

As explained in the Board's final rule published in the **Federal Register** on May 18, 2007, the Federal Reserve Banks have decided to restructure their check processing services by reducing further the number of locations at which they process checks.<sup>2</sup> The Board issues separate final rules amending appendix A for each phase of the restructuring, and the amendments set forth in this notice are such final rules.<sup>3</sup>

As part of the restructuring process, the head office of the Federal Reserve Bank of San Francisco will cease processing checks on August 18, 2007. As of that date, banks with routing symbols currently assigned to the San Francisco head office for check processing purposes will be reassigned to the San Francisco Reserve Bank's Los Angeles branch office. As a result of this change, some checks that are drawn on and deposited at banks located in the affected 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 banks, the Board accordingly is amending the lists of routing symbols assigned to Twelfth District check processing offices to conform to the transfer of operations from the San Francisco head office to the Los Angeles branch office. To coincide with the effective date of the underlying check processing changes, the amendments are effective August 18, 2007. The Board is providing advance notice of these amendments to give affected banks ample time to make any needed processing changes. The advance 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>4</sup> The Federal Reserve routing symbols assigned to all other Federal Reserve branches and offices will remain the same at this time. The Board of Governors, however, intends to issue a similar notice at least sixty days prior to the elimination of check processing operations at the Helena branch office of the Federal Reserve Bank of

Minneapolis, as described in the May 2007 **Federal Register** document.

#### 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 this final rule. The revisions to the appendix are technical in nature, and the routing symbol revisions 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 section 553(b) notice and comment procedures are unnecessary.

#### Paperwork Reduction Act

In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. 3506; 5 CFR part 1320 Appendix A.1), the Board has reviewed the final rule under authority delegated to the Board by the Office of Management and Budget. This technical amendment to appendix A of Regulation CC will delete the reference to the head office of the Federal Reserve Bank of San Francisco and reassign the routing symbols listed under that office to the Los Angeles branch office of the Federal Reserve Bank of San Francisco. 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, because all paperwork collection procedures associated with Regulation CC already are in place, the Board 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. The Twelfth District routing symbol list in appendix A is revised to read as follows:

#### Appendix A to PART 229—Routing Number Guide to Next-Day Availability Checks and Local Checks

\* \* \* \* \*

##### Twelfth Federal Reserve District

[Federal Reserve Bank of San Francisco]

##### Los Angeles Branch

|      |      |
|------|------|
| 1210 | 3210 |
| 1211 | 3211 |
| 1212 | 3212 |
| 1213 | 3213 |
| 1220 | 3220 |
| 1221 | 3221 |
| 1222 | 3222 |
| 1223 | 3223 |
| 1224 | 3224 |

##### Seattle Branch

|      |      |
|------|------|
| 1230 | 3230 |
| 1231 | 3231 |
| 1232 | 3232 |
| 1233 | 3233 |
| 1250 | 3250 |
| 1251 | 3251 |
| 1252 | 3252 |

\* \* \* \* \*

By order of the Board of Governors of the Federal Reserve System, acting through the Secretary of the Board under delegated authority, June 20, 2007.

**Jennifer J. Johnson,**

*Secretary of the Board.*

[FR Doc. E7–12194 Filed 6–22–07; 8:45 am]

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#### SMALL BUSINESS ADMINISTRATION

##### 13 CFR Part 115

RIN 3245–AF39

#### Surety Bond Guarantee Program-Preferred Surety Qualification, Increased Guarantee for Veteran and Service-Disabled Veteran-Owned Business, Deadline for Payment of Guarantee Fees, Denial of Liability, and Technical Amendments

**AGENCY:** U.S. Small Business Administration (SBA).

**ACTION:** Final rule.

**SUMMARY:** On September 26, 2006, SBA published a proposed rule in the **Federal Register** addressing six changes to the SBA Surety Bond Guarantee (SBG) Program in order to improve operation of the SBG program and make it easier for sureties and small business concerns to participate in the program. Specifically, this rule makes the following amendments to the program: (1) Gives effect to the statutory reduction in the frequency of audits required of Preferred Surety Bond (PSB) Sureties; (2) obligates SBA to guarantee 90 percent of the loss incurred by a Prior Approval Surety on bonds issued

<sup>2</sup> See 72 FR 27951, May 18, 2007.

