		
1. Foreign Currency Reserves [1]	Euro	Yen	TOTAL	Euro	Yen	TOTAL
a. Securities	7,075	13,064	20,139	7,076	13,243	20,319
Of which, issuer headquartered in the U.S.			0			0
b. Total deposits with:						
b.i. Other central banks and BIS	11,573	2,623	14,196	11,566	2,659	14,225
b.ii. Banks headquartered in the U.S.			0			0
b.ii. Of which, banks located abroad			0			0
b.iii. Banks headquartered outside the U.S.			0			0
b.iii. Of which, banks located in the U.S.			0			0
2. IMF Reserve Position [2]			21,664			21,705
3. Special Drawing Rights (SDRs) [2]			11,365			11,386
4. Gold Stock [3]			11,043			11,043
5. Other Reserve Assets			0			0

II. Predetermined Short-Term Drains on Foreign Currency Assets						
	February 14, 2003			February 21, 2003		
	Euro	Yen	TOTAL	Euro	Yen	TOTAL
1. Foreign currency loans and securities			0			0
2. Aggregate short and long positions in forwards and futures in foreign currencies vis-à-vis the U.S. dollar:						
2.a. Short positions			0			0
2.b. Long positions			0			0
3. Other			0			0

III. Contingent Short-Term Net Drains on Foreign Currency Assets						
	February 14, 2003			February 21, 2003		

	Euro	Yen	TOTAL	Euro	Yen	TOTAL
1. Contingent liabilities in foreign currency			0			0
1.a. Collateral guarantees on debt due within 1 year						
1.b. Other contingent liabilities						
2. Foreign currency securities with embedded options			0			0
3. Undrawn, unconditional credit lines			0			0
3.a. With other central banks						
3.b. With banks and other financial institutions						
Headquartered in the U.S.						
3.c. With banks and other financial institutions						
Headquartered outside the U.S.						
4. Aggregate short and long positions of options in foreign						
Currencies vis-à-vis the U.S. dollar			0			0
4.a. Short positions						
4.a.1. Bought puts						
4.a.2. Written calls						
4.b. Long positions						
4.b.1. Bought calls						
4.b.2. Written puts						

Notes:

1/ Includes holdings of the Treasury's Exchange Stabilization Fund (ESF) and the Federal Reserve's System Open Market Account (SOMA), valued at current market exchange rates. Foreign currency holdings listed as securities reflect marked-to-market values, and deposits reflect carrying values. Foreign Currency Reserves for the latest week may be subject to revision. Foreign Currency Reserves for the prior week are final.

2/ The items, "2. IMF Reserve Position" and "3. Special Drawing Rights (SDRs)," are based on data provided by the IMF and are valued in dollar terms at the official SDR/dollar exchange rate for the reporting date. The entries for the latest week reflect any necessary adjustments, including revaluation, by the U.S. Treasury to the prior week's IMF data. IMF data for the latest week may be subject to revision. IMF data for the prior week are final.

3/ Gold stock is valued monthly at $42.2222 per fine troy ounce.

PRESS ROOM

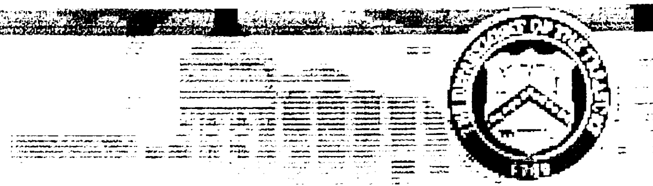
FROM THE OFFICE OF PUBLIC AFFAIRS

February 27, 2003
JS-66

Media Advisory:
Background Briefing on Final Tax Shelter Regulations
Regulation to be Releases at Briefing

Treasury Assistant Secretary for Tax Policy Pam Olson and IRS Chief Counsel B. John Williams will hold a background briefing on tax shelter regulations on Thursday, February 27, 2003 at 12:00 pm in room 4121 (the new media room). This session will provide a synopsis of final regulations that apply to the disclosure of potentially abusive tax avoidance transactions and will also allow for a Question and Answer session with Tax Policy staff. No cameras will be admitted-- this is a "pen and pad" only briefing.

Media without Treasury or White House press credentials planning to attend should contact Treasury's Office of Public Affairs at (202) 622-2960 with the following information: name, social security number and date of birth. This information may also be faxed to (202) 622-1999.



PRESS ROOM

FROM THE OFFICE OF PUBLIC AFFAIRS

February 27, 2003
JS-67

Hearing on FY 2004 Appropriations
U.S. House of Representatives
Subcommittee on VA, HUD, and Independent Agencies
Written Statement
Tony T. Brown, Director

Community Development Financial Institutions Fund
February 27, 2003

CDFI Director Tony Brown's Testimony on FY2004 Budget

Hearing on FY 2004 Appropriations

U.S. House of Representatives
Subcommittee on VA, HUD, and Independent Agencies

Written Statement

Tony T. Brown, Director

DEPARTMENT OF THE TREASURY
Community Development Financial Institutions Fund

February 27, 2003

INTRODUCTION

Chairman Walsh, Congressman Mollohan and Members of the Subcommittee, I appreciate the opportunity to testify before you today on behalf of the Department of Treasury's Community Development Financial Institutions (CDFI) Fund and in support of the President's FY 2004 budget. Last year was my first visit before this honorable body.

I am Tony Brown, Director of the CDFI Fund. The Secretary of the Treasury selected me to serve in this post in August 2001. I bring a 20-year prior experience in banking and a personal passion for community development finance. Joining me today are my Deputy Director for Policy and Programs (Fred Cooper) and Deputy Director for Management/Chief Financial Officer (Owen Jones).

I characterize my visit before you today as filled with a great sense of accomplishment and enthusiasm for the potential of the CDFI Fund. Our goal is to help make America a place where all of its people, including those in economically distressed communities, can realize the American dream through better access to credit, capital and financial services. FY 2003 has been a transition year where the Fund has shifted from primarily a grants-making organization to one aimed at measurably improving the economic conditions of the residents of low-income communities by spurring economic growth and jobs through community development finance.

The CDFI Fund aims to do this primarily through the New Markets Tax Credit (NMTC) Program, the Community Development Financial Institutions (CDFI) Program, the Bank Enterprise Award (BEA) Program, and the Native American CDFI Development (NACD) Program.

My testimony today will focus on three key areas: the President's FY 2004 budget proposal; the CDFI Fund's management and operations in FY 2003; and some background on the CDFI Fund programs.

PRESIDENT'S FY 2004 BUDGET

The President's FY 2004 budget requests a $51 million appropriation for the CDFI Fund. The proposed budget supports the administration of the NMTC Program, the CDFI Program, the NACD Program, and the BEA Program. Because the NMTC Program involves an allocation of tax credits rather than program funds, all costs associated with the development, implementation and monitoring of the NMTC Program are administrative. The Administration's request reflects the following factors:

First, the NMTC Program is aimed at achieving similar economic development objectives as the CDFI and BEA Programs.

Second, the NMTC Program is vastly larger in scope than the other CDFI Fund programs. The first year NMTC Program allocation authority of $2.5 billion is some 50 times larger than the entire CDFI Fund request.

Third, the Administration currently is evaluating the BEA Program and how it might be made more efficient and effective. In this process, the CDFI Fund is considering possible legislative changes and, in the near future, I expect that we will consult with Congress regarding legislative options that would clearly distinguish the program from the mandates of the Community Reinvestment Act and ensure that awardees use BEA Program awards for community development activities. In FY 2002 - 2003, the CDFI Fund's own internal evaluation of the BEA Program concluded that the program needed to be re-formed so that awards would be better targeted to wealth-building activities and outcome-based performance goals to better track the program's impact would be adopted.

Fourth, this proposed FY 2004 funding level, reflecting a division of resources, is adequate to continue an effective baseline funding level in each program, particularly in light of the reforms put in place in recent months. The recent reforms reflect the organizational maturity of the CDFI Fund and the CDFI industry so that a better, more targeted effort is now possible, focusing on opportunities where real needs can be addressed through sustainable economic development.

The proposed FY 2004 budget includes increased funding for administrative expenses to $13 million to support staffing requirements of the NMTC Program and technology requirements to enhance our support for E-grants and E-government. The E-grant and E-government activities support a "green rating" received from OMB on the Presidential Management Agenda Scorecard.

MANAGEMENT AND OPERATIONS

Internal Financial and Management Controls. The CDFI Fund has implemented effective financial and management controls, as verified by its independent auditors (KPMG, LLP). These controls have allowed the CDFI Fund to receive an unqualified (clean) audit opinion. Additionally, this marks the fifth consecutive year that the independent auditors have identified no material weaknesses or reportable conditions. KPMG's opinion affirms that the CDFI Fund's Statements of Financial Position, Operations, and Changes in Net Position and Cash Flow are fairly presented. These findings reflect the commitment of the CDFI Fund to sustain and improve its internal controls, operating policy and procedures, and awards management.

The CDFI Fund continues to comply with the Federal Managers' Financial Integrity Act (FMFIA) and the Federal Financial Management Improvement Act (FFMIA). The CDFI Fund's internal management systems, accounting and administrative controls are operating effectively.

Administrative Processes. During my tenure as Director, I have spent a significant amount of time reviewing the CDFI Fund's internal operations. We have made successful changes that have streamlined our awards process. In FY 2002, we successfully reduced the amount of time required for our award processes. In a September 2002 OIG audit report titled "CDFI Fund Post-Award Administration Process," the OIG concluded "that the CDFI Fund's post-award administration process is effective in ensuring that CDFI award recipients are carrying out their activities in accordance with their assistance agreements." The report further states, "[T]he Fund has taken steps to reduce the length of time that it takes to disburse funds. These steps include Program and Compliance staff performing a compliance and matching funds analysis, implementation of the Reports Monitoring Database, and revising how it processes assistance agreements."

Integration of New Programs. We successfully integrated the NMTC Program within our existing operations without increasing the number of new employees above FY 2001 levels. One of the most significant E-government initiatives undertaken by the CDFI Fund in FY 2002-03 was the implementation of electronic applications for the NMTC Program, facilitating ease of the application scoring process and metrics for various management reports by having captured data readily available for analysis and reporting. This was an overwhelming success and the CDFI Fund is moving forward to introduce electronic applications for each of its financial assistance programs in FY 2003.

Compliance and Portfolio Monitoring. In FY 2004 and beyond, we will continue to enhance the CDFI Fund's research capacity, implementing market and portfolio analyses to measure the availability of financial services in underserved markets and to critique the financial and program performance of existing CDFIs. The CDFI Fund has an investment portfolio of over 600 awards, totaling over $500 million currently under compliance review.

Measuring Investment Impact. The CDFI Fund places a high priority on measuring impact and is in the forefront of improving performance reporting within the CDFI industry. The CDFI Fund is building on its experience with the CDFI Data Project, an initiative undertaken by the CDFI Fund and CDFI industry representatives, to develop a more sophisticated data collection system for CDFIs and CDEs that will allow for the collection of transaction-level data to provide the specific location and characteristics of each loan in a CDFI/CDE's portfolio, thus allowing the CDFI Fund to measure impact at the census tract level. The CDFI Fund plans to use this data to compare CDFI/CDEs' lending behavior and community development impact to that of traditional financial institutions and thus demonstrate that CDFI/CDEs lend in areas where traditional banks have less of a presence.

You will notice a significant difference in the format of the FY 2004 budget submission. In the past, the CDFI Fund reported nearly 20 measures, mostly measuring activity outputs. The introduction of our FY 2004 budget complies with the President's mandate for integrated budget performance measures. The CDFI Fund received a "green rating" from the Office of Management and Budget in its latest scorecard reporting for this Presidential Management Agenda initiative.

The stated objectives of the CDFI Fund have been simplified to three key statements: (i) increase financing to businesses (including non-profit businesses) and individuals that have low wealth, have limited collateral, are located in underserved communities, or have other characteristics that inhibit them from obtaining financing from traditional financial sources, but who present good opportunities for assistance promoting sustainable economic development in the community; (ii) expand the supply and quality of housing units in underserved communities and increase homeownership in these markets by increasing the availability of housing financing that leverages conforming mortgages or non-traditional sources of housing finance; and (iii) expand access to affordable financial services for the "unbanked," low-income people and others in underserved communities.

New baseline performance measures have been established and set into motion this year, through the CDFI Fund's FY 2003 programs, and include better tools for tracking investment results and the use of the CDFI Fund's awards. We will continue the process of improving the Fund's programs by evaluating for measurable results, targeting resources through sustainable financial institutions, with an emphasis on supporting financial services that impact our nation's most distressed areas.

Interagency Cooperation. The CDFI Fund's Community Development Advisory Board likewise is very interested in measuring impact. At the most recent Advisory Board meeting, the federal agency representatives (HUD, USDA, SBA, Commerce, and Interior) agreed to work with the CDFI Fund to try to develop common performance measures for federal community development finance programs. Such an interagency collaborative could lead to a consolidated report on the impact of federal government expenditures in distressed communities across the country.

The CDFI Fund has worked very closely with the Internal Revenue Service to develop the guidance and regulations necessary to implement the NMTC Program; engaged in extensive discussions with the SBA on how to best match the NMTC Program requirements with the SBA's New Markets Venture Capital Program; and conducted numerous meetings with the GAO to determine appropriate compliance and performance measurement requirements for NMTC Program allocatees.

Investment Underwriting. The CDFI Fund will use the new data collection system to implement PLUM, a new CDFI performance rating system. PLUM stands for Performance/community development impact; Liquidity and overall financial condition; Underwriting/portfolio quality; and Management capacity. Based on these four broad components, the CDFI Fund will use PLUM to rate each certified CDFI's financial strength and level of community development impact. The CDFI Fund's plan is to use this rating system to better manage its investment portfolio by creating a compliance "watch list" of under-performing entities, and to identify and promote best practices in the industry. Eventually, we plan to incorporate PLUM in the Fund's award underwriting process.

E-Gov Enhancements. The CDFI Fund will soon announce a new electronic web-based customer relationship tool called "myCDFI." This new tool will assist interested parties with a variety of services from a single location. The initial services to be offered through myCDFI include: access to all program electronic applications; access to historical electronic applications (read-only mode); self service address and organizational information updates; ability to create and maintain additional user accounts with various access levels; ability to access target service area information created while using the CDFI Fund Help Desk (including Hot Zones); and access to a message box for communication with CDFI Fund staff. Additional features will be added in the near future, including the ability to submit electronically reports required by the CDFI Fund per award agreement terms.

CDFI FUND PROGRAMS OVERVIEW

The strategic goal of the CDFI Fund is to improve the conditions of economically distressed communities by enhancing greater access to capital and other financial services through CDFIs (which generally are small business and housing loan funds, as well as regulated, community-oriented depository institutions), CDEs (which include for-profit and nonprofit corporations and partnerships), and insured depository institutions (banks, thrifts and credit unions).

The approach for investing in CDFIs includes three major strategies:

1) focusing CDFI Program awards on the nation's most economically distressed areas;

2) establishing a "growth continuum" strategy in award decisions, through which awards are provided to support CDFIs to the point where they can be self-sustaining, thus permitting the CDFI Fund to provide assistance to CDFIs with unmet capital needs in other distressed communities; and

3) taking actions to obtain the information necessary to measure and report on the impact of the CDFI Fund's programs.

Targeting CDFI Fund Resources: The authorizing statute allows the CDFI Fund to provide incentives for the purposes of facilitating increased lending and provision of financial and other services in economically distressed communities. The economic distress definitions vary among the Fund's programs.

The CDFI Fund views its partnership with CDFIs, CDEs, and insured depository institutions as a catalyst for vigorous community and economic development financing activity. In FY 2003, the CDFI Fund introduced "Hot Zones" to the CDFI Program to help prioritize and direct the CDFI Fund's limited investments. By managing CDFI Fund resources to entities that serve Hot Zones, our dollars will be prioritized for investments into areas with the greatest needs and among CDFIs that can produce strong measurable impact.

Targeting Resources Geographically

		CDFI Program		BEA Program	NMTC Program
	National Total	Eligible Investment Areas	Hot Zones	Eligible Distressed Communities	Eligible Low-Income Communities
Total Metro Census Tracts	52,241	20,093	10,851	1,670	19,732
Percent of National Metro Tracts	100%	38%	21%	3%	38%
Non-Metro Census Tracts	14,063	4,966	NA	656	6,605
Percent of Non-Metro	100%	35%	NA	5%	47%
Total Tracts	66,304	25,059	NA	2,326	26,337
Percent of National	100%	38%	NA	4%	40%
Non-Metro Counties	2,319	743	285	NA	NA
Percent of National	100%	32%	12%	NA	NA

Sources: 2000 Census data, U.S. Dept. of Housing and Urban Development 2002 Difficult Development Areas. Figures do not include outlying territories other than Puerto Rico.

Hot Zones are a subset of CDFI Program Investment Areas designated by the CDFI Fund as having greater economic distress and community development needs. They are the "most distressed" of the nation's distressed markets. Hot Zones have been identified based on census data and include, among other factors, areas with a poverty rate of at least 20 percent, income levels at or below 80 percent of the area median income, unemployment rates that are at least 1.5 times the national average, and housing costs that exceed 30 percent of the gross monthly income of a low-income household.

States that have the highest percentage of non-metropolitan Hot Zones – such as Mississippi, Kentucky, Montana, and Arizona – also have significant non-metropolitan persistent poverty populations (see Figures 1 and 2, below).

Figure 1.

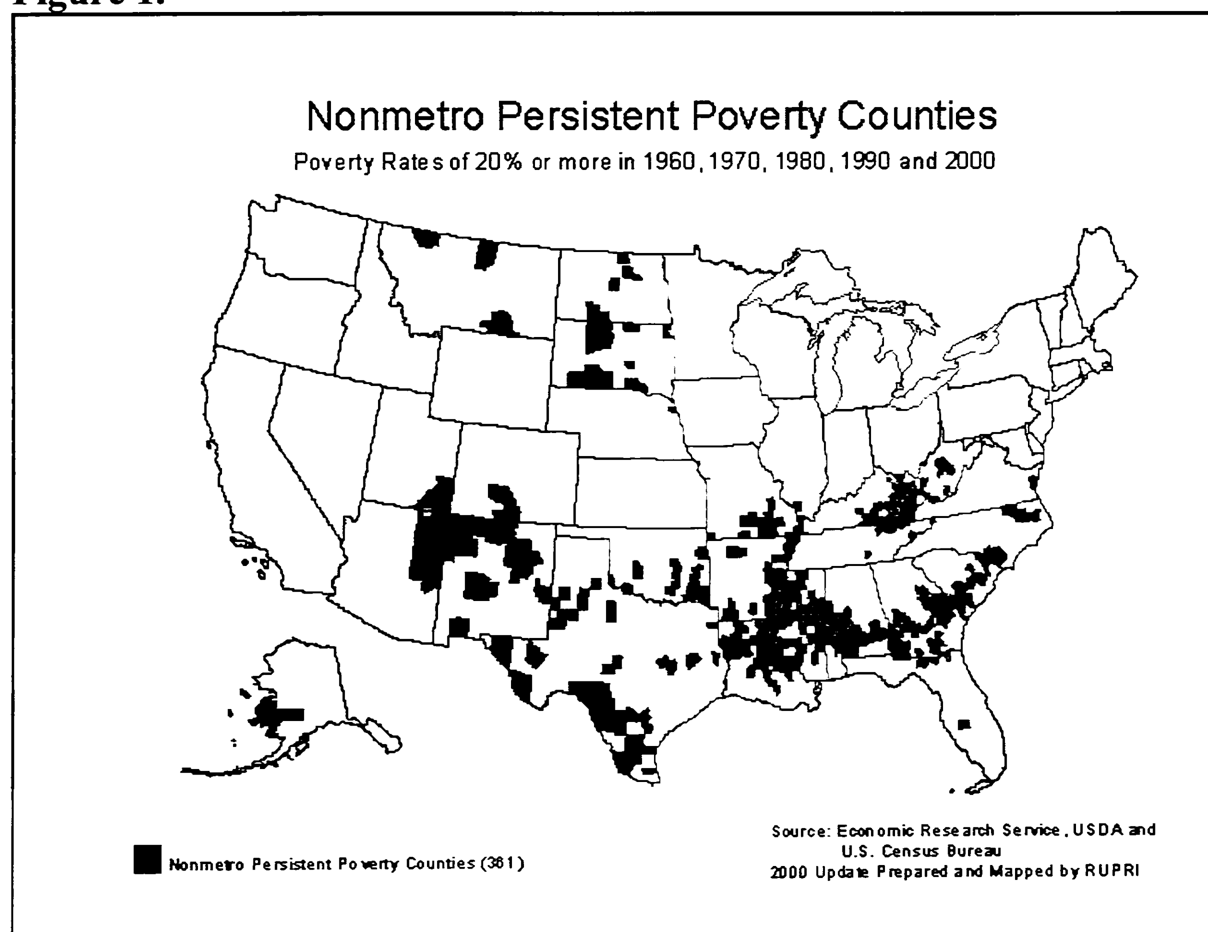
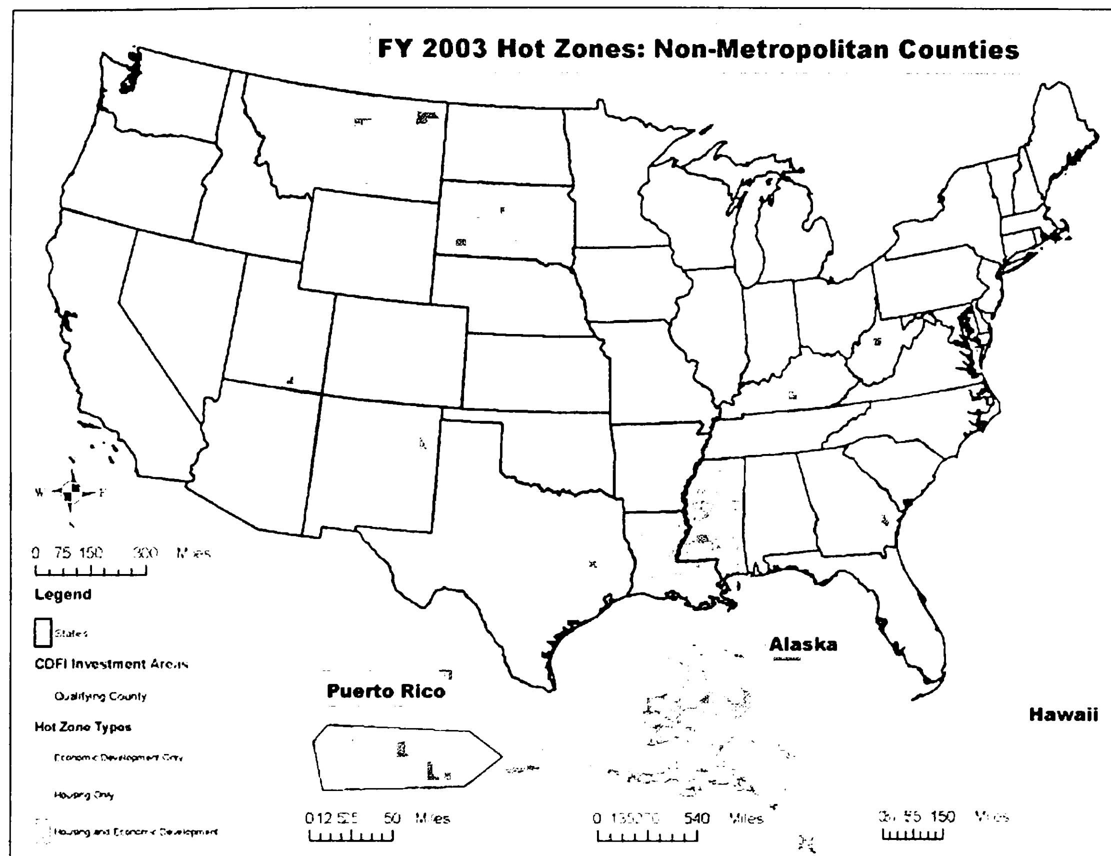


Figure 2.



In the FY 2003 round of the Financial Assistance Component of the CDFI Program, the CDFI Fund will target its resources to CDFIs that will use the award proceeds to serve Hot Zones and/or achieve the programmatic priorities of increased homeownership opportunities that are affordable to low-income households and homeownership opportunities for other targeted populations lacking access to loans, investments and financial services.

In its evaluation of applications, the CDFI Fund will give the most points to those applicants that show that at least 75 percent of their activities will be directed toward Hot Zones. Applicants that are not principally serving Hot Zones may be scored to receive the most evaluation points if they demonstrate an effective track record and plan for promoting homeownership opportunities among low-income, very-low income and other targeted populations.

Eligible geographic areas under the BEA Program are called Distressed Communities and include communities that meet certain criteria of economic distress, including Indian Reservations. Specifically, a Distressed Community must have (1) a poverty rate of at least 30 percent, provided no individual census tracts has a poverty rate of less than 20 percent (according to the most recent census); and (2) an unemployment rate that is at least 1.5 times the national average (according to the most recent Bureau of Labor Statistics data[1]).

[1] Census tracts meeting these distress criteria are some of the most distressed in the nation. Using 2000 Census and BLS data, there are some 2,326 census tracts that qualify for the BEA Program. These tracts

The NMTC Program requires that substantially all of the investments made by a CDE using NMTC-related investment proceeds be invested in low-income communities, geographic areas meeting certain economic distress criteria. Investments must be made in census tracts where the area median income is 80 percent or less than the statewide area median income (or, in the case of metropolitan areas, metropolitan area median family income, if greater), or where the poverty rate is 20 percent or greater. Applicants to the first round of the NMTC Program were reviewed on a competitive basis. Applicants that indicated that they intend to target their activities to communities with higher levels of economic distress than required by statute generally scored more favorably.

Certified CDFIs and CDEs. CDFIs are building a financial services network that is focused on our most economically deprived communities and citizenry. CDFI Fund estimates show that certified CDFIs' Target Markets cover 100 percent of non-metropolitan Hot Zones and 77 percent of metropolitan Hot Zones[2]. There is at least one CDFI headquartered in each state, the District of Columbia, Puerto Rico and the U.S. Virgin Islands.

CDFIs are specialized financial institutions that operate in markets, increasingly in partnership with traditional lenders. The organizations we support are often able to lend in ways that are more flexible or not available to traditionally regulated financial institutions. As of February 1, 2003, we have certified 633 financial institutions as CDFIs:

Certified CDFIs			
	FY 2002 (as of 2/1/02)	**FY 2003 (as of date 2/1/03)**	**FY 2004 (Projected)**
Total CDFIs	**513**	**633**	**706**
Banks, Thrifts, Holding Cos.	58 (11%)	72 (11%)	85 (12%)
Credit Unions	94 (18%)	117 (18%)	120 (17%)
Loan Funds	344 (67%)	424 (67%)	475 (67%)
Venture Funds	17 (3%)	20 (4%)	26 (4%)

Through the NMTC Program, the CDFI Fund designates entities as community development entities (CDEs). To qualify for CDE designation by the CDFI Fund, an entity must be a domestic corporation or partnership that: (1) has the primary mission of serving, or providing investment capital for low-income communities or low-income persons; and (2) maintains accountability to residents of low-income communities

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represent 4 percent of all US census tracts and less than 12 percent of the 20,433 tracts that are considered "Low and Moderate Income."

[2] Please note that CDFI Target Markets were originally geocoded using 1990 Census tracts and county boundaries and that CDFI Target Markets are subject to change due to post-award amendments. Consequently, the total estimates are subject to adjustment, due both to changes in tract and county boundaries between the 1990 and 2000 Census (which the CDFI Fund's Hot Zones are based on) and to amendments to individual CDFI Target Markets.

through representation on a governing or an advisory board. Entities may apply to become CDEs even if they do not plan to seek a NMTC allocation. Such entities presumably have a strategy of selling loans to a CDE with an allocation, or seeking an investment or loan from a CDE with an allocation. As of February 11, 2003, the CDFI Fund has certified 821 organizations as CDEs.

Certified CDEs		
	FY 2003 (as of 2/11/03)	FY 2004 (Projected)
Total CDEs	**821**	**1,200**
CDFIs	335 (41%)	400 (33%)
SBA designated SSBICs	9 (1%)	15 (1%)
Other entities	477 (58%)	785 (66%)

New Markets Tax Credit (NMTC) Program Overview. The intent of the Community Renewal Tax Relief Act of 2000 is to attract private sector investment in businesses located in low-income communities. Through the NMTC Program, taxpayers will be provided a credit against Federal income taxes for qualified equity investments made to acquire stock or other equity interests in designated community development entities (CDEs). In turn, substantially all of the proceeds of qualified equity investments must be used by the CDE to make qualified investments in low-income communities. These qualified low-income community investments include loans to or equity investments in, businesses or CDEs operating in low-income communities.

The NMTC Program creates a capitalization mechanism that many of the larger, more established CDFIs can advantage. In addition, other non-CDFIs may participate as well – thereby widening the pool of entities and capital sources involved in building the economies of our low-income communities. In this regard, the NMTC Program helps to supplement the CDFI Program; however, the NMTC Program is limited to areas that qualify as low-income communities and, to attract investors, the underlying business activity of the CDE must be able to deliver a return on investor's capital at risk. Those CDFI activities that are outside of the NMTC Program's eligible low-income communities and are of such risk that investment motivated capital is inappropriate, will not be able to generally benefit from the NMTC Program.

By offering a tax credit, the NMTC Program encourages private investment in low-income communities. If investors embrace the program, it will be a significant source of new capital that could help to stimulate new industries and entrepreneurs, diversify the local economy, and generate new jobs in low-income communities.

The tax credit provided to the investor will cover a seven-year period. In each of the first three years, the investor will receive a credit totaling 5 percent of the total value of the stock or equity interest at the time of purchase. For the final four years, the value of the credit is 6 percent annually.

The $15 billion of equity investments for which tax credits can be claimed through the NMTC Program may be allocated between 2001-2007. Because the CDFI Fund was launching the program in 2001, the first two years' allocations were combined, and $2.5 billion was available for allocation in the just completed first round.

In FY 2003, the CDFI Fund evaluated 345 applications to the NMTC Program; these applications together requested the authority to issue $25.8 billion in equity for which NMTCs may be claimed. In March 2003, the Treasury Department, through the CDFI Fund, will announce the allocation of NMTC authority to certain community development entities (CDEs), thus supporting $2.5 billion in private sector equity investments that will result in economic stimulus in low-income communities throughout the country.

To achieve the Administration's goals of demonstrably improving the life of residents in impacted low-income communities, Treasury attempted to set a high bar for applicants and strove to make the selections based on a rigorous merit-based selection process. This review was conducted in the following manner:

Step One:

- All policy decisions regarding the selection process were made by officials separate and apart from those who reviewed and rated applications. No identifying information for any application was provided to policy officials until after the selection process was concluded.

- In scoring each application, the reviewers rated each of four evaluation sections: Business Strategy, Capitalization Strategy, Management Capacity and Community Impact, awarding up to 25 points per section. In addition, reviewers rated applicants with respect to two statutory priorities: (i) up to 5 points for a track record of serving disadvantaged businesses or communities, and (ii) 5 points for committing to invest substantially all of the proceeds from its qualified equity investments in unrelated entities.

- For consistency, the process required three reviewers to independently review and evaluate each application. The reviewers included CDFI Fund staff, other federal agency staff working in other community development finance programs, and independent private sector members of the community development finance community.

- In addition to evaluating and scoring each application, reviewers recommended an allocation amount that was supported by the information in the application.

Step Two:

- Advancing applications were deemed to be those with an aggregate base score (without including priority points) that was in the "good" range based on a scoring scale of weak, limited, average, good and excellent. In addition, each advancing

application had to achieve an aggregate base score in the "good" range in each of the four application evaluation criteria.

