

Fiscal Service, Treasury

§ 363.44

(b) *Certification within foreign countries.* The following table lists the authorized certifying individuals for for-

foreign countries and the required evidence of the individual's authority.

Who can certify signatures in foreign countries	Evidence of certifying individual's authority
(1) United States diplomatic or consular officials	(i) We require the seal or stamp of the office. (ii) If there is no seal or stamp, then we require certification by some other authorized individual, under seal or stamp.
(2) Managers and officers of foreign branches of U.S. depository institutions and institutions that are members of Treasury-recognized signature guarantee programs (for security transfers only).	We require the seal of the depository institution, or the imprint of the signature guarantee stamp, i.e., the STAMP, SEMP, or MSP stamp for members of the Securities Transfer Agents Medallion Program, the Stock Exchanges Medallion Program, or the New York Stock Exchange Incorporated Medallion Signature Program.
(3) Notaries Public and other officers authorized to administer oaths, provided their authority is certified by a United States diplomatic or consular official.	(i) We require the official seal or stamp of the office. (ii) If there is no seal or stamp, the position must be certified by some other authorized individual, under seal or stamp, or otherwise proved to our satisfaction.

(c) *Duties and liabilities of certifying individuals.* (1) The certifying individual must first establish the identity of the signer.

(2) The form must be signed in the presence of the certifying individual.

(3) If the certifying individual is not an officer, the certifying individual must insert the words "Authorized Signature" in the space provided for the title.

(4) If the certifying individual is negligent in making the certification, the certifying individual and his or her organization are jointly and severally liable for any loss the United States may incur as a result of the negligence.

(d) *Guaranteed signatures.* (1) A security or other form requiring certification need not be executed in the presence of a certifying individual if the signature is unconditionally guaranteed by the certifying individual. To guarantee a signature, the certifying individual must add a dated endorsement after the signature. For example:

Signature guaranteed, First National Bank of Smithville, Smithville, NH, by A. B. Doe, President, dated 1/1/2001.

(2) The certifying individual and his or her organization unconditionally guarantee to us that the signature is genuine and the signer had the legal capacity to execute the assignment or related form.

(e) *Guaranteed absence of a signature.* (1) A form requiring a certified signature need not be signed when a certifying individual associated with a depository financial institution places

the following endorsement on the security or the form:

Absence of signature by owner and validity of transaction guaranteed, Second State Bank of Jonesville, Jonesville, NC, by B. R. Butler, Vice President, dated 11/1/2001.

(2) The endorsement must be dated and the seal of the institution must be added.

(3) This form of endorsement is an unconditional guarantee to us that the institution is acting for the signer under proper authorization.

(f) *Persons who cannot act as certifying individuals.* Any person having an interest in a security involved in the transaction cannot act as a certifying individual. However, an authorized officer or employee of a depository financial institution that is a member of a Treasury-recognized signature guarantee program can act as a certifying individual for transfer of a security to the institution or on behalf of the institution.

[67 FR 64286, Oct. 17, 2002, as amended at 70 FR 57435, Sept. 30, 2005]

§ 363.44 What happens when a TreasuryDirect® account owner dies and the estate is entitled to securities held in the account?

(a) *Estate is being administered.* (1) For an estate that is being administered, the legal representative of the estate may request payment of securities, if the securities are eligible for payment, to the estate or to the persons entitled, or may:

(i) Request transfer of securities to the TreasuryDirect account of the persons entitled, if the securities are eligible for transfer;

(ii) Request transfer of marketable Treasury securities to the commercial book-entry system; or

(iii) Request a Sell Direct transaction.

(2) We will require appropriate proof of appointment for the legal representative of the estate. Letters of appointment must be dated not more than one year prior to the date of submission of the letters of appointment.

(3) The legal representative of the estate may not purchase securities on behalf of the estate.

(4) If payment is requested, we will require ACH instructions to process the request.

(b) *Estate has been settled previously.* If the estate has been settled previously through judicial proceedings, the persons entitled may request payment of securities, if the securities are eligible for redemption, or may transfer the securities to the TreasuryDirect accounts of the persons entitled, if the securities are eligible for transfer. We will require a certified copy of the court-approved final accounting for the estate, the court's decree of distribution, or other appropriate evidence. If payment is requested, we will require ACH instructions to process the request.

(c) *Special provisions under the law of the jurisdiction of the decedent's domicile.* If there is no formal or regular administration and no representative of the estate is to be appointed, the person appointed to receive or distribute the assets of a decedent's estate without regular administration under summary or small estates procedures under applicable local law may request payment of securities, if the securities are eligible for redemption, or may transfer the securities to or on behalf of the persons entitled by the law of the jurisdiction in which the decedent was domiciled at the date of death, if the securities are eligible for transfer. We will require appropriate evidence. If payment is requested, we will require ACH instructions to process the request.