<sup>3</sup> In addition to the general advance notice of future amendments provided by the Board, and the Board's notices of final amendments, the Reserve Banks strive to inform affected depository institutions of the exact date of each office transition at least 120 days in advance. The Reserve Banks' communications to affected depository institutions are available at <http://www.frb-services.org>.

<sup>4</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.

on behalf of small businesses owned and controlled by veterans, and Service-disabled veterans; (3) imposes a 60-day deadline for the submission of surety fees to SBA; (4) allows PSB Sureties to charge premiums in accordance with applicable state ceilings, as presently permitted under the Prior Approval Program; (5) deletes the existing reference to the expiration of the PSB Program; and (6) allows Affiliates of a PSB Surety to participate in the Prior Approval Program.

**DATES:** This rule is effective July 25, 2007.

**FOR FURTHER INFORMATION CONTACT:** Frank Lalumiere, Director, Office of Surety Guarantees, (202) 205-6540; [Frank.Lalumiere@sba.gov](mailto:Frank.Lalumiere@sba.gov).

**SUPPLEMENTARY INFORMATION:**

SBA can guarantee bonds for contracts up to \$2 million, covering bid, performance and payment bonds for small and emerging contractors who cannot obtain surety bonds through regular commercial channels. SBA's guarantee gives sureties an incentive to provide bonding for small businesses and thereby strengthens their ability to obtain bonding and greater access to contracting opportunities.

Section 411(g)(3) of the Small Business Investment Act of 1958 (the Act) formerly required PSB Sureties to be audited every year. 15 U.S.C. 694b(g)(3). As amended by Public Law 108-447, Div. K, Section 203, the Small Business Reauthorization and Manufacturing Assistance Act of 2004, the Act now requires audits to be made at least once every 3 years. This final rule implements this statutory requirement.

In relevant part, Section 4(b)(1) of the Small Business Act provides that SBA "shall give special consideration to veterans of the Armed Forces of the United States and their survivors and dependents." 15 U.S.C. 633(b)(1). This final rule encourages the issuance of bonds on behalf of small business concerns owned and controlled by veterans and Service-disabled veterans, by guaranteeing to pay 90 percent of a Prior Approval Program Surety's loss. This guaranty affords such concerns more opportunity to obtain contracts generally.

Section 411(h) of the Small Business Investment Act mandates the operation of the program "on a prudent and economically justifiable basis" and authorizes SBA to impose fees on both small business concerns and sureties, "to be payable at such time as may be determined by [SBA]." Accordingly, this final rule establishes a clear deadline for a Prior Approval Surety's

payment of the guarantee fees owed to SBA in order to maintain SBA's guaranty.

The final rule also allows PSB Program Sureties to charge no more than the premium rates permitted under applicable State law, as Prior Approval Sureties are already allowed. The initial regulations for the PSB program specified that the premium rates charged by PSB Sureties could not exceed the Surety Association of America's advisory premium rates in effect on August 1, 1987. SAA discontinued its rate setting function shortly after promulgating the 1987 rates, and participating surety companies have been obligated to use the 1987 SAA rates for the past 18 years despite economic and market place changes. This change puts the Preferred and Prior Approval Programs on the same footing by relying on the individual State oversight bodies for setting fee rates.

From its creation in 1988 until 2004, the PSB program was a pilot program, subject to automatic termination in the absence of affirmative Congressional action. Now that the PSB program has been made permanent, the present regulation that speaks of the termination of the program has been removed.

Finally, pursuant to this rule Affiliates of PSB Sureties are no longer barred from participation in the Prior Approval program. The term "Affiliate" is defined in 13 CFR part 121, but in the context of the present discussion it means a relationship in which one Surety owns or otherwise controls another Surety, or in which two or more Sureties are commonly owned by, or under common control with, a third party. A series of mergers and acquisitions in the surety industry in recent years had caused Sureties previously eligible to participate in the Prior Approval Program to become Affiliates of PSB Sureties and lose their eligibility. This final amendment should encourage increased participation in the Prior Approval Program by otherwise qualified Sureties that are Affiliates of PSB Sureties.