- For each application, panelists reviewed the scores, comments and recommended allocation amounts provided by each of the first phase reviewers. A statistical review was conducted to identify anomalous scores. In cases where there was an anomalous first phase reviewer score, the comments and recommendations of a fourth independent reviewer were used to determine whether the anomalous score should be replaced.

- The review panel also reviewed a variety of compliance, eligibility, due diligence and regulatory matters. Included in this review were (i) checks to determine whether any applicants that have been awarded funds through other Fund programs were compliant with the award requirements, (ii) verification that the applicants' investor letters were consistent with the capitalization information provided in their applications, and (iii) consultation with the IRS with respect to any applicant that proposed a business strategy that may not be permitted under the NMTC Program regulations.

Step Three:

- After the second stage of the review process, the rank order list of applicants and the recommended allocation amounts were forwarded to the Selecting Official (the NMTC Program Manager). The Selecting Official reviewed the rank order list and the recommendations, and decided whether to accept or modify the panel's recommendations. In the event the Selecting Official's decision varied from the panel's recommendation by more than a prescribed amount, then concurrence is required by the Reviewing Official (Deputy Director). This process ensures that adequate documentation and oversight is maintained to protect the integrity of the allocation decisions.

- Per the Fund's allocation application evaluation policies and procedures, the Selecting Official's (and, as the case may be, the Reviewing Official's) allocation decisions are final.

- The CDFI Fund expects that applicants will be informed of the Fund's decisions in March 2003. Shortly thereafter, allocatees will enter into allocation agreements with the Fund.

Following an internal evaluation of the NMTC application and selection process, the CDFI Fund will determine modifications for the next round of application and applicant guidance materials. It is expected that applications for the next round will be due in the last quarter of calendar year 2003, and allocation decisions in the first quarter of 2004.

The CDFI Fund is developing, with the Internal Revenue Service, a compliance system for the NMTC Program to ensure that each entity that receives a NMTC allocation will continue to fulfill its CDE certification requirements and the terms of its allocation

agreements with the CDFI Fund, and that the IRS has appropriate information to determine that allocatees are operating within the legislation and regulations promulgated by the IRS. The compliance system will be based in part on input provided at a meeting co-sponsored by the CDFI Fund and the General Accounting Office in March of 2002. At that meeting, academics and other community development financing experts discussed the advantages and disadvantages to various approaches to both compliance issues as well as approaches to evaluating the impact of the investments made under the NMTC Program on low-income communities.

CDFI Program Overview. Through the CDFI Program, the CDFI Fund promotes access to capital and local economic growth in distressed communities by directly investing in and supporting CDFIs. The CDFI Program provides financial assistance in the form of grants, loans, equity investments or deposits to CDFIs. Since its inception, the CDFI Fund has made over 900 CDFI Program awards, totaling $405 million.

For FY 2003, the CDFI Fund has refocused the CDFI Program to meet more effectively the Fund's objectives in three key ways: promoting a "continuum of growth" that encourages the largest and most established CDFIs to leverage non-governmental sources of capital; giving highest priority on investments that serve the most distressed geographic areas; and giving priority to initiatives that promote homeownership among low-income and other underserved populations.

The Financial Assistance Component: replaces the Core, Intermediary, and part of the Small and Emerging CDFI Assistance Components offered in past years. The Financial Assistance Component consolidates the CDFI Program's components that provide financial assistance (requiring matching funds) into one competitive funding round.

The following table depicts asset-size of CDFI Program awardees and illustrates the continuum of growth strategies:

	All CDFI Program Applicants	Financial Assistance Awards (formerly Core & SECA)			Technical Assistance Awards		
	2000-2002	2002	2003 (Projected)	2004 (Budget)	2002	2003 (Projected)	2004 (Budget)
Total CDFIs/Awardees	842	91	40	30	61	40	30
Asset-Size CDFIs/Awardees							
≤ $5 million	71%	65%	63%	60%	82%	85%	85%
>$5 - ≤ $25 million	19%	18%	27%	30%	14%	15%	15%
>$25 - ≤ $50 million	6%	14%	8%	9%	0%	0%	0%
>$50 - ≤$500 million	4%	3%	2%	1%	4%	0%	0%
>$500 million	0%	0%	0%	0%	0%	0%	0%

The CDFI Fund recognizes that there are two broad categories of CDFIs: larger CDFIs that have greater ability to leverage private-sector resources, have greater self-sufficiency and generate higher volume of activity and corresponding community development impact, and smaller CDFIs that serve smaller, more underserved markets, are less efficient and produce lower volumes of activity, but serve critical market needs.

The Technical Assistance/Native American Technical Assistance (TA/NATA) Component allows applicants to apply for limited technical assistance funds on a rolling first-in, first-reviewed basis. This program replaces the Small and Emerging CDFI Assistance (SECA) Component and part of the Native American CDFI Technical Assistance (NACTA) Program offered in FY 2002. The main purpose of the new TA/NATA Component is to allow new and growing CDFIs to access needed technical assistance when they need it, in order to help them enhance their capacity to serve their target markets.

Entities applying to this program are on the beginning end of the "growth continuum," either as start-up or small entities. The purpose of the technical assistance provided (including staff training, technology, and outside expertise), is to push entities more quickly and effectively up the growth continuum than they would without the technical assistance. Some typical uses of TA grants include: computer system upgrades and software acquisition; developing loan underwriting policies and procedures; evaluating current loan products and developing new ones; and training staff.

Bank Enterprise Award (BEA) Program Overview. The BEA Program is aimed at expanding financial service organizations' community development lending and investments through regulated institutions.

The BEA Program provides monetary incentives for banks and thrifts to expand investments in CDFIs and/or to increase lending, investment and service activities in distressed communities. BEA Program awards have varied in size from less than $1,000 to almost $3 million, depending upon the type and amount of assistance provided by the bank and the activities being funded through the bank's investments. In general, banks that provide equity investments to CDFIs are likely to receive the largest awards relative to the size of their investments.

However, the Administration currently is evaluating the BEA Program to ensure that it is as effective and efficient as possible, to distinguish the program from the mandates of the Community Reinvestment Act, and to ensure that awardees use BEA Program awards for community development activities.

In addition, the CDFI Fund concluded that the BEA Program regulations should be revised to target awards to "personal wealth" and "community asset" building activities, and to those CDFIs with a greater need for the incentive provided by the BEA Program award to facilitate their bank partnerships. Thus, in 2002, the CDFI Fund initiated regulatory changes to the BEA Program to take effect with the FY 2003 funding round.

The Administration supports continuation of a reconstituted BEA Program. An effective BEA Program could provide the Treasury Department with an effective strategy to engage traditional banks and thrifts to help us achieve our goal of improving the economic conditions of underserved areas through insured depository institutions. The role that banks and thrifts play is critical to capital access. We need to encourage them to

target these underserved communities in ways that do not impede safe and sound banking practices in a sustainable manner.

Training Program. The Training Program is aimed at supporting the CDFI Fund's strategic goal of strengthening the organizational capacity and expertise of CDFIs and other Financial Service Organizations. The Training Program, which was started in FY 1999, provides funds that support the development and delivery of training products to CDFIs and other entities engaged in community development finance. Training is addressed via classroom instruction, web-based distance learning, and other electronic formats. The CDFI Fund is particularly excited about providing the support to help build the electronic teaching capacity of the CDFI industry. Through distance learning, the cost of accessing training is reduced for the CDFIs (elimination of the time and cost of travel) and the ability of CDFIs that are either of limited resources or of remote locations to access training is enhanced.

By the end of calendar 2002, two of the training providers completed their efforts under the training contract with the CDFI Fund. The remaining two will continue to provide training through this fiscal year. Training provided in FY 2003 is largely through distance learning technology. Extension of training delivery requirements will be determined in part on availability of appropriated funds.

Rural Community Assistance. The FY 2002 appropriations for the CDFI Fund contained report language requesting an update on rural lending practices as part of the fiscal year 2003 budget submission. CDFI Program and BEA Program awardees are indeed reaching rural areas. In 2002, 60 percent of awardees receiving financial assistance, and 50 percent of technical assistance awardees, indicated that they served rural areas as all or part of their markets.

Of 156 surveyed awardee CDFIs, 20 (13 percent) estimated that 100 percent of their activities served rural areas and an additional 23 (15 percent) estimated that 51 to 99 percent of their activities served rural areas. Considering that 20 percent of U.S. households reside in non-metropolitan areas (Census 2000), the percentage of CDFI Fund awardees that target more than half their activities to rural areas (28 percent) compares favorably.

Under the BEA Program, a "distressed area" must have a population of at least 4,000. Distressed areas are composed of census tracts. Many rural census tracts do not have 4,000 people, which in many cases precludes their eligibility as BEA distressed areas. Eliminating the BEA Program population requirement would result in a greater portion of rural America becoming eligible for benefiting from the BEA Program; such a change would require legislative action.

Native American Strategic Plan; the NACD Program; the Native American CDFI Training Program. The CDFI Fund is preparing a Native American Strategic Plan. It will address the issues of CDFI reach and service to Native American, Alaska Native and Native Hawaiian communities; increasing capacity within these communities to respond

to credit, investment and financial services needs; and attracting other existing resources to these underserved communities.

Since 2002, the CDFI Fund has broadened its outreach to Native American communities. In FY 2002, the CDFI Fund made its first set of awards under the NACTA Program. A total of 38 organizations were selected to receive $2.7 million in technical assistance. Eleven awards were to CDFIs or entities planning to become CDFIs and 27 were to entities, such as tribes and tribal housing authorities, proposing to create separate CDFIs. Funded organizations are based in 18 states. The successful outcome of the launch of the NACTA Program has greatly increased the CDFI Fund's reach in support of Native American and Alaska Native communities, and is building an emerging network of Native American focused CDFIs.

In 2003, the CDFI Fund is modifying the 2002 NACTA Program by separating it into two parts: (i) the NATA Component (of the CDFI Program's Technical Assistance Component) and (ii) the NACD Program. This modification again reflects the CDFI Fund's "continuum of growth" approach. Entities such as tribes or non-profit organizations serving Native American communities that want to create CDFIs are at the earliest stage of the growth continuum. These entities can apply for technical assistance funds to develop a plan to create a CDFI over a three-year period. In this way, organizations that serve Native American communities are within the mainstream of the CDFI Fund's programs.

In 2003, the CDFI Fund is implementing the Native American CDFI Training Program. This training program is designed to help Native American communities build technical and leadership skills enabling them to create and manage CDFIs. Funds will be provided to selected contractors to provide training programs through both Internet based and classroom based formats.

The CDFI Fund is also actively looking to build partnerships with other Federal agencies in support of community development in Native American communities. The CDFI Fund is considering the possibility of coordinating efforts to provide incentives to use existing Federal programs (such as loan guarantee programs), and efforts to attract depository institutions and private sector investors to serve Native American communities. To this end, the CDFI Fund is developing a demonstration program to test approaches to provide financing for economic development, affordable housing, and for provision of financial services in Native American communities.

Secondary Market Study. The CDFI Fund is conducting a study to explore the possibility of expanding the secondary market for CDFI loans. Selling loans on the secondary market while common among traditional lenders is not a general practice among CDFIs. In fact, very few CDFIs have engaged in loan sales to date. If CDFI loans can be made attractive to potential investors and investors are willing to pay a reasonable price, the CDFI industry will gain a major source of private sector capital that is likely to grow with the industry's needs and will limit the CDFIs need for additional capitalization.

The CDFI Fund's study will examine the current and future capital needs of CDFIs, and will make recommendations. The study will involve consultations with CDFIs, potential loan purchasers and others with an interest in the secondary market. A draft report is expected in the summer of 2003.

* * * * *

As you can see, the CDFI Fund has made substantial progress over the last year. The CDFI Fund's programs represent a continuum of capital, investment and incentive opportunities aimed at developing affordable housing, promoting homeownership, starting and expanding businesses, meeting unmet market needs, and stimulating economic growth in our nation's low-income and distressed areas. In short, the goal of the CDFI Fund is to help bring mainstream capital to those people and communities that have been overlooked. The CDFI Fund has made significant strides in the integration of its performance measures in the budget process.

Again, I thank you for the opportunity to present my testimony in support of the President's FY 2004 budget request and look forward to answering any questions you may have for me.

DEPARTMENT OF THE TREASURY

TREASURY NEWS

OFFICE OF PUBLIC AFFAIRS • 1500 PENNSYLVANIA AVENUE, N.W. • WASHINGTON, D.C. • 20220 • (202) 622-2960

EMBARGOED UNTIL 11:00 A.M.
February 27, 2003

CONTACT: Office of Financing
202/691-3550

TREASURY OFFERS 13-WEEK AND 26-WEEK BILLS

The Treasury will auction 13-week and 26-week Treasury bills totaling $33,000 million to refund an estimated $28,008 million of publicly held 13-week and 26-week Treasury bills maturing March 6, 2003, and to raise new cash of approximately $4,992 million. Also maturing is an estimated $22,001 million of publicly held 4-week Treasury bills, the disposition of which will be announced March 3, 2003.

The Federal Reserve System holds $12,118 million of the Treasury bills maturing on March 6, 2003, in the System Open Market Account (SOMA). This amount may be refunded at the highest discount rate of accepted competitive tenders either in these auctions or the 4-week Treasury bill auction to be held March 4, 2003. Amounts awarded to SOMA will be in addition to the offering amount.

Up to $1,000 million in noncompetitive bids from Foreign and International Monetary Authority (FIMA) accounts bidding through the Federal Reserve Bank of New York will be included within the offering amount of each auction. These noncompetitive bids will have a limit of $100 million per account and will be accepted in the order of smallest to largest, up to the aggregate award limit of $1,000 million.

TreasuryDirect customers have requested that we reinvest their maturing holdings of approximately $1,092 million into the 13-week bill and $624 million into the 26-week bill.

The allocation percentage applied to bids awarded at the highest discount rate will be rounded up to the next hundredth of a whole percentage point, e.g., 17.13%.

This offering of Treasury securities is governed by the terms and conditions set forth in the Uniform Offering Circular for the Sale and Issue of Marketable Book-Entry Treasury Bills, Notes, and Bonds (31 CFR Part 356, as amended).

Details about each of the new securities are given in the attached offering highlights.

oOo

Attachment

JS-48

HIGHLIGHTS OF TREASURY OFFERINGS OF BILLS
TO BE ISSUED MARCH 6, 2003

February 27, 2003

Offering Amount	$17,000 million	$16,000 million
Maximum Award (35% of Offering Amount)	$ 5,950 million	$ 5,600 million
Maximum Recognized Bid at a Single Rate	$ 5,950 million	$ 5,600 million
NLP Reporting Threshold	$ 5,950 million	$ 5,600 million
NLP Exclusion Amount	$ 5,200 million	None
Description of Offering:		
Term and type of security	91-day bill	182-day bill
CUSIP number	912795 MQ 1	912795 NL 1
Auction date	March 3, 2003	March 3, 2003
Issue date	March 6, 2003	March 6, 2003
Maturity date	June 5, 2003	September 4, 2003
Original issue date	December 5, 2002	March 6, 2003
Currently outstanding	$20,634 million	---
Minimum bid amount and multiples	$1,000	$1,000

The following rules apply to all securities mentioned above:

Submission of Bids:

Noncompetitive bids: Accepted in full up to $1 million at the highest discount rate of accepted competitive bids.

Foreign and International Monetary Authority (FIMA) bids: Noncompetitive bids submitted through the Federal Reserve Banks as agents for FIMA accounts. Accepted in order of size from smallest to largest with no more than $100 million awarded per account. The total noncompetitive amount awarded to Federal Reserve Banks as agents for FIMA accounts will not exceed $1,000 million. A single bid that would cause the limit to be exceeded will be partially accepted in the amount that brings the aggregate award total to the $1,000 million limit. However, if there are two or more bids of equal amounts that would cause the limit to be exceeded, each will be prorated to avoid exceeding the limit.

Competitive bids:

(1) Must be expressed as a discount rate with three decimals in increments of .005%, e.g., 7.100%, 7.105%.

(2) Net long position (NLP) for each bidder must be reported when the sum of the total bid amount, at all discount rates, and the net long position equals or exceeds the NLP reporting threshold stated above.

(3) Net long position must be determined as of one half-hour prior to the closing time for receipt of competitive tenders.

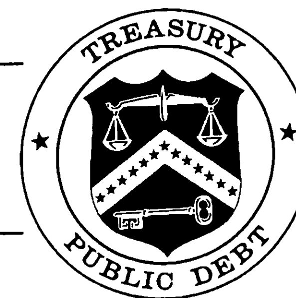
Receipt of Tenders:

Noncompetitive tenders..... Prior to 12:00 noon eastern standard time on auction day

Competitive tenders........ Prior to 1:00 p.m. eastern standard time on auction day

Payment Terms: By charge to a funds account at a Federal Reserve Bank on issue date, or payment of full par amount with tender. *TreasuryDirect* customers can use the Pay Direct feature, which authorizes a charge to their account of record at their financial institution on issue date.

PUBLIC DEBT NEWS



Department of the Treasury • Bureau of the Public Debt • Washington, DC 20239

TREASURY SECURITY AUCTION RESULTS
BUREAU OF THE PUBLIC DEBT - WASHINGTON DC

FOR IMMEDIATE RELEASE
February 27, 2003

CONTACT: Office of Financing
202-691-3550

RESULTS OF TREASURY'S AUCTION OF 14-DAY BILLS

Term: 14-Day Bill
Issue Date: March 03, 2003
Maturity Date: March 17, 2003
CUSIP Number: 912795MX6

High Rate: 1.240% Investment Rate 1/: 1.255% Price: 99.952

All noncompetitive and successful competitive bidders were awarded securities at the high rate. Tenders at the high discount rate were allotted 31.84%. All tenders at lower rates were accepted in full.

AMOUNTS TENDERED AND ACCEPTED (in thousands)

Tender Type	Tendered	Accepted
Competitive	$ 61,265,000	$ 26,000,384
Noncompetitive	0	0
FIMA (noncompetitive)	0	0
SUBTOTAL	61,265,000	26,000,384
Federal Reserve	0	0
TOTAL	$ 61,265,000	$ 26,000,384

Median rate 1.225%: 50% of the amount of accepted competitive tenders was tendered at or below that rate. Low rate 1.200%: 5% of the amount of accepted competitive tenders was tendered at or below that rate.

Bid-to-Cover Ratio = 61,265,000 / 26,000,384 = 2.36

1/ Equivalent coupon-issue yield.

PRESS ROOM

FROM THE OFFICE OF PUBLIC AFFAIRS

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February 27, 2003
JS-70

Treasury Issues Final Regulations to Crack Down on Abusive Tax Avoidance Transactions

The Treasury Department and the Internal Revenue Service are issuing final regulations requiring taxpayers to disclose their participation in potentially abusive tax avoidance transactions, promoters to register certain abusive transactions, and advisors to maintain lists of clients who have entered into potentially abusive tax avoidance transactions. These rules will help ensure that the Treasury Department and the Internal Revenue Service get the information needed to identify and evaluate questionable transactions.

"By issuing final regulations, we are putting the promoters that sell questionable transactions and the taxpayers that participate in them on notice. We are increasing our efforts to identify and shut down abusive tax avoidance transactions as quickly as possible," stated Treasury Assistant Secretary for Tax Policy Pam Olson. "The final regulations improve the system by helping us get the information needed to identify questionable transactions and the taxpayers who have participated in them. Besides using the information to target enforcement resources better, the Treasury Department and the Internal Revenue Service will use this information to prepare guidance that advises taxpayers about transactions marketed to them that may not work as advertised."

These final regulations conform the taxpayer disclosure regulations and the promoter list-maintenance regulations so that the rules are easier to apply and administer. In addition, in response to the comments received when the rules were proposed in October 2002, the final regulations reflect a number of changes intended to reduce unnecessary disclosure.

Six Categories of Potential Tax Avoidance Transactions Covered. Taxpayers will be required to disclose and promoters will be require to maintain investor lists for six categories of transactions:

(1) Listed transactions (i.e., transaction that have been specifically identified by the IRS as tax avoidance transactions);

(2) Transactions marketed under conditions of confidentiality;

(3) Transactions with contractual protection;

(4) Transactions generating a tax loss exceeding specified amounts;

(5) Transactions resulting in a book-tax difference exceeding $10 million; and

(6) Transactions generating a tax credit when the underlying asset is held for a brief period of time.

The final regulations generally are effective for transactions entered into on or after the date that they are filed with the Federal Register, which is expected to be this

Friday, February 28, 2003. Taxpayers, however, may elect to apply the final disclosure regulations for transactions entered into on or after January 1, 2003.

Background. After evaluating the effectiveness of the prior rules, in March 2002, the Treasury Department issued its Enforcement Proposals for abusive tax avoidance transactions. The Enforcement Proposals include administrative, regulatory, and legislative actions and proposals. These final regulations carry out an important regulatory action by simplifying the definition of a transaction that must be disclosed on a return by a taxpayer and for which lists of participants must be maintained by a promoter. These changes provide objective rules that more clearly identify when taxpayers and promoters are covered by the disclosure and list-maintenance requirements. The final regulations, therefore, will enhance compliance and disclosure.

The text of the final regulations and the text of two related revenue procedures are attached. They are subject to minor technical changes for publication by the Federal Register and the Internal Revenue Service.

Related Documents:

- 6011-4 Text
- Book Tax
- Loss Transactions

QUARTERLY REPORT TO CONGRESS ON FINANCIAL IMPLICATIONS OF U.S. PARTICIPATION IN THE INTERNATIONAL MONETARY FUND

FEBRUARY 2002

This report has been prepared in compliance with Section 504(b) of Appendix E, Title V of the Consolidated Appropriations Act for FY 2000[1]. The report focuses exclusively on the financial implications of U.S. participation in the IMF and does not attempt to quantify the broad and substantial economic benefits to the United States and the global economy resulting from U.S. participation in the IMF.

As required, the report provides financial information on the net interest and valuation changes associated with U.S. participation in the International Monetary Fund (IMF). The broader context for the financial implications of U.S. participation in the IMF and the methodology used in deriving these figures is laid out in previous reports; the methodology is also summarized briefly in the footnotes attached to the tables. Reports under this provision are prepared quarterly and made available to the public on the Treasury website: http://www.treas.gov/press/releases/reports.htm.

This report provides quarterly data for FY 2001. It provides information on U.S. participation in the IMF's General Department as well as information related to U.S. holdings of Special Drawing Rights (SDRs)[2] as part of its international reserves and the financial implications of U.S. participation in the SDR Department of the IMF.

Data on U.S. participation in the IMF's General Department during the second, third, and fourth quarters, and year-end data for fiscal year 2001 are provided in Table 1. Data on U.S. participation in the SDR Department of the IMF are provided in Table 2. Historical data are also included in this report to reflect a methodological adjustment, relative to previous reports. In previous reports dollar financing costs were calculated using the 3-month T-bill rate. This methodology has been revised to use the average cost of funds to the U.S. Treasury on all of its borrowings.

Table 1 shows the net interest and valuation changes related to U.S. participation in the General Department for the quarters ending March 31, June 30, and September 30, 2001. Table 2 shows the net interest and valuation changes related to U.S. participation in the SDR Department, also for the quarters ending March 31, June 30, and September 30, 2001. The attached footnotes

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[1] Section 504(b) of Appendix E, Title V of the Consolidated Appropriations Act for FY 2000, Public Law 106-113, 113 Stat. 1501A-317 requires that the Secretary of the Treasury prepare and transmit to the appropriate committees of the Congress a quarterly report on the costs or benefits of United States participation in the International Monetary Fund (IMF), detailing the costs or benefits to the United States, as well as valuation gains or losses on the United States' reserve position in the IMF.

[2] The SDR is an international reserve asset created by the IMF. The SDR is used as a unit of account by the IMF and other international organizations. Its value is determined as a weighted average of a basket of currencies -- the dollar, euro, pound sterling and yen. The SDR carries a market-based interest rate determined on the basis of a weighted average of interest rates on short-term instruments in the markets of the currencies included in the SDR valuation basket.

explain the columns shown on each table and provide pertinent information and assumptions used in the calculations.

As shown in Table 1, for the second, third, and fourth quarters of the fiscal year beginning on October 1, 2000 (FY 2001), the financial implications of U.S. participation in the General Department reflected a net interest effect of positive $7 million, positive $1 million, and negative $16 million, respectively. The valuation changes for the second, third, and fourth quarters were negative $474 million, negative $181 million, and positive $543 million, respectively. For FY 2001 as a whole, net interest paid was $4 million. The valuation change on the reserve position was negative $56 million. [3]

As shown in Table 2, for the second, third, and fourth quarter of FY 2001, the net interest effect of U.S. participation in the SDR Department was negative $12 million, negative $6 million, and negative $10 million, respectively. Over the same period, the valuation changes on SDR holdings were negative $135 million, negative $50 million, and positive $150 million, respectively. For FY 2001 as a whole, net interest paid was $47 million. The valuation change on the reserve position was negative $20 million. [4]

Attachments

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[3] For an explanation of the methodology used in deriving these figures, see section on "Calculating the Financial Implications of U.S. Participation in the General Department" in the report prepared for the fourth quarter of fiscal year 2000, submitted in December 2000 and available at http://www.treas.gov/press/releases/reports.htm.

[4] For an explanation of the methodology used in deriving these figures, see section on "Calculating the Financial Implications of U.S. Participation in the SDR Department" in the report prepared for the fourth quarter of fiscal year 2000, submitted in December 2000 and available at http://www.treas.gov/press/releases/reports.htm.

Table 1 -- Net Interest and Valuation Changes Related to US Participation in the General Department, IMF
(U.S. Fiscal Year Basis, in millions of US Dollars)

	Transactions with the IMF			Interest Calculations				Valuation Changes	Totals
fiscal year ending 9/30	Transactions Under US Quota (Letter of Credit &Transfers of Reserve Assets, Cumulative)	US Loans to IMF Under SFF, GAB, NAB (Cumulative)	Total US Transactions with IMF (Col. 1+2)	Interest Associated with Financing US Transactions with IMF	Remuneration Received by US from IMF & Refund of Burden Sharing	Interest Received from IMF Under SFF, GAB, and NAB	Net Interest (Col. 4+5+6)	Valuation Changes on US Reserve Position	Total (Col 7+ 8)
	Col. 1	**Col. 2**	**Col. 3**	**Col. 4**	**Col.5**	**Col.6**	**Col. 7**	**Col. 8**	**Col. 9**
1981	-2,061	-840	-2,902	-189	22	45	-122	-365	-487
1982	-3,883	-1,186	-5,069	-520	216	121	-183	-323	-506
1983	-6,564	-1,685	-8,249	-672	345	138	-189	-150	-339
1984	-9,501	-1,601	-11,102	-1,066	673	175	-218	-565	-783
1985	-9,102	-1,405	-10,507	-958	644	154	-161	547	386
1986	-8,073	-1,052	-9,125	-690	595	111	17	1,444	1,461
1987	-6,904	-597	-7,501	-511	449	71	9	575	584
1988	-5,846	-217	-6,063	-434	406	49	22	135	157
1989	-5,262	-3	-5,265	-462	471	22	31	-67	-36
1990	-4,686	0	-4,686	-435	546	4	115	810	925
1991	-5,078	0	-5,078	-364	475	0	111	-178	-67
1992	-5,068	0	-5,068	-282	400	0	118	687	805
1993	-7,752	0	-7,752	-336	422	0	86	-336	-250
1994	-7,310	0	-7,310	-321	336	0	15	394	409
1995	-9,649	0	-9,649	-421	407	0	-14	270	256
1996	-11,051	0	-11,051	-488	475	0	-13	-695	-708
1997	-10,433	0	-10,433	-489	438	0	-50	-787	-837
1998	-17,363	-410	-17,773	-732	590	1	-141	151	10
1999	-16,058	0	-16,058	-769	686	21	-62	198	136
2000	-10,004	0	-10,004	-598	578	0	-21	-1,119	-1,140
1Q01	-11,949	0	-11,949	-129	133	0	4	56	60
2Q01	-11,378	0	-11,378	-128	135	0	7	-474	-467
3Q01	-13,778	0	-13,778	-114	115	0	1	-181	-180
4Q01	-17,021	0	-17,021	-121	105	0	-16	543	527
2001	-17,021	0	-17,021	-492	488	0	-4	-56	-60

Detail may not add to total due to rounding.

Footnotes to Columns in Table 1

Column 1: Total cumulative transactions under the U.S. Quota, including drawings by the IMF under the Letter of Credit (75% portion of the U.S. quota) and the transfers of reserve assets to the IMF (generally 25% of the U.S. quota).

Column 2: Total cumulative dollar funding through loans to the IMF made by the U.S. under the Supplementary Financing Facility (SFF, in 1980), the General Arrangements to Borrow (GAB, in FY1998) and the New Arrangements to Borrow (NAB, in FY1999). All U.S. loans under the three facilities/arrangements have been repaid.

Column 3: Total cumulative U.S. transactions with the Fund (horizontal summation of columns 1 and 2).

Column 4: Total interest associated with total cumulative transactions shown in column 3. This includes interest paid on additional public borrowing to fund day-to-day transactions under the Letter of Credit and occasional transfers under loan arrangements (SFF, GAB, NAB), as well as interest income foregone due to the transfer of reserve assets to the IMF at the time of a quota increase. In order to provide resources under the Letter of Credit or under loan arrangements, the Treasury borrows from the public via additional issuance in the Treasury market; average cost of funds is used as a proxy for calculating the associated interest cost. This portion of the total interest paid enters the U.S. budget as interest on the public debt. For purposes of calculating foregone interest on the transfer of reserve assets to the IMF, the SDR interest rate is used.

Column 5: The U.S. earns interest on the non-gold portion of its reserve position in the IMF. This interest is called remuneration and, in combination with an adjustment by the IMF related to burden-sharing, is paid by the IMF every quarter. If remuneration is paid in SDRs, it is paid to the Exchange Stabilization Fund (ESF) and the ESF transfers the dollar equivalent to the Treasury General Fund. It is recorded in the budget as an offsetting receipt from the public. If the United States took payment in dollars (which it does not now do) the payment would be in the form of a decrease in the U.S. Letter of Credit and a counterpart increase in the U.S. reserve position.

Column 6: These amounts constitute the interest payments the United States has received on its loans to the IMF under the SFF, GAB, and NAB.

Column 7: Total net interest paid, foregone or received as a result of U.S. participation in the General Department of the IMF.

Column 8: The U.S. reserve position in the IMF is denominated in SDRs. The valuation gain (if positive) or loss (if negative) refers to the exchange rate gain or loss on the reserve position due to changes in the dollar value of the SDR. For example, if the SDR appreciates/dollar depreciates, then the dollar value of the reserve position rises and a valuation gain is recorded. This column would also include valuation gains or losses experienced as a result of U.S. loans under SFF, GAB and NAB.

Column 9: The total of net interest and valuation changes, obtained by summing column 7 and column 8.

