

DEPARTMENT OF THE TREASURY

Fiscal Service

RIN

Regulations Governing Retirement Savings Bonds

ACTION: Final Rule.

SUMMARY:

The United States Department of the Treasury (Treasury), Bureau of the Fiscal Service (Fiscal Service), issues nonmarketable, electronic retirement savings bonds to an individual retirement account (IRA) custodian designated by Fiscal Service to act as a custodian for Roth IRAs under Treasury's *myRA*® program. In this Final Rule, Treasury offers retirement savings bonds for certain retirement savings programs established by states or their political subdivisions (states). The bonds are issued to a trustee or custodian (custodian) of a Roth or traditional IRA designated by a state under its retirement savings program (whether or not the program provides for automatic enrollment). Interest will be earned at a rate available to federal employees invested in the Government Securities Investment Fund (G Fund) of the Thrift Savings Plan. This offering does not affect the terms of retirement savings bonds issued to the custodian of Treasury's retirement savings program, *myRA*®, which are held in participants' Roth individual retirement accounts (Roth IRAs).¹ DATES: This final rule is effective [UPON PUBLICATION].

¹ More information on the *myRA*® is available at www.myra.gov.

FOR FURTHER INFORMATION CONTACT:

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SUPPLEMENTARY INFORMATION:

I. Background

Approximately one-third of private-sector employees in the United States lack access to a retirement savings plan through their employers.² To fill this gap, several states are establishing or considering programs that will encourage employees to save for their retirement, including through automatic enrollment individual retirement accounts and other approaches³ (collectively referred to here as Auto-IRAs). Under an Auto-IRA program, employee contributions are deposited into an IRA and invested in accordance with the design of the Auto-IRA program and the wishes of the participant. Commonly, it is expected that an Auto-IRA program will offer a safe and low-cost investment option as an alternative to a risk-bearing diversified investment, such as a target date fund. In order to assist states in offering risk-averse savers a principal-protected investment, Fiscal Service will offer retirement savings bonds to state Auto-IRA retirement savings programs. Fiscal Service reserves the right, however, to refuse to issue retirement savings bonds to state Auto-IRA retirement savings programs on a case-by-case basis,

² National Compensation Survey, Bureau of Labor Statistics (July 2016), Employee Benefits in the United States – March 2016 (<http://www.bls.gov/news.release/pdf/ebs2.pdf>). These data show that 66 percent of 114 million private-sector workers have access to a retirement plan through work. Therefore, 34 percent of the 114 million private-sector workers (39 million) do not have access to a retirement plan through work.

³ The Department of Labor published regulations relating to state payroll deduction savings programs. 81 FR 59464 (Aug. 30, 2016)

based on considerations such as the structure and reasonableness of fees, plans to control fees and expenses, whether participants have reasonable access to their funds, and oversight of providers designated to operate state retirement savings programs.

II. Procedural Requirements

A. Administrative Procedure Act (APA)

Because this rule relates to United States securities, which are contracts between Treasury and the owners of the securities, this rule falls within the contract exception to the APA at 5 U.S.C. 553(a)(2). As a result, the notice, public comment, and delayed effective date provisions of the APA are inapplicable to this rule.

B. Congressional Review Act (CRA)

This rule is not a major rule pursuant to the CRA, 5 U.S.C. 801 *et seq.* It is not expected to lead to any of the results listed in 5 U.S.C. 804(2). This rule may take immediate effect after submission to Congress and the Comptroller General.

C. Paperwork Reduction Act (PRA)

There is no new collection of information contained in this final rule that would be subject to the PRA, 44 U.S.C. 3501 *et seq.* Under the PRA, 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 OMB control number.

D. Regulatory Flexibility Act

The provisions of the Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.*, do not apply to this rule because, pursuant to 5 U.S.C. 553(a)(2), it is not required to be issued with notice and opportunity for public comment.

E. Executive Order 12866

This rule is not a significant regulatory action pursuant to Executive Order 12866.

List of Subjects in 31 CFR Part 347

Government securities, Savings bonds.