**Discussion of Public Comments**

SBA received five public comments on the proposed rule, three from associations and two from individual surety companies. Each commenter supported the proposed changes, with two exceptions.

Four commenters recommended removal of the proposed language in § 115.19, Denial of Liability, that would allow SBA to deny bond liability as a result of the failure of a surety company to pay the required surety fee. In

general, the commenters stated that such a requirement would weaken the SBA/Surety Industry partnership that is designed to assist small businesses. While SBA values its partners in the surety industry, the Agency has a fiduciary responsibility to ensure timely payment of guaranty fees in order to honor its guaranty. Accordingly, the language in the proposed rule regarding the denial of bond liability if the surety fee is not paid within 60 days is retained. The proposed rule also included a provision that the guaranty can be reinstated if a valid reason for the delinquent payment of guaranty fee is provided and the contract is not in default. This language is also retained in the final rule.

Three commenters expressed concern with the proposed 45 days fee payment requirement. One commenter requested clarification of when the 45-day period begins. A few commenters said it would be difficult to remit payment within 45 days, in part because many sureties do not receive payment on the final bond premium until 45 days after the bond is issued, and to require payment before collection on the premium is unduly punitive. In consideration of these comments, in this final rule, SBA has amended the proposed rule. First, the proposed 45-day period cited in § 115.32 is increased to 60 days. SBA believes that the additional 15 days will provide time for a surety company agent to provide the surety company with sufficient information for the surety company to make payment. Second, the same section is also revised to specify that payment is required within 60 days following SBA approval of the Prior Approval Payment or Performance Bond on the SBA Form 990, Guarantee Agreement.

One commenter also suggested that the agency should extend the 10-day deadline for PSB sureties to submit the executed bond to SBA to a 15-day deadline. SBA did not propose to amend this particular requirement, and it will be considered among other changes in a future amendment.

**Compliance With Executive Orders 12866, 12988, and 13132, the Paperwork Reduction Act (44 U.S.C. Ch. 35), and the Regulatory Flexibility Act (5 U.S.C. 601-612)**

**Compliance With Executive Order 12866**

The Office of Management and Budget (OMB) has determined that this rule constitutes a significant regulatory action for purposes of Executive Order 12866, thereby necessitating a regulatory impact analysis. SBA

published this analysis in the Proposed Rule. The agency did not receive any comments addressing the analysis and is not aware of any additional information that would require revision of its initial conclusions.

#### **Compliance With Executive Order 12988**

This action meets applicable standards set forth in Sections 3(a) and 3(b)(2) of Executive Order 12988, Civil Justice Reform, to minimize litigation, eliminate ambiguity, and reduce burden. The action does not have retroactive or preemptive effect.

#### **Compliance With Executive Order 13132**

For purpose of E.O. 13132, the SBA has determined that the rule will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, for the purpose of Executive Order 13132, SBA determines that this final rule has no federalism implications warranting preparation of a federalism assessment.

#### **Compliance With Paperwork Reduction Act, 44 U.S.C. Ch. 35**

SBA has determined that this final rule does not impose additional reporting or recordkeeping requirements under the Paperwork Reduction Act, 44 U.S.C., Chapter 35.

#### **Compliance With the Regulatory Flexibility Act, 5 U.S.C. 601–612**

The Regulatory Flexibility Act (RFA), 5 U.S.C. 601, requires administrative agencies to consider the effect of their actions on small entities, small non-profit enterprises, and small local governments. Pursuant to the RFA, when an agency issues a rulemaking, the agency must prepare a regulatory flexibility analysis which describes the impact of the rule on small entities. However, Section 605 of the RFA allows an agency to certify a rule, in lieu of preparing an analysis, if the rulemaking is not expected to have a significant economic impact on a substantial number of small entities. Within the meaning of RFA, SBA certifies that this rule will not have a significant economic impact on a substantial number of small entities. Consequently, this rule does not meet the substantial number of small businesses criterion anticipated by the Regulatory Flexibility Act.