Table 2 -- Net Interest and Valuation Changes Related to U.S. Participation in the SDR Department in the IMF, U.S. Fiscal Year, Quarterly*
(in millions of U.S. Dollars)

	Net SDR Holdings			Interest Calculations			Valuation Changes	Total
fiscal year ending 9/30	*Dollar Value of SDR Holdings*	*Dollar Value of Cumulative SDR Allocation*	*Net SDR Holdings (Col. 1 - Col. 2)*	*Interest Earned (or Paid) on Net SDR Holdings*	*Interest Associated with Financing Cumulative U.S. SDR Transactions*	*Net Interest (Col. 4 + Col. 5)*	*Valuation Changes*	*Total*
	Col. 1	**Col. 2**	**Col. 3**	**Col. 4**	**Col. 5**	**Col. 6**	**Col. 7**	**Col. 8**
1981	3,896	5,608	-1,712	-233	311	78	274	352
1982	4,809	5,254	-445	-130	137	7	79	86
1983	5,628	5,178	450	10	-12	-2	-11	-14
1984	5,554	4,895	660	25	-31	-6	-23	-29
1985	6,847	5,191	1,656	95	-109	-14	85	71
1986	8,295	5,945	2,350	146	-157	-11	283	272
1987	9,078	6,270	2,809	153	-165	-12	130	119
1988	9,074	6,322	2,751	179	-215	-36	17	-18
1989	9,487	6,270	3,217	248	-265	-17	-35	-51
1990	10,666	6,823	3,843	344	-305	40	324	364
1991	10,722	6,703	4,019	312	-262	51	-64	-14
1992	12,111	7,216	4,895	290	-205	85	326	412
1993	9,203	6,950	2,253	98	-74	23	-266	-242
1994	9,971	7,189	2,782	106	-115	-9	91	82
1995	11,035	7,380	3,655	172	-225	-52	39	-13
1996	10,177	7,052	3,125	144	-202	-58	-170	-228
1997	9,997	6,689	3,308	129	-179	-50	-170	-220
1998	10,106	6,719	3,387	146	-184	-39	20	-19
1999	10,284	6,799	3,485	116	-160	-45	33	-12
2000	10,316	6,359	3,957	164	-227	-64	-247	-310
1Q-2001	10,539	6,384	4,155	45	-65	-19	15	-4
2Q-2001	10,379	6,177	4,202	41	-53	-12	-135	-147
3Q-2001	10,409	6,103	4,306	37	-43	-6	-50	-56
4Q-2001	10,919	6,316	4,604	30	-40	-10	150	140
2001	10,919	6,316	4,604	153	-201	-47	-20	-67

Detail may not add to total due to rounding.

Footnotes to Columns in Table 2

Column 1: Total stock of U.S. holdings of Special Drawing Rights (SDRs) measured from end of period, converted into dollars at the fiscal year-end exchange rate. Source: IMF.

Column 2: Total stock of U.S. SDR allocations measured from end of period, converted into dollars at the fiscal year-end exchange rate. Changes in dollar value of SDR allocations reflect only exchange rate changes. Source: IMF.

Column 3: Total stock of U.S. SDR holdings minus allocations measured from end of period (Column 1 minus Column 2), converted into dollars at the fiscal year-end exchange rate.

Column 4: Net interest earned on SDR holdings. Derived by subtracting charges on SDR allocations (the SDR end-of-quarter interest rate times SDR allocations) from interest earned on SDR holdings (the SDR end-of-quarter interest rate times SDR holdings). All interest is calculated as compounding quarterly.

Column 5: Net effect on U.S. borrowing costs due to cumulative net SDR purchases or sales, using the simplifying assumption that transactions are carried out in dollars. Derived by multiplying the dollar equivalent of cumulative net SDR purchases by the average cost of funds rate. Interest is calculated on the basis of end-quarter holdings and compounded quarterly.

Column 6: Net Interest (Column 4 plus 5).

Column 7: Derived by subtracting the change in total SDR holdings from the change in the dollar equivalent of total SDR holdings (end-period to end-period) divided by the end-period SDR/dollar exchange rate. The valuation gain (if positive) or loss (if negative) refers to the exchange rate gain or loss on the reserve position due to changes in the dollar value of the SDR. For example, if the SDR appreciates/dollar depreciates, then the impact on the dollar value of U.S. holdings of SDRs is positive, and a valuation gain is recorded.

Column 8: The total net interest and valuation changes (sum of Columns 6 and 7).

Part III

Administrative, Procedural, and Miscellaneous

26 CFR 601.105: Examination of returns and claims for refund, credit or abatement; determination of correct tax liability.
(Also Part I, §§ 6011, 6111, 6112; 1.6011-4, 301.6111-2, 301.6112-1.)

Rev. Proc. 2003-25

SECTION 1. PURPOSE

This revenue procedure provides that certain book-tax differences are not taken into account in determining whether a transaction is a reportable transaction for purposes of the disclosure rules under § 1.6011-4(b)(6) of the Income Tax Regulations.

SECTION 2. BACKGROUND

.01 Section 1.6011-4 requires a taxpayer who participates in a reportable transaction to disclose the transaction in accordance with the procedures provided in

§ 1.6011-4. Under § 1.6011-4(b), there are six categories of reportable transactions. One category of reportable transaction is a transaction with a significant book-tax difference. A transaction with a significant book-tax difference is defined in § 1.6011-4(b)(6).

.02 Section 1.6011-4(b)(8)(i) provides that a transaction will not be considered a reportable transaction, or will be excluded from any individual category of reportable transaction, if the Commissioner makes a determination by published guidance that the transaction is not subject to the reporting requirements of § 1.6011-4.

SECTION 3. SCOPE

This revenue procedure applies to taxpayers that may be required to disclose reportable transactions under § 1.6011-4 and/or material advisors that may be required to maintain lists under § 301.6112-1.

SECTION 4. APPLICATION

Book-tax differences arising by reason of the following items are not taken into account in determining whether a transaction has a significant book-tax difference under § 1.6011-4(b)(6):

.01 Items to the extent a book loss or expense is reported before or without a loss or deduction for federal income tax purposes.

.02 Items to the extent income or gain for federal income tax purposes is reported before or without book income or gain.

.03 Depreciation, depletion under § 612, and amortization relating solely to differences in methods, lives (for example, useful lives, recovery periods), or conventions as well as differences resulting from the application of §§ 168(k), 1400I, or 1400L(b).

.04 Percentage depletion under § 613 or § 613A, and intangible drilling costs deductible under § 263(c).

.05 Capitalization and amortization under §§ 195, 248, and 709.

.06 Bad debts or cancellation of indebtedness income.

.07 Federal, state, local, and foreign taxes.

.08 Compensation of employees and independent contractors, including stock options and pensions.

.09 Charitable contributions of cash or tangible property.

.10 Tax exempt interest, including municipal bond interest.

.11 Dividends as defined in § 316 (including any dividends received deduction), amounts treated as dividends under § 78, distributions of previously taxed income under §§ 959 and 1293, and income inclusions under §§ 551, 951, and 1293.

.12 A dividends paid deduction by a publicly-traded REIT.

.13 Patronage refunds or dividends of cooperatives without a § 267 relationship to the taxpayer.

.14 Items resulting from the application of § 1033.

.15 Items resulting from the application of §§ 354, 355, 361, 367, 368, or 1031, if the taxpayer fully complies with the filing and reporting requirements for these sections, including any requirement in the regulations or in forms.

.16 Items resulting from debt-for-debt exchanges.

.17 Items resulting solely from the treatment as a sale, purchase, or lease for book purposes and as a financing arrangement for tax purposes.

.18 Treatment of a transaction as a sale for book purposes and as a nontaxable transaction under § 860F(b)(1)(A) for tax purposes, not including differences resulting from the application of different valuation methodologies to determine the relative value of REMIC interests for purposes of allocating tax basis among those interests.

.19 Items resulting from differences solely due to the use of hedge accounting for book purposes but not for tax purposes, the use of hedge accounting under § 1.446-4 for tax purposes but not for book purposes, or the use of different hedge accounting methodologies for book and tax purposes.

.20 Items resulting solely from (i) the use of a mark-to-market method of accounting for book purposes and not for tax purposes, (ii) the use of a mark-to-market method of accounting for tax purposes but not for book purposes, or (iii) in the case of a taxpayer who uses mark-to-market accounting for both book purposes and tax purposes, the use of different methodologies for book purposes and tax purposes.

.21 Items resulting from the application of § 1286.

.22 Inside buildup, death benefits, or cash surrender value of life insurance or annuity contracts.

.23 Life insurance reserves determined under § 807 and non-life insurance reserves determined under § 832(b).

.24 Capitalization of policy acquisition expenses of insurance companies.

.25 Imputed interest income or deductions under §§ 483, 1274, 7872, or 1.1275-4.

.26 Gains and losses arising under §§ 986(c), 987, and 988.

.27 Items excluded under § 883, § 921, or an applicable treaty from a foreign

corporation's income that would otherwise be subject to tax under § 882.

.28 Section 481 adjustments.

.29 Inventory valuation differences whether attributable to differences in last-in, first-out (LIFO) computations or obsolescence reserves.

.30 Section 198 deductions for environmental remediation costs.

SECTION 5. EFFECTIVE DATE

This revenue procedure is effective for transactions entered into on or after February 28, 2003. However, if a taxpayer applies § 1.6011-4 retroactively, as provided in § 1.6011-4(h), to transactions entered into on or after January 1, 2003, then this revenue procedure will be effective January 1, 2003, for those transactions.

SECTION 6. DRAFTING INFORMATION

The principal author of this revenue procedure is Charlotte Chyr of the Office of the Associate Chief Counsel (Passthroughs and Special Industries) . For further information regarding this revenue procedure, contact Ms. Chyr on (202) 622-3080 (not a toll free call).

Part III

Administrative, Procedural, and Miscellaneous

26 CFR 601.105: Examination of returns and claims for refund, credit or abatement; determination of correct tax liability.
(Also Part 1, §§ 6011, 6111, 6112; 1.6011-4, 301.6111-2, 301.6112-1.)

Rev. Proc. 2003-24

SECTION 1. PURPOSE

This revenue procedure provides that certain losses are not taken into account in determining whether a transaction is a reportable transaction for purposes of the disclosure rules under § 1.6011-4(b)(5) of the Income Tax Regulations.

SECTION 2. BACKGROUND

.01 Section 1.6011-4 requires a taxpayer who participates in a reportable transaction to disclose the transaction in accordance with the procedures provided in § 1.6011-4. Under § 1.6011-4(b), there are six categories of reportable transactions. One category of

reportable transaction is a loss transaction. A loss transaction is defined in § 1.6011-4(b)(5).

.02 Section 1.6011-4(b)(8)(i) provides that a transaction will not be considered a reportable transaction, or will be excluded from any individual category of reportable transaction, if the Commissioner makes a determination by published guidance that the transaction is not subject to the reporting requirements of § 1.6011-4.

SECTION 3. SCOPE

This revenue procedure applies to taxpayers that may be required to disclose reportable transactions under § 1.6011-4 and/or material advisors that may be required to maintain lists under § 301.6112-1.

SECTION 4. APPLICATION

.01 *In general*. Losses from the sale or exchange of an asset with a qualifying basis under section 4.02 or losses described in section 4.03 of this revenue procedure are not taken into account in determining whether a transaction is a reportable transaction.

.02 *Sale or exchange of an asset with a qualifying basis.*

(1) *General rule*. A loss under § 165 of the Internal Revenue Code from the sale or exchange of an asset is not taken into account in determining whether a transaction is a loss transaction under § 1.6011-4(b)(5) if–

(a) the basis of the asset (for purposes of determining the loss) is a qualifying basis;

(b) the asset is not an interest in a passthrough entity (within the meaning of § 1260(c)(2));

(c) the loss from the sale or exchange of the asset is not treated as ordinary under § 988;

(d) the asset has not been separated from any portion of the income it generates; and

(e) the asset is not, and has never been, part of a straddle within the meaning of § 1092(c), excluding a mixed straddle under § 1.1092(b)-4T.

(2) *Qualifying basis*. For purposes of section 4 of this revenue procedure, a taxpayer's basis in an asset (less adjustments for any allowable depreciation, amortization, or casualty loss) is a qualifying basis if--

(a) the basis of the asset is equal to, and is determined solely by reference to, the amount (including any option premium) paid in cash by the taxpayer for the asset and for any improvements to the asset;

(b) the basis of the asset is determined under § 358 by reason of a transaction under § 355 or § 368, and the taxpayer's basis in the property exchanged in the transaction was described in this section 4.02(2);

(c) the basis of the asset is determined under § 1014;

(d) the basis of the asset is determined under § 1015, and the donor's basis in the asset was described in this section 4.02(2); or

(e) the basis of the asset is determined under § 1031(d), the taxpayer's basis in the property that was exchanged for the asset in the § 1031 transaction was described in this section 4.02(2), and any debt instrument issued or assumed by the taxpayer in connection with the § 1031 transaction is treated as a payment in cash under section 4.02(3) of this revenue procedure.

(3) *Debt instruments*. Except as provided below, an amount paid in cash will not be disregarded for purposes of section 4.02(2) of this revenue procedure merely because the taxpayer issued a debt instrument to obtain the cash. However, if the taxpayer has issued a debt instrument to the person (or a related party as described in § 267(b) or § 707(b)) who sold or transferred the asset to the taxpayer, assumed a debt instrument (or took an asset subject to a debt instrument) issued by the person (or a related party as described in § 267(b) or § 707(b)) who sold or transferred the asset to the taxpayer, or issued a debt instrument in exchange for improvements to an asset, the taxpayer will be treated as having paid cash for the asset or the improvement only if the debt instrument is secured by the asset and all amounts due under the debt instrument have been paid in cash no later than the time of the sale or exchange of the asset (except in the case of stock or securities traded on an established securities market, the settlement date) for which the loss is claimed.

.03 *Other losses*. The following losses under § 165 are not taken into account in determining whether a transaction is a loss transaction under § 1.6011-4(b)(5):

(1) A loss from fire, storm, shipwreck, or other casualty, or from theft, under § 165(c)(3);

(2) A loss from a compulsory or involuntary conversion as described in §§ 1231(a)(3)(A)(ii) and 1231(a)(4)(B);

(3) A loss arising from any mark-to-market treatment of an item under §§ 475, 1256, 1296(a), 1.446-4(e), 1.988-5(a)(6), or 1.1275-6(d)(2), provided that the taxpayer computes its loss by using a qualifying basis (as defined in section 4.02(2) of this revenue procedure)

or a basis resulting from previously marking the item to market, or computes its loss by making appropriate adjustments for previously determined mark-to-market gain or loss as provided, for example, in § 475(a) or § 1256(a)(2);

(4) A loss arising from a hedging transaction described in § 1221(b), if the taxpayer properly identifies the transaction as a hedging transaction, or from a mixed straddle account under § 1.1092(b)-4T;

(5) A loss attributable to basis increases under § 860C(d)(1) during the period of the taxpayer's ownership;

(6) A loss attributable to the abandonment of depreciable tangible property that was used by the taxpayer in a trade or business and that has a qualifying basis under section 4.02(2) of this revenue procedure;

(7) A loss arising from the bulk sale of inventory if the basis of the inventory is determined under § 263A; or

(8) A loss that is equal to, and is determined solely by reference to, a payment of cash by the taxpayer (for example, a cash payment by a guarantor that results in a loss or a cash payment that is treated as a loss from the sale of a capital asset under § 1234A or § 1234B).

SECTION 5. EFFECTIVE DATE

This revenue procedure is effective for transactions entered into on or after February 28, 2003. However, if a taxpayer applies § 1.6011-4 retroactively, as provided in § 1.6011-4(h), to transactions entered into on or after January 1, 2003, then this revenue procedure will be effective January 1, 2003, for those transactions.

SECTION 6. DRAFTING INFORMATION

The principal author of this revenue procedure is Tara P. Volungis of the Office of Associate Chief Counsel (Passthroughs and Special Industries). For further information regarding this revenue procedure, contact Ms. Volungis at (202) 622-3080 (not a toll free call).

PRESS ROOM

FROM THE OFFICE OF PUBLIC AFFAIRS

February 27, 2003
JS-71

Media Advisory
Secretary Snow and Treasurer Marin
Provide Signatures for Currency at March 5 Ceremony
Event Web Cast Live on Treasury Web Site

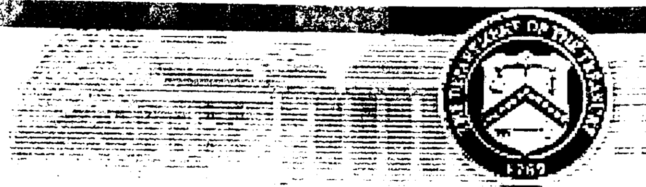
Treasury Secretary John W. Snow and U.S. Treasurer Rosario Marin on Wednesday, March 5, 2003, will provide their signatures to the Bureau of Engraving and Printing for use on Series 2003 U.S. currency.

Once provided to the Bureau of Engraving and Printing, the signatures of Secretary Snow and Treasurer Marin are transferred by engravers to steel plates, which are used to print all new U.S. currency.

The ceremony will be held at 11:00 a.m. EST at the Treasury Department (Room 4121), 1500 Pennsylvania Ave., NW, Washington, DC. It will be web cast live on the Treasury web site, www.treasury.gov.

All media attending the event must have a Treasury or White House press pass to enter the building. Those without a Treasury or White House press pass must be cleared in by the Secret Service IN ADVANCE. Please contact Frances Anderson in the Office of Public Affairs at 202-622-2960 by Tuesday, March 4, 2003 at 5:00 pm for clearance, or admittance to the building will be delayed or denied. The following information can also be faxed to 202-622-1999, or email to frances.anderson@do.treas.gov attention Frances Anderson: name, media organization, date of birth and social security number.

PRESS ROOM



FROM THE OFFICE OF PUBLIC AFFAIRS

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February 28, 2003
JS-72

TREASURY AND TTB LIMIT HEALTH CLAIMS RELATED TO CONSUMPTION OF ALCOHOLIC BEVERAGES

Today the Treasury Department and its Alcohol and Tobacco Tax and Trade Bureau (TTB) issued final regulations that provide new limitations on health-related statements appearing on labels of alcoholic beverages.

Over the past several years there has been a great deal of public attention and controversy over health claims related to alcoholic beverages. Some have sought permission (two entities unsuccessfully sued the government for it) to include health-related statements, other than the mandatory government warning label, on alcoholic beverage labels and in advertising for alcoholic beverages.

Although some studies have shown that moderate consumption of alcohol may have beneficial health effects for some, it is also clear that alcohol can have devastating effects on some individuals and any individual who regularly consumes large amounts. While the deleterious effects of alcohol lead many to strongly oppose allowing any statements that might encourage consumption, those concerns must be balanced against first-amendment protections of commercial free speech.

After lengthy consultation with the public and the Food and Drug Administration, the rule we are adopting provides that:

- Labels and advertisements may not contain any health claim that is untrue in any particular or tends to create a misleading impression.
- A health claim will be considered misleading unless it:
  o is truthful and substantiated by scientific or medical evidence;

  o discloses the health risks associated with both moderate and heavier levels of alcohol consumption; and

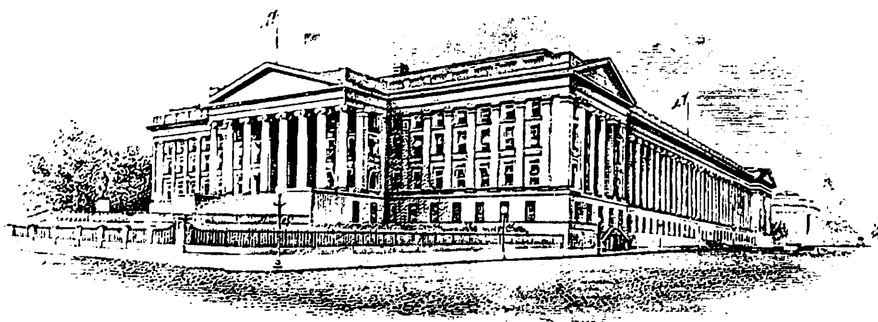
  o outlines the categories of individuals for whom any alcohol consumption poses risks.
- "Directional" statements (statements that merely direct the consumer in a neutral manner to a third party for additional information) are presumed to be misleading in the labeling or advertising of alcohol beverages unless accompanied by a disclaimer. The rule provides a model disclaimer: "This statement should not encourage you to drink or to increase your alcohol consumption for health reasons."
- TTB will consult with the Food and Drug Administration, as needed, on the use of specific health claims on labels. If FDA determines that a specific health claim is a drug claim that is not in compliance with the Food, Drug and Cosmetic Act, TTB will not approve the label. TTB will likewise evaluate specific health claims in advertisements and consult with FDA as appropriate, in reviewing advertisements that are voluntary submitted for pre-use clearance or discovered in use in the marketplace. Although advertisements are not covered by FDA's labeling regulations and are not subject to mandatory pre-approval by TTB, TTB can take administrative

action and seek to have the advertisement withdrawn.

The text of the final regulations on the health claims for alcoholic beverages is attached and will be published in the Federal Register.

Related Documents:

- Text of Final Regulations on the Health Claims



DEPARTMENT O- THE TREASURY
OFFICE OF PUBLIC AFFAIRS

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DEPARTMENT OF THE TREASURY

Alcohol and Tobacco Tax and Trade Bureau

27 CFR Parts 4, 5, and 7

[TTB T.D.–1; Ref: ATF Notice Nos. 884, 892, and 896]

RIN: 1512-AB97

Health Claims and Other Health-Related Statements in the Labeling and Advertising of Alcohol Beverages (99R-199P)

AGENCY: Alcohol and Tobacco Tax and Trade Bureau (TTB), Treasury.

ACTION: Final rule, Treasury decision.

SUMMARY: TTB is amending the regulations to prohibit the appearance on labels or in advertisements of any health-related statement, including a specific health claim, that is untrue in any particular or tends to create a misleading impression. A specific health claim on a label or in an advertisement is considered misleading unless the claim is truthful and adequately substantiated

by scientific evidence; properly detailed and qualified with respect to the categories of individuals to whom the claim applies; adequately discloses the health risks associated with both moderate and heavier levels of alcohol consumption; and outlines the categories of individuals for whom any levels of alcohol consumption may cause health risks. In addition, TTB will consult with the Food and Drug Administration (FDA), as needed, on the use of specific health claims on labels. If FDA determines that a specific health claim is a drug claim that is not in compliance with the requirements of the Federal Food, Drug, and Cosmetic Act, TTB will not approve the use of such statement on a label.

Health-related statements that are not specific health claims or health-related directional statements will be evaluated on a case-by-case basis to determine if they tend to mislead consumers. The final rule provides that health-related directional statements (statements that direct or refer consumers to a third party or other source for information regarding the effects on health of alcohol consumption) will be presumed misleading unless those statements include a brief disclaimer advising consumers that the statement should not encourage consumption of alcohol for health reasons, or some other appropriate disclaimer to avoid misleading consumers. TTB believes that the final regulations will ensure that labels and advertisements do not contain statements or claims that would tend to mislead the consumer about the significant health consequences of alcohol consumption.

DATES: This rule is effective [Insert date 90 days after date of publication in the FEDERAL REGISTER].

FOR FURTHER INFORMATION CONTACT: William H. Foster, Regulations and Procedures Division, Alcohol and Tobacco Tax and Trade Bureau, 650 Massachusetts Avenue, NW., Washington, DC 20226 (202-927-8210).

SUPPLEMENTARY INFORMATION:

Please note: References to "ATF" are to the Bureau of Alcohol, Tobacco and Firearms as it existed before January 24, 2003. The new Alcohol and Tobacco Tax and Trade Bureau (TTB) has taken over the former ATF's responsibilities for alcohol beverage labeling regulations.

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I. Background

The Federal Alcohol Administration Act (FAA Act), 27 U.S.C. 205(e) and (f), authorizes TTB to issue regulations on the packaging, labeling and advertising of alcohol beverages in order to prohibit deception of the consumer, and to prohibit, irrespective of falsity, statements relating to analyses, guarantees, and scientific or irrelevant matters that are likely to mislead the consumer. The FAA Act generally requires bottlers and importers of alcohol beverages to obtain certificates of label approval prior to the bottling or importation of alcohol beverages for sale in interstate commerce. Pre-approval

of advertising is not required by the FAA Act.

Regulations that implement the provisions of section 205(e) and (f), as they relate to the labeling and advertising of wine, distilled spirits, and malt beverages, are set forth in Title 27, Code of Federal Regulations (CFR), parts 4, 5, and 7, respectively. These current regulations prohibit the appearance on labels or in advertisements of any statement, design, representation, pictorial representation, or device representing that the use of wine, distilled spirits, or malt beverages has curative or therapeutic effects if the representation is untrue in any particular or tends to create a misleading impression. This standard originated more than 60 years ago with the initial labeling and advertising regulations issued under the FAA Act.

TTB and its predecessor agencies have historically taken a very strict view of the regulatory prohibition on false or misleading curative or therapeutic claims about alcohol beverages. This strict interpretation is based on the view that "distilled spirits, wines and malt beverages are, in reality, alcoholic beverages and not medicines of any sort, * * *." FA-129, dated January 5, 1938.

In view of the undisputed health risks associated with alcohol consumption, we and our predecessors have always taken the position that statements attributing positive effects on health to the consumption of alcohol beverages are misleading unless such statements are appropriately qualified and properly balanced. TTB views statements that make substantive claims regarding health benefits associated with alcohol beverage consumption (e.g.,

"moderate alcohol consumption is good for your health") as making curative or therapeutic claims. Claims that set forth only a partial picture or representation might be as likely to mislead the consumer as those that are actually false. A claim that is supported by scientific evidence might still mislead the consumer without appropriate qualification and detail. Any such claim is considered misleading unless it is properly qualified and balanced, sufficiently detailed and specific, and outlines the categories of individuals for whom any positive effects on health would be outweighed by numerous negative effects on health.

II. Health Consequences of Alcohol Consumption

The risks associated with alcohol consumption are well documented. In Notice No. 884, ATF summarized these risks as set forth in an article by Charles H. Hennekens, M.D. as follows:[1]

> The hazards of heavy alcohol consumption are clear and substantial and have far-reaching health and social consequences. Alcohol is the second leading cause of preventable deaths in the United States as well as most industrialized countries, second only to cigarette smoking. Drinking increases the risk of cancer of the liver, mouth, tongue, and esophagus and has been implicated as a cause of 3 to 5 percent of all cancer deaths. Heavy alcohol consumption is also associated with increased risks of hemorrhagic stroke and cardiomyopathy, and it predisposes to hepatic cirrhosis, the ninth most common cause of death in the United States. In pregnant women, heavy alcohol consumption is associated with fetal alcohol syndrome. Alcohol drinking is also implicated in over 40 percent of all fatal traffic crashes, which are a chief cause of premature deaths in younger people, and it is associated with suicides, industrial accidents, sex crimes, robberies, and murders. It is estimated that 14 million U.S. residents suffer from alcohol abuse and dependence, and 76 million are affected by its presence in a family member. (Citations omitted).

It is true that heavier levels of alcohol consumption cause many of these health risks. It is also true that there are millions of Americans with alcohol dependency problems who find themselves unable or unwilling to control their consumption of alcohol. Given the serious health risks associated with higher levels of alcohol consumption, and given the fact that most medical studies agree that the effects of moderate consumption differ from individual to individual, it was ATF's longstanding, and is now our, position that any claim associating health benefits with moderate alcohol consumption must be carefully evaluated to ensure that it does not mislead the consumer about the various health consequences related to the consumption of alcohol beverages.

Prior to engaging in this rulemaking, ATF recognized that there were several scientific studies establishing a link between moderate alcohol consumption and a reduced risk of coronary artery disease ("CAD").[2] However, it was ATF's conclusion that there was not significant scientific evidence to support an unqualified conclusion that moderate alcohol consumption has net health benefits for all or even most individual consumers. Some studies have suggested that only older drinkers will accrue any net health benefits from moderate alcohol consumption.[3] This is because younger individuals have such a low risk for coronary artery disease, and are much more likely to be at risk from alcohol consumption, even at lower levels. This difference in risk factors has been explained as follows[4]:

> The net outcome of all-cause mortality associated with a certain alcohol consumption level therefore also depends on the drinker's absolute risk of dying from these various causes. Accordingly, older

> people—who are at high absolute risk of coronary heart disease and ischemic stroke and at low risk for injury, cirrhosis, and other alcohol-related diseases—are most likely to benefit from low levels of alcohol consumption. In contrast, for men and women under age 40, who have relatively low absolute risk of dying from strokes, heart disease, and alcohol-related diseases but a high absolute risk of dying from injury, all-cause mortality will increase even at relatively low alcohol-consumption levels. * * * Finally, the absolute risk of death from injury or coronary heart disease is lower in young women than in young men, leading to an increase in all-cause mortality even in young women who are light drinkers (less than two drinks every 3 days) compared with abstainers. (Citations omitted).

Overall, the available scientific literature establishes that there may be serious health risks associated with heavy as well as moderate alcohol consumption, depending on the individual.[5]

III. Industry Circular 93-8

On August 2, 1993, ATF published Industry Circular 93-8. The circular generally restated ATF's longstanding position regarding misleading curative and therapeutic claims. ATF explained that claims that set forth only a partial picture, representation, or truth might be as likely to mislead the consumer as those that are actually false. Thus, a statement that attributed health benefits to the moderate consumption of alcohol beverages, even if backed up by medical evidence, might have an overall misleading effect if such statement was not properly qualified, did not give all sides of the issue, and did not outline the categories of individuals for whom any such positive effect would be outweighed by numerous negative effects on health.

ATF also explained that its policy regarding health claims on labels had been reinforced by the 1988 enactment of the Alcoholic Beverage Labeling Act

(ABLA), 27 U.S.C. 213 et seq. The ABLA contains a declaration of policy and purpose which states that the Congress finds that "the American public should be informed about the health hazards that may result from the consumption or abuse of alcoholic beverages, and has determined that it would be beneficial to provide a clear, nonconfusing reminder of such hazards, and that there is a need for national uniformity in such reminders in order to avoid the promulgation of incorrect or misleading information and to minimize burdens on interstate commerce." 27 U.S.C. 213. As a result of this concern, the ABLA requires that any alcohol beverage container held for sale or distribution in the United States must bear the following statement on the label:

> **GOVERNMENT WARNING:** (1) According to the Surgeon General, women should not drink alcoholic beverages during pregnancy because of the risk of birth defects. (2) Consumption of alcoholic beverages impairs your ability to drive a car or operate machinery, and may cause health problems.

It is clear that one of the purposes of the ABLA was to avoid confusing the American public about the health hazards associated with the consumption of alcohol beverages. In order to effectuate this goal, Congress prescribed specific language that must appear on the labels of alcohol beverage containers. To the extent that the overall message of any health claim is inconsistent with the message of the Government warning statement, then it may result in label information that is confusing and could mislead the consumer, and would thus be prohibited under the FAA Act.

In Industry Circular 93-8, ATF further noted that other Federal agencies, such as the Food and Drug Administration and the Federal Trade Commission, might have jurisdiction over certain aspects of advertising and labeling issues involving health claims. We will address this issue further in section IV ("Role of Other Federal Agencies with Respect to Specific Health Claims and other Health-Related Statements").

ATF also stated that the distribution of advertising materials that included the full text of the April 1992 edition of "Alcohol Alert," a publication of the National Institute on Alcohol Abuse and Alcoholism (NIAAA), would not be in violation of current regulations. This NIAAA publication provides a comprehensive discussion of the health consequences of moderate alcohol consumption. The industry circular stated that if the advertising materials also contained editorializing, advertising slogans, or exhortations to consume the product, ATF would evaluate the additional text to determine whether or not the advertisement presented a balanced picture of the risks associated with alcohol consumption. In addition, ATF stated that the use of buttons, shelf talkers (additional product information placed on the retail shelf), table tents, and similar items that excerpt any portion of the NIAAA publication, contain health slogans or other inferential statements drawn from this publication, or are based on any other publication or article citing the health benefits of alcohol consumption, would be closely scrutinized to determine if they presented a balanced picture of the risks associated with alcohol consumption.

ATF reminded industry members in Industry Circular 93-8 that

substantive health claims on labels are considered to be misleading unless they are properly qualified, present all sides of the issue, and outline the categories of individuals for whom any positive effects on health would be outweighed by numerous negative effects on health. Finally, ATF stated that it intended to initiate rulemaking on this issue; however, pending rulemaking, ATF would continue to evaluate claims in labeling and advertising on a case-by-case basis.

