

§ 39.29 Financial resources requirements.

(a) *General rule.* Notwithstanding the requirements of § 39.11(a)(1), a systemically important derivatives clearing organization that is systemically important in multiple jurisdictions or that is involved in activities with a more complex risk profile shall maintain financial resources sufficient to enable it to meet its financial obligations to its clearing members notwithstanding a default by the two clearing members creating the largest combined financial exposure for the systemically important derivatives clearing organization in extreme but plausible market conditions; Provided that if a clearing member controls another clearing member or is under common control with another clearing member, affiliated clearing members shall be deemed to be a single clearing member for the purposes of this provision.

(b) *Valuation of financial resources.* Notwithstanding the requirements of § 39.11(d)(2), assessments for additional guaranty fund contributions (*i.e.*, guarantee fund contributions that are not pre-funded) shall not be included in calculating the financial resources available to meet a systemically important derivatives clearing organization's obligations under paragraph (a) of this section.

§ 39.30 System safeguards.

(a) Notwithstanding § 39.18(e)(3), the business continuity and disaster recovery plan described in § 39.18(e)(1) for each systemically important derivatives clearing organization shall have the objective of enabling, and the physical, technological, and personnel resources described in § 39.18(e)(1) shall be sufficient to enable, the derivatives clearing organization to recover its operations and resume daily processing, clearing, and settlement no later than two hours following the disruption, for any disruption including a wide-scale disruption.

(b) To ensure its ability to achieve the recovery time objective specified in paragraph (a) of this section in the event of a wide-scale disruption, each systemically important derivatives clearing organization must maintain a degree of geographic dispersal of physical, technological and personnel resources consistent with the following:

(1) For each activity necessary to the clearance and settlement of existing and new contracts, physical and technological resources, sufficient to enable the entity to meet the recovery time objective after interruption of normal clearing by a wide-scale disruption, must be located outside the

relevant area of the infrastructure the entity normally relies upon to conduct that activity, and must not rely on the same critical transportation, telecommunications, power, water, or other critical infrastructure components the entity normally relies upon for such activities;

(2) Personnel, sufficient to enable the entity to meet the recovery time objective after interruption of normal clearing by a wide-scale disruption affecting the relevant area in which the personnel the entity normally relies upon to engage in such activities are located, must live and work outside that relevant area;

(3) The provisions of § 39.18(f) shall apply to these resource requirements.

(c) Each systemically important derivatives clearing organization must conduct regular, periodic tests of its business continuity and disaster recovery plans and resources and its capacity to achieve the required recovery time objective in the event of a wide-scale disruption. The provisions of § 39.18(j) apply to such testing.

(d) The requirements of this section shall apply to a derivatives clearing organization not earlier than one year after such derivatives clearing organization is designated as systemically important.

§ 39.31 Special enforcement authority.

For purposes of enforcing the provisions of Title VIII of the Dodd-Frank Act, a systemically important derivatives clearing organization shall be subject to, and the Commission has authority under the provisions of subsections (b) through (n) of section 8 of the Federal Deposit Insurance Act (12 U.S.C. 1818) in the same manner and to the same extent as if the systemically important derivatives clearing organization were an insured depository institution and the Commission were the appropriate Federal banking agency for such insured depository institution.

Issued in Washington, DC, on August 9, 2013, by the Commission.

Melissa D. Jurgens,

Secretary of the Commission.

Appendix to Final Rule on Enhanced Risk Management Standards for Systemically Important Derivatives Clearing Organizations—Commission Voting Summary

Note: The following appendix will not appear in the Code of Federal Regulations

Appendix 1—Commission Voting Summary

On this matter, Chairman Gensler and Commissioners Chilton, O'Malia, and Wetjen voted in the affirmative.

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DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

24 CFR Part 891

[Docket No. FR-5167-C-03]

RIN 2502-A167

Streamlining Requirements Governing the Use of Funding for Supportive Housing for the Elderly and Persons With Disabilities Programs; Correction

AGENCY: Office of the Assistant Secretary of Housing—Federal Housing Commissioner, HUD.

ACTION: Correcting amendment.

SUMMARY: On June 20, 2013, HUD published a final rule that amended regulations for the purpose of streamlining the requirements applicable to mixed finance developments in the Section 202 Supportive Housing for the Elderly (Section 202) and the Section 811 Supportive Housing for Persons with Disabilities (Section 811) programs and amending certain regulations governing all Section 202 and Section 811 developments. This publication corrects an error in the final rule regarding the duration of the fund reservations for capital advances.

DATES: *Effective:* August 15, 2013, and applicable beginning July 22, 2013.

FOR FURTHER INFORMATION CONTACT: Aretha Williams, Office of Housing Assistance and Grant Administration, Office of Housing, Department of Housing and Urban Development, 451 7th Street SW., Room 6136, Washington, DC 20410-8000; telephone number 202-708-3000 (this is not a toll-free number). Persons with hearing or speech impairments may access this number via TTY by calling the toll-free Federal Relay Service at 1-800-877-8339.

SUPPLEMENTARY INFORMATION:**I. Background**

On June 20, 2013 (78 FR 37106), HUD published a final rule amending regulations governing the Section 202 and Section 811 programs to streamline requirements for mixed finance developments and to amend other regulations for these programs. One amendment the rule made was to extend

the duration of availability of fund reservations for capital advances from 18 months to 24 months, with the option of extending this period to 36 months, as approved by HUD on a case-by-case basis. This final rule followed a March 28, 2012 (77 FR 18723) proposed rule. The final rule became effective on July 22, 2013.