For the reasons set forth in the preamble, we amend 31 CFR part 347, by revising subparts A through F to read as follows:

PART 347--REGULATIONS GOVERNING RETIREMENT SAVINGS BONDS

Subpart A--General Information

Sec.

347.0 Offering of securities.

347.1 Applicability.

347.2 Official agencies.

347.3 Definitions.

Subpart B--Treasury's Retirement Savings Program

Sec.

347.10 Authorized form of registration.

347.11 Crediting of retirement savings bond.

347.12 Annual additions to retirement savings bond.

347.13 Individual additions to retirement savings bond.

347.14 Payment (redemption).

347.15 Computation of interest.

347.16 Maturity.

Subpart C--Auto-IRA Programs

Sec.

347.30 Plan requirements for State Auto-IRA programs.

347.31 Crediting of retirement savings bond.

347.32 Annual additions to retirement savings bond.

347.33 Individual additions to retirement savings bond.

347.34 Payment (redemption).

347.35 Computation of interest.

347.36 Maturity.

347.37 Reservation of rights.

Subpart D--Miscellaneous Provisions for Retirement Savings Bonds

Sec.

347.40 Waiver of regulations.

347.41 Additional requirements; bond of indemnity.

347.42 Supplements, amendments, or revisions.

PART 347--REGULATIONS GOVERNING RETIREMENT SAVINGS BONDS

1. The authority citation for Part 347 continues to read as follows:

Authority: 5 U.S.C. 301; 12 U.S.C. 90; 31 U.S.C. 3105.

2. Revise § 347.0 to read as follows:

§ 347.0 Offering of securities.

The Secretary of the Treasury (the Secretary), under the authority of Title 31, Chapter 31, offers retirement savings bonds to the IRA custodian for Treasury's retirement savings program and to the Auto-IRA custodians for certain State retirement savings programs. The nonmarketable bonds are issued to and held by the custodians, on behalf of participants, in Treasury's and States' programs. This offering will continue until terminated by the Secretary. Treasury's Fiscal Assistant Secretary is authorized to act on behalf of the Secretary on all matters contained in these regulations. The Commissioner of the Fiscal Service, as designee of the Secretary, is delegated the responsibility to administer this part through the Bureau of the Fiscal Service (Fiscal Service).

3. Revise § 347.1 to read as follows:

§ 347.1 Applicability.

The regulations in this part apply to retirement savings bonds issued, on behalf of participants, to the IRA custodian for Treasury's retirement savings program and to the Auto-IRA custodians for the States' retirement savings programs.

4. Revise § 347.2(a) and (b) to read as follows:

§ 347.2 Official agencies.

(a) Fiscal Service is responsible for administering Treasury's retirement savings program and issuing the retirement savings bonds to the IRA custodian for Treasury's retirement savings

program and to the Auto-IRA custodians for State retirement savings programs. The States are responsible for administering their Auto-IRA retirement savings programs, including the designation of Auto-IRA custodians to perform all operational responsibilities associated with the retirement savings bonds issued by Fiscal Service.

(b) Communications concerning transactions relating to an individual's IRA should be addressed to the appropriate custodian.

5. In § 347.3 Definitions, redesignate paragraphs (a) through (g) as paragraphs (g) through (m), add new definitions for "Auto-IRA" in paragraph (a), "State Auto-IRA program" in paragraph (b), "IRA" in paragraph (c), "Custodian" in paragraph (d), "State" in paragraph (e), and "Auto-IRA custodian" in paragraph (f), and revise the definitions in paragraph (g) for "Retirement savings bond", paragraph (h) by amending the term "Designated Roth IRA custodian, designated custodian, or custodian" for "IRA custodian", paragraph (i) for "individual", and paragraph (j) by amending the term "Program participant" for "participant" to read as follows:

(a) Auto-IRA means [an] individual retirement account for or opened on behalf of a participant in a state retirement savings program (whether or not the program provides for automatic enrollment).

(b) State Auto-IRA program means an Auto-IRA state retirement savings program.