IV. Role of Other Federal Agencies With Respect to Specific Health Claims and Other Health-Related Statements

While TTB now has primary jurisdiction over the labeling and advertising of alcohol beverages, under certain circumstances the labeling and advertising of alcohol beverages may also be subject to the jurisdiction of the Food and Drug Administration (FDA) or the Federal Trade Commission (FTC). For example, since certain wine products containing less than 7 percent alcohol by volume are not wines subject to the FAA Act, the labeling of such products generally falls within FDA's jurisdiction. ATF always utilized, as TTB does now, the scientific and public health expertise of FDA in approving ingredients in alcohol beverages, requiring label disclosure of certain substances, and identifying adulterated alcohol beverages that are deemed mislabeled.

By letter dated April 9, 1993, FDA advised ATF that certain curative, therapeutic, or disease-prevention claims for an alcohol beverage might place the product in the category of a drug under the Federal Food, Drug and Cosmetic Act (FFDC Act), 21 U.S.C. 321(g)(1)(B). FDA evaluates health claims on food labels pursuant to its authority under the FFDC Act, as amended by the

Nutrition Labeling and Education Act (NLEA), Public Law 101-535 (1990). The law provides that a food product is misbranded if it bears a claim that characterizes the relationship of a nutrient to a disease or health-related condition, unless the claim is made in accordance with certain procedures mandated by FDA. 21 U.S.C. 343(r)(1)(B). FDA's regulations provide that FDA will approve a health claim when it determines, "based on the totality of publicly available scientific evidence" that there is "significant scientific agreement, among experts qualified by scientific training and experience to evaluate such claims, that the claim is supported by such evidence." 21 CFR 101.14(c).

FTC's general jurisdiction over advertising extends to alcohol beverages. In a policy statement published in the Federal Register on June 1, 1994 (59 FR 28394), FTC stated that it is necessary to examine "whether qualified claims are presented in a manner that ensures that consumers understand both the extent of the support for the claim and the existence of any significant contrary view within the scientific community." The FTC policy statement stated that an unqualified health claim in the advertising of a food was likely to be deceptive if the food also contained a nutrient that increased the risk for another disease or health-related condition, and the risk-increasing nutrient was closely related to the subject health claim.

V. Fourth Edition of the Dietary Guidelines for Americans (1995)

The Fourth Edition (1995) of the "Dietary Guidelines for Americans" was published by the U.S. Department of Agriculture (USDA) and the U.S.

Department of Health and Human Services (HHS) in 1996. This edition of the Guidelines contained a detailed discussion of the health consequences of alcohol consumption.

The 1995 Guidelines acknowledged that "[c]urrent evidence suggests that moderate drinking is associated with a lower risk for coronary heart disease in some individuals." The Guidelines then went on to discuss the "serious health problems" caused by higher levels of alcohol consumption, including increased risk for high blood pressure, stroke, and heart disease.

The 1995 Guidelines recommended that if adults chose to drink alcohol beverages, they should consume them only in moderation. The term "moderation" was defined as no more than one drink per day for women and no more than two drinks per day for men. However, the 1995 Guidelines stressed that many people should not drink alcohol beverages at all, including children and adolescents, women who are trying to conceive or who are pregnant, individuals who plan to drive or take part in activities that require attention or skill, and individuals using prescription and over-the-counter medications. Finally, the 1995 Guidelines suggested that individuals of any age who could not restrict their drinking to moderate levels should not drink at all.

VI. Competitive Enterprise Institute Petition

On May 9, 1995, the Competitive Enterprise Institute (CEI) submitted a petition asking ATF to issue a rule allowing alcohol beverage labels and advertisements to carry statements regarding the purported benefits of

moderate alcohol consumption. More specifically, CEI proposed that ATF issue a rule specifically allowing the following statement to appear on labels and in advertisements: "There is significant evidence that moderate consumption of alcoholic beverages may reduce the risk of heart disease." By letter dated November 10, 1995, CEI submitted a survey purporting to show that less than 42 percent of the general public was "aware of the medical benefits of moderate consumption."

By letter dated January 13, 1997, ATF denied CEI's rulemaking petition. ATF determined that CEI's proposed claim was not appropriately qualified, in that it did not define the categories of individuals for whom there would be no appreciable benefits (such as younger individuals already at low risk of heart disease), or individuals for whom there would be significant risks associated with moderate alcohol consumption (such as recovering alcoholics and persons otherwise at risk for alcohol abuse, or people with certain medical conditions). The claim was not balanced, in that it did not explain the significant risks associated with higher levels of alcohol consumption, as well as the potential risks of moderate alcohol consumption for certain individuals. ATF found that the claim, taken in isolation, would tend to mislead the consumer about the significant health consequences of alcohol consumption.

Before ATF had issued its denial of CEI's petition, CEI had filed suit (October 29, 1996) in the United States District Court for the District of Columbia, challenging ATF's delay in acting on its petition. In 1997, CEI amended its complaint to challenge ATF's denial of the rulemaking petition.

CEI also alleged that ATF had a "de facto" ban on the use of health claims, which violated the First Amendment and the FAA Act. In 1998, the district court granted the Government's motion for summary judgment on CEI's challenge to the denial of its rulemaking petition. Both parties filed motions for summary judgment on the remaining issues.

VII. Other Health-Related Statements on Alcohol Beverage Labels

On February 4, 1999, ATF approved two applications for certificates of label approval bearing directional health-related statements directing consumers to the Dietary Guidelines or their family doctor for information about the "health effects of wine consumption." ATF approved those labels based on its determination that the statements were not substantive health claims, but instead were neutral statements directing consumers to third parties for additional information regarding the effects on health of alcohol consumption. The first approved labeling statement read as follows:

> The proud people who made this wine encourage you to consult your family doctor about the health effects of wine consumption.

The second labeling statement read as follows:

> TO LEARN THE HEALTH EFFECTS OF WINE CONSUMPTION, SEND FOR THE FEDERAL GOVERNMENT'S DIETARY GUIDELINES FOR AMERICANS, CENTER FOR NUTRITION POLICY AND PROMOTION, USDA, 1120 20TH STREET, NW, WASHINGTON DC 20036 OR VISIT ITS WEB SITE: HTTP://WWW.USDA.GOV/FCS/CNPP.HTM

Prior to being approved, the two applications received a great deal of public attention. In July of 1997, both HHS and FTC urged ATF not to

approve the labels until a consumer survey was conducted. In that same month, Senators Robert Byrd and Strom Thurmond wrote to the Secretary of the Treasury, also raising several concerns about the proposed labeling statements. ATF also received several letters from public health organizations concerned that the labels would encourage consumers to consume alcohol beverages for health reasons. In view of these concerns, ATF decided to defer final action on the labels pending the completion of a consumer survey by the Center for Substance Abuse Prevention (CSAP), a component of HHS.

In January of 1998, CSAP transmitted to ATF the main findings from its consumer survey. The survey found that most subjects reported that they do not read wine labels, and that neither of the two labeling statements would likely induce wine drinkers to alter their drinking pattern, quantitatively or otherwise However, several members of the focus groups reported that information about the positive effects on health of wine consumption from the media had led them to increase their wine intake.

While the CSAP survey did not establish that the labeling statements would influence the drinking patterns of wine drinkers, it did indicate that heavy drinkers may justify or increase their consumption levels based on their independent understanding of information regarding the alleged health benefits of moderate cons umption. Furthermore, the survey established that consumers would be no more likely to seek additional health information after reading the proposed labeling statements.

Based on the evidence before it, including the consumer survey conducted by CSAP, ATF concluded that there was insufficient evidence in the record to establish that the directional statements tended to mislead consumers about the effects on health of alcohol consumption. Accordingly, the labels were approved.

The approval of these labels generated considerable interest from Federal health officials, members of Congress, and public advocacy groups, who expressed concern about consumer perception of the label statements. Of particular note, former Surgeon General David Satcher expressed concern that people might draw an incorrect message from these labels.

Moreover, ATF became aware of a number of press accounts interpreting the directional statements as actual health claims about the benefits of alcohol consumption. For example, on February 5, 1999, the "Wall Street Journal" wrote that the expected decision to approve the labels would allow "wine producers to put labels on bottles that point to the potential health benefits of their product." On February 5, 1999, the Associated Press reported the decision as follows: "Scientific studies have suggested it, and now winemakers finally may get a chance to tout it through their labeling: A glass or two of the grape each day could be good for you." On February 6, 1999, the "Los Angeles Times" reported that "[t]he federal government approved changes Friday that will allow winemakers for the first time to tout on labels the connection between drinking wine and better health." That same date, the "Washington Post" reported that ATF had "decided that winemakers may add

another label to the bottle to encourage consumers to learn more about the possible benefits of drinking wine." In an article dated February 9, 1999, the "San Francisco Examiner" stated that ATF's decision "would allow winemakers to carry bottle labels suggesting consumers check with their doctors or the government's nutritional guidelines on the possible health benefits of wine."

VIII. Notice of Proposed Rulemaking

On October 25, 1999, ATF invited comments on its current policy on health claims and health-related statements by publishing the policy as a proposed regulation in the Federal Register (Notice No. 884; 64 FR 57413). As proposed, labels or advertisements could not contain any statement, design, representation, pictorial representation, or device, whether explicit or implicit, representing that consumption of alcohol beverages has curative or therapeutic effects if such statement is untrue in any particular or tends to create a misleading impression. A substantive claim regarding health benefits associated with the use of an alcohol beverage would be misleading unless such claim was properly qualified and balanced, sufficiently detailed and specific, and outlined the categories of individuals for whom any positive effects on health would be outweighed by numerous negative effects on health.

ATF also sought comments on whether even balanced and qualified health claim statements should be prohibited because the negative consequences of alcohol consumption are so serious as to make any health-related statement on labels or in advertisements inherently misleading. In

addition, ATF sought comments on whether health-related directional statements such as those approved in February 1999 tend to mislead consumers about the health consequences of alcohol consumption.

The comment period for Notice No. 884, initially scheduled to close on February 22, 2000, was extended until June 30, 2000, pursuant to Notice No. 896. (See following section, "Notice of Hearings.")

IX. Notice of Hearings

On December 9, 1999, ATF announced in a press release that after the close of the comment period, it would hold public hearings on the issue of health claims in the labeling and advertising of alcohol beverages. ATF stated that the hearings would provide it with a comprehensive record on which to base final regulations on health claims.

Because it was seeking public comments on this very issue, ATF announced that it would suspend action on any new applications for label approval bearing similar health-related directional statements pending the completion of the rulemaking proceeding. ATF noted that due to the adverse consequences of alcohol consumption, it was concerned about any risk of misperception resulting from the two approved statements.

On February 28, 2000, ATF published a notice in the Federal Register announcing the dates and locations of five hearings that it planned to hold concerning the proposed regulations (Notice No. 892; 65 FR 10434). ATF subsequently canceled the hearings that were scheduled for Atlanta, Chicago,

and Dallas, due to the low number of requests to present oral comments in those locations (Notice No. 896; 65 FR 24158). In addition, the hearings scheduled for Washington, DC and San Francisco, California, were limited to two days each. The hearing in Washington, DC was held on April 25-26, 2000, and the hearing in San Francisco was held on May 23-24, 2000. ATF also extended the close of the comment period regarding Notice No. 884 from February 22, 2000, to June 30, 2000. Written comments addressing testimony presented at the hearings could also be submitted up until June 30, 2000.

X. Recent Developments

A. 1999 Alcohol Alert

In 1999, NIAAA published an "Alcohol Alert" on "Alcohol and Coronary Heart Disease" (No. 45-1999). In this publication, NIAAA reaffirmed that "[r]esearch has revealed an association between moderate alcohol consumption and lower risk for CHD." (Footnote omitted). However, NIAAA cautioned that "[a]n association between moderate drinking and lower risk for CHD does not necessarily mean that alcohol itself is the cause of the lower risk. For example, a review of population studies indicates that the higher mortality risk among abstainers may be attributable to shared traits other than the participants' nonuse of alcohol." (Footnote omitted). NIAAA noted that "[t]he role of exercise in the alcohol-CHD association requires additional study."

NIAAA noted that "[t]he apparent benefits of moderate drinking on CHD mortality are offset at higher drinking levels by increasing risk of death from

other types of heart disease; cancer; liver cirrhosis; and trauma, including trauma from traffic crashes. Moderate drinking is not risk free. The trade-offs between risks and benefits can be exemplified by the fact that alcohol's anticlotting ability, potentially protective against heart attack, may increase the risk of hemorrhagic stroke, or bleeding within the brain." (Footnotes omitted).

In a commentary that appeared with the Alert, NIAAA Director Enoch Gordis, M.D., offered the following advice with respect to the health implications of alcohol consumption:

> (1) Individuals who are not currently drinking should not be encouraged to drink solely for health reasons, because the basis for health improvements has not yet been established as deriving from alcohol itself;
>
> (2) Individuals who choose to drink and are not otherwise at risk for alcohol-related problems should not exceed the one- to two-drink-per-day limit recommended by the U.S. Dietary Guidelines; and
>
> (3) Individuals who currently are drinking beyond the U.S. Dietary Guidelines' recommended limits should be advised to lower their daily alcohol intake to these limits.

B. Dietary Guidelines – Fifth Edition (2000)

In the summer of 2000, USDA and HHS published the "Dietary Guidelines for Americans, 2000." The 2000 Dietary Guidelines contain more specific guidance about alcohol consumption, and summarize the current medical evidence regarding the risks associated with alcohol consumption as follows:

> Alcoholic beverages supply calories but few nutrients. Alcoholic beverages are harmful when consumed in excess, and some

> people should not drink at all. Excess alcohol alters judgment and can lead to dependency and a great many other serious health problems. Taking more than one drink per day for women or two drinks per day for men * * * can raise the risk for motor vehicle crashes, other injuries, high blood pressure, stroke, violence, suicide, and certain types of cancer. Even one drink per day can slightly raise the risk of breast cancer. Alcohol consumption during pregnancy increases risk of birth defects. Too much alcohol may cause social and psychological problems, cirrhosis of the liver, inflammation of the pancreas, and damage to the brain and heart. Heavy drinkers are also at risk of malnutrition because alcohol contains calories that may substitute for those in nutritious foods. If adults choose to drink alcoholic beverages, they should consume them only in moderation * * * and with meals to slow alcohol absorption.

The 2000 Dietary Guidelines also contain a discussion of the possible health benefits of alcohol consumption; however, the following excerpt from this section emphasizes that these benefits accrue primarily to older drinkers, and that there are other ways of reducing the risk of heart disease:

> Drinking in moderation may lower risk for coronary heart disease, mainly among men over age 45 and women over age 55. However, there are other factors that reduce the risk of heart disease, including a healthy diet, physical activity, avoidance of smoking, and maintenance of a healthy weight. Moderate consumption provides little, if any, health benefit for younger people. Risk of alcohol abuse increases when drinking starts at an early age. Some studies suggest that older people may become more sensitive to the effects of alcohol as they age.

The 2000 Dietary Guidelines recommend that if adults choose to drink alcohol beverages, they should consume them only in moderation. The term "moderation" is defined as no more than one drink per day for women and no more than two drinks per day for men. The Dietary

Guidelines also conclude that for some people, even moderate drinking is not recommended. Thus, many people should not drink alcohol beverages at all, including children and adolescents; individuals of any age who cannot restrict their drinking to moderate levels; women who may become pregnant or who are pregnant; individuals who plan to drive, operate machinery, or take part in other activities that require attention, skill, or coordination; and individuals taking prescription or over-the-counter medications that can interact with alcohol.

C. Recent Developments in the CEI Litigation

On June 18, 2001, the district court granted the Government's motion for summary judgment on the remaining issues in the CEI litigation. The court ruled that the case was not ready for judicial review given the fact that ATF was in the middle of a rulemaking proceeding on the very issues raised by CEI in the litigation. The plaintiffs appealed this decision to the Court of Appeals. On May 10, 2002, the appellate court upheld the district court's ruling that the case was not ripe (ready) for judicial review because ATF was nearing completion of a rulemaking proceeding on the use of health claims. Thereafter, the plaintiffs filed a petition for rehearing with the Court of Appeals that was denied.

XI. Analysis of Comments Received in Response to Notice No. 884

In response to Notice No. 884, ATF received 535 comments. Comments were submitted by several United States Senators, two Federal agencies, an agency of a foreign government, consumers and consumer organizations,

medical professionals (including physicians, nurses, and local health departments), public health organizations, industry members, and others.

As previously noted, in Notice No. 884 ATF sought comments on whether the serious health risks associated with alcohol consumption meant that any health claim, even a balanced and qualified one, was inherently misleading to consumers. In response, approximately 45 commenters supported the use of substantive health claims or health-related statements in the labeling and advertising of alcohol beverages. On the other side, approximately 120 commenters opposed the use of either substantive health claims or health-related directional statements in the labeling or advertising of alcohol beverages. Many of these commenters suggested that health statements were inherently misleading when used to market alcohol beverages.

ATF specifically sought comments on whether health-related directional labeling statements such as the ones approved in February 1999 tended to mislead consumers about the health consequences of alcohol consumption. The vast majority of the commenters focused exclusively on this issue. Approximately 355 comments supported the use of health-related directional statements on alcohol beverage labels. The major issues raised by the commenters, as well as the individuals who testified at the public hearings, are summarized below.

XII. Is There a Need to Engage in Rulemaking on This Issue?

A. Issue

Four comments either opposed ATF's decision to engage in rulemaking on this issue or suggested that the notice of proposed rulemaking be withdrawn. These were comments submitted by the Beer Institute, a trade association for domestic and international brewers; the National Association of Beverage Importers (NABI), a trade association representing importers of beer, wine, and distilled spirits; the Distilled Spirits Council of the United States (DISCUS), a national trade association representing producers and marketers of distilled spirits and importers of wine; and a comment submitted jointly by CEI and Consumer Alert (CA).

DISCUS, the Beer Institute, and NABI all questioned the necessity for engaging in rulemaking on the issue of health claims and health-related statements in the labeling and advertising of alcohol beverages. (Comments 530, 396, and 522). These comments suggested that the authorization of any directional statement on a label would be in violation of the ABLA. TTB does not agree with this legal analysis. This issue will be discussed further in section XIII.

DISCUS and Beer Institute also objected to the proposed advertising regulations. DISCUS suggested that ATF's proposal was "insurmountably vague and ambiguous. It only would serve to interfere with the rights of advertisers to engage in truthful, non-misleading speech about their products that are consumed responsibly by over a hundred million Americans." DISCUS suggested that "[a]n advertiser could run afoul of the provisions of BATF's proposed rule without making any type of curative or therapeutic claim," giving

as an example an advertisement depicting attractive individuals relaxing in an enjoyable setting. The Beer Institute similarly suggested that the requirements for labeling and advertising should be separate, and that the proposed regulation complicated the existing advertising standard. The Beer Institute suggested that the current standard is readily understood and straightforward, and that instead of issuing new regulations, ATF should adopt a more formal review process of health statements on a case-by-case basis.

These commenters also suggested that large portions of the alcohol beverage industry had no interest in using health claims in the labeling or advertising of their products. For example, the Beer Institute comment suggested that there was no need to amend the malt beverage regulations, since to its knowledge, none of its constituents had ever used such claims in the past, and none had any intention to do so in the future. NABI raised similar concerns, and stated that it did not support the proposed amendment to the regulations "because any such support might imply the industry intends to make health-related statements on its labels and in its advertising." The comment from DISCUS stressed that "America's distillers do not recommend that consumers drink beverage alcohol for health reasons." (Comment 530).

CEI, a pro-market public interest group dedicated to advancing the principles of free markets and limited government, and CA, a free-market consumer advocacy group, suggested that the proposed rule should be withdrawn because the issuance of a regulation based on the proposal would

restrict commercial speech in a way that violates the First Amendment. (Comment 326). These issues will be discussed further in section XIX.

B. Decision

After carefully considering the record, TTB has determined that it is important to issue a final rule on specific health claims and other health-related statements in the labeling and advertising of alcohol beverages. The rulemaking record confirms that alcohol abuse is an important public health issue. The use of health claims and health-related statements in the labeling and advertising of alcohol beverages requires a balance between a producer's First Amendment right to label and advertise its products in a truthful and non-misleading fashion and the public's right to be informed of the significant health risks associated with alcohol consumption. Specific regulations on the use of health claims and other health-related statements in the labeling and advertising of alcohol beverages will ensure that both the industry and the public are aware of the restrictions on the use of labeling and advertising statements that might tend to mislead the consumer about the serious health risks associated with alcohol consumption.

TTB recognizes that based on the administrative record, it does not appear that distillers and brewers are interested in using health claims or health-related statements in the labeling or advertising of alcohol beverages. However, as noted later in this preamble, both the Wine Institute and the American Vintners Association (AVA), two industry associations representing

hundreds of wineries, supported ATF's proposed rule regarding substantive health claims. At least one individual testifying at the hearing, Mr. John Hinman, indicated that there were wineries interested in using a 664-word substantive health claim in advertising materials. The Wine Institute and AVA, as well as many individual wineries, commented in favor of allowing directional statements in the labeling of alcohol beverages. Thus, the record reflects that there may be some wineries interested in using substantive health claims in the advertising of alcohol beverages, and that many wineries are interested in using directional statements on labels. For this reason, TTB believes it is important to issue regulations that set forth the standards that must be met in the event that a specific health claim or other health-related statement is used in the labeling or advertising of alcohol beverages. As set forth later in section XVII, the same standards should apply to wines, distilled spirits, and malt beverages, even if there is no evidence that any members of the malt beverage or distilled spirits industries are interested in using health claims or health-related statements. The rule does not require anyone to use such statements; it merely sets forth the standards that would apply in the event that an industry member wishes to use a specific health claim or a health-related statement on a label or in an advertisement.

TTB does not agree that the proposed regulations would inject uncertainty with respect to the use of advertisements that do not involve health claims or health-related statements, such as the example provided by DISCUS of an advertisement that shows people relaxing in an attractive setting. There is

nothing in the proposed rule that would extend the definition of a health claim or curative or therapeutic claim to cover such advertisements. However, we agree that the lack of any definition of a "curative or therapeutic claim" or "health claim" in the proposed rule might give rise to some uncertainty as to what types of advertising claims would be covered by the regulation. Accordingly, the final rule includes definitions of the terms "health-related statement" (which includes statements of a curative or therapeutic nature), "specific health claims," and "health-related directional statements." We believe that these definitions should resolve any concerns by the commenters that the labeling or advertising regulations are intended to broaden ATF's traditional interpretation of a curative or therapeutic claim.

XIII. Does the ABLA Preclude the Use of Specific Health Claims or Other Health-Related Statements on the Labels of Alcohol Beverages?

A. Issue

Five commenters, including Senator Thurmond (Comment 526), DISCUS (Comment 530), the Beer Institute (Comment 396), NABI (Comment 522), and Remy Amerique, Inc. (Comment 531), suggested that the use of any health claims or other health-related statements on alcohol beverage labels was foreclosed by the provisions of the ABLA. They argued that it was Congress' intent to foreclose the use of any other health-related statements on alcohol beverage labels.

B. Decision

TTB does not agree with those commenters who suggested that the ABLA specifically precludes the voluntary use by industry members of any health-related statements on alcohol beverage labels other than the required warning statement. The ABLA was enacted in 1988. Pursuant to 27 U.S.C. 215, alcohol beverage containers distributed or sold in the United States must bear a Government warning statement, which warns that alcohol consumption during pregnancy may cause birth defects; that alcohol consumption impairs one's ability to drive a car or to operate machinery; and that consumption of alcohol beverages "may cause health problems."

Some commenters argued that the ABLA provided ATF with authority to deny any statement on an alcohol beverage label that discusses the relationship between alcohol consumption and health. The ABLA provides that "[n]o statement relating to alcoholic beverages and health, other than the statement required by section 204 [27 U.S.C. 215] of this title, shall be required under State law to be placed on any container of an alcoholic beverage, or on any box, carton, or other package, irrespective of the material from which made, that contains such a container." This section of the law preempts State governments from each requiring their own version of a health warning statement on alcohol beverage containers. However, it in no way precludes producers from voluntarily placing either additional warning statements or health claims on alcohol beverage labels. See also 27 U.S.C. 213 (setting forth Congress' policy to ensure that the public is adequately reminded about any

health hazards that may be associated with alcohol consumption or abuse, and not impeded by "diverse, nonuniform, and confusing requirements for warnings or other information on alcoholic beverage containers with respect to any relationship between the consumption or abuse of alcoholic beverages and health").

Some commenters argued that 27 U.S.C. 217 provides the exclusive method for allowing additional statements regarding alcohol consumption and health on the label. Section 217 provides that if the Secretary, after consulting with the Surgeon General, determines that there should be a change in the mandatory health warning statement, or if such statement should be deleted, he shall report such information to the Congress together with specific recommendations for necessary amendments to the ABLA. After soliciting public comments on this issue, ATF determined in 1993 that there was no need to seek changes to the required health warning statement. However, this provision applies only to the required health warning statement, not to voluntary statements that producers seek to place on alcohol beverage labels. Thus, it is clear that the statute does not specifically preclude the voluntary use of additional health-related statements on alcohol beverage labels.

XIV. What are the Effects on Health of Alcohol Consumption?

A. Issue

Most of the commenters who addressed this issue agreed that there was a link between moderate alcohol consumption and a reduced risk of heart

disease in certain individuals. However, some commenters concluded that the risks associated with alcohol consumption greatly outweighed any purported cardiovascular benefits, while other commenters emphasized the benefits associated with moderate consumption.

CEI and CA presented a review of the medical evidence summarized by Michael Gough (Ph.D.), which concluded that most adults would benefit from moderate alcohol consumption. Dr. Gough stated that "with the exception of those well-defined groups of people who should avoid alcohol, there is clearly convincing evidence for the health benefits of moderate alcohol consumption." Dr. Gough acknowledged that individuals in their 20s and 30s do not accrue net benefits from consuming alcohol since they are at low risk for heart disease; however, he suggests that "[b]ased on understanding of the biological basis for the protective effects of alcohol, it is likely that moderate alcohol consumption in the 20s and 30s is important to the beneficial effects seen in later years."

CEI attached numerous medical studies regarding the effects on health of alcohol consumption. In most important respects, the studies were consistent with ATF's summary of the medical evidence in Notice No. 884. Several of the studies reported an association between light to moderate alcohol consumption and a reduced risk of heart disease. However, many of these same studies supported the conclusion that the health benefits of alcohol consumption do not apply to certain groups.

For example, the authors of one study began by noting that "[m]en and women who drink alcoholic beverages regularly have, in comparison with

abstainers, higher death rates from injuries, violence, suicide, poisoning, cirrhosis, certain cancers, and possibly hemorrhagic stroke, but lower death rates from coronary heart disease and thrombotic stroke. The net balance of risks and benefits is likely to differ in different age groups and populations."[6] (Footnotes omitted). One of the conclusions of the study is that "the balance of adverse and beneficial effects of drinking on mortality from all causes depends not only on the amount of alcohol consumed but also on age and background cardiovascular risk."[7]

Another article noted that it has not yet been determined how alcohol reduces the risk of coronary heart disease. The authors stated that:[8]

> Several possible mechanisms for a protective role of alcohol against coronary disease have been hypothesized, including alcohol-mediated increases in HDL cholesterol levels. * * * Knowledge of the basic mechanisms by which alcohol exerts a protective effect against coronary heart disease is critical to assessing the potential importance of moderate alcohol consumption to the public health, particularly if the beneficial effects of alcohol can be achieved through other interventions. Because heavy consumption of alcohol has been implicated in accidents, cirrhosis, cancer, and other adverse outcomes, the difference between drinking small-to-moderate quantities of alcohol and drinking large amounts may mean the difference between preventing and causing disease. Any clinical recommendations based on this epidemiologic evidence should therefore be cautious. (Footnotes omitted).

Among the more recent studies submitted by CEI and CA was one that focused on the effects on health of alcohol consumption on women. The authors noted that before beginning the study, it was unclear "[w]hether the apparent overall benefit of light-to-moderate alcohol intake among men" could be extrapolated to women, noting that "[a]s compared with men, women have a

lower risk of coronary heart disease, attain higher blood alcohol concentrations for a given amount of alcohol consumed, and are more susceptible to alcoholic liver disease. Moreover, women who consume moderate quantities of alcohol have an increased risk of breast cancer."[9] (Footnotes omitted). The results of the study showed that light to moderate female drinkers had a reduced risk of heart disease, with women who drank one to three drinks per week having the lowest risk of mortality.[10] However, the study concluded that "the apparent benefit of light-to-moderate alcohol consumption was mainly confined to women at greater risk for coronary heart disease, specifically older women and women with one or more coronary risk factors."[11]

The Wine Institute, representing over 500 California winery and associate members, also submitted summaries of several medical studies that established a link between moderate alcohol consumption and reduced risk of cardiovascular disease (Comment 401). In its summary of these studies, the Wine Institute asserted that moderate drinkers have a 40-50 percent reduction in coronary artery disease risk compared with individuals who are abstinent, with a lower overall mortality rate as well.

As ATF stated in Notice No. 884, the serious health risks associated with alcohol consumption are well established, and ATF received many comments from public health organizations that focused on those adverse consequences. The major points made by these commenters are summarized below.

Many of the commenters focused on the serious public health risks associated with alcohol abuse. The National Council on Alcoholism and Drug

Dependence, Inc. (NCADD) commented that "[w]hile most people who choose to drink do so without negative health or life consequences, there are 13.8 million Americans over the age of 18 who have problems with drinking, including 8.1 million people who are alcoholic. Millions of others, because of a family history or the addictive potential of alcohol, are at risk for developing an addiction." (Comment 15). NCADD noted that alcohol contributes to 100,000 deaths annually, making it the third leading cause of preventable mortality in the United States, after tobacco and diet/activity patterns. While there are fewer deaths from alcohol-related causes than from cancer or heart disease, alcohol-related deaths tend to occur at much younger ages.

Some commenters focused on the cost to society associated with alcohol abuse. For example, the Center for Science in the Public Interest (CSPI) commented that "[a] substantial body of evidence has shown a positive relationship between the aggregate consumption of alcohol in society and population rates of alcohol-related diseases, accidents, criminal violence, and suicide. According to the National Institute on Alcohol Abuse and Alcoholism (NIAAA), alcohol abuse and alcoholism cost society more than $166 billion annually and each year over 110,640 deaths have alcohol-related causes. (Comment 400). (Footnotes omitted).

Many of the commenters set forth the serious risks associated with higher levels of alcohol consumption. NCADD noted that "[h]eavy and chronic drinking can harm virtually every organ and system in the body, and is the single most important cause of illness and death from liver disease. It is also

associated with cardiovascular diseases such as cardiomyopathy, hypertension, arrhythmias and stroke." The Marin Institute identified similar health risks associated with alcohol consumption. (Comment 324).

Many recognized experts on the effects on health of alcohol consumption testified at the public hearings held by ATF in Washington, DC and San Francisco, California. Dr. David Satcher, former Assistant Secretary for Health and Surgeon General, testified about the public health dangers associated with alcohol consumption as follows:

> Although the majority of Americans who consume alcoholic beverages do so safely, alcohol is one of the nation's leading causes of preventable injury and premature death. Each year, over 100,000 premature deaths result from alcoholism and alcohol abuse. Alcohol represents, therefore, the third leading cause of premature death, right behind tobacco and physical inactivity. Traffic crashes involving alcohol killed more than 16,000 people in 1997 and one in four victims of violent crime report that the offender had been drinking alcohol prior to committing the crime. Fetal alcohol syndrome continues to be the leading preventable cause of mental retardation. I think we fail to appreciate that the roots of alcoholism and alcohol abuse have their origins in adolescence and that children are especially vulnerable to its dangers. Alcohol is the nation's number one drug problem among youth, and it is involved in teen automobile crashes, homicides, and suicides, the three leading causes of teen death. (April 25, 2000; Washington, DC, pages 72-73).