(d) *When administration is required.* If the total redemption value of the

Treasury securities and undelivered payments, if any, held directly on our records that are the property of the decedent's estate is greater than \$100,000, administration of the decedent's estate will be required. The redemption value of savings bonds and the principal amount of marketable securities will be used to determine the value of securities, and will be determined as of the date of death. Administration may also be required at the discretion of the Department for any case.

(e) *Voluntary representative for small estates that are not being otherwise administered—(1) General.* A voluntary representative is a person qualified according to paragraph (e)(3) of this section, to redeem or transfer a decedent's securities. The voluntary representative procedures are for the convenience of the Department; entitlement to the decedent's securities and held payments, if any, is determined by the law of the jurisdiction in which the decedent was domiciled at the date of death. Voluntary representative procedures may be used only if:

(i) There has been no administration, no administration is contemplated, and no summary or small estate procedures under applicable local law have been used;

(ii) The total redemption value of the Treasury securities and held payments, if any, held directly on our records that are the property of the decedent's estate is \$100,000 or less, as of the date of death, and

(iii) There is a person eligible to serve as the voluntary representative according to paragraph (e)(3) of this section.

(2) *Authority of voluntary representative.* A voluntary representative may:

(i) Redeem the decedent's savings bonds that are eligible for redemption. Payment may be made to the voluntary representative on behalf of or directly to the persons entitled by the law of the jurisdiction in which the decedent was domiciled at the date of death;

(ii) Transfer the decedent's securities to the persons entitled by the law of the jurisdiction in which the decedent was domiciled at the date of death.

(3) *Order of precedence for voluntary representative.* An individual eighteen

years of age or older may act as a voluntary representative according to the following order of precedence: a surviving spouse; if there is no surviving spouse, then a child of the decedent; if there are none of the above, then a descendant of a deceased child of the decedent; if there are none of the above, then a parent of the decedent; if there are none of the above, then a brother or sister of the decedent; if there are none of the above, then a descendant of a deceased brother or sister of the decedent; if there are none of the above, then a next of kin of the decedent, as determined by the laws of the decedent's domicile at the date of death. As used in this order of precedence, child means a natural or adopted child of the decedent.

(4) *Liability.* By serving, the voluntary representative warrants that the distribution of payments or securities are to or on behalf of the persons entitled by the law of the jurisdiction in which the decedent was domiciled at the date of death. The United States is not liable to any person for the improper distribution of payments or securities. Upon payment or transfer of the securities to the voluntary representative, the United States is released to the same extent as if it had paid or delivered to a representative of the estate appointed pursuant to the law of the jurisdiction in which the decedent was domiciled at the date of death. The voluntary representative shall indemnify and hold harmless the United States and all creditors and persons entitled to the estate of the decedent. The amount of the indemnification is limited to an amount no greater than the value received by the voluntary representative.

(5) *Creditor.* If there has been no administration, no administration is contemplated, no summary or small estate procedures under applicable local law have been used, and there is no person eligible to serve as a voluntary representative pursuant to paragraph (e) of this section, then a creditor may make a claim for payment of the amount of the debt, providing the debt has not been barred by applicable local law.

[70 FR 57435, Sept. 30, 2005, as amended at 70 FR 57443, Sept. 30, 2005]

§ 363.45 What are the rules for judicial and administrative actions involving securities held in TreasuryDirect®?

(a) *Notice of adverse claim or pending judicial proceedings.* We are not subject to and will not accept a notice of an adverse claim or notice of pending judicial proceedings involving a security held in TreasuryDirect.

(b) *Competing claims to a security.* The Department of the Treasury, Public Debt, and the Federal Reserve Banks are not proper defendants in a judicial proceeding involving competing claims to a security held in TreasuryDirect.

(c) *Divorce decree.* We will recognize a divorce decree that either disposes of a security held in TreasuryDirect or ratifies a property settlement agreement disposing of a security that is the property of either of the parties. If the divorce decree does not set out the terms of the property settlement agreement, we will require a certified copy of the agreement.

(d) *Final court order.* We will recognize a final order entered by a court that affects ownership rights in a security held in TreasuryDirect only to the extent that the order is consistent with the provisions of this part. The owner of the security must be a party to the proceedings.

(e) *Levy to satisfy money judgment.* We will honor a transaction request submitted by a person appointed by a court and having authority under an order of a court to dispose of a security held in TreasuryDirect pursuant to a money judgment against the owner of the security, as owner is defined in section 363.6 of this part. In the case of savings bonds, we will only make payment pursuant to the court order to the extent of the money judgment. We will not transfer the savings bonds.

(f) *IRS levy.* We will honor an IRS notice of levy under section 6331 of the Internal Revenue Code with respect to:

(1) The owner, as owner is defined in section 363.6 of this part; and

(2) A secondary owner, if the secondary owner has the right to conduct transactions in a security at the date and time the notice of levy is delivered to Public Debt.

(g) *Trustee in bankruptcy, a receiver of an insolvent's estate, a receiver in equity,*