(c) IRA means an individual retirement account.

(d) Custodian means a trustee or custodian (custodian) of a Roth or traditional IRA.

(e) State means any of the 50 States, the District of Columbia, Guam, the Commonwealth of Puerto Rico, the Virgin Islands, American Samoa, the Commonwealth of the Northern Mariana Islands, the Trust Territory of the Pacific Islands, or their political subdivisions.

(f) Auto-IRA custodian means an entity designated by a state (including, for the purpose of these regulations, a political subdivision of a state) to act as the trustee or custodian for Auto-IRAs, in the form of Roth IRAs or traditional IRAs, for or opened on behalf of participants in a state's Auto-IRA program.

(g) Retirement savings bond, as used in this part, means an interest-bearing electronic United States savings bond issued to an Auto-IRA or IRA custodian.

(h) IRA custodian means an entity designated by Fiscal Service to act as a custodian for Roth IRAs opened by or on behalf of participants in Treasury's retirement savings program.

(i) Individual means a person eligible to have an individual retirement account in Treasury's retirement savings program or in a state's Auto-IRA program.

(j) Participant means an individual who has an individual retirement account in Treasury's retirement savings program or in a State Auto-IRA program.

* * * * *

6. Amend "Subpart B--Registration" heading to read as follows:

Subpart B--Treasury's Retirement Savings Program.

7. Revise §§ 347.10 and 347.11 under new "Subpart B--Treasury's Retirement Savings Program" as follows:

Subpart B--Treasury's Retirement Savings Program.

§ 347.10 Authorized form of registration.

(a) Retirement savings bonds are issued to the IRA custodian for Treasury's retirement savings program. No other registrations under this subpart are permitted.

(b) In the event Fiscal Service designates a successor IRA custodian, Fiscal Service may reissue retirement savings bonds held by the predecessor custodian to the successor custodian.

§ 347.11 Crediting of retirement savings bond.

Each retirement savings bond issued to the IRA custodian must be credited to a single Roth IRA established through Treasury's retirement savings program with the custodian.

8. Remove the headings for "Subpart C--Limitations on Additions", "Subpart D--General Provisions for Payment", and "Subpart E--Interest" and redesignate §§ 347.20, 347.21, 347.30, 347.40, and 347.41 under new "Subpart B--Treasury's Retirement Savings Program" as §§ 347.12 through 347.16, respectively, as amended:

§ 347.12 Annual additions to retirement savings bond.

The amount that may be initially contributed or added to a retirement savings bond in a calendar year by the IRA custodian on behalf of any participant is limited by the applicable annual contribution limits provided under the Internal Revenue Code and regulations. The total value of a retirement savings bond that may be held by the IRA custodian in an IRA on behalf of any participant shall not exceed \$15,000.00.

§ 347.13 Individual additions to retirement savings bond.

Fiscal Service is authorized to establish minimum amounts for initial and additional contributions to a retirement savings bond under this subpart.

§ 347.14 Payment (redemption).

Payment of retirement savings bonds will be made to the IRA custodian upon the custodian's submission of a request for redemption to Fiscal Service. The custodian shall request the redemption of all retirement savings bonds at their respective maturity. The custodian shall request the full or partial redemption of a bond held on behalf of a participant upon the request of an individual or other authorized person entitled to amounts in the IRA. Retirement savings bond redemptions will be rounded to the nearest one cent.

§ 347.15 Computation of interest.

Retirement savings bonds under this subpart earn interest at the same annual percentage rate as securities issued to the Government Securities Investment Fund (G Fund) in the Thrift Savings Plan for federal employees. The Secretary calculates the G Fund interest rate pursuant to 5 U.S.C. 8438(e)(2). The retirement savings bond interest rate compounds daily at 1/360 of the annual percentage rate. Retirement savings bonds will cease to accrue interest on the date of their maturity.

§ 347.16 Maturity.