Other physicians testified regarding the effects on health of alcohol consumption. Dr. Carlos Camargo, an emergency room physician and alcohol researcher, testified at the invitation of CSPI. He stated that "there is persuasive evidence that moderate alcohol consumption reduces risk of coronary heart disease in some people. There is also persuasive evidence that even moderate drinking carries significant health risks for many people." (April

25, 2000; Washington, DC, page 94).

Dr. Michael Criqui, a physician, epidemiologist, and professor, also expressed concerns regarding the use of any health-related statement in connection with the labeling of alcohol beverages. Dr. Criqui stressed that when evaluating the potential health benefits associated with alcohol consumption, it is important to look at the effects of various diseases on the potential years of life lost before age 75. He noted that while heart disease is the single largest cause of death in developed countries, it usually occurs at older ages. Motor vehicle crashes and suicides together cause the loss of more potential years of life in men than heart disease, and both are linked to alcohol use. In women, breast cancer and motor vehicle accidents each account for more potential years of life lost before age 75 than heart disease. (May 23, 2000; San Francisco, CA, pages 53-54).

Dr. Criqui also stressed the importance of evaluating the patterns of consumption among drinkers. He said that in the United States, about 80% of men and 70% of women drink alcohol, with 50% of drinkers reporting temporary problems with alcohol. (Id. at page 55). About 10% of men and 5% of women are alcoholics. Furthermore, Dr. Criqui stated that "half of all the alcohol consumed in the United States is consumed by the 10% of men and the 5% of women who are alcohol-dependent. (Id. at page 57).

Other medical professionals stressed the health benefits associated with moderate drinking for persons who do not belong in the categories of individuals for whom alcohol consumption is contraindicated. Dr. Curtis Ellison,

a Professor of Medicine, testified that "science clearly indicates that moderate drinkers have much lower risk of coronary heart disease and ischemic stroke. Because these are the number one and number three causes of death, it is not surprising that moderate drinkers will live longer in the United States." (April 26, 2000; Washington, DC, page 109). Dr. Ellison suggested that "if I am withholding from a patient information that may reduce that individual's risk of a heart attack by 30 or 40 percent and do not tell him about it, I am doing him a disservice." (Id. at page 110).

B. Decision

The evidence presented by the medical experts, as well as the studies presented with some of the comments, indicate that there are differences of opinion as to how the relative risks and benefits of alcohol consumption should be weighed. The evidence reflects a broad consensus that heavy levels of alcohol consumption pose serious health risks. The record also reflects that there is a broad consensus that certain categories of people should not consume any alcohol. With regard to those individuals for whom alcohol consumption is not contraindicated, there was some difference among the experts as to how to weigh the relative risks and benefits of moderate consumption, with some experts stressing the protection against cardiovascular disease, and other experts stressing the increased risk of injury and certain cancers.

Because TTB is not an expert on public health issues, we (and our predecessors) have generally deferred to the findings of the Department of Health and Human Services, including NIAAA, FDA, CSAP, and the Surgeon General, on issues related to the effects on health of alcohol consumption. In the case at hand, TTB finds that the evidence in the rulemaking record supports the findings of NIAAA's 1999 "Alcohol Alert" and the 2000 Dietary Guidelines published by USDA and HHS. The main points of these findings can be summarized as follows:

- Alcohol beverages are harmful when consumed in excess, and some people should not drink at all. Excess alcohol alters judgment and can lead to dependency and many other serious problems. Heavy levels of alcohol consumption cause social and psychological problems, cirrhosis of the liver, inflammation of the pancreas, and damage to the brain and heart.
- Taking more than one drink per day for women or two drinks per day for men can raise the risk for motor vehicle accidents, other injuries, high blood pressure, stroke, violence, suicide, and certain types of cancer. Even one drink per day can slightly raise the risk of breast cancer.
- Alcohol consumption during pregnancy increases the risk of birth defects.
- Certain individuals should not drink any alcohol; for these individuals, even moderate levels of alcohol consumption may cause health risks.

Included in this category are children and adolescents; individuals of any age who cannot restrict their drinking to moderate levels; women who may become pregnant or who are pregnant; individuals who plan to drive, operate machinery, or take part in other activities that require attention, skill, or coordination; and individuals taking prescription or over-the-counter medications that can interact with alcohol.

- Moderate levels of alcohol consumption are associated with a reduced risk of coronary artery disease for certain individuals, but causation has not been conclusively established.
- To the extent that moderate consumption is linked to a lowered risk for coronary heart disease, the link appears mainly among men over 45 and women over age 55. Moderate consumption provides little, if any, health benefit for younger people.
- The effects on health of alcohol consumption vary from individual to individual, depending on the individual's health profile and history, as well as the levels of consumption. Risk of alcohol abuse increases when drinking starts at an early age. Some studies suggest that older people may become more sensitive to the effects of alcohol as they age.

Based on the above, it is TTB's conclusion that the medical data still supports ATF's longstanding (and now our) position that notwithstanding the data linking moderate alcohol consumption to a reduced risk of heart disease in some individuals, there are significant health risks associated with all levels of

alcohol consumption. The medical data submitted by the commenters, as well as the testimony presented by experts at the public hearings, suggest that there is a link between moderate alcohol consumption and a reduced risk of heart disease in certain individuals; however, causation has not been conclusively established. The risk/benefit ratio varies with the individual's own health profile and the level of consumption. For example, moderate alcohol consumption confers few, if any, benefits on people at low risk for heart disease. The evidence also establishes that there are serious risks associated with higher levels of alcohol consumption, and that even moderate consumption poses health risks for certain individuals. Finally, there are certain categories of individuals for whom any level of alcohol consumption is not recommended.

XV. Are Health Claims and Health-Related Statements in the Labeling and Advertising of Alcohol Beverages Inherently Misleading?

A. Comments in Opposition to the Use of Health Claims and/or Health-Related Statements

Approximately 120 comments opposed the use of health claims and/or health-related statements (including directional statements) in the labeling and advertising of alcohol beverages. Many of these commenters, including the American Medical Association, the American Cancer Society, and the Center for Science in the Public Interest, commented in support of a complete ban on the use of such statements in the labeling or advertising of beverage alcohol. The primary arguments made by these commenters are summarized below.

1. It Has Not Been Proven That Moderate Alcohol Consumption Lowers the

Risk of Heart Disease

NCADD commented that the evidence for the alleged health benefits of alcohol consumption was "far from concrete," noting that the 1999 NIAAA report concludes that while there is "an association between moderate drinking and a lower risk of CHD, science has not confirmed that alcohol itself causes the lower risk." "Alcohol Alert," National Institute on Alcohol Abuse and Alcoholism, No. 45, October 1999. (Comment 15). Most other commenters, however, acknowledged that there was a link or association between moderate alcohol consumption and reduced risk of heart disease in some individuals.

2. Because the Negative Health Consequences of Alcohol Consumption Outweigh the Potential Benefits, Health Claims and Health-Related Statements are Inherently Misleading and Should be Banned

Many of the commenters stated that health claims for alcohol beverages were inherently misleading because the health risks associated with alcohol consumption outweigh the purported cardiovascular benefits. For example, the American Cancer Society commented in favor of a ban on all health benefit claims and health-related statements in the labeling and advertising of alcohol beverages. (Comment 527). They noted that "[w]hile moderate intake of alcohol has been shown to reduce the risk of coronary heart disease in middle-aged adults, 100,000 deaths each year are attributed to alcohol-related diseases."

The American Medical Association (AMA) strongly urged ATF to reject any type of beneficial claim for alcohol products on container labels, noting that

such claims would be misleading, and for many persons, inaccurate. (Comment 534). AMA stated that "[w]hile some research indicates that moderate drinking is associated with a decreased risk of some diseases, other research shows that such risks actually substantially increase for certain people."

Senator Strom Thurmond opposed the use of any health-related statements on alcohol beverage labels. (Comment 526). He testified that health claims were inherently misleading because of the serious health risks associated with alcohol consumption; because the supposed health benefits of moderate drinking have not been conclusively established; and because any explanatory statements are simply insufficient to clarify a misleading health claim. (April 25, 2000; Washington, DC, pages 14-16).

CSPI argued that health claims are inherently misleading for five reasons:

(1) There are serious health risks associated with alcohol consumption, even moderate consumption;

(2) the health benefits of moderate alcohol consumption do not apply universally, but only to a discrete segment of the population;

(3) there are many groups of people who should abstain from, or minimize, their consumption of alcohol;

(4) allowing health claims would undermine the Government warning label; and

(5) explanatory statements are insufficient to clarify a misleading health claim. (Comment 400).

CSPI noted that researchers for the Centers for Disease Control and Prevention (CDC) found that, after decreasing during the late 1980s, alcohol consumption among pregnant women in the United States began to increase after 1991, and the lead author hypothesized that the increased consumption might be due to the media attention to the reports on the health benefits of moderate drinking. At the Washington, DC hearing, Mr. George Hacker, director of CSPI's Alcohol Policies Project, testified in opposition to the use of health claims. Mr. Hacker stressed the health risks associated with even moderate alcohol consumption, and stated that "[a]lcohol is a potentially dangerous, potentially addictive, and potentially deadly drug. Any positive health statement about such a drug must be presented, if at all, only in a balanced and non-misleading manner." (April 25, 2000; Washington, DC, page 56).

On behalf of its three million members and supporters, Mothers Against Drunk Driving (MADD) commented in favor of banning any health claims or directional statements in the labeling and advertising of alcohol beverages. (Comment 20). MADD commented that "[t]he negative consequences and the risk associated with alcohol consumption greatly outweigh any purported 'health benefits.'" MADD quoted Gen. Barry McCaffrey, former Director of the Office of National Drug Control Policy, as telling an alcohol policy conference in 1997

that, "Undoubtedly, alcohol is the principal drug abuse problem in America today."

MADD also noted that in 1998, 15,935 people were killed in alcohol-related traffic crashes and an estimated 850,000 were injured. These alcohol-related crashes result in an annual cost of $114,800,000 in the United States.

The National Association for Children of Alcoholics commented that "the health risks of alcohol far outweigh the health benefits" and advocated a complete ban on health-related claims on alcohol beverage containers. (Comment 29). This comment noted that 76 million Americans, about 43% of the U.S. adult population, have been exposed to alcoholism in the family. Almost one in five (18%) of American adults lived with an alcoholic while growing up. Its comment also noted the negative impact of alcoholism on family and marital relationships, the association between alcoholism and violent crime and child abuse, and the devastating impact of alcoholism on the children of alcoholics.

The Marin Institute for the Prevention of Alcohol and Other Drug Problems ("Marin Institute") commented in favor of a complete ban on all health-related statements (other than the required warning statement) in the labeling and advertising of alcohol beverages. (Comment 324). The Marin Institute commented that "[s]tatements attributing positive health effects to the consumption of alcoholic beverages (as is the case with the previously approved wine labels) are misleading and potentially dangerous because media and marketing messages can be misinterpreted as public health

recommendations." They stated that "[s]implistic and misleading messages about the health effects of alcohol are dangerous to the health and safety of Americans and could increase the enormous toll of alcohol-related problems in this country. Because of the evidence regarding the risks associated with alcohol consumption, alcoholic beverages should not be held to a lower standard of accountability regarding health messages than well-regulated prescription drugs. Banning all health claim-related statements on labels or in advertising of alcoholic beverages assures that public health information is accurate and free of potentially harmful misinformation."

Other public health organizations strongly urged a ban on health claims. See, Pacific Drug Policy Institute, Inc. (Comment 34); American Council on Alcohol Problems (Comment 37); and West Los Angeles Alcohol Policy Coalition (Comment 384).

Many individuals made similar comments, noting the serious health risks associated with alcohol consumption. Some shared personal experiences with alcoholism or alcohol abuse. See comments 23, 28, and 35.

Many of the individuals testifying at the public hearings also emphasized the human costs associated with alcohol abuse. For example, Barrett Duke, Ph.D., testified on behalf of the Ethics and Religious Liberty Commission, the moral concerns agency for the Southern Baptist Convention. He shared his concerns from the perspective of the faith community, and noted that "[m]ost faith communities deal with the devastating consequences of alcohol abuse on a regular basis in their churches, missions, and benevolent ministries. * * *

Families have been destroyed. Lives have been lost. Careers have been ruined. Men and women have left the ministry as a direct result of alcohol abuse. Furthermore, alcohol is often a primary contributing component to poverty, forcing faith communities to use precious limited resources to assist the alcohol abuser as well as the abuser's intended or unintended victims." (April 25, 2000; Washington, DC, page 151).

Ms. Suzanne Harrington-Cole, Chair of the Vallejo Alcohol Policy Coalition, testified in favor of a complete ban on the use of health claims on alcohol beverage containers. She stated that alcohol is present in more than 50% of all incidents of domestic violence (May 24, 2000; San Francisco, CA, page 245), and noted that "[w]e do not need a government sanction on more drinking in the name of health." (Id. at page 243).

3. The Issue is Too Complex to be Summarized on an Alcohol Beverage Label Because the Effects on Health of Alcohol Consumption Vary From Person to Person

Many of the commenters stated that a summary statement of health benefits on an alcohol beverage label would mislead consumers because the effects on health of alcohol consumption vary from person to person, based on various factors. These commenters also suggested that the issue was too complex to be summarized on an alcohol beverage label, rendering all such labeling statements inherently misleading. Thus, the American Cancer Society noted that the potential health impact of alcohol consumption varied from individual to individual, and that a "brief message on any beverage container

cannot provide a consumer with adequate information to make an informed decision about drinking 'for health related reasons.'" (Comment 527).

NCADD urged ATF to "prohibit labels and advertisements that make claims regarding potential health benefits associated with the consumption of alcoholic beverages, because it would be impossible to adequately and appropriately convey the negative health consequences." (Comment 15). NCADD noted that elderly consumers have special concerns, and that NIAAA's definition of moderate drinking for women and men over the age of 65 is no more than one drink a day. They cited a study showing that among persons older than 65, moderate and heavy drinkers were 16 times more likely than nondrinkers to die of suicide.[12]

Senator Thurmond also testified that the effects of alcohol consumption vary from individual to individual, and any clarifying statement along those lines would "have to address factors such as age, sex, family, medical history, diet, weight, and activity." (April 25, 2000; Washington, DC, page 16). MADD noted ATF's historic policy of requiring balance in health claims, and suggested that in "order to 'appropriately qualify and balance' the alleged health claim benefits with the negative consequences, the alcohol label would have to be the size of a billboard and advertising messages would be longer than the State of the Union Address." (Comment 20). Accordingly, MADD suggested that to avoid misleading consumers, such claims should be banned entirely.

The United Communities Against Drug & Alcohol Abuse commented that "[n]o brief message on any beverage container can possibly provide a

consumer with adequate information to make a decision about drinking 'for health-related reasons.'" Instead, they suggested that in order to balance a health message, "consumers would need to be provided with a detailed multi-page document (similar to those now provided by manufacturers of prescription medication) in order to make [an] informed choice about whether or not a decision to consume an alcoholic-beverage for health reasons would be, on balance, a good or a bad decision." (Comment 31). The Marin Institute (Comment 324) agreed, commenting that "[d]etailed, balanced and cautionary information about potential harmful effects would be required (as it is with advertisements of prescription drugs) in order to offset the demonstrated confusion of the general public about the health effects of alcohol. The volume of information needed could hardly be legible if it were displayed on a bottle of wine or beer."

4. Even if Moderate Alcohol Consumption is Linked to a Reduced Risk of Heart Disease, There are Safer Ways to Achieve the Same Reduction Without the Risks Associated With Alcohol Consumption

Many commenters suggested that even if alcohol consumption resulted in health benefits for certain individuals, there were less risky ways to obtain those benefits. For example, the Central Nebraska Council on Alcoholism, Inc. (Comment 14) noted that "[t]here are simply less risky ways to attain the same health benefits that consuming small amounts of alcoholic beverages provide to a limited group of people. It would be irresponsible for the government to allow a health-claims statement on alcoholic beverages that urge the most risk laden

way of obtaining those benefits."

CSPI also suggested that there were safer methods of reducing one's risk of heart disease, stating that the "discrete category of people who may benefit from moderate drinking could also lower their risk of heart disease by other less risky alternatives, such as quitting smoking, reducing fat in the diet, getting regular exercise, taking a daily low dose aspirin, or reducing stress. All of those methods are much less likely to cause accidents or other health problems than consuming alcohol, even in moderation." (Comment 400).

The Tangipahoa Alcohol and Drug Abuse Council (Comment 24) noted that consumers often look for "the easy way out," and that many may believe that drinking alcohol will get the same benefits as an overall healthy lifestyle. The Pacific Drug Policy Institute, Inc. commented that "smoking cessation, good diet, exercise, and stress management techniques provide cardiac benefits with much lower risk of adverse consequences. When there are low risk ways to attain the health benefits attributed to wine, it would appear absurd to allow advertisement of medicinal value in high-risk alcohol consumption." (Comment 34).

Ted Miller, Ph.D., an economist, testified at the hearings that a more cost-effective way to obtain the purported benefits associated with consumption of wine would be to walk a mile, drink a glass of juice, or eat one cup of vegetables every day. (April 25, 2000; Washington, DC, pages 179-183).

5. Health Claims and Health-Related Messages Would be Misconstrued by Consumers, Particularly Those With a History of Alcoholism or Who Are

<u>Susceptible to Alcohol Abuse Problems, as an Endorsement to Consume or Abuse Alcohol</u>

Many professionals in the field of addiction medicine commented that health claims and health-related messages were likely to be misinterpreted by those most susceptible to problem drinking. Many of these commenters were particularly concerned with the risk that recovering alcoholics would use information about the purported health benefits of alcohol consumption to justify their continued use of alcohol. For example, a physician who has worked in the alcohol and substance abuse treatment field for 18 years stated that any message about purported health benefits sends the wrong message to the public, especially the alcohol abuser or alcoholic. He expressed concern that such a message "would only encourage the alcoholic to drink more to 'help his heart'" and feared that "many current alcoholics who are in total recovery and abstinence may use this as a justification to begin drinking alcohol again, thinking they can control it." (Comment 381). Another doctor made a similar point, (Comment 385) as follows:

> The American public has become accustomed to warning labels on harmful products * * *. A label touting health benefits of use of alcoholic beverages in controlled and low amounts, is likely to be misinterpreted by problem drinkers, especially by alcoholics, whose belief systems about their drinking distort reality with respect to the relative benefits and risks of consumption. * * * I do not deny the scientific validity of reports of health benefits of consumption of one glass of wine per day for females or two glasses of wine per day for males. However, the risk of misinterpretation by the drinking public is far greater than any public health or public information benefit that may be alleged to accrue from adding labels to products that promote health benefits from drinking.

The National Association for Children of Alcoholics (Comment 29) also suggested that health claims can lead to confusion among children of alcoholics about the role of alcohol, and can reinforce and perpetuate the denial process of the alcohol-addicted person.

6. The Use of the Term "Moderate" in a Specific Health Claim Would be Misleading Unless the Term is Defined

Many public health organizations commented that the use of the term "moderate" in a health claim could mislead consumers who did not understand the definition of the term. The United Communities Against Drug & Alcohol Abuse noted that "moderate" drinking was poorly defined. It noted that the Substance Abuse and Mental Health Services Administration (SAMSHA) study showed that "virtually all drinkers define their personal level of consumption as 'moderate,' whether they consume one drink per week or five per day." (Comment 31). CSPI also noted that consumers had varying definitions of the term "moderate." (Comment 400). Rather than recommending moderate consumption, CSPI suggested that any health claims should provide specific quantities of alcohol that constitute moderate consumption, including a recommendation that consumers drink no more than one drink per day.

Nancy Piotrowski, Ph.D., testified that she had been conducting research on alcohol consumption for the past 16 years, and is in the middle of ongoing research on the perceptions of drinkers regarding moderate alcohol consumption. She noted that previous studies had shown that perceptions of moderate drinking were clearly related to drinkers' current drinking patterns and

their history of problems relating to drinking. (May 23, 2000; San Francisco, page 37).

B. Comments in Favor of Health Claims

A few commenters specifically supported ATF's proposal to allow qualified, detailed and balanced health claims in the labeling and advertising of alcohol beverages. One comment, from CEI and CA, specifically supported the use of summary health claim statements without qualification or disclosure of the adverse effects on health caused by alcohol consumption. Finally, approximately 45 commenters supported the general use of health claims with respect to alcohol beverages.

1. Comments in Favor of Allowing Balanced Health Claims, as Set Forth in the Proposed Rule

The comments in favor of the substantive health claim provisions of the proposed rule generally stated that ATF had struck an appropriate balance in dealing with a difficult issue. For example, the National Consumers League (NCL), a national nonprofit consumer advocacy organization that was founded in 1899 to represent consumers in the marketplace and workplace, recognized the difficult nature of the issue as follows:

> NCL believes that the proposed rule raises a serious public policy question for which there is no easy answer. NCL understands ATF's concern as to whether health claims should be permitted on alcoholic beverages at all. While there is a body of research showing that moderate consumption of alcohol reduces the risk of coronary heart disease (CHD), there is also evidence that moderate drinking may increase the risk of certain cancers. Moreover, as ATF notes, moderate drinking is risky for certain individuals who are prone to alcoholism, some

> of whom may not realize that they are. Excessive alcohol consumption is unquestionably harmful. Whether a properly qualified health claim should be permitted on alcoholic beverage labels is a serious policy question that has been debated by public health experts for years.

NCL concluded that while it "has reservations about authorizing any health claim for alcoholic beverages, we believe a properly qualified and balanced claim would be of value to many consumers. * * * A health claim that includes the elements specified in the proposed rule would provide these consumers with useful information." (Comment 388).

Two major associations representing the wine industry also commented in support of the substantive health claims provisions of the proposed rule. The Wine Institute commented "that the public should receive the whole story regarding the responsible consumption of wine and applaud[ed] ATF's efforts, as reflected in the additional proposed regulation language, to refine and focus the conditions which must be met before any substantive claim regarding health benefits can be made on wine labels or in advertisements." (Comment 401).

The AVA also stated it had no objection to the proposed amendment to the regulations to reflect current ATF policy, noting that "[a]s our members have been required to conform to these policies for some years, converting them to regulation would pose no further hardship." (Comment 417).

A comment from the Washington Legal Foundation (WLF) focused primarily on legal issues, noting that if the rule was properly implemented, it would pass muster under the First Amendment. (Comment 390). This comment will be discussed further under section XIX.

2. Comment Supporting Summary Health Claims Without Qualification or Disclosure of Adverse Effects

Only CEI and CA specifically argued in favor of allowing summary health claims without qualification or disclosure of adverse effects in the labeling and advertising of alcohol beverages. CEI and CA opposed ATF's notice on the grounds that it would serve to suppress truthful and non-misleading speech. (Comment 326). CEI and CA argued that the cardiovascular and overall health benefits associated with moderate alcohol consumption are amply supported by the medical evidence, and summary statements of these benefits are protected by the First Amendment.

CEI and CA suggested that those individuals who would not benefit from moderate drinking "know who they are and are unlikely to be misled." CEI and CA also suggested that the CSAP survey supports a conclusion that consumers would not be misled by directional statements, that such statements would not change the drinking patterns of consumers, and that the population studied understands the risks of drinking, particularly that drinking is counter-indicated during pregnancy.

CEI and CA claimed that other Federal agencies have approved summary health statements without the extensive qualifications that would be required under ATF's proposed rule. As examples, they pointed to health claims approved by FDA for diets low in saturated fat and cholesterol and diets low in sodium. They also suggested that the "balance" ATF is ostensibly

seeking would automatically be provided by the mandatory health warning statement on alcohol beverage containers.

The CEI and CA comment suggested that the proposed rule would result in regulations that violated the First Amendment; thus, the proposed rule should be withdrawn. At the public hearing, Mr. Ben Lieberman testified on behalf of CEI and stated that CEI believed that the rulemaking should result in a "policy allowing a wide range of accurate summary statements about moderate drinking and health to appear on alcoholic beverage labels and ads." (April 25, 2000; Washington, DC, page 119). Mr. Lieberman also suggested that ATF had not accurately summarized the evidence demonstrating the health benefits associated with moderate alcohol consumption, but instead spent "much of its time identifying and somewhat exaggerating every conceivable category of individual who is not likely to benefit from moderate drinking, such as adults too young to be at risk for heart disease, pregnant women, and recovering alcoholics." (Id. at page 120).

In response to a question from the panel, Mr. Lieberman confirmed that it was CEI's belief that a health claim regarding cardiovascular benefits, such as "there is significant evidence that moderate consumption of alcoholic beverages may reduce the risk of cardiovascular disease," could appear on a label with no disclaimer and still not mislead consumers. He stated that "it is well known that people understand the limitations of advertising and labeling and that they would be skeptical. They would also read the government warning, which does at least allude to the other side of this story." (April 25, 2000; Washington, DC,

pages 133-134).

3. Other Comments in Favor of Health Claims

Approximately 45 comments supported the use of substantive health claims in the labeling and advertising of alcohol beverages. However, these commenters did not specifically support the type of summary health claim advocated by CEI and CA. Instead, they commented in favor of the general principle that health claims for alcohol beverages are not inherently misleading. In some cases, it was difficult to determine whether these commenters meant to support directional statements only or whether they specifically supported the use of substantive health claims on labels or in advertisements.

Most of the comments that favored a rule allowing the use of substantive health claims reflected a general perception that consumers were entitled to information about potential health benefits associated with moderate alcohol consumption. For example, one individual suggested that "consumers have the right to know and can be trusted to handle this scientific information." (Comment 300). Another comment supported "the rights of wineries to list the health benefits of their product on the labels." (Comment 277).

Some of the individuals commenting in favor of health claims specifically supported the concept that the claims be balanced, although it was unclear whether they were suggesting that the balance would come from qualifications in the claims or the required Government warning statement. For example, one individual stated that "[i]t is only fair and proper that the labels on the bottle

contain the positive health benefits as well as the proper health warnings." (Comment 143). Another commenter expressed his support for "producers of wine to be able to print both the adverse and the positive effects of consuming wine." (Comment 340).

Many of the commenters suggested that consumers need to be made aware of health-related information, including the positive and negative effects of alcohol consumption, in order to make informed decisions regarding its use. For example, one commenter, a psychologist and attorney, stated that it was "necessary to rationally accept that alcohol has benefits as well as dangers * * *. Since Americans can easily and legally drink, and most in fact do so, the need to inform them of the range of drinking consequences and the related drinking limits for each is both prudent and democratic." (Comment 243). A doctor commented as follows:

> It makes more sense to put more information on the label in order for the consumer to make a better decision. As a physician, I implore my patients to read labels. There are certainly some potential health benefits to wine as well as potential downsides in individuals. (Comment 145).

Two commenters argued that alcohol producers have a First Amendment right to market the health benefits of alcohol consumption, provided that such information is presented in a non-misleading manner. However, neither of these comments suggested that industry members were entitled to use summary health claims without any qualification or disclosure of adverse effects. The First Amendment issues raised by these commenters will be

addressed separately in section XIX.

Among the medical experts who testified at the hearings in favor of allowing health claims or health-related statements on labels or in advertisements, some specifically noted that consumers should be made aware of both the risks and purported benefits of moderate alcohol consumption. For example, Dr. Ellison suggested that an appropriate message on a label would be "'[w]hile light to moderate alcohol consumption can be consistent with a healthy lifestyle for most individuals and has been shown to dramatically reduce the risk of heart disease, certain individuals should not drink at all.' Then, you should go through the list of the people that we are advising not to drink." (April 26, 2000; Washington, DC, page 116).

Finally, Mr. John Hinman testified on behalf of the American Wine Alliance for Research and Education as well as the Coalition for Truth and Balance, a group of California wineries. Mr. Hinman suggested that it was the Government warning statement, rather than the directional statements, which misled consumers about the health consequences of alcohol consumption. (May 23, 2000; San Francisco, CA, page 149). Mr. Hinman was also one of the few individuals responding to ATF's question about whether it was possible to craft a balanced substantive health claim. He noted that he had submitted a 664-word statement to ATF for review in 1993, entitled "Wine and Health – Behind the French Paradox." (Id. at page 151). Mr. Hinman stated that "considering that 664 words makes for a very wordy wine label, we seriously doubt whether any wine maker really has an interest in providing such a

statement on the bottle. However, the statement can and should be available to hand out to those customers who request more information or are interested in the subject matter." (Id. at page 152). Accordingly, Mr. Hinman stated he was resubmitting the statement to ATF for review, and later clarified in response to a question from the panel that he would put the statement on an application for label approval. (Id. at pages 152, 165).

In response to a question from the panel, Mr. Hinman stated that neither the American Wine Alliance nor the Coalition for Truth and Balance was "interested, to my knowledge, in necessarily using CEI's proposed label. * * * On the other hand, as a lawyer * * * that's an absolutely accurate statement that CEI is using on that particular thing, and I would support their First Amendment right to utilize it. It's going to be up to them to find people that are, in fact, going to use it." (Id. at page 167).

C. Decision

After careful consideration of the record, TTB finds that the comments and testimony on this issue establish that the use of health claims in the labeling or advertising of alcohol beverages has the potential to mislead consumers as to the very serious health consequences associated with alcohol abuse and consumption. In particular, TTB finds that the rulemaking record overwhelmingly supports the conclusion that the type of detail, qualification, and balance required by the proposed rule would be necessary to avoid misleading consumers about the serious health risks associated with alcohol consumption.

Based on the comments on this issue, however, TTB is adopting certain changes to the final rule to set forth more specifically how a substantive health claim would comply with the requirements of the regulation. For example, TTB agrees with the NCADD comment that it has not been proven that alcohol itself lowers the risk of heart disease in certain people; this comment is consistent with the 1999 "Alcohol Alert" published by NIAAA. The 2000 Dietary Guidelines state only that "[d]rinking in moderation may lower risk for coronary heart disease, mainly among men over age 45 and women over age 55." The final rule provides that a specific health claim would not be approved unless it is truthful and adequately substantiated by scientific or medical evidence. Thus, TTB would not approve any claim implying that alcohol consumption itself caused a reduced risk of heart disease in the absence of scientific or medical evidence substantiating such a claim.

TTB also agrees with those commenters who suggested that the effects on health of alcohol consumption vary from person to person, and that any labeling or advertising statement that failed to take this into account would mislead consumers. Consistent with the 2000 Dietary Guidelines, many commenters noted that moderate consumption provided little, if any, health benefit for younger people, who are at low risk of heart disease. As noted above, the Dietary Guidelines provide that "[d]rinking in moderation may lower risk for coronary heart disease, mainly among men over age 45 and women over age 55."

In consideration of these comments, the final rule specifically provides that a claim will not be approved unless it is sufficiently detailed and qualified with respect to the categories of individuals to whom the claim applies. For example, assuming that the evidence continues to indicate that the potential health benefits associated with moderate alcohol consumption are mainly associated with men over age 45 and women over age 55, then the claim would have to specifically set forth this qualification. Furthermore, the concerns expressed in the comments regarding the definition of the term "moderate" would also be addressed by requiring, where necessary, sufficient detail in the claim itself regarding the meaning of this term. This level of detail could include specific information as to what constitutes "moderate" levels of consumption, possibly including separate definitions for men, women, and the elderly.

Many commenters suggested that there are safer ways to reduce the risk of heart disease without the negative health consequences associated with alcohol consumption. Again, this is a point noted in the 2000 Dietary Guidelines, which remind consumers that "there are other factors that reduce the risk of heart disease, including a healthy diet, physical activity, avoidance of smoking, and maintenance of a healthy weight." In reviewing whether a health claim tends to mislead consumers, TTB will certainly consider whether the health claim misstates the role played by these factors in reducing one's risk of heart disease.