There are about a dozen Sureties that participate in the SBA program, and this rule does not impose any additional cost

or any significant burden on them. Allowing PSB Sureties to charge the highest premium rates permitted by applicable State law raises the possibility of an economic impact on those contractors that now receive their bonding from PSB Sureties, but out of 843 contractors participating in the SBA program in FY2005, about 143 were bonded by PSB Sureties. Prior Approval Sureties are already allowed to charge the premium rates permitted by the individual State law, so the economic effect, if any, of this final rule would be to subject approximately 17 percent of the contractors in the SBA program to the risk that they might have to pay the same premium rates that their fellow participating contractors must pay. No public comments were received in response to the RFA analysis provided in the proposed rule.

#### **List of Subjects in 13 CFR Part 115**

Claims, Reporting and recordkeeping requirements, Small businesses, Surety bonds.

■ For the reasons stated in the preamble, the Small Business Administration amends 13 CFR part 115 as follows:

#### **PART 115—SURETY BOND GUARANTEE**

■ 1. The authority citation for part 115 is revised to read as follows:

**Authority:** 5 U.S.C. app. 3; 15 U.S.C. 687b, 687c, 694a, 694b note, Pub. L. 106–554; Pub. L. 108–447, Div K, § 203.

■ 2. Amend § 115.10 by adding the following definitions in alphabetical order.

##### **§ 115.10 Definitions.**

\* \* \* \* \*

*Service-Disabled Veteran* means a veteran with a disability that is service-connected, as defined in Section 101(16) of Title 38, United States Code.

*Small Business Owned and Controlled by Service-Disabled Veterans* means:

(1) A Small Concern of which not less than 51 percent is owned by one or more Service-Disabled Veterans; or a publicly-owned Small concern of which not less than 51 percent of the stock is owned by one or more Service-Disabled Veterans; and

(2) The management and daily business operations of which are controlled by one or more Service-Disabled Veterans, or in the case of a Service-Disabled Veteran with permanent and severe disability, the spouse or permanent caregiver of such Veteran.

*Small Business Owned and Controlled by Veterans* means:

(1) A Small Concern of which not less than 51 percent is owned by one or more Veterans; or a publicly-owned Small Concern of which not less than 51 percent of the stock is owned by one or more Veterans; and

(2) The management and daily business operations of which are controlled by one or more Veterans.

\* \* \* \* \*

*Veteran* has the meaning given the term in Section 101(2) of Title 38, United States Code.

■ 3. Revise § 115.19(g) to read as follows:

##### **§ 115.19 Denial of liability.**

\* \* \* \* \*

(g) Delinquent fees. The Surety has not remitted to SBA the Principal's payment for the full amount of the guarantee fee within the time period required under § 115.30(d) for Prior Approval Sureties or § 115.66 for PSB Sureties, or has not made timely payment of the Surety's fee within the time period required by § 115.32(c). SBA may reinstate the guarantee upon showing that the contract is not in default and that a valid reason exists why a timely remittance or payment was not made.

\* \* \* \* \*

■ 4. Revise § 115.21(a)(2) to read as follows:

##### **§ 115.21 Audits and investigations.**

(a) \* \* \*

(1) \* \* \*

(2) *Frequency of PSB Audits.* Each PSB Surety is subject to an audit at least once every 3 years by examiners selected and approved by SBA.

\* \* \* \* \*

■ 5. Revise § 115.31(a)(2) to read as follows:

##### **§ 115.31 Guarantee percentage.**

(a) \* \* \*

(1) \* \* \*

(2) The bond was issued on behalf of a small business owned and controlled by socially and economically disadvantaged individuals, on behalf of a qualified HUBZone small business concern, or on behalf of a small business owned and controlled by veterans or a small business owned and controlled by Service-disabled veterans.

\* \* \* \* \*

■ 6. Revise § 115.32 (c) and (d)(2) to read as follows:

##### **§ 115.32 Fees and premiums.**

\* \* \* \* \*

(c) *SBA charge to Surety.* SBA does not charge Sureties application or Bid Bond guarantee fees. Subject to

§ 115.18(a)(4), the Surety must pay SBA a guarantee fee on each guaranteed bond (other than a Bid Bond) within 60 calendar days after SBA's approval of the Prior Approval Payment or Performance Bond on the SBA Form 990, Guarantee Agreement. The fee is a