The maturity date for retirement savings bonds is indeterminate and may be different for each bond issued, but shall not exceed the sum of an original maturity period of 20 years and an extended maturity period of 10 years. A retirement savings bond purchased by the IRA custodian on behalf of a participant will mature at the earlier of 30 years from the date the bond is first issued to the custodian on behalf of the participant or when its value reaches \$15,000.00.

9. Add a new “Subpart C--Auto-IRA Programs” to read as follows:

Subpart C--Auto-IRA Programs.

§ 347.30 Plan requirements for State Auto-IRA programs.

(a) Authorized form of registration. Retirement savings bonds are issued to Auto-IRA custodians for certain State Auto-IRA programs. No other registrations under this subpart are permitted.

(b) Documentation. A State Auto-IRA program must provide documentation to Fiscal Service annually, in a form and manner acceptable to Fiscal Service, addressing the following topics:

(1) Administration – servicing of the retirement savings bonds, such as account

maintenance, recordkeeping, and establishment of procedures for automatic payroll direct deposit contributions (or other funding means permitted under State Auto-IRA programs);

(2) Account monitoring – tracking and, when applicable, redeeming and reallocating retirement savings bond holdings (which may include investment diversification strategies) no later than when a retirement savings bond that may be held by the Auto-IRA custodian on behalf of a participant in a State’s Auto-IRA program reaches the \$15,000.00 maximum dollar threshold or 30 years, whichever occurs first;

(3) Ability to transfer – addressing how the State Auto-IRA program enables participants to, at a participant’s discretion, redeem their retirement savings bonds prior to maturity and transfer the [value of] their retirement savings bond [proceeds] [balances] to another investment available in the State Auto-IRA program or to another provider, without imposing unreasonable restrictions on voluntary investment diversification (which might occur through or a transfer outside of a State Auto-IRA program);

(4) Withdrawals – addressing how the State Auto-IRA program enables participants to, at a participant’s discretion, make reasonable withdrawals from their Auto-IRAs;

(5) Consumer protection – addressing consumer protections in the program, including disclosures provided to participants;

(6) Costs of administration – describing any plans to pass on certain costs to participants, including that State Auto-IRA programs charge no more than reasonable fees (e.g., administrative, custodial, and asset management fees);

(7) Oversight – addressing oversight of Auto-IRA custodians and describing any protections in place for participants’ funds invested in retirement savings bonds, including information relating to the protection of participants’ funds in the event that the Auto-IRA

custodian files for bankruptcy or otherwise encounters financial stress;

- (8) Pooling – prohibiting the inclusion of retirement savings bonds as a component of another investment or asset category (such as a mutual fund or target-date fund);
- (9) Default investment – obtaining, if applicable, Fiscal Service’s further consent before any use of retirement savings bonds as a default investment, even if temporary;
- 10) Consumer education – describing plans to provide financial education to participants; and
- (11) Certification – requiring a statement signed by an authorized senior official certifying that the documentation provided to Fiscal Service is accurate and complete, and that procedures are in place to timely notify Fiscal Service of any material changes in the future.

(c) Successor custodian. In the event a State Auto-IRA program designates a successor Auto-IRA custodian, that program may request that Fiscal Service reissue the retirement savings bonds held by the predecessor custodian to the successor custodian.

§ 347.31 Crediting of retirement savings bond.

Each retirement savings bond issued to an Auto-IRA custodian must be credited to an IRA under the State Auto-IRA program with the custodian.

§ 347.32 Annual additions to retirement savings bond.

The amount that may be initially contributed or added to a retirement savings bond in a calendar year by an Auto-IRA custodian on behalf of any participant is limited by the applicable annual contribution limits provided under the Internal Revenue Code and regulations. A retirement savings bond held by an Auto-IRA custodian in an IRA on behalf of any participant shall not exceed \$15,000.00.

§ 347.33 Individual additions to retirement savings bond.

Fiscal Service is authorized to establish minimum amounts for initial and additional contributions to a retirement savings bond under this subpart.

§ 347.34 Payment (redemption).

The issuance and redemption of a retirement savings bond is conditioned on an Auto-IRA custodian certifying compliance with these regulations and any additional program instructions identified by Fiscal Service that pertain to that bond.

(a) **Payment upon maturity.** Payment of retirement savings bonds will be made to an Auto-IRA custodian upon the custodian's submission of a request for redemption to Fiscal Service. The custodian shall request the redemption of all retirement savings bonds at their respective maturity. The custodian shall request the full or partial redemption of a bond held on behalf of a participant upon the request of an individual or other authorized person entitled to amounts in the IRA. Retirement savings bond redemptions will be rounded to the nearest one cent.

(b) **Payment upon call.** Final interest on any called bonds will be paid with the principal (amount contributed minus withdrawals taken) at redemption and rounded to the nearest one cent.

§ 347.35 Computation of interest.

Retirement savings bonds under this subpart earn interest at the same annual percentage rate as securities issued to the Government Securities Investment Fund (G Fund) in the Thrift Savings Plan for federal employees. The Secretary calculates the G Fund interest rate pursuant to 5 U.S.C. 8438(e)(2). The retirement savings bond interest rate compounds daily at 1/360 of the annual percentage rate. Retirement savings bonds will cease to accrue interest on the date of their maturity or call.

§ 347.36 Maturity.

The maturity date for retirement savings bonds is indeterminate and may be different for each bond issued, but shall not exceed the sum of an original maturity period of 20 years and an extended maturity period of 10 years. A retirement savings bond purchased by the Auto-IRA custodian on behalf of a participant will mature at the earlier of 30 years from the date the bond is first issued to the custodian on behalf of the participant or when its value reaches \$15,000.00.

§ 347.37 Reservation of rights.

The Commissioner of the Fiscal Service may decide, in his or her sole discretion, to take any of the following actions with respect to the retirement savings bonds offered under this subpart. Such actions are final. Specifically, the Commissioner reserves the right under this subpart:

- (1) as a condition of Fiscal Service's issuance of retirement savings bonds to an Auto-IRA custodian under a State Auto-IRA program, to require a State Auto-IRA program to provide information to Fiscal Service concerning the retirement savings bonds offered under this subpart, including a certification by a senior official to the completeness and accuracy of the information requested;
- (2) to refuse to issue retirement savings bonds to an Auto-IRA custodian in any particular case or class of cases;
- (3) to suspend or cease offering retirement savings bonds to an Auto-IRA custodian;
- (4) to call for redemption of any outstanding retirement savings bond; or
- (5) to determine any appropriate remedy under this subpart.

10. Redesignate Subpart F as Subpart D and revise the heading to read as follows:

Subpart D--Miscellaneous Provisions for Retirement Savings Bonds

11. Redesignate §§ 347.50, 347.51, and 347.52 under new “Subpart D--Miscellaneous Provisions for Retirement Savings Bonds” as §§ 347.40 through 347.42, respectively, and amend to read as follows:

Subpart D--Miscellaneous Provisions for Retirement Savings Bonds.

§ 347.40 Waiver of regulations.

The Commissioner of the Fiscal Service may waive or modify any provision or provisions of the regulations in this part. He or she may do so in any particular case or class of cases for the convenience of the United States or in order to relieve any person or persons of unnecessary hardship:

- (a) If such action would not be inconsistent with law or equity;
- (b) If it does not impair any material existing rights; and
- (c) If he or she is satisfied that such action would not subject the United States to any substantial expense or liability.

§ 347.41 Additional requirements; bond of indemnity.

The Commissioner of the Fiscal Service may require:

- (a) Such additional evidence to support a requested action as he or she may consider necessary or advisable; or
- (b) A bond of indemnity, with or without surety, in any case in which he or she may consider such a bond necessary for the protection of the interests of the United States.

§ 347.42 Supplements, amendments, or revisions.

The Secretary may at any time, or from time to time, prescribe additional, supplemental, amendatory, or revised rules and regulations governing retirement savings bonds.

Dated:

David A. Lebryk,

Fiscal Assistant Secretary.