Several commenters suggested that any health claim might be misinterpreted by alcoholics and other abusers of alcohol as a rationalization for

their own consumption levels. TTB recognizes the possibility that certain consumers will selectively interpret data regarding the health consequences of alcohol consumption to justify their own behavior. We believe that summary health benefit claims that do not disclose the adverse health consequences of alcohol consumption would be particularly susceptible to this type of misinterpretation. We recognize the possibility that certain abusers of alcohol may use information regarding the potential cardiovascular benefits of alcohol consumption to justify alcohol abuse that clearly poses significant health risks. However, it is our conclusion that the best way to prevent this type of misinterpretation of a health claim, by both alcohol abusers as well as consumers who do not abuse alcohol, is to require detailed information regarding the health risks associated with various levels of alcohol consumption.

Accordingly, the final rule provides that a specific health claim must adequately disclose the health risks associated with both moderate and heavier levels of alcohol consumption. It is misleading to imply that moderate alcohol consumption confers only health benefits; the administrative record establishes that there are significant risks associated with moderate consumption, including an increased risk of certain cancers. Even if a claim is made regarding only moderate consumption, consumers should be advised of the health risks of heavier levels of alcohol consumption. The record reveals that a high percentage of the alcohol consumed in this country is consumed at levels that exceed "moderate drinking." The Marin Institute comment states that alcohol is

consumed at heavy levels (3 or more drinks per day, or more than 5 drinks at one time) in 78 percent of all drinking occasions. (Comment 324). Furthermore, Dr. Criqui testified that half of all the alcohol consumed in the United States is consumed by the 10% of men and the 5% of women who are alcohol-dependent. (May 23, 2000; San Francisco, CA, page 57). Finally, a study submitted by CEI and CA noted that "[i]n the United States, less than 10% of the population reports drinking more than two drinks per day, the cutoff for 'heavy drinking' in national survey research. This means that 'moderate' drinkers, because of their much greater numbers, probably account for well over half of all alcohol problems, a finding that led researchers at the Institute of Medicine to observe in a groundbreaking report that 'if all the clinically diagnosed alcoholics were to stop drinking tomorrow, a substantial fraction of what we understand as alcohol problems would still remain.'"[13] These statistics make it clear that a specific health claim touting the potential health benefits of moderate alcohol consumption would be misleading without a referral to the health risks associated with both moderate and higher levels of alcohol consumption.

In addition, the administrative record establishes that there are certain categories of individuals for whom any alcohol consumption at all is not recommended. Accordingly, the final rule provides that any specific health claim must outline the categories of individuals for whom any levels of alcohol consumption may cause health risks. The Beer Institute commented that ATF's proposed standard on this issue made it unclear whether "disclaimers are

required only for categories of individuals whose potential negative health effects are literally numerous or whether the potential negative health effects would be aggregated for the purposes of performing the balancing test envisioned by the proposed regulation." (Comment 396). Accordingly, the final rule clarifies that this requirement is intended to cover the categories of individuals for whom alcohol consumption is not recommended (e.g., pregnant women, individuals taking certain medications, etc.).

We do not agree with CEI and CA that it is unnecessary to set forth this information in conjunction with a health claim because these people know who they are. For example, it is not at all clear that most consumers know that alcohol can interact harmfully with a variety of prescription and over-the-counter medications. It is TTB's conclusion that any labeling or advertising statement that makes a substantive health claim regarding alcohol consumption would mislead consumers if it does not set forth this important information about the adverse consequences of alcohol consumption. Notwithstanding the above, we find that the rulemaking record does not support a conclusion that health claims in the labeling and advertising of alcohol beverages are inherently misleading. Nor does the record support a conclusion that the potentially misleading nature of such claims cannot be cured with the appropriate use of disclaimers and qualifying statements.

Initially, it should be noted that none of the commenters who supported a total ban on the use of health claims in the labeling and marketing of alcohol beverages presented consumer data on the use of substantive health claims in

the labeling or advertising of alcohol beverages. Thus, we have no consumer data establishing that consumers would be misled by the use of properly qualified health claims that are sufficiently detailed and specific, and which disclose the adverse health consequences of alcohol consumption.

A complete ban on the use of health claims or health-related statements in the labeling and advertising of alcohol beverages would prohibit even the most qualified, detailed, and balanced discussion of health consequences in advertising materials. For example, in Industry Circular 93-8, ATF advised industry members that the regulations did not prohibit them from including the entire text of NIAAA's April 1992 edition of "Alcohol Alert" in advertising materials. This NIAAA publication presents a comprehensive overview of the benefits and risks associated with alcohol consumption. If the regulations imposed a complete ban on advertising materials that included health-related statements, then industry members would no longer be allowed to include this NIAAA publication in advertising materials. Yet TTB finds nothing in the record to establish that the inclusion of this type of comprehensive discussion of effects on health in an advertisement in any way misleads consumers as to the health risks of alcohol consumption. Accordingly, we find that the record does not support an overall ban on the use of specific health claims and health-related statements in the advertising of alcohol beverages.

A closer issue is presented by the labeling of alcohol beverages. As ATF noted in Industry Circular 93-8, we believe that it would be difficult to compose a health claim that is detailed and specific enough to meet our standards, yet

short enough to fit on a traditional alcohol beverage label. In addition, TTB will not approve any labeling health claim that contradicts the message of the required Government warning statement.

TTB agrees with the commenters who suggested that a summary substantive health claim which does not include sufficient detail and qualification would mislead consumers about the serious health consequences of alcohol consumption. However, we do not believe that this provides a basis for banning all substantive health claims on alcohol beverage labels. Instead, as set forth above, TTB is making changes to the final rule to clearly provide that a specific health claim will not be allowed unless it is truthful and adequately substantiated by scientific or medical evidence; sufficiently detailed and qualified with respect to the categories of individuals to whom the claim applies; adequately discloses the health risks associated with both moderate and heavier levels of alcohol consumption; and outlines the categories of individuals for whom any levels of alcohol consumption may cause health risks.

We disagree with the arguments made by CEI and CA, the only commenters who specifically favored allowing industry members to make summary statements regarding health benefits that contained no qualification, balance, or disclosure of adverse effects. In the first place, the record did not establish that there was any concrete interest on the part of the alcohol beverage industry in using the summary health claim proposed in the CEI petition. Secondly, we find that statements such as the one proposed by CEI would mislead consumers by not disclosing the significant adverse effects on

health associated with alcohol consumption, which are set forth in great detail in this rulemaking record.

TTB has not drafted a model health claim for use on alcohol beverage labels because this extensive rulemaking record has revealed little, if any, interest on the part of industry members in using substantive health claims on alcohol beverage labels. In fact, industry members not only failed to express such an interest, in many cases, they specifically disavowed any interest in using substantive health claims. Furthermore, as discussed further in section XVIII, any such claim might well subject the product to regulation as a drug under FDA regulations.

Accordingly, TTB will leave it to any interested industry members to seek approval of a substantive health claim through the label approval process. The final rule sets forth the standards that would apply to any such labeling statement. If an industry member wishes to use a substantive health claim on a label in compliance with the standards set forth in the final rule, it should apply for a certificate of label approval.

ATF announced in Industry Circular 93-8 that dissemination of the full text of the April 1992 edition of "Alcohol Alert" as published by NIAAA, would not be in violation of the regulations. The final rule does not change this policy. Furthermore, dissemination of the entire Dietary Guidelines as advertising materials by industry members, or dissemination of the two pages from the current Guidelines dealing with alcohol beverages (pages 36 and 37) would not violate the final rule. Both of these materials provide a comprehensive

discussion of the health consequences of alcohol consumption. The information in these materials regarding the health consequences of alcohol consumption is truthful and supported by scientific evidence. The information is sufficiently detailed, qualified and specific, and sets forth the health risks associated with both moderate and heavier levels of alcohol consumption. Both of these publications further set forth the categories of individuals for whom any level of alcohol consumption may pose health risks. Accordingly, these materials comply with the standards set forth in the regulations.

As ATF stated in Industry Circular 93-8, we will continue to evaluate any additional text that accompanies these materials, such as editorializing, advertising slogans, or exhortations to consume the product, to determine whether or not the advertisement as a whole presents truthful and non-misleading information regarding the risks associated with alcohol consumption. Furthermore, the use of any buttons, shelf talkers, table tents, and similar items that excerpt any portion of the NIAAA publication or the Dietary Guidelines, or that are based on any other publication or article about the health consequences of alcohol consumption, will be closely scrutinized to determine if they tend to mislead consumers about the serious risks associated with alcohol consumption.

XVI. Are Health-Related Directional Statements Misleading?

As previously noted, the vast majority of the commenters addressed the issue of health-related directional statements, such as the ones approved by

ATF in 1999, rather than the issue of substantive health claims. Approximately 355 commenters expressed support for the use of directional statements on alcohol beverage labels. Many commenters stated that directional statements are not substantive health claims and that they merely refer consumers to other sources for information about the effects on health of alcohol consumption. As such, the commenters maintain that directional statements are not misleading to consumers. On the other hand, most of the approximately 120 comments in opposition to the use of health claims also opposed the use of health-related directional statements in the labeling and advertising of alcohol beverages.

A. Comments and Testimony in Favor of the Use of Health-Related Directional Statements

Most of the comments in support of directional statements shared the view set forth in the Wine Institute's comment as follows:

> Directing consumers to consult with their doctors or to refer to the Dietary Guidelines regarding the health effects of wine consumption constitutes a responsible and neutral message. Far from misleading the public, such statements are designed to educate and empower each individual to make fully informed choices regarding the consumption of wine. (Comment 401).

The Wine Institute's comment also stated that health-related directional statements were "certainly not misleading because they do not constitute substantive health claims in the first instance." They cited the CSAP survey, which concluded that the drinking patterns of 88.3% of the participants would not be influenced by directional statements, with an additional 3.9% indicating they would drink less.

In response to ATF's question of whether the negative consequences of alcohol consumption and abuse disqualified alcohol beverages from entitlement to health claims or health-related statements, the Wine Institute submitted extensive summaries of scientific studies on moderate consumption of wine and alcohol for the Dietary Guidelines Review Process. An updated compilation of that submission was attached to their comment. The Wine Institute stated that it "fully subscribes to an open and vigorous dialogue driven by the findings of the scientific community on the health effects of alcohol consumption."

The Wine Institute submitted a supplemental comment in which it stated that it wished "to underscore how critical it is to make the distinction between health-related statements and those in which a substantive claim of health benefits is advanced. A substantial number of submissions you have received to date appear to blur this crucial difference and argue against directional labels by incorrectly classifying such labels as health claims." (Comment 401b).

Mr. John DeLuca, President and CEO of the Wine Institute, testified at both the Washington, DC and San Francisco, California hearings. Mr. DeLuca stated that he believed that wineries have a First Amendment right to use the directional label, and pointed to the CSAP survey as evidence that consumers would not increase consumption as a result of directional statements. (April 25, 2000; Washington, DC, page 32). He urged the empowerment of the public through dissemination of information, and urged that the public should be trusted "to handle this information." (Id. at pages 32-33).

When asked about substantive health claims, Mr. DeLuca stated that "we

are not trying to sell wine as health food or as a medicine." (Id. at page 37). He said that "we should be erring on the side of making it as hard as possible for someone to make a health claim. It really is not the province of the industry to be talking that way. We want third-party peer review journals research to be what is presented to the public, not what we put to the public." (Id. at page 38). In response to a question about whether the directional statements were perceived as health claims, Mr. DeLuca stated that the Wine Institute had withdrawn its original label submission, which included the phrase "health benefits," because they "knew it was going to lead to a cascade of criticism" and that the phrase "health effects" came from the Appropriations Committee's language in appropriating funds for NIH and NIAAA to research the effects on health of moderate drinking. (Id. at page 40).

When asked about consumer reaction to the directional statements, Mr. DeLuca noted that only 17 companies had received approval from ATF for using directional statements before the moratorium went into effect – 5 received approval for the Dietary Guidelines statement, and 12 utilized the family doctor statement. (May 23, 2000; San Francisco, CA, pages 14-15). Mr. DeLuca stressed that the Wine Institute did not encourage wineries to use the label, noting that "[w]e always thought of this as a voluntary option for our members. They were designed primarily for public policy, not for public relations, a distinction with an enormous difference." (Id. at 15).

The AVA, a trade association of American wineries representing approximately 600 members, also noted that it had been involved on behalf of

one of its members in the ATF review process for the directional statements approved in 1999. (Comment 417). AVA stated that it agreed with the applicant, Mr. Patrick Campbell, that the directional statement "makes no claim, pro or con, therapeutic or curative, true or false. The COLA [certificate of label approval] makes no claim at all. It merely (and sensibly) encourages consumers to consult with their family doctor about their personal use of the product. * * * Since this COLA makes no claim, questions about its potential to mislead are irrelevant." (Comment 417). The President of AVA, Mr. Simon Siegl, testified at the public hearings in support of a winery's right to use a directional label. (April 26, 2000; Washington, DC, page 65).

Many winemakers also commented in support of the use of directional statements. Some emphasized the neutral content of the directional statements. The Associated Vintage Group asked "what can be a better message than referring them [consumers] to our own government's nutritional guides or, even better, checking with their doctors." (Comment 173). Mr. Kent Rosenblum commented that "[d]irectional labels do not constitute health claims, and government survey data indicate no changes in drinking patterns would occur." (Comment 151). He then went on to note that "[t]here is a developing scientific consensus that moderate wine and alcohol consumption can be part of a healthy diet and lifestyle for those who choose to drink."

Other wineries specifically referenced the directional statements as providing balance to the Government warning statement, or referring to the "benefits" of consumption. For example, De Rose Vineyards commented that

"[t]he U.S. Dietary Guidelines for Americans constitutes a responsible and neutral message." The winery also stated that "[t]here is a very substantial body of scientific data that verifies the efficacy and healthfulness of moderate wine consumption. Withholding this most helpful and beneficial information, and instead only emphasizing the harmful effects of wine consumption, is ludicrous and ultimately destructive and irresponsible. A forthright balance of both positive and negative simply educates an informed public and allows them to make responsible decisions." (Comment 172). Two other wine producers made similar comments (Comments 214 and 387).

Many commenters who did not identify themselves as being part of the wine industry also supported the directional statements. Some supported the general concept of directing consumers to the Dietary Guidelines or their physician for more information about the effects on health of alcohol consumption. One suggested that "[t]he wording is neutral and not positive, thereby serving as education rather than propaganda." (Comment 332). Several commenters referred to the consumer survey conducted by CSAP as evidence that the statements did not mislead consumers.

Some commenters argued that consumers have a right to know all the scientific information available on both the positive and negative effects of various levels of alcohol consumption, and that such information allows consumers to make informed decisions regarding alcohol consumption. For example, one commenter stated that "people are generally capable of making sensible decisions, if assisted by complete information. * * * Moreover, the

small minority who do not make sensible decisions will not be deterred by suppressing the presentation of accurate, balanced information." (Comment 423). An individual suggested that "in an era when we all are trying to eliminate governmental control of those areas of our lives where we can be treated as adults, it seems odd for you to be against a neutral statement that wine drinkers should consult their doctors about the possible health benefits of wine." (Comment 136).

Many of the commenters suggested that the directional statements or other positive health-related statements were necessary to "balance" the negative information provided by the Government warning statement. For example, one commenter supported the directional statements because the warning statement should be supplemented with "equally valid" information "explaining the benefits and positive effects of responsible consumption." (Comment 296). Another individual supported the use of "positive health related statements" and stated that "[t]he wine industry deserves to be afforded an opportunity to address the latest beneficial health aspects of moderate wine consumption, as outlined in the U.S. dietary guidelines, on its products. The entire thrust of Government Warning labels has been entirely negative." (Comment 240).

Finally, some commenters argued that the Government should encourage consumers to seek the best advice possible from the most credible sources available on any health issue. With respect to the consumption of alcohol beverages, the National Association of Beverage Retailers suggested

that "[p]hysicians and the U.S. Dietary Guidelines are among the most credible sources available to give professional, objective, responsible and balanced advice on an important health issue." (Comment 424).

At the hearings, several doctors testified in support of the directional labeling statements. Some specifically supported the statement encouraging consumers to consult with their physician. For example, Dr. Michael Apstein, a gastroenterologist and liver doctor, testified that advice regarding alcohol consumption should be targeted to specific populations rather than generalized for the entire population. He stated that "[t]hese are complex issues that can't easily be summarized on a label that goes on a wine bottle. They need to be discussed with a person's physician and individualized to that person's situation. Therefore, I am in favor of a directional label that advises individuals to discuss this topic with their physicians, because I am hopeful that a directional label will stimulate another kind of educational experience, so people can use alcohol responsibly if they so desire and avoid it if they should be avoiding it." (April 25, 2000; Washington, DC, page 167).

Similarly, Dr. Harvey Finkel, a physician and clinical professor of medicine, testified that both directional statements should be allowed, stressing the importance of advising consumers to consult their doctors, because the public has a right to be fully informed about the health consequences of alcohol consumption. (April 26, 2000; Washington, DC, pages 30-33). Mr. George Linn, a consumer, also testified in support of the concept of referring consumers to their physicians for more individualized advice about alcohol consumption.

(May 24, 2000; San Francisco, CA, page 256). On the other hand, Dr. Paul Scholten, an associate professor of obstetrics, gynecology, reproductive medicine, and nursing, testified in support of the directional statement referring consumers to the Dietary Guidelines, but expressed concerns about whether doctors were well trained to advise patients about the health consequences of alcohol consumption. (May 23, 2000; San Francisco, CA, pages 170-171).

Some individuals commented in support of the general concept of directional statements. Dr. Dwight Heath, a Professor of Anthropology, testified that while he opposed the use of substantive health claims, he favored the use of the directional statements on labels. (April 26, 2000; Washington, DC, page 13). Dr. Heath suggested that the more people know about alcohol consumption, the less likely they are to have alcohol-related problems. (Id. at page 5). Similarly, Professor R.L. Williams, of the Oenological Research Facility of Old Dominion University, stated that in his opinion, "the level of scientific information regarding the positive health effects of moderate consumption of wine is now quite overwhelming. * * * This information should be made more available to the consumers in regard to the directional health statements." (April 26, 2000; Washington, DC, page 91). Mr. Archie Brodsky, a senior research associate in psychiatry and the law, testified in favor of the use of directional statements on alcohol beverage labels. He stated that the CSAP survey confirmed that the labels would have a "negligible" influence on consumers' drinking habits. (April 26, 2000; Washington, DC, page 171).

Mr. Patrick Campbell of Laurel Glen Winery, who submitted the first

directional statement to ATF for approval in 1995, testified on behalf of the Coalition for Truth and Balance. Mr. Campbell stated that discussion of the health benefits or risks of alcohol consumption was not relevant to a discussion of the directional statements, since "the approved messages do not constitute health-related statements or make substantive claims regarding health benefits." (May 23, 2000; San Francisco, CA, page 75). He asserted that the message encouraging consumers to consult with their family doctors "is neither true nor false. It makes no claim * * * positive or negative, therapeutic or curative, pro or con." (Id. at 76). Mr. Campbell argued that the message was not misleading in that it "presumes nothing. It presupposes nothing. It in no way directs the outcome of any consultation the consumer may or may not undertake with his or her family physician. For all the winery knows, the doctor might tell all of his or her patients never to touch the stuff * * *. It's a thoroughly neutral and impartial message." (Id. at 76-77).

Mr. Campbell expressed surprise at the controversy over the message, and said he would have expected that "every health professional and governmental agency in the country would welcome it. * * * After all, if you can't trust your family doctor for truthful and not misleading advice on health issues who can you trust?" (Id. at 78). Mr. Campbell noted that the American Heart Association "publishes a section on alcohol in their dietary guidelines that explicitly recommends that patients consult with their personal physician on questions of alcohol use * * *." (Id. at 80).

Mr. Campbell stated that on June 3, 1999, before the moratorium on

approving directional statements went into effect, ATF approved a version of the directional statement which omitted the language about "the proud people who made this wine" and instead read as follows: "We encourage you to consult with your family doctor about the health effects of wine consumption." (Id. at page 74). He stated that he now preferred this version, since he believes that it fits better in the label, it's not pompous, and it was an appropriate response to the people who argued that the "proud people" language constituted an implicit endorsement of alcohol consumption. (Id. at page 87).

In response to a question from the panel, Mr. Campbell stated that he had gotten no feedback from consumers as to how they viewed the directional statements. He said that "[n]obody's said anything, it's unbelievable. I mean, it cost a lot of money to put these on the label." (Id. at page 88).

Mr. Jack Stuart testified on behalf of the Napa Valley Vintners Association. He stated that "we think that the directional warning is a good thing. We don't consider it to be a positive health claim. If you take out the phrase 'proud people,' certainly it's a neutral statement, it's simply a way of getting information, and we think it's a good idea for anyone who is proposing to drink, or who does drink, or who does any other thing having to do with food, their diet, their lifestyle, to consult their physician about the choices they make in that regard." (May 24, 2000; San Francisco, California, page 200). In response to a question from the panel, Mr. Stuart suggested that "to have a balanced message, to me the ideal would be to somehow combine both the warning and the directional message." (Id. at page 210).

Mr. Mark Chandler, the Executive Director of the Lodi-Woodbridge Winegrape Commission, also testified in favor of the directional statements. He stated that "[g]rowers and wineries have no intention to market their products as health food. But, unlike other food products, we are prevented by regulation from even mentioning our product's positive health attributes, thus the need for directional labels." (May 24, 2000; San Francisco, CA, page 250). Mr. Gordon Murchie testified on behalf of the Virginia Wineries Association in favor of the use of directional statements, calling them public service announcements that "direct the concerned citizen to another source of professional non-biased, balanced information." (April 26, 2000; Washington, DC, page 78). In response to a question from the panel, Mr. Murchie said his members would be interested in using directional statements on labels, but were reluctant to do so until they saw that the statements were accepted by the Government and the public. (Id. at pages 86-87).

Dr. Ellen Mack, a physician and part owner of a winery, testified that "[i]f wine were considered a medication – and I'm not at all advocating that it should be – it would be like most other medications, the dose is critical. Too little may not have the desired effect, and too much can be dangerous or even deadly." (May 23, 2000; San Francisco, CA, page 132). Dr. Mack suggested that "the directional wine labels are effective agents in that the sources of information – the U.S. Dietary Guidelines and personal physicians – will clearly make the point that the beneficial health effects result from moderate consumption of alcohol, and these sources will define moderate as no more than one drink per

day for women and no more than two drinks per day for men." Id.

Various other individuals testified in favor of the directional statement. For example, Ms. Annette Shafer, author of "The Wine Sense Diet" testified in favor of a "more balanced message on the bottle," suggesting that the warning label is "very one-sided." (May 24, 2000; San Francisco, CA, page 212).

B. Comments and Testimony in Opposition to Directional Statements

Public health organizations and other commenters raised the following specific objections to the use of directional health-related statements in the labeling and advertising of alcohol beverages.

1. Directional Statements are Implicit Health Claims That Reinforce the Inaccurate Perceptions of Consumers About Alcohol and Health

CSPI commented that the directional statements were actually implied health claims. Its comment argued that the "reference to the 'health effects of wine consumption' offers no useful information, but simply reinforces existing inaccurate knowledge about the health benefits of alcohol consumption, as spread through the media and the wine industry's misleading publicity campaign, and implies that those benefits are substantial and universal." (Comment 400).

The American Cancer Society noted that "[w]ith the publicity in the past few years about the health benefits of consuming alcoholic beverages, any less-detailed claim or reference to health impacts or benefits might be interpreted by the uninformed consumer as a suggestion that people should

drink alcohol for their health. Sufficient information is needed to allow consumers to make a well-educated decision regarding their risk from consumption of this product." (Comment 527). Accordingly, the American Cancer Society concluded that directional labels "may mislead the general public regarding the health benefits of alcohol consumption by providing inadequate information regarding the risks."

Senator Thurmond commented that the directional statements were inherently misleading. He stated that it was unlikely that consumers who read the directional statements would actually send for the Dietary Guidelines or consult their physicians. Instead, Senator Thurmond suggested that "consumers may be left with the impression that these statements refer to studies that suggest drinking alcohol may have some positive health benefits." He noted that "[t]his impression may reinforce inaccurate assertions about the health benefits of alcohol consumption spread through the media. These statements may also be inappropriately viewed as the government's endorsement of drinking. However, any suggestion that the government endorses drinking for health reasons is false." (Comment 526).

2. Directional Statements Undermine the Mandatory Government Warning Statement and May be in Violation of the Alcoholic Beverage Labeling Act

NCADD's comment stated that the directional statements approved by ATF in 1999 "are misleading and potentially confusing to consumers in juxtaposition to the federally mandated government warning on all alcoholic beverage containers sold in the United States." (Comment 15). Similarly,

MADD commented that "[t]he public and particularly youth are being given a mixed message with the inclusion of 'health messages' in alcohol advertising and on warning labels and the net result is consumer confusion." (Comment 20). MADD also noted that "[w]arning labels on alcoholic beverages were created for a specific purpose – to make the consumer aware of the potential harm they could suffer as a result of the use or abuse of the product."

The United Communities Against Drug & Alcohol Abuse commented that "Congress has already required a warning statement on alcoholic-beverage containers. Any other reference to health impacts or benefits is likely to confuse consumers and undermine the impact of the existing warning statement." (Comment 31). The American Council on Alcohol Problems urged ATF "not to contribute to confusion by allowing any insinuation of health benefits from alcohol consumption." (Comment 37).

Dr. Thomas Greenfield, a psychologist, testified in opposition to the use of health-related statements. He stated he was principal investigator of the Impact of Alcoholic Beverage Warning Labels Research Project from 1991-1997. He stated that research showed that the mandatory Government warning statement had "fragile but beneficial effects" and that "one must be concerned that a vague health effects message, by implication positive, may wipe out the small gains in reminding the public of situational hazards of drinking when driving or pregnant, and also the health risks." (May 24, 2000; San Francisco, CA, pages 182-183). He suggested that in order to be truly neutral, a directional statement "should have a tone that would be to look at the health

risks and health benefits, and potential heath benefits. And one would have to do it in such a way that it emphasized that – which is, we believe, strongly the case – that the health benefits [are] * * * relatively small in comparison to the health harms." (Id. at page 191).

CSPI commented that if ATF allowed any health claim or health-related statement on a label, it "should be worded and displayed in a manner that does not overshadow, contradict, or undermine the government warning label. For example, the claim should appear in the same type size and style as the government warning label, and should not contain any claim that contradicts any of the statements in the warning label." (Comment 400).

Senator Thurmond testified that the purpose of the ABLA was to provide "a clear, non-confusing reminder of the health hazards associated with alcohol consumption." (April 25, 2000; Washington, DC, page 17). Senator Thurmond suggested that "the two directional statements which the ATF approved last year dilutes the required warnings and, worse, may be seen as the government's endorsement of drinking. As one of the authors of the Alcohol Beverage Labeling Act, let me stress that the intent of the legislation was to exclude such misleading statements." Id. In response to the First Amendment concerns raised by some individuals, Senator Thurmond suggested that at a minimum, "groups supporting health-related statements should be required to prove beyond any reasonable doubt that such claims are not misleading and do not detract from the government warning." (Id. at page 18).

In addition to Senator Thurmond's comment, a letter signed by Senators Thurmond, Byrd, and Helms supported a ban on all health-related statements and directional health statements on labels. (Comment 526). In this comment, the three Senators stated that the directional statements approved by ATF in 1999 "dilute the required government warning and mislead consumers. In fact, these labels might inappropriately be seen as the government's endorsement of alcohol consumption." The comment also noted the difficulty of presenting a balanced statement on the effects on health of alcohol consumption on an alcohol beverage label. The Senators stated that "Congress has spoken clearly on this important public health issue. The purpose of the ABLA should not be subverted."

3. Directional Statements are Misleading Because Drinkers are Unlikely to Seek Health Information

Many commenters suggested that the directional statements were misleading because the CSAP consumer survey established that consumers who read the directional labels were unlikely to seek additional information from their doctors or send for the Dietary Guidelines. For example, CSPI argued that "referring consumers to a government publication which offers balanced information is only credible if there is a reasonable likelihood that such referral will in fact result." (Comment 400). CSPI suggested that "according to consumer research, few people would actually look at or write for the Dietary Guidelines on the basis of the label language." CSPI and others questioned

whether consumers would get complete information from either the Dietary Guidelines or their doctors.

Similar points were raised in the testimony of Mr. James Mosher on behalf of the California Council on Alcohol Policy, a nonprofit membership organization dedicated to promoting public health approaches to the prevention of alcohol-related problems. Mr. Mosher argued that the directional labels were inherently misleading and thus did not constitute protected commercial speech under the First Amendment. Because the directional statements themselves make no claim about the effects on health of alcohol consumption, Mr. Mosher suggested that the key to determining whether they would mislead consumers depends upon "the sources to be consulted, the likelihood of consumers actually consulting them, and the possibility that the wording will lead to consumer confusion, misleading or deceptive impressions." (May 23, 2000; San Francisco, CA, page 92).

4. Directional Statements are Misleading Because Drinkers are Likely to Rationalize Their Consumption Patterns

As previously mentioned, several doctors who have been certified by the American Society of Addiction Medicine commented in opposition to the use of both health claims and health-related directional statements in the labeling and advertising of wines. These commenters suggested that health claims and directional statements could be misconstrued by problem drinkers in order to rationalize their own levels of consumption. For example, one doctor suggested that these statements could be misconstrued by consumers, because

"consumers, especially those with a vulnerability to alcoholism, may take the message as an endorsement of excessive drinking." Accordingly, he urged that ATF "prohibit the alcoholic-beverage industry from making these misleading and potentially dangerous claims." (Comment 167).

Another medical doctor urged ATF to rescind approval of the directional labeling statements, stating that "[a] brief message on any beverage container will not provide consumers with adequate information about use of alcohol for health-related reasons. Due to the publicity in the past few years about the health benefits of moderate alcohol consumption, a brief label may be interpreted by the uninformed consumer as a government-authorized statement supporting consumption of alcohol for health benefit." (Comment 410).

NCADD also cited the CSAP study as establishing that focus group members were "generally aware" of the reports on positive effects on health of wine consumption, and that the heavier drinkers were more aware of the media reports. NCADD suggested that heavy drinkers would use these "beliefs" about the effects on health of wine consumption to justify their drinking levels. (Comment 15).

Ms. Joan Kiley, coordinator of the Alcohol Policy Network of Alameda County, testified in favor of a complete ban on health claims or health-related statements in the labeling or advertising of alcohol beverages. She stated that the directional statements were inherently misleading, since they were "incomplete statements that do not put research results in their proper context." (May 24, 2000; San Francisco, CA, page 228). Ms. Kiley noted that

"[c]onsumers are not always aware of the effect that images and attitudes promoted in advertising have on their own desires." (Id. at page 232). In response to a question from the panel, Ms. Kiley said that in her experience, people with alcohol problems were "very skilled at finding good reasons to drink. They * * * can use a multiple number of reasons to drink, that might just be another one." (Id. at page 239).

5. Directional Statements Could be Interpreted as the Government's Endorsement of Alcohol Consumption

The former Surgeon General, Dr. David Satcher, testified that it was important to "carefully consider any action, whether it involves the health warning or claims that could encourage underage drinking or mislead about the very real, adverse health consequences." (April 25, 2000; Washington, DC, page 73). Dr. Satcher stated he was "concerned that references to the U.S. dietary guidelines on the labels of certain wine products could wrongly lead consumers to conclude that consumption of wine would reduce health risks or that it was recommended by guidelines or by family physicians. References to alcohol in the guidelines should not be construed as evidence of health benefits nor encouragement that consumers drink. * * * In fact, the Public Health Service does not recommend consumption of alcohol beverages." (Id. at page 74).

The Marin Institute for the Prevention of Alcohol and Other Drug Problems (Comment 324) suggested that the directional statements attributed positive effects on health to the consumption of alcohol beverages, and were

thus "misleading and potentially dangerous because media and marketing messages can be misinterpreted as public health recommendations." The Marin Institute stated that the "60 Minutes" report on the possible heart protective effects of drinking red wine led to a 44 percent increase in red wine sales. They quoted the marketing manager of a winery as stating in "Impact" magazine in 1997 that information about health benefits was "increasing consumption more than any thing else." Ms. Hilary Abramson testified on behalf of the Marin Institute at the San Francisco hearing that the so-called French Paradox ("the apparent coexistence in France of a low heart disease rate and a diet rich in saturated fat, and the belief that alcohol [red wine] is the explanation for it") had been overestimated, and the French heart disease statistics underestimated. She stated that after the 60 Minutes Broadcast in November 1991 on the French Paradox, "sales of red wine in the United States rocketed 44%, and a Gallup poll showed that 58% of Americans were aware of research linking moderate drinking to lower rates of heart disease." (May 23, 2000; San Francisco, CA, pages 115-116).

Similarly, the Greater Spokane Substance Abuse Council's Prevention Center commented that "[a]ny statement or labeling in reference to supposed 'health benefits' could be construed by an uninformed consumer population as a government endorsement to consume a likely harmful product." (Comment 32). The American Council on Alcohol Problems also commented that "[i]f health claims are allowed on labels or even implied, many uninformed consumers would interpret this as a government sanctioned statement suggesting that

people drink alcohol for their health. Quite to the contrary, research clearly shows that any measure which increases the level of alcohol consumption will result in increased levels of disease and accidents." (Comment 37).

6. Other Testimony Against Directional Statements

Many of the medical experts who testified at the public hearings expressed concerns that the directional statements would mislead consumers about the effects on health of alcohol consumption. For example, Dr. Camargo concluded that "with all of these variety of factors influencing the net health effect of alcohol, I think it is really quite foolhardy to believe that any one-sentence generic health claim about moderate wine consumption would serve public-health interests, or even provide reliable consumer advice. In addition to the gross simplification of a complex risk/benefit analysis, the labels will also lead to several other levels of confusion." (April 25, 2000; Washington, DC, page 90). In particular, he noted that few consumers would actually consult the Dietary Guidelines for information on the effects of alcohol consumption, that many people who notice the label would interpret the phrase "health effects" as "healthy effects," that there is considerable confusion about what constitutes moderate drinking, and that if consumers do consult their family physician, "it is very unlikely the physician will be in a position to provide accurate, up-to-date information about all of the risks and benefits of moderate drinking." (April 25, 2000; Washington, DC, pages 91-92). Dr. Camargo also noted that "generic health claims are likely to be misinterpreted by those at greatest risk of alcohol

problems, a group that would likely use the health claim to justify continued or increased consumption of excessive alcohol with all of its attendant health hazards." (Id. at page 92).

Dr. Criqui also testified that because of the negative health consequences associated with alcohol consumption and abuse, the directional statements are inherently misleading. (May 23, 2000; San Francisco, CA, page 60). He stated that the approved directional statements appear to implicitly endorse the value of alcohol as a pharmacological protective agent. (Id. at page 59). Dr. Criqui offered his opinion that consumers interpret the approved statements as substantive health claims, which means that at least for most people drinking is good and has health benefits and that the Government endorses this position. Because the directional statements are recent and come in the context of media discussion about the possible benefits of alcohol consumption, Dr. Criqui stated that the statements are likely to be interpreted as implicitly endorsing alcohol consumption as being potentially healthy, since they do not emphasize or even mention the dangers of alcohol consumption. (Id. at pages 59-60).

Some people suggested that consumers would interpret the directional statements as making positive health-related claims simply because of an assumption that the industry would not use the statements unless they were positive. For example, Dr. Duke, representing the Ethics and Religious Liberty Commission, the moral concerns agency for the Southern Baptist Convention, suggested that the directional statements were misleading because they "create

an impression of endorsement of the health claims made by the alcohol industry. * * * The average person would not conclude that the alcohol industry would direct people to information damaging to their claim. Consequently, the average person will assume a doctor would agree that drinking alcohol is good for one's health." (April 25, 2000; Washington, DC, 154-155).

Ms. Diana Conti testified on behalf of the American Public Health Association in support of a ban on all health-related statements on labels and in advertisements, other than the required warning statement. Ms. Conti suggested that the directional statement regarding the Dietary Guidelines "provides no specific information, no definition of moderate drinking, and no cautions to those who should not drink. The message is confusing and it's contradictory to the warning label." (May 23, 2000; San Francisco, CA, page 106). She stated that "[t]he lack of substantive information creates the impression that the government says moderate wine consumption is good for your health, and few, if any, will actually read the guidelines for the more complete information." (Id. at page 107).

C. Decision

When ATF approved the directional statements in 1999, it concluded that the record did not establish that the statements would mislead consumers about the risks associated with alcohol consumption. ATF relied heavily upon the

CSAP consumer survey, which concluded that the directional statements would not encourage most consumers to alter their consumption levels or patterns.

After careful consideration of the comments and testimony on this issue, it is TTB's conclusion that while the two directional statements approved in 1999 were worded in a way that was intended to represent a neutral referral to doctors or the Dietary Guidelines for additional information, the statements were capable of being interpreted in a very different fashion. In particular, the statements could be interpreted as encouraging the consumption of alcohol for health reasons.

While the CSAP survey established that the vast majority of consumers would not alter their consumption patterns after exposure to the two directional statements, it did not explore whether consumers would interpret the statements as encouraging the consumption of alcohol for health reasons. Since TTB has no consumer data on this issue, we must rely upon the secondary data that is available to us, including the opinions of medical and public health experts in the field of alcohol and health.

Initially, TTB would note that many media reports about approval of the directional statements referred to these statements as health claims or references to health benefits. See section VII, <u>infra</u>. We recognize that these reports only indirectly reflect consumer reactions to the directional statements, and that they may have been influenced by the industry's or the public health sector's characterizations of the statements. Nonetheless, to the extent that these media reports both reflect and shape the perceptions of consumers, we

believe that these reports are persuasive evidence that the directional statements are perceived by many as making a positive claim about the effects on health of alcohol consumption.

We are also persuaded by the opinions of many of the foremost public health experts in the nation. These public health experts believe that the allegedly neutral directional statements in fact communicated a message that the Government endorsed drinking for health reasons, or that the Dietary Guidelines or a family physician would endorse the consumption of alcohol for health reasons. For example, the former United States Surgeon General testified that he was "concerned that references to the U.S. dietary guidelines on the labels of certain wine products could wrongly lead consumers to conclude that consumption of wine would reduce health risks or that it was recommended by guidelines or by family physicians." (April 25, 2000; Washington, DC, page 74). Similarly, the American Cancer Society noted that "[w]ith the publicity in the past few years about the health benefits of consuming alcoholic beverages, any less-detailed claim or reference to health impacts or benefits might be interpreted by the uninformed consumer as a suggestion that people should drink alcohol for their health" and concluded that directional labels "may mislead the general public regarding the health benefits of alcohol consumption by providing inadequate information regarding the risks." (Comment 527). Other commenters, including the American Medical Association and the Marin Institute, supported a ban on directional statements for similar reasons.

TTB also finds persuasive the testimony of many of the foremost experts on the medical research regarding alcohol and health. For example, Dr. Camargo testified that in his opinion, consumers would interpret the phrase "health effects" to mean "healthy effects." (April 25, 2000; Washington, DC, pages 90-92). Dr. Criqui offered his opinion that the approved directional statements appear to implicitly endorse the value of alcohol as a pharmacological protective agent, and that consumers interpret the approved statements as substantive health claims meaning that at least for most people drinking is good and has health benefits and that the Government endorses this position. Because the directional statements are recent and come in the context of media discussion about the possible benefits of alcohol consumption, Dr. Criqui stated that the statements are likely to be interpreted as implicitly endorsing alcohol consumption as being potentially healthy, since they do not emphasize or even mention the dangers of alcohol consumption. (May 23, 2000; San Francisco, CA, pages 59-60).

TTB does not disregard the testimony of those medical professionals, including Dr. Apstein, Dr. Finkel, and Dr. Scholten, who testified in favor of the use of directional statements. We agree that industry members have the right to suggest, in labels or in advertisements, that consumers refer to third party sources for additional information regarding the effects on health of alcohol consumption. The question presented is how to make such referrals without misleading consumers.

We would also note that many of the comments in favor of the use of directional statements referred to the need to provide "balance" to the negative message of the health warning statement, and thus implicitly recognized that the directional statements were meant to convey a positive message about the effects on health of alcohol consumption. In this regard, it is noteworthy that in a comment submitted after the hearings were held, Beer Institute suggested that the position of several proponents of directional statements that such statements did not constitute health claims was inconsistent with those same proponents' attempts "to defend the directional statements by relying on well-known published medical literature that attributes certain health benefits to the moderate consumption of alcohol beverages. Given the history of this issue and the evidence cited by supporters of the directional statements, it seems impossible to characterize the directional statements as anything but health claims subject to the automatic qualifying provisions of the proposed new regulations." (Comment 396b).

After careful consideration of the comments and testimony in the rulemaking record, it is TTB's view that the directional statements approved in 1999 may be interpreted as advocating the consumption of alcohol beverages for health reasons. We recognize that producers of alcohol beverages have contended that they have a constitutionally protected right to advocate that consumers drink their products for health reasons. However, if such a claim is made on a label or in an advertisement, it must be made in a truthful and non-misleading fashion. Furthermore, such a claim would fall within the category of

a specific health claim, and would be subject to the requirements in the final rule applicable to such claims. To the extent that producers instead wish to make a neutral referral to third parties for additional information regarding the effects on health of alcohol consumption, we believe that it is necessary to provide a disclaimer that clarifies that the labeling or advertising statement should not encourage consumption of alcohol for health reasons.

Accordingly, the final rule provides that directional statements will not be allowed in the labeling or advertising of alcohol beverages unless accompanied by a disclaimer. The final rule provides a model disclaimer that alcohol beverage producers may use in conjunction with a general statement that directs consumers in a neutral or other non-misleading manner to a third party for balanced information regarding the effects on health of alcohol (wine, distilled spirits, or malt beverage) consumption: "This statement should not encourage you to drink or to increase your alcohol consumption for health reasons." It should be noted that in some cases, an acceptable disclaimer might be incorporated into the language of the directional statement itself; thus, if the directional statement makes it clear that it is not advocating consumption of alcohol for health reasons, then an additional disclaimer may not be necessary.

XVII. Should the Same Standards Apply to Wines, Distilled Spirits, and Malt Beverages?

A. Issue

The DISCUS comment opposed the Bureau's suggested "case-by-case"

approach, noting that the effects on health of alcohol consumption apply across the board to all beverage alcohol products. Accordingly, DISCUS suggested that public policy and regulatory policy require fair and equal treatment for each form of beverage alcohol, and any label statement for a beverage alcohol container should apply equally to each type of beverage alcohol. (Comment 530).

B. Decision

Both the proposed and final rules make it clear that the same standards apply to wine, distilled spirits, and malt beverages. The rulemaking record does not provide a basis for setting forth different standards for these types of alcohol beverages. The two directional statements approved by ATF in 1999 were both submitted by wineries, and thus both referred to the effects on health of "wine consumption." To the extent that a directional statement complies with the standards set forth in this final rule, it may be used in the labeling of a wine, distilled spirit, or malt beverage product.

XVIII. Should TTB Adopt the Procedures Set Forth in FDA's Regulations?

A. Issue

Several commenters suggested that ATF should adopt the substantive standards already in place in FDA's regulations governing the use of health claims in the labeling of foods. FDA also raised several concerns about consistency between ATF's proposed regulations and its own health claim regulations.

FDA (Comment 327) commented that it was "imperative that [ATF] regulate these claims in a manner consistent with the provisions of the Federal Food, Drug, and Cosmetic Act (FFDC Act) to ensure the meaningful and non-misleading use of such claims." FDA pointed out that pursuant to the Nutrition Labeling and Education Act (NLEA), a manufacturer may make a health claim on a food label only if FDA determines "based on the totality of publicly available scientific evidence (including evidence from well-designed studies conducted in a manner which is consistent with generally recognized scientific procedures and principles), that there is significant scientific agreement, among experts qualified by scientific training and experience to evaluate such claims, that the claim is supported by such evidence." 21 U.S.C. 343(r)(3)(B)(i).

FDA also noted that the use of claims for foods that may have a negative health impact generally is not appropriate under the NLEA. The statute provides that a health claim may not be made for a food that contains, as determined by regulation, any nutrient in an amount that increases to persons in the general population the risk of a disease or health-related condition that is diet-related. 21 U.S.C. 343(r)(3)(A)(ii). FDA may grant an exception to allow foods with disqualifying nutrient levels to bear a health claim if the claim is accompanied by a disclosure statement regarding the disqualifying nutrient and FDA has determined by regulation that such a claim would assist consumers in maintaining healthy dietary practices. 21 U.S.C. 343(r)(3)(A)(ii) and 343(r)(2)(B). FDA requires rigorous evidence to support a conclusion that a

health claim on a food with a disqualifying nutrient level would assist consumers in maintaining healthy dietary practices.

FDA expressed the following concern about the use of health claims on alcohol beverage labels:

> Alcohol beverages are foods for which there is evidence of a substantial number of undisputed negative health effects. FDA has not evaluated the evidence supporting the putative health benefits of alcohol beverages. Therefore, we cannot say whether health claims for an alcohol beverage would be prohibited under FDA's existing health claim authorization process, or if not prohibited, could be authorized with a disclosure statement of the type required by 21 U.S.C. 343(r)(2)(B). We are concerned, however, that the evidence for the well-known direct causative relationships between alcohol and numerous health risks would be a significant hurdle to our concluding that label information about a relationship between consumption of alcohol and a health claim could assist consumers in maintaining healthy dietary practices.

FDA also noted that the absence of any significant nutritive value of alcohol products would be another obstacle to FDA authorizing a health claim for alcohol beverages.

FDA stated that it was concerned that "certain therapeutic or curative claims sought by manufacturers of alcohol beverages may in fact be claims that would require regulation of the alcohol beverages as drugs." It noted that FDA has authority and responsibility under the FFDC Act to regulate all products bearing drug claims, and that the term "drug" is defined by statute to include an article "intended for use in the diagnosis, cure, mitigation, treatment or prevention of disease." 21 U.S.C. 321(g)(1)(B). FDA concluded that "[a]lcohol beverages could fall within this definition if their labeling contains drug claims."

FDA expressed a concern that certain health claims that would be allowed under ATF's proposed rule might render the product a drug subject to regulation under the FFDC Act. The FFDC Act provides that any drug that is not generally recognized by qualified experts as safe and effective for use under the conditions prescribed, recommended, or suggested in its labeling, or that has not been used to a material extent or for a material time under such conditions, is a "new drug." 21 U.S.C. 321(p). A new drug may not be legally marketed unless FDA has approved a new drug application for such a drug. 21 U.S.C. 331(d) and 355(a). FDA noted that the FFDC Act requires substantial evidence of effectiveness and evidence that the drug is safe for its intended use before FDA will approve a new drug application. 21 U.S.C. 355(d). FDA suggested that this standard differed from the "not misleading" standard proposed by the ATF notice of proposed rulemaking.

FDA advised that ATF should explicitly articulate in its regulations the processes by which it would review claims intended for alcohol beverages. It stated that it was unable to determine, based on the proposed rule, whether the proposed process for a review of health-related statements would be consistent with FDA's statutory and regulatory authorities. Accordingly, FDA urged ATF to clarify the process and criteria it intends to use to substantiate the validity of any health claims or other health-related statements before finalizing the proposed rule.

The former Surgeon General, Dr. David Satcher, also testified in support of adopting standards "consistent with that relied upon by the Food and Drug

Administration or for regulated health claims for foods and drugs." (April 25, 2000; Washington, DC, page 77). Accordingly, "[c]laims should be based on significant scientific agreement, and they should be qualified to identify those categories of persons for whom the claims are relevant, as well as to identify those for whom the negative consequences would outweigh any positive effect." (Id. at page 78). In response to a question from the panel, Dr. Satcher agreed that there were problems with consumers self-medicating without knowing all the facts, noting that "with alcohol, you also have the added effect that you are dealing with an addictive drug." (Id. at page 80). Senator Thurmond also commented that "[a]pplication of the FFDC Act to this issue would appear to prohibit any health-related statements on alcohol beverage labels. It is absurd that the government would prevent whole milk from making health-related claims but allow such claims by alcohol beverages." (Comment 526).

CSAP commented that "[a]lcohol abuse and alcoholism continue to be among the most vexing public health problems facing the United States. Indeed, alcohol is the nation's number one drug problem among youth." While CSAP did not take a position on any of the issues on which comment was sought, it noted that "[o]ne of the key issues challenging our efforts is the mixed or misleading messages that consumers receive from a variety of sources. The addition of health related information on beverage alcohol labels must be carefully considered in relation to the general public's understanding of alcohol-related health risk." (Comment 430).

CSPI suggested that ATF adopt regulations similar to FDA's regulations

under the NLEA, noting that USDA did so on a voluntary basis for health claims on meat and poultry. CSPI stated that under regulations similar to those of FDA, health claims would be prohibited because alcohol consumption increases the risk of other diseases, noting that "[t]o allow health claims for alcohol, America's most devastating drug, while health claims for foods such as whole milk are prohibited, would be indefensible and would make a mockery of the federal government's health-claim regime."

CSPI also noted that if an alcohol beverage label or advertisement claims that alcohol may reduce the risk of disease, the beverage may be regulated as a drug by FDA. CSPI argued that, "aside from its regulatory classification, alcohol is a drug. Depending on a variety of factors such as dose and schedule of use, individual metabolism, personality factors, and situation, alcohol is variously a stimulant and depressant, euphorigan and soporific, irritant and anxiety reducer. Alcohol, like other intoxicants, can produce such dependency phenomena as persistent search behavior, withdrawal, relapse, and loss of control."

B. Decision

After giving careful consideration to these comments, and consulting with FDA, TTB does not agree that its health claim regulations should be identical to those of FDA. FDA regulations were promulgated pursuant to a very specific grant of authority by Congress under the NLEA. Because of the differences in statutory authority, as well as the differences in the products regulated under

these two statutes, TTB's regulatory scheme for health claim labeling will differ from FDA's regulatory scheme.

However, TTB agrees with the FDA comment in several respects. Most importantly, we agree that it is important to ensure that alcohol beverage producers do not violate the new drug provisions of the FFDC Act when seeking to use specific health claims on alcohol beverage labels. It would be where the use of that claim would render the product subject to FDA's jurisdiction over drugs. Furthermo re, FDA's authority over new drugs has significant public health and safety consequences. TTB does not wish to create any confusion on the part of industry members regarding their obligations to comply with FDA's requirements over drug claims.

In the past, ATF merely advised industry members that they should be aware of the fact that the use of a health claim on an alcohol beverage label may subject the product to FDA's jurisdiction. However, after reviewing the comments on this issue, we met with FDA to discuss a process whereby TTB and FDA could consult on the use of specific health claims on alcohol beverage labels. In this way, FDA would have an opportunity to object to the use of a specific health claim, based on its jurisdiction over drugs, prior to any TTB action.

Accordingly, the final rule now provides that TTB will consult with FDA, as needed, on the use of specific health claims on labels. If FDA determines that a specific health claim is a drug claim that is not in compliance with the requirements of the FFDC Act, TTB will not approve the use of such statement on a label. There is no similar provision in the advertising regulations, since

advertisers are not required to obtain prior approval from TTB. We will of course consult with FDA, as appropriate, if the question arises as to whether an advertisement is in violation of the FFDC Act.

XIX. Is the Final Rule Consistent With the First Amendment?

A. Issue

As previously noted, many commenters suggested that the proposed rule did not comply with the protection accorded truthful and non-misleading commercial speech under the First Amendment. CEI and CA argued that ATF is precluded from placing any restrictions on the dissemination of truthful information about health benefits in the labeling and advertising of alcohol beverages. Beer Institute, DISCUS, and NABI suggested that the proposed advertising regulations would restrict protected commercial speech. Mr. Rex Davis, representing the President's Forum of the Beverage Alcohol Industry, testified that he believes the proposed rule violates the First Amendment because it would restrict the industry from communicating the benefits of alcohol consumption through labels and advertisements. (April 26, 2000; Washington, DC, pages 133-141). Many other commenters defended the constitutionality of a complete ban on the use of health-related statements in the labeling and advertising of alcohol beverages.

Some of the comments that (or commentators who) addressed the First Amendment issue suggested that while ATF would have authority to restrict the use of misleading health claims, a complete ban on the use of health-related statements would be unconstitutional. For example, the Washington Legal

Foundation concluded that an outright ban on the use of truthful health claims would be unconstitutional, but stated that the proposed regulations, "if properly implemented, strike the appropriate balance in ensuring the First Amendment rights of industry and consumers, and the dissemination of important information regarding the health benefits proven to flow from moderate consumption of alcohol beverages." (Comment 390). A comment submitted on behalf of the Oregon Winegrower's Association also stated that a ban on the use of health claims on labels or in advertisements would be unconstitutional; however, the comment stated that the agency should instead "adhere to a policy of allowing labeling and advertising claims about such health-related benefits to be fairly and objectively evaluated for substantiation, balance and qualification." (Comment 380).

A comment from Mr. Erik Bierbauer (Comment 395) attached a copy of a note that he wrote for the New York University Law Review as a third-year law student, entitled "Liquid Honesty: The First Amendment Right to Market the Health Benefits of Moderate Alcohol Consumption," 74 N.Y.U.L. Rev. 1057 (1999). The note concludes that alcohol producers have a First Amendment right to market the health benefits of moderate drinking, as long as they do so accurately and include certain limited disclaimers. Mr. Bierbauer suggested that while such limited disclaimers would be constitutionally authorized, "the sort of disclosure described in ATF's Industry Circular 93-8 probably would be too burdensome to comply with the First Amendment." However, Mr. Bierbauer's comment suggested that "[t]he Constitution would permit the government to

require health-related alcohol advertisements and labels to mention lesser-known risks that are present at moderate levels of drinking. For example, the government might legitimately require a disclaimer warning consumers of the possible link between moderate drinking and breast cancer, and also a statement warning certain vulnerable consumers not to drink at all." Mr. Bierbauer concluded that "[a]ds and labels that merely direct the consumer to other sources of information, such as the wine labels approved by ATF in February 1999, clearly would enjoy First Amendment protection."

B. Decision

As set forth in this final rule, TTB is not imposing a complete ban on the use of health claims or other health-related statements in the labeling and advertising of alcohol beverages. Accordingly, it is not necessary to consider whether such a ban would be constitutional. Instead, the final rule requires TTB to evaluate health claims on a case-by-case basis to determine if such claims would tend to mislead the consumer.

The final rule codifies ATF's longstanding position that any substantive health benefit claim is considered misleading unless it is truthful and adequately substantiated by scientific or medical evidence; sufficiently detailed and qualified with respect to the categories of individuals to whom the claim applies; adequately discloses the health risks associated with alcohol consumption; and outlines the categories of individuals for whom any levels of alcohol consumption may cause health risks. The final rule clarifies that the identified

health risks must include those associated with both moderate and higher levels of consumption. Thus, the rule would require any such claim to include appropriate qualifications and disclaimers about the health risks associated with alcohol consumption. In addition, health-related directional statements that are not substantive health claims must nonetheless include a disclaimer to clarify that the statement does not advocate the consumption of alcohol beverages for health reasons, or some other appropriate disclaimer to avoid misleading consumers. The rule's requirements for appropriate disclaimers and qualifications in order to avoid consumer deception about a health issue comport completely with the safeguards articulated by the Supreme Court to protect non-misleading commercial speech.

Commercial speech is defined as speech that proposes a commercial transaction. Virginia State Board of Pharmacy v. Virginia Citizens Consumer Council, Inc., 425 U.S. 748, 762 (1976). Information on alcohol beverage labels is considered commercial speech. Rubin v. Coors Brewing Co., 514 U.S. 476, 481 (1995). Commercial speech is generally protected by the First Amendment; however, it enjoys a more limited measure of protection. Florida Bar v. Went For It, Inc., 515 U.S. 618 (1995). Nonetheless, the Government bears the burden of justifying a restriction on commercial speech. See Greater New Orleans Broadcasting Ass'n v. United States, 527 U.S. 173, 183 (1999).

In order to regulate commercial speech, the Government must satisfy a 4-prong test. Central Hudson Gas & Electric Corp. v. Public Serv. Comm'n, 447 U.S. 557, 563-566 (1980). First, the expression is protected by the First

Amendment only if it concerns lawful activity and is not misleading. Second, the Government must establish a substantial interest. Third, the regulation must directly advance the governmental interest asserted. Finally, the regulation must be no more extensive than necessary to serve the interest asserted.

In two recent cases involving alcohol beverages, the Supreme Court has struck down bans on truthful and non-misleading commercial speech. In Rubin v. Coors Brewing Co., 514 U.S. 476, 491 (1995), the Supreme Court applied the Central Hudson analysis in striking down the FAA Act's prohibition against statements of alcohol content on malt beverage labels unless required by State law. In 44 Liquormart, Inc. v. Rhode Island, 517 U.S. 484 (1996), the Supreme Court struck down Rhode Island's ban on advertising the price of alcohol beverages on First Amendment grounds. More recently, in Lorillard Tobacco Co. v. Reilly, 533 U.S. 525 (2001), the Supreme Court struck down certain restrictions imposed by the State of Massachusetts on the advertisement of tobacco products on First Amendment grounds. However, none of these decisions restricts the Government's authority to regulate misleading or potentially misleading commercial speech.

If commercial speech is actually misleading, then it is not protected by the First Amendment. If commercial speech is potentially misleading, the Government may regulate such commercial messages if the restrictions are "no broader than reasonably necessary to prevent the deception." In re R.M.J., 455 U.S. 191, 203 (1982). Potentially misleading speech cannot be banned "if the information also may be presented in a way that is not deceptive" through the

use of "disclaimers or explanation." Id. Requirements for disclaimers have been upheld as long as the disclaimers are "reasonably related to the State's interest in preventing deception" and do not constitute an undue burden on the advertiser. Zauderer v. Office of Disciplinary Counsel, 471 U.S. 626, 651-53 (1985).

TTB recognizes that under the commercial speech doctrine, there is a preference for disclosure over suppression. See e.g., Zauderer and Pearson v. Shalala, 164 F.3d 650 (D.C. Cir. 1999). In Pearson, the Court of Appeals for the D.C. Circuit required the Food and Drug Administration to consider appropriate disclaimers for health claims on dietary supplement labels. The Court noted that "the government's interest in preventing the use of labels that are true but do not mention adverse effects would seem to be satisfied - at least ordinarily - by inclusion of a prominent disclaimer setting forth those adverse effects." 164 F.3d at 659.

Consistent with the Supreme Court cases cited above, as well as the D.C. Circuit's ruling in the Pearson case, the final rule requires any industry member who wishes to make an explicit or implicit health claim on a label or in an advertisement to make a more complete disclosure of the adverse effects on health caused by alcohol consumption. The final rule does not impose any additional requirements on industry members who do not wish to make such claims. However, given the very serious health risks associated with alcohol consumption, TTB believes that the use of health claims without such qualifications and disclaimers would be misleading to consumers.

The final rule is completely consistent with the preference expressed by the courts for disclosure over suppression in the commercial speech arena. The Supreme Court has held that more speech, not less, is the preferred means of ensuring that consumers have sufficient information to make informed choices in the commercial arena. In re R.M.J., 455 U.S. at 203. The final rule does not "ban" any type of speech regarding health claims or health-related statements in the labeling or advertising of alcohol beverages. Instead, the rule simply requires disclaimers for specific health claims and health-related directional statements.

CEI and CA suggested that there is no need for disclaimers in connection with health claims in the labeling or advertising of alcohol beverages. They point to the fact that the Government warning statement required on alcohol beverage containers already advises consumers that "Consumption of alcoholic beverages impairs your ability to drive a car or operate machinery, and may cause health problems." CEI and CA further suggest that consumers are well aware of the health risks associated with alcohol abuse, and there is no need to remind them of such risks.

TTB does not agree with this comment. The administrative record contains overwhelming evidence of the serious health risks associated with alcohol consumption. These risks are not merely hypothetical; they are well documented. Among other things, the comments established that over 8 million American adults are alcoholics; alcohol is a known human carcinogen; and alcohol contributes to the deaths of more than 100,000 Americans each year.

Furthermore, alcohol abuse has devastating effects on innocent third parties. In 1998, 15,935 people were killed in alcohol-related traffic crashes, and an estimated 850,000 were injured. Mothers Against Drunk Driving commented that the NIH estimated that the overall societal costs of alcohol abuse and alcoholism in 1995 ($167 billion) were more than 50 percent higher than the costs to society of illegal drug use ($110 billion). The health risks associated with alcohol consumption are not simply hypothetical; on the contrary, they present a serious public health problem in this country. Accordingly, the record supports a conclusion that a health claim that does not include information about these serious health risks would tend to mislead consumers about the health consequences of alcohol consumption.

TTB also disagrees with the suggestion by CEI and CA that health-related statements presented a necessary "balance" to the warning presented by the mandatory Government warning statement. The warning statement was intended by Congress to present a clear and nonconfusing reminder of the health hazards associated with consumption or abuse of alcohol beverages. See 27 U.S.C. 213. The use of health claims or other health-related statements without qualification or disclosure of adverse effects to "balance" the mandatory warning statement not only undermines the intent of the ABLA; it also tends to confuse consumers about the very real health risks associated with alcohol consumption.

The administrative record contains significant evidence that truthful statements about certain health benefits associated with moderate consumption

of alcohol beverages for certain individuals will tend to mislead consumers unless such statements are truthful and adequately substantiated by scientific or medical evidence; sufficiently detailed and qualified with respect to the categories of individuals to whom the claim applies; adequately disclose the health risks associated with both moderate and heavier levels of alcohol consumption; and outline the categories of individuals for whom any levels of alcohol consumption may cause health risks. Most consumers are unable to conduct or verify health research for themselves to determine whether a health claim is valid as to their own alcohol consumption, and are ill equipped to interpret the medical data, evaluate the potential benefits, or identify and weigh the other medical factors that may bear upon their individual decision to use alcohol for therapeutic reasons. See In re R.M.J., 455 U.S. at 202 (the public's comparative lack of knowledge regarding the product being advertised is an important factor in determining whether speech is misleading). A requirement for disclaimers of this nature in such a situation is clearly directly related to the Government's interest in ensuring that consumers are not misled by health statements on alcohol beverage labels.

Some commenters suggested that the types of disclaimers and qualifications required by the proposed regulations would overly burden industry members who wish to make health claims about alcohol consumption, making such requirements unconstitutional. CEI and CA suggested that "summary" health claims for alcohol consumption are just as truthful as other short health claims allowed by FDA for diets low in saturated fat and cholesterol, as well as

diets low in sodium. Other commenters suggested that because an alcohol beverage label is not large enough to include the volume of information necessary in order to give consumers a complete picture of the effects on health of alcohol consumption, such statements should be banned completely from alcohol beverage labels.

TTB agrees that the regulations make it difficult to present a substantive health claim (for example, one involving cardiovascular benefits associated with moderate alcohol consumption) on an alcohol beverage label, because of the level of qualification and explanation that would be necessary to set forth the risks associated with such consumption. TTB would also note that there seems to be an overwhelming lack of interest on the part of the alcohol beverage industry in using such health claims on alcohol beverage labels. The comments from major trade associations representing wineries, importers, brewers, and distillers did not indicate a concrete interest in using substantive health claims in the labeling or advertising of alcohol beverages. One lawyer testified in support of a 664-word labeling statement regarding effects on health and asserted that members of the wine industry had the right to make such statements; however, in response to questioning, he conceded that such a long statement would not be likely to be used on a label.

In the absence of any concrete indications of industry interest in using substantive health claims on alcohol beverage labels, there is no reason for TTB to draft a model health claim for use by industry members. Discussions of whether the regulations would unduly burden the industry's ability to use

qualified and truthful health claims in the labeling of alcohol beverages will be better informed if and when industry members submit such statements to TTB for review. Nothing in the regulation itself indicates that the requirements for qualification and balance are unduly burdensome. Furthermore, it must be concluded that the length of any required disclaimers and qualifications are directly related to the serious health risks associated with alcohol consumption, rather than any desire by the Government to suppress speech. In particular, the comparison made by CEI and CA with claims regarding diets low in saturated fat and cholesterol or diets low in sodium is not persuasive in the absence of any suggestion that such diets are associated with the types of documented health risks associated with alcohol consumption. Accordingly, TTB concludes that the requirements of the regulations do not unduly burden speech about the effects on health of alcohol consumption.

Because the directional statements do not make substantive health claims, but instead have been interpreted as implicitly encouraging the consumption of alcohol for health reasons, TTB does not believe it is necessary to require the same level of detail in the disclaimers required to ensure that such statements do not mislead consumers. In addition, there clearly is interest on the part of several industry members in using the directional statements. Accordingly, we have provided a model disclaimer that may be used by industry members in conjunction with such directional statements in order to avoid misleading consumers. This one-sentence disclaimer is not overly burdensome, and complies with the court cases allowing the Government to

mandate disclosures necessary to prevent consumer deception. TTB will consider other disclaimers on a case-by-case basis.

Accordingly, the final rule is in accordance with the case law under the commercial speech doctrine. Because the rule does not ban any speech, but merely sets forth the type of qualification, detail, and disclosure required in order to set forth a non-misleading health-related statement in the labeling or advertising of alcohol beverages, the rule is completely consistent with the First Amendment protection accorded truthful and non-misleading commercial speech. On the other hand, the rule is also consistent with TTB 's statutory responsibility to protect consumers from misleading commercial speech regarding the serious effects on health of alcohol consumption.

XX. Final Rule

Accordingly, this final rule amends the regulations to provide that labels and advertisements may not contain any health-related statement, including a specific health claim, that is untrue in any particular or tends to create a misleading impression. A specific health claim on an alcohol beverage label or advertisement will be considered misleading unless it is truthful and adequately substantiated by scientific or medical evidence; sufficiently detailed and qualified with respect to the categories of individuals to whom the claim applies; adequately discloses the health risks associated with both moderate and heavier levels of alcohol consumption; and outlines the categories of individuals for whom any alcohol consumption poses risks. This information must appear

as part of the specific health claim and, in the case of advertising, must also appear as prominent as the specific health claim. In addition, TTB will consult with FDA, as needed, on the use of specific health claims on labels. If FDA determines that a specific health claim is a drug claim that is not in compliance with the requirements of the FFDC Act, TTB will not approve the use of such statement on a label.

The final rule provides that a health-related statement that is not a specific health claim or a health-related directional statement will be allowed in the labeling or advertising of alcohol beverages only if TTB determines that the claim is not untrue in any particular and does not tend to create a misleading impression as to the effects on health of alcohol consumption. We will evaluate such statements on a case-by-case basis and may require as part of the health-related statement a disclaimer or other qualifying statement to dispel any misleading impression created by the health-related statement.

With regard to the "directional" statements approved by ATF in 1999, we recognize that the producers of alcohol beverages may have a protected right under the First Amendment to convey the message on labels and in advertisements that consumers should refer to their doctors or the Government's Dietary Guidelines for additional information about the effects on health of alcohol consumption, as long as that message is conveyed in a fashion that does not mislead consumers about the health consequences of alcohol consumption. As discussed above, TTB has also determined that

without disclaimers, the directional statements approved in 1999 tended to mislead consumers about the health consequences of alcohol consumption.

Accordingly, the final rule provides that a health-related directional statement is presumed misleading unless it directs consumers in a neutral or other non-misleading manner to a third party or other source for balanced information regarding the effects on health of alcohol consumption and includes as part of the health-related directional statement a brief disclaimer stating that the statement should not encourage consumption of alcohol for health reasons, or some other appropriate disclaimer to avoid misleading consumers.

As a clarifying change, the final rule uses the term "health-related statement" instead of "curative or therapeutic claim." However, the definition of a "health-related statement" in the final rule incorporates ATF's historic position on what constitutes a statement of a curative or therapeutic nature, as set forth in the preamble of it's final rule concerning the labeling and advertising regulations under the FAA Act (T.D. ATF-180, 49 FR 31667; August 8, 1984). Accordingly, a health-related statement includes any claim of a curative or therapeutic nature that, expressly or by implication, suggests a relationship between the consumption of alcohol, wine, distilled spirits, malt beverages, or any substance found within the alcohol beverage, and health benefits or effects on health. The term "health-related statement" also includes both specific health claims and general references to alleged health benefits or effects on health associated with the consumption of alcohol, wine, distilled spirits, malt beverages, or any substance found within the alcohol beverage, as well as

health-related directional statements. The term also includes statements and claims that imply that a physical or psychological sensation results from consuming wine, distilled spirits, or malt beverages, as well as statements and claims of nutritional value. Statements concerning caloric, carbohydrate, protein, and fat content of alcohol beverages are not considered nutritional claims about the product. However, statements of vitamin content are considered nutritional value claims, and will be prohibited if presented in a fashion that tends to mislead consumers as to the nutritional value of the product.

The term "specific health claim" is defined as a type of health-related statement that, expressly or by implication, characterizes the relationship of the alcohol beverage (e.g., wine, distilled spirits, or malt beverage), alcohol, or any substance found within the alcohol beverage, to a disease or health-related condition. Implied specific health claims include statements, symbols, vignettes, or other forms of communication that suggest, within the context in which they are presented, that a relationship exists between the alcohol beverage (wine, distilled spirits, or malt beverages), alcohol, or any substance found within the alcohol beverage, and a disease or health-related condition.

The term "health-related directional statement" is defined as a type of health-related statement that directs or refers consumers to a third party or other source for information regarding the effects on health of alcohol consumption.

The definitions in the final rule also clarify that TTB is not expanding its traditional interpretation of a curative or therapeutic claim to cover, for example, advertisements in which people are shown relaxing in an enjoyable setting while consuming alcohol beverages. Accordingly, the final rule in no way impinges on the right of industry members to advertise their products in a truthful and non-misleading fashion.

XXI. Applications for and Certificates of Label Approval

Upon the effective date of this final rule, applications for certificates of label approval must be in compliance with the regulations. In accordance with the provisions of 27 CFR 13.51 and 13.72(a)(2), upon the effective date of this final rule, certificates of label approval that are not in compliance with the regulations will be revoked by operation of regulation. Certificate holders must voluntarily surrender all certificates that are no longer in compliance and submit new applications for certificates that are in compliance with the new requirements.

XXII. Notes Appearing in Text of Supplementary Information

1. Hennekens, C.H., "Alcohol and Risk of Coronary Events," Research Monograph No. 31, "Alcohol and the Cardiovascular System" at 15 (National Institutes of Health, National Institute on Alcohol Abuse and Alcoholism, Bethesda, MD, 1996).

2. See, e.g., Boffetta, P. & Garfinkel, L., "Alcohol drinking and mortality among men enrolled in an American Cancer Society prospective study, "Epidemiology" 1(5):342-348, 1990; Stampfer, M.J.; Colditz, G.A.; Willett, W.C.; Speizer, F.E. & Hennekens, C.H., "A prospective study of moderate alcohol consumption and the risk of coronary disease and stroke in women," "New England Journal of Medicine," 319(5):267-273, 1988; Klatsky, A.L.; Armstrong,

M.A.; and Friedman, G.D., "Alcohol and Mortality," "Annals of Internal Medicine," 117(8):646-654, 1992. See generally National Institute on Alcohol Abuse and Alcoholism, "Moderate Drinking," "Alcohol Alert," No. 16, April 1992, at 2, and studies cited therein.

3. See, e.g., Criqui, M.H., "Moderate Drinking: Benefits and Risks," "Alcohol and the Cardiovascular System," at 117-118 ("Clearly, younger persons cannot possibly benefit much from alcohol consumption, at least in the short term, because their risk of ischemic CVD events is low.")

4. DuFour, M.C., "Risks and Benefits of Alcohol Use Over the Life Span," "Alcohol Health & Research World," Vol. 20, No. 3:145-150 at 147, 1996.

5. See, e.g., Hennekens, C.H., "Alcohol and risk of coronary events," Research Monograph No. 31, "Alcohol and the Cardiovascular System" at 20 (National Institutes of Health, National Institute on Alcohol Abuse and Alcoholism, Bethesda, MD 1996) ("while the health risks of excessive drinking are clear, there may also be hazards associated with moderate intake that must be weighed, on an individual basis, against the apparent protection against CHD.").

6. Thun, M.J.; Peto, R.; Lopez, A.D.; Monaco, J.H.; Henley, S.J.; Heath, C.W.; and Doll, R; "Alcohol Consumption and Mortality Among Middle-Aged and Elderly U.S. Adults," "The New England Journal of Medicine," 337(24):1705-1714 at 1705, 1997.

7. Id. at 1712.

8. Manson, J.E.; Tosteson, H.; Ridker, P.M.; Satterfield, S; Hebert, P.; O'Connor, G.T.; Buring, J.E.; and Hennekens, C.H.; "The Primary Prevention of Myocardial Infarction," "The New England Journal of Medicine," 326(21):1406-1416 at 1412, 1992.

9. Fuchs, C.S.; Stampfer, M.J.; Colditz, G.A.; Giovannucci, E.L.; Manson, J.E.; Kawachi, I.; Hunter, D.J.; Hankinson, S.E.; Hennekens, C.H.; Rosner, B; Speizer, F.E.; and Willett, W.C.; "Alcohol Consumption and Mortality Among Women," "The New England Journal of Medicine," 332(19):1245-1250 at 1245, 1995.

10. Id. at 1246.

11. Id. at 1249.

12. Grabbe, L; Demi, A; Camann, M.A.; et al. "The health status of

elderly persons in the last year of life; A comparison of deaths by suicide, injury, and natural causes." "American Journal of Public Health" 87(3):434-437, 1997.

13. Stampfer, M.J.; Rimm, E.B.; Walsh, D.C.; "Commentary: Alcohol, the Heart, and Public Policy," "American Journal of Public Health," 83(6): 801-804 at 803, 1993.

XXIII. How This Document Complies With the Federal Administrative Requirements for Rulemaking

A. Executive Order 12866

TTB has determined that this final rule is not a significant regulatory action as defined in E.O. 12866. Therefore, a regulatory assessment is not required.

B. Regulatory Flexibility Act

The Regulatory Flexibility Act (RFA) requires an agency to conduct a regulatory flexibility analysis of any rule subject to notice and comment rulemaking requirements unless the agency certifies that the rule will not have a significant economic impact on a substantial number of small entities. Small entities include small businesses, small not -for-profit enterprises, and small governmental jurisdictions. TTB has certifies that this final rule will not have a significant economic impact on a substantial number of small entities. In general, the final regulations merely clarify TTB's existing policy concerning the use of health claims in the labeling and advertising of alcohol beverages and impose no burdens on the industry. With respect to health-related statements, TTB believes that the burden imposed by the additional wording required by a

disclaimer or other qualifying statement is minimal. Accordingly, a regulatory flexibility analysis is not required.

C. Paperwork Reduction Act

The provisions of the Paperwork Reduction Act of 1995, Public Law 104-13, 44 U.S.C. Chapter 35, and its implementing regulations, 5 CFR part 1320, do not apply to this final rule because no requirement to collect information is imposed.

Disclosure

Copies of the notice of proposed rulemaking, all comments, the hearing transcripts, and this final rule will be available for public inspection by appointment during normal business hours at: TTB Public Reading Room, Room 6480, 650 Massachusetts Avenue, NW., Washington, DC; 202-927-7890.

Drafting Information

The originating drafter of this document is James P. Ficaretta, Regulations Division, Bureau of Alcohol, Tobacco and Firearms. However, personnel from other offices of the Bureau participated in developing this Treasury decision.

List of Subjects

27 CFR Part 4

Advertising, Consumer protection, Customs duties and inspection, Imports, Labeling, Packaging and containers, and Wine.

27 CFR Part 5

Advertising, Consumer protection, Customs duties and inspection, Imports, Labeling, Liquors, and Packaging and containers.

27 CFR Part 7

Advertising, Consumer protection, Customs duties and inspection, Imports, and Labeling.

Authority and Issuance

For the reasons discussed in the preamble, TTB amends 27 CFR Parts 4, 5, and 7 as follows:

PART 4–LABELING AND ADVERTISING OF WINE

Paragraph 1. The authority citation for 27 CFR Part 4 continues to read as follows:

Authority: 27 U.S.C. 205.

Par. 2. Section 4.39 is amended by revising paragraph (h) to read as follows:

§ 4.39 Prohibited practices.

* * * * *

(h) Health-related statements. (1) Definitions. When used in this paragraph (h), terms are defined as follows:

(i) Health-related statement means any statement related to health (other than the warning statement required by § 16.21 of this chapter) and includes statements of a curative or therapeutic nature that, expressly or by implication, suggest a relationship between the consumption of alcohol, wine, or any substance found within the wine, and health benefits or effects on health. The term includes both specific health claims and general references to alleged health benefits or effects on health associated with the consumption of alcohol, wine, or any substance found within the wine, as well as health-related directional statements. The term also includes statements and claims that imply that a physical or psychological sensation results from consuming the wine, as well as statements and claims of nutritional value (e.g., statements of vitamin content). Statements concerning caloric, carbohydrate, protein, and fat content do not constitute nutritional claims about the product.

(ii) Specific health claim is a type of health-related statement that, expressly or by implication, characterizes the relationship of the wine, alcohol, or any substance found within the wine, to a disease or health-related condition. Implied specific health claims include statements, symbols, vignettes, or other forms of communication that suggest, within the context in which they are presented, that a relationship exists between wine, alcohol, or any substance found within the wine, and a disease or health-related condition.

(iii) Health-related directional statement is a type of health-related statement that directs or refers consumers to a third party or other source for information regarding the effects on health of wine or alcohol consumption.

(2) Rules for labeling. (i) Health-related statements. In general, labels may not contain any health-related statement that is untrue in any particular or tends to create a misleading impression as to the effects on health of alcohol consumption. TTB will evaluate such statements on a case-by-case basis and may require as part of the health-related statement a disclaimer or some other qualifying statement to dispel any misleading impression conveyed by the health-related statement.

(ii) Specific health claims. (A) TTB will consult with the Food and Drug Administration (FDA), as needed, on the use of a specific health claim on a wine label. If FDA determines that the use of such a labeling claim is a drug claim that is not in compliance with the requirements of the Federal Food, Drug, and Cosmetic Act, TTB will not approve the use of that specific health claim on a wine label.

(B) TTB will approve the use of a specific health claim on a wine label only if the claim is truthful and adequately substantiated by scientific or medical evidence; sufficiently detailed and qualified with respect to the categories of individuals to whom the claim applies; adequately discloses the health risks associated with both moderate and heavier levels of alcohol consumption; and outlines the categories of individuals for whom any levels of alcohol

consumption may cause health risks. This information must appear as part of the specific health claim.

(iii) Health-related directional statements. A statement that directs consumers to a third party or other source for information regarding the effects on health of wine or alcohol consumption is presumed misleading unless it—

(A) Directs consumers in a neutral or other non-misleading manner to a third party or other source for balanced information regarding the effects on health of wine or alcohol consumption; and

(B)(1) Includes as part of the health-related directional statement the following disclaimer: "This statement should not encourage you to drink or to increase your alcohol consumption for health reasons;" or

(2) Includes as part of the health-related directional statement some other qualifying statement that the appropriate TTB officer finds is sufficient to dispel any misleading impression conveyed by the health-related directional statement.

*   *   *   *   *

Par. 3. Section 4.64 is amended by revising paragraph (i) to read as follows:

§ 4.64 Prohibited practices.

*   *   *   *   *

(i) Health-related statements. (1) Definitions. When used in this paragraph (i), terms are defined as follows:

(i) Health-related statement means any statement related to health and includes statements of a curative or therapeutic nature that, expressly or by implication, suggest a relationship between the consumption of alcohol, wine, or any substance found within the wine, and health benefits or effects on health. The term includes both specific health claims and general references to alleged health benefits or effects on health associated with the consumption of alcohol, wine, or any substance found within the wine, as well as health-related directional statements. The term also includes statements and claims that imply that a physical or psychological sensation results from consuming the wine, as well as statements and claims of nutritional value (e.g., statements of vitamin content). Statements concerning caloric, carbohydrate, protein, and fat content do not constitute nutritional claims about the product.

(ii) Specific health claim is a type of health-related statement that, expressly or by implication, characterizes the relationship of the wine, alcohol, or any substance found within the wine, to a disease or health-related condition. Implied specific health claims include statements, symbols, vignettes, or other forms of communication that suggest, within the context in which they are presented, that a relationship exists between wine, alcohol, or any substance found within the wine, and a disease or health-related condition.

(iii) Health-related directional statement is a type of health-related statement that directs or refers consumers to a third party or other source for information regarding the effects on health of wine or alcohol consumption.

(2) Rules for advertising. (i) Health-related statements. In general, advertisements may not contain any health-related statement that is untrue in any particular or tends to create a misleading impression as to the effects on health of alcohol consumption. TTB will evaluate such statements on a case-by-case basis and may require as part of the health-related statement a disclaimer or some other qualifying statement to dispel any misleading impression conveyed by the health-related statement. Such disclaimer or other qualifying statement must appear as prominent as the health-related statement.

(ii) Specific health claims. A specific health claim will not be considered misleading if it is truthful and adequately substantiated by scientific or medical evidence; sufficiently detailed and qualified with respect to the categories of individuals to whom the claim applies; adequately discloses the health risks associated with both moderate and heavier levels of alcohol consumption; and outlines the categories of individuals for whom any levels of alcohol consumption may cause health risks. This information must appear as part of the specific health claim and in a manner as prominent as the specific health claim.

(iii) Health-related directional statements. A statement that directs consumers to a third party or other source for information regarding the effects on health of wine or alcohol consumption is presumed misleading unless it—

(A) Directs consumers in a neutral or other non-misleading manner to a third party or other source for balanced information regarding the effects on health of wine or alcohol consumption; and

(B)(1) Includes as part of the health-related directional statement, and in a manner as prominent as the health-related directional statement, the following disclaimer: "This statement should not encourage you to drink or increase your alcohol consumption for health reasons;" or

(2) Includes as part of the health-related directional statement, and in a manner as prominent as the health-related directional statement, some other qualifying statement that the appropriate TTB officer finds is sufficient to dispel any misleading impression conveyed by the health-related directional statement.

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PART 5--LABELING AND ADVERTISING OF DISTILLED SPIRITS

Par. 4. The authority citation for 27 CFR Part 5 continues to read as follows:

Authority: 26 U.S.C. 5301, 7805; 27 U.S.C. 205.

Par. 5. Section 5.42 is amended by revising paragraph (b)(8) to read as follows:

§ 5.42 Prohibited practices.

* * * * *

(b) * * *

(8) Health-related statements. (i) Definitions. When used in this paragraph (b)(8), terms are defined as follows:

(A) Health-related statement means any statement related to health (other than the warning statement required by § 16.21 of this chapter) and includes statements of a curative or therapeutic nature that, expressly or by implication, suggest a relationship between the consumption of alcohol, distilled spirits, or any substance found within the distilled spirits, and health benefits or effects on health. The term includes both specific health claims and general references to alleged health benefits or effects on health associated with the consumption of alcohol, distilled spirits, or any substance found within the distilled spirits, as well as health-related directional statements. The term also includes statements and claims that imply that a physical or psychological sensation results from consuming the distilled spirits, as well as statements and claims of nutritional value (e.g., statements of vitamin content). Statements concerning caloric, carbohydrate, protein, and fat content do not constitute nutritional claims about the product.

(B) Specific health claim is a type of health-related statement that, expressly or by implication, characterizes the relationship of the distilled spirits, alcohol, or any substance found within the distilled spirits, to a disease or health-related condition. Implied specific health claims include statements, symbols, vignettes, or other forms of communication that suggest, within the context in which they are presented, that a relationship exists between distilled spirits, alcohol, or any substance found within the distilled spirits, and a disease or health-related condition.

(C) Health-related directional statement is a type of health-related statement that directs or refers consumers to a third party or other source for information regarding the effects on health of distilled spirits or alcohol consumption.

(ii) Rules for labeling. (A) Health-related statements. In general, labels may not contain any health-related statement that is untrue in any particular or tends to create a misleading impression as to the effects on health of alcohol consumption. TTB will evaluate such statements on a case-by-case basis and may require as part of the health-related statement a disclaimer or some other qualifying statement to dispel any misleading impression conveyed by the health-related statement.

(B) Specific health claims. (1) TTB will consult with the Food and Drug Administration (FDA), as needed, on the use of a specific health claim on a distilled spirits label. If FDA determines that the use of such a labeling claim is a drug claim that is not in compliance with the requirements of the Federal Food, Drug, and Cosmetic Act, TTB will not approve the use of that specific health claim on a distilled spirits label.

(2) TTB will approve the use of a specific health claim on a distilled spirits label only if the claim is truthful and adequately substantiated by scientific or medical evidence; sufficiently detailed and qualified with respect to the categories of individuals to whom the claim applies; adequately discloses the health risks associated with both moderate and heavier levels of alcohol consumption; and outlines the categories of individuals for whom any levels of

alcohol consumption may cause health risks. This information must appear as part of the specific health claim.

(C) Health-related directional statements. A statement that directs consumers to a third party or other source for information regarding the effects on health of distilled spirits or alcohol consumption is presumed misleading unless it—

(1) Directs consumers in a neutral or other non-misleading manner to a third party or other source for balanced information regarding the effects on health of distilled spirits or alcohol consumption; and

(2)(i) Includes as part of the health-related directional statement the following disclaimer: "This statement should not encourage you to drink or to increase your alcohol consumption for health reasons;" or

(ii) Includes as part of the health-related directional statement some other qualifying statement that the appropriate TTB officer finds is sufficient to dispel any misleading impression conveyed by the health-related directional statement.

* * * * *

Par. 6. Section 5.65 is amended by revising paragraph (d) to read as follows:

§ 5.65 Prohibited practices.

* * * * *

(d) Health-related statements. (1) Definitions. When used in this paragraph (d), terms are defined as follows:

(i) Health-related statement means any statement related to health and includes statements of a curative or therapeutic nature that, expressly or by implication, suggest a relationship between the consumption of alcohol, distilled spirits, or any substance found within the distilled spirits, and health benefits or effects on health. The term includes both specific health claims and general references to alleged health benefits or effects on health associated with the consumption of alcohol, distilled spirits, or any substance found within the distilled spirits, as well as health-related directional statements. The term also includes statements and claims that imply that a physical or psychological sensation results from consuming the distilled spirits, as well as statements and claims of nutritional value (e.g., statements of vitamin content). Statements concerning caloric, carbohydrate, protein, and fat content do not constitute nutritional claims about the product.

(ii) Specific health claim is a type of health-related statement that, expressly or by implication, characterizes the relationship of the distilled spirits, alcohol, or any substance found within the distilled spirits, to a disease or health-related condition. Implied specific health claims include statements, symbols, vignettes, or other forms of communication that suggest, within the context in which they are presented, that a relationship exists between distilled spirits, alcohol, or any substance found within the distilled spirits, and a disease or health-related condition.

(iii) Health-related directional statement is a type of health-related statement that directs or refers consumers to a third party or other source for information regarding the effects on health of distilled spirits or alcohol consumption.

(2) Rules for advertising. (i) Health-related statements. In general, advertisements may not contain any health-related statement that is untrue in any particular or tends to create a misleading impression as to the effects on health of alcohol consumption. TTB will evaluate such statements on a case-by-case basis and may require as part of the health-related statement a disclaimer or some other qualifying statement to dispel any misleading impression conveyed by the health-related statement. Such disclaimer or other qualifying statement must appear as prominent as the health-related statement.

(ii) Specific health claims. A specific health claim will not be considered misleading if it is truthful and adequately substantiated by scientific or medical evidence; sufficiently detailed and qualified with respect to the categories of individuals to whom the claim applies; adequately discloses the health risks associated with both moderate and heavier levels of alcohol consumption; and outlines the categories of individuals for whom any levels of alcohol consumption may cause health risks. This information must appear as part of the specific health claim and in a manner as prominent as the specific health claim.

(iii) Health-related directional statements. A statement that directs consumers to a third party or other source for information regarding the effects

on health of distilled spirits or alcohol consumption is presumed misleading unless it—

(A) Directs consumers in a neutral or other non-misleading manner to a third party or other source for balanced information regarding the effects on health of distilled spirits or alcohol consumption; and

(B)(1) Includes as part of the health-related directional statement, and in a manner as prominent as the health-related directional statement, the following disclaimer: "This statement should not encourage you to drink or increase your alcohol consumption for health reasons;" or

(2) Includes as part of the health-related directional statement, and in a manner as prominent as the health-related directional statement, some other qualifying statement that the appropriate TTB officer finds is sufficient to dispel any misleading impression conveyed by the health-related directional statement.

* * * * *

PART 7–LABELING AND ADVERTISING OF MALT BEVERAGES

Par. 7. The authority citation for 27 CFR Part 7 continues to read as follows:

Authority: 27 U.S.C. 205.

Par. 8. Section 7.29 is amended by revising paragraph (e) to read as follows:

§ 7.29 Prohibited practices.

*   *   *   *   *

(e) Health-related statements. (1) Definitions. When used in this paragraph (e), terms are defined as follows:

(i) Health-related statement means any statement related to health (other than the warning statement required by § 16.21 of this chapter) and includes statements of a curative or therapeutic nature that, expressly or by implication, suggest a relationship between the consumption of alcohol, malt beverages, or any substance found within the malt beverage, and health benefits or effects on health. The term includes both specific health claims and general references to alleged health benefits or effects on health associated with the consumption of alcohol, malt beverages, or any substance found within the malt beverage, as well as health-related directional statements. The term also includes statements and claims that imply that a physical or psychological sensation results from consuming the malt beverage, as well as statements and claims of nutritional value (e.g., statements of vitamin content). Statements concerning caloric, carbohydrate, protein, and fat content do not constitute nutritional claims about the product.

(ii) Specific health claim is a type of health-related statement that, expressly or by implication, characterizes the relationship of the malt beverage, alcohol, or any substance found within the malt beverage, to a disease or health-related condition. Implied specific health claims include statements, symbols, vignettes, or other forms of communication that suggest, within the context in which they are presented, that a relationship exists between malt

beverages, alcohol, or any substance found within the malt beverage, and a disease or health-related condition.

(iii) Health-related directional statement is a type of health-related statement that directs or refers consumers to a third party or other source for information regarding the effects on health of malt beverage or alcohol consumption.

(2) Rules for labeling. (i) Health-related statements. In general, labels may not contain any health-related statement that is untrue in any particular or tends to create a misleading impression as to the effects on health of alcohol consumption. TTB will evaluate such statements on a case-by-case basis and may require as part of the health-related statement a disclaimer or some other qualifying statement to dispel any misleading impression conveyed by the health-related statement.

(ii) Specific health claims. (A) TTB will consult with the Food and Drug Administration (FDA), as needed, on the use of a specific health claim on a malt beverage label. If FDA determines that the use of such a labeling claim is a drug claim that is not in compliance with the requirements of the Federal Food, Drug, and Cosmetic Act, TTB will not approve the use of that specific health claim on a malt beverage label.

(B) TTB will approve the use of a specific health claim on a malt beverage label only if the claim is truthful and adequately substantiated by scientific or medical evidence; sufficiently detailed and qualified with respect to the categories of individuals to whom the claim applies; adequately discloses

the health risks associated with both moderate and heavier levels of alcohol consumption; and outlines the categories of individuals for whom any levels of alcohol consumption may cause health risks. This information must appear as part of the specific health claim.

(iii) Health-related directional statements. A statement that directs consumers to a third party or other source for information regarding the effects on health of malt beverage or alcohol consumption is presumed misleading unless it—

(A) Directs consumers in a neutral or other non-misleading manner to a third party or other source for balanced information regarding the effects on health of malt beverage or alcohol consumption; and

(B)(1) Includes as part of the health-related directional statement the following disclaimer: "This statement should not encourage you to drink or to increase your alcohol consumption for health reasons;" or

(2) Includes as part of the health-related directional statement some other qualifying statement that the appropriate TTB officer finds is sufficient to dispel any misleading impression conveyed by the health-related directional statement.

* * * * *

Par. 9. Section 7.54 is amended by revising paragraph (e) to read as follows:

§ 7.54 Prohibited statements.

* * * * *

(e) Health-related statements. (1) Definitions. When used in this paragraph (e), terms are defined as follows:

(i) Health-related statement means any statement related to health and includes statements of a curative or therapeutic nature that, expressly or by implication, suggest a relationship between the consumption of alcohol, malt beverages, or any substance found within the malt beverage, and health benefits or effects on health. The term includes both specific health claims and general references to alleged health benefits or effects on health associated with the consumption of alcohol, malt beverages, or any substance found within the malt beverage, as well as health-related directional statements. The term also includes statements and claims that imply that a physical or psychological sensation results from consuming the malt beverage, as well as statements and claims of nutritional value (e.g., statements of vitamin content). Statements concerning caloric, carbohydrate, protein, and fat content do not constitute nutritional claims about the product.

(ii) Specific health claim is a type of health-related statement that, expressly or by implication, characterizes the relationship of the malt beverage, alcohol, or any substance found within the malt beverage, to a disease or health-related condition. Implied specific health claims include statements, symbols, vignettes, or other forms of communication that suggest, within the context in which they are presented, that a relationship exists between malt

beverages, alcohol, or any substance found within the malt beverage, and a disease or health-related condition.

(iii) Health-related directional statement is a type of health-related statement that directs or refers consumers to a third party or other source for information regarding the effects on health of malt beverage or alcohol consumption.

(2) Rules for advertising. (i) Health-related statements. In general, advertisements may not contain any health-related statement that is untrue in any particular or tends to create a misleading impression as to the effects on health of alcohol consumption. TTB will evaluate such statements on a case-by-case basis and may require as part of the health-related statement a disclaimer or some other qualifying statement to dispel any misleading impression conveyed by the health-related statement. Such disclaimer or other qualifying statement must appear as prominent as the health-related statement.

(ii) <u>Specific health claims</u>. A specific health claim will not be considered misleading if it is truthful and adequately substantiated by scientific or medical evidence; sufficiently detailed and qualified with respect to the categories of individuals to whom the claim applies; adequately discloses the health risks associated with both moderate and heavier levels of alcohol consumption; and outlines the categories of individuals for whom any levels of alcohol consumption may cause health risks. This information must appear as part of the specific health claim and in a manner as prominent as the specific health claim.

(iii) Health-related directional statements. A statement that directs consumers to a third party or other source for information regarding the effects on health of malt beverage or alcohol consumption is presumed misleading unless it—

(A) Directs consumers in a neutral or other non-misleading manner to a third party or other source for balanced information regarding the effects on health of malt beverage or alcohol consumption; and

(B)(1) Includes as part of the health-related directional statement, and in a manner as prominent as the health-related directional statement, the following disclaimer: "This statement should not encourage you to drink or increase your alcohol consumption for health reasons;" or

(2) Includes as part of the health-related directional statement, and in a manner as prominent as the heatlh-related directional statement, some other qualifying statement that the appropriate TTB officer finds is sufficient to dispel any misleading impression conveyed by the health-related directional statement.

* * * * *

Signed: February 13, 2003.

Arthur J. Libertucci,

Administrator.

Approved: February 25, 2003.

Timothy E. Skud,

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

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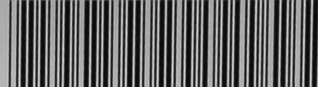
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