II. Technical Corrections

After publication of the final rule, it came to HUD's attention that there was an error in the regulatory text. The final rule amended 24 CFR 891.165(a) so that "the duration of the fund reservation for a capital advance with construction advances is 24 months *from the date of initial closing* . . ." (Emphasis added). However, the language in 24 CFR 891.165(a) should read that the duration of the fund reservation is 24 months *from the date of issuance of the award letter to the date of initial closing*.

The preamble to the proposed rule (77 FR 18723) noted that the regulations then governing the duration of the availability of capital advance funds limited the duration of the fund reservations for the capital advances to 18 months from the date of issuance of the fund reservation award (77 FR at 18726). The preamble went on to note that the purpose of extending this duration was to enable owners to focus on projects to ensure that they reach initial closing and start construction within 24 months (77 FR at 18726). This makes it clear that the intent of the rule is to extend the duration of the fund reservation for a capital advance from the date of issuance of the award letter so that owners could reach initial closing, and not to extend the time after the date of initial closing. This rule makes a technical correction to the final rule to fulfill that intent.

List of Subjects in 24 CFR Part 891

Aged, Grant programs—housing and community development, Individuals with disabilities, Loan programs—housing and community development, Rent subsidies, Reporting and recordkeeping requirements.

Accordingly, HUD amends 24 CFR part 891 as follows:

PART 891—SUPPORTIVE HOUSING FOR THE ELDERLY AND PERSONS WITH DISABILITIES

- 1. The authority citation for part 891 continues to read as follows:

Authority: 12 U.S.C. 1701q; 42 U.S.C. 1437f, 3535(d), and 8013.

§ 891.165 [Amended]

- 2. Amend § 891.165 as follows:

In paragraph (a), revise the phrase "24 months from the date of initial closing" to read "24 months from the date of issuance of the award letter to the date of initial closing".

Dated: August 9, 2013.

Carol J. Galante,

Assistant Secretary for Housing—Federal Housing Commissioner.

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DEPARTMENT OF THE TREASURY

26 CFR Part 53

[TD 9629]

RIN 1545-BL58

Requirement of a Section 4959 Excise Tax Return and Time for Filing the Return

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Final and temporary regulations.

SUMMARY: This document contains final and temporary regulations that provide guidance to charitable hospital organizations regarding the requirement of a return to accompany payment of the excise tax, enacted as part of the Patient Protection and Affordable Care Act of 2010, for failure to meet the community health needs assessment (CHNA) requirements for any taxable year. The regulations affect charitable hospital organizations. This action is necessary to implement section 9007(b) of the Patient Protection and Affordable Care Act of 2010. The text of the temporary regulations also serves as the text of the proposed regulations set forth in the notice of proposed rulemaking on this subject in the Proposed Rules section in this issue of the **Federal Register**.

DATES: *Effective Date:* These regulations are effective on August 15, 2013.

Applicability Date: For dates of applicability, see §§ 53.6011-1T(g) and 53.6071-1T(i) of these regulations.

FOR FURTHER INFORMATION CONTACT:

Amy F. Giuliano at (202) 622-6070 (not a toll-free number).

SUPPLEMENTARY INFORMATION:

Background

The Patient Protection and Affordable Care Act, Public Law 111-148 (124 Stat. 119 (2010)), added sections 501(r) and 4959 to the Internal Revenue Code (Code). A hospital organization seeking to obtain or maintain tax-exempt status as a charitable organization described in section 501(c)(3) must comply with the

requirements of section 501(r), including the requirement to conduct a CHNA under section 501(r)(3).

Section 501(r)(2)(A)(i) defines a hospital organization to which section 501(r) applies as including any organization that operates a facility that is required by a state to be licensed, registered, or similarly recognized as a hospital. Section 501(r)(2)(B)(i) requires a hospital organization that operates more than one hospital facility to meet the requirements of section 501(r) separately with respect to each hospital facility.

Section 501(r)(3) requires hospital organizations to conduct a CHNA at least once every three years and adopt an implementation strategy to meet the community health needs identified through the CHNA. The requirements of section 501(r)(3) are effective for taxable years beginning after March 23, 2012.

Section 4959 imposes a tax equal to \$50,000 if a hospital organization to which section 501(r) applies fails to meet the requirements of section 501(r)(3) for any taxable year. A hospital organization fails to meet the requirements of section 501(r)(3) for any taxable year if the hospital organization fails to conduct a CHNA and adopt an implementation strategy during the three-year period ending on the last day of any taxable year of the hospital organization. For example, a hospital organization reporting on a calendar year basis that operates only one hospital facility and that fails to conduct a CHNA by the last day of 2013, and that also did not conduct a CHNA in 2011 or 2012, will be subject to the tax under section 4959 with respect to that facility for its 2013 taxable year. The same hospital organization that fails to conduct a CHNA in 2014 also will be subject to a tax under section 4959 with respect to that facility for its 2014 taxable year (for failure to meet the CHNA requirements during the three-year period ending on the last day of 2014). See Joint Committee on Taxation, Technical Explanation of the Revenue Provisions of the "Reconciliation Act of 2010" As Amended, in Combination With the "Patient Protection and Affordable Care Act" (JCX-18-10) (March 21, 2010), at 83 fn. 192 (and accompanying text).

Section 6011 generally requires any person liable for tax imposed by the Code to make a return or statement according to the forms and regulations prescribed by the Secretary of the Treasury. Section 6071 generally provides that return filing dates are prescribed by regulation. Section 6151 generally provides that a tax must be paid when the return reporting the tax