

# Rules and Regulations

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This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect, most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.

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## OFFICE OF PERSONNEL MANAGEMENT

### 5 CFR Part 930

RIN 3206-AL67

#### Programs for Specific Positions and Examinations (Miscellaneous)

**AGENCY:** U.S. Office of Personnel Management.

**ACTION:** Interim rule with request for comments.

**SUMMARY:** The U.S. Office of Personnel Management is issuing an interim rule suspending the requirement set forth in 5 CFR 930.204(b) that requires *incumbent* administrative law judges (“ALJs”) to “possess a professional license to practice law and be authorized to practice law.”

**DATES:** Effective July 18, 2008. Comments must be received on or before September 16, 2008.

**ADDRESSES:** Send, deliver, or fax written comments to: Ms. Angela Bailey, Deputy Associate Director for Talent and Capacity Policy, U.S. Office of Personnel Management, Room 6551, 1900 E Street, NW., Washington, DC 20415-9700; e-mail: [employ@opm.gov](mailto:employ@opm.gov); fax: (202) 606-2329.

Comments may also be sent through the Federal eRulemaking Portal at: <http://www.regulations.gov>. All submissions received through the Portal must include the agency name and docket number or Regulation Identifier Number (RIN) for this rulemaking.

**FOR FURTHER INFORMATION CONTACT:** Ms. Linda Watson by telephone at (202) 606-0830; by fax at (202) 606-2329; by TTY at (202) 418-3134; or by e-mail at [linda.watson@opm.gov](mailto:linda.watson@opm.gov).

**SUPPLEMENTARY INFORMATION:** The U.S. Office of Personnel Management is issuing an interim rule suspending the requirement set forth in 5 CFR 930.204(b) that requires *incumbent*

administrative law judges (“ALJs”) to “possess a professional license to practice law and be authorized to practice law.” This provision requires ALJs to maintain “active status,” (or “judicial status” in States that prohibit sitting judges from maintaining “active status” to practice law), or to be in “good standing” where the licensing authority considers “good standing” as having a current license to practice law. This licensure requirement set forth in section 930.204(b) henceforth will not apply to incumbent administrative law judges.

ALJ *applicants* are unaffected by this suspension, and the requirement that applicants possess a professional license to practice law and be authorized to practice law continues to apply. We remain convinced that active licensure at the time of application and appointment is vital as an indicator that the applicant presenting him or herself for assessment and possible appointment has been subject to rigorous ethical requirements right up to the point of appointment. We have reconsidered comments received during the notice and comment period, however, about the burdens imposed by the active licensure requirement, as it applies to incumbents, the potential differences between the ethical requirements that pertain to an advocate and those requirements that pertain to someone asked to adjudicate cases impartially, and the variations in what States require as to lawyers serving as ALJs. We intend once again to solicit comments on this point in a new rulemaking. In the interim, we seek to prevent any adverse impact on incumbents while we engage in this process by suspending the current requirement as to incumbents.

#### Waiver of Notice of Proposed Rulemaking and Delay in Effective Date

Pursuant to 5 U.S.C. 553 (d)(1), we deem it appropriate to waive the 30-day waiting period and make this regulation effective immediately because this is “a substantive rule which grants or recognizes an exemption or relieves a restriction” set forth in the regulation that is being revised. Further, pursuant to 5 U.S.C. 553(b)(B) and (d)(3), we find that good cause exists to waive the general notice of proposed rulemaking. Because we understand that some incumbents have raised concerns that

coming into compliance with bar requirements in section 930.204(b) or continuing legal education requirements of bar membership will impose a burden or hardship on them, we are suspending the requirement in order to alleviate those concerns while we consider its efficacy, as well as comments addressing whether active bar status is necessary to ensure good conduct among incumbent administrative law judges.

#### Executive Order 12866, Regulatory Review

This interim rule has been reviewed by the Office of Management and Budget in accordance with Executive Order 12866.

#### Regulatory Flexibility Act

I certify that these regulations would not have a significant economic impact on a substantial number of small entities (including small businesses, small organizational units, and small governmental jurisdictions) because they would affect only some Federal agencies and employees.

#### List of Subjects in 5 CFR Part 930

Administrative practice and procedure, Computer technology, Government employees, Motor vehicles.

U.S. Office of Personnel Management.

**Linda M. Springer,**  
*Director.*

■ Accordingly, OPM is amending 5 CFR part 930 as follows:

#### PART 930—PROGRAMS FOR SPECIFIC POSITIONS AND EXAMINATIONS (MISCELLANEOUS)

■ 1. The authority for subpart B of 930 continues to read as follows:

**Authority:** 5 U.S.C. 1104(a), 1302(a), 1305, 3105, 3301, 3304, 3323(b), 3344, 4301(2)(D), 5372, 7521, and E.O. 10577, 3 CFR, 1954-1958 Comp., p. 219

■ 2. Revise paragraph (b) of § 930.204 to read as follows:

\* \* \* \* \*

(b) *Licensure.* (1) At the time of application and any new appointment and while serving as an administrative law judge, the individual must possess a professional license to practice law and be authorized to practice law under the laws of a State, the District of Columbia, the Commonwealth of Puerto Rico, or any territorial court established

under the United States Constitution. Judicial status is acceptable in lieu of “active” status in States that prohibit sitting judges from maintaining “active” status to practice law. Being in “good standing” is also acceptable in lieu of “active” status in States where the licensing authority considers “good standing” as having a current license to practice law.

(2) The requirements contained in paragraph (b)(1) are suspended until further notice with respect to incumbents serving as administrative law judges.

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[FR Doc. E8-16487 Filed 7-17-08; 8:45 am]

BILLING CODE 6325-39-P

## FEDERAL RESERVE SYSTEM

### 12 CFR Part 229

[Regulation CC; Docket No. R-1323]

#### Availability of Funds and Collection of Checks

**AGENCY:** Board of Governors of the Federal Reserve System.

**ACTION:** Final rule; technical amendment.

**SUMMARY:** The Board of Governors (Board) is amending appendix A of Regulation CC to delete the reference to the Windsor Locks office of the Federal Reserve Bank of Boston and to reassign the Federal Reserve routing symbols currently listed under that office to the head office of the Federal Reserve Bank of Philadelphia. These amendments reflect the restructuring of check-processing operations within the Federal Reserve System.

**DATES:** The final rule will become effective on September 20, 2008.

**FOR FURTHER INFORMATION CONTACT:** Jeffrey S. H. Yeganeh, Financial Services Manager (202/728-5801), or Joseph P. Baressi, Financial Services Project Leader (202/452-3959), Division of Reserve Bank Operations and Payment Systems; or Sophia H. Allison, Senior Counsel (202/452-3565), Legal Division. For users of Telecommunications Devices for the Deaf (TDD) only, contact 202/263-4869.

**SUPPLEMENTARY INFORMATION:** Regulation CC establishes the maximum period a depository bank may wait between receiving a deposit and making the deposited funds available for withdrawal.<sup>1</sup> A depository bank

generally must provide faster availability for funds deposited by a “local check” than by a “nonlocal check.” A check is considered local if it is payable by or at or through a bank located in the same Federal Reserve check-processing region as the depository bank.

Appendix A to Regulation CC contains a routing number guide that assists banks in identifying local and nonlocal banks and thereby determining the maximum permissible hold periods for most deposited checks. The appendix includes a list of each Federal Reserve check-processing office and the first four digits of the routing number, known as the Federal Reserve routing symbol, of each bank that is served by that office for check-processing purposes. Banks whose Federal Reserve routing symbols are grouped under the same office are in the same check-processing region and thus are local to one another.

On September 20, 2008, the Reserve Banks will transfer the check-processing operations of the Windsor Locks office of the Federal Reserve Bank of Boston to the head office of the Federal Reserve Bank of Philadelphia. As a result of this change, some checks that are drawn on and deposited at banks located in the Windsor Locks and Philadelphia check-processing regions and that currently are nonlocal checks will become local checks subject to faster availability schedules. To assist banks in identifying local and nonlocal checks and making funds availability decisions, the Board is amending the lists of routing symbols in appendix A associated with the Federal Reserve Banks of Boston and Philadelphia to reflect the transfer of check-processing operations from the Windsor Locks office of the Federal Reserve Bank of Boston to the head office of the Federal Reserve Bank of Philadelphia. To coincide with the effective date of the underlying check-processing changes, the amendments to appendix A are effective September 20, 2008. The Board is providing notice of the amendments at this time to give affected banks ample time to make any needed processing changes. Early notice also will enable affected banks to amend their availability schedules and related disclosures if necessary and provide their customers with notice of these changes.<sup>2</sup>

#### Administrative Procedure Act

The Board has not followed the provisions of 5 U.S.C. 553(b) relating to notice and public participation in connection with the adoption of the final rule. The revisions to appendix A are technical in nature and are required by the statutory and regulatory definitions of “check-processing region.” Because there is no substantive change on which to seek public input, the Board has determined that the § 553(b) notice and comment procedures are unnecessary. In addition, the underlying consolidation of Federal Reserve Bank check-processing offices involves a matter relating to agency management, which is exempt from notice and comment procedures.

#### Paperwork Reduction Act

In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. 3506; 5 CFR 1320 Appendix A.1), the Board has reviewed the final rule under authority delegated to the Board by the Office of Management and Budget. The technical amendment to appendix A of Regulation CC will delete the reference to the Windsor Locks office of the Federal Reserve Bank of Boston and reassign the routing symbols listed under that office to the head office of the Federal Reserve Bank of Philadelphia. The depository institutions that are located in the affected check-processing regions and that include the routing numbers in their disclosure statements would be required to notify customers of the resulting change in availability under § 229.18(e). However, all paperwork collection procedures associated with Regulation CC already are in place, and the Board accordingly anticipates that no additional burden will be imposed as a result of this rulemaking.

#### List of Subjects in 12 CFR Part 229

Banks, Banking, Reporting and recordkeeping requirements.

#### Authority and Issuance

■ For the reasons set forth in the preamble, the Board is amending 12 CFR part 229 to read as follows:

#### PART 229—AVAILABILITY OF FUNDS AND COLLECTION OF CHECKS (REGULATION CC)

■ 1. The authority citation for part 229 continues to read as follows:

**Authority:** 12 U.S.C. 4001-4010, 12 U.S.C. 5001-5018.

■ 2. In appendix A to part 229, introductory paragraph C is revised and the First and Third Federal Reserve

<sup>1</sup> For purposes of Regulation CC, the term “bank” refers to any depository institution, including commercial banks, savings institutions, and credit unions.

<sup>2</sup> Section 229.18(e) of Regulation CC requires that banks notify account holders who are consumers within 30 days after implementing a change that improves the availability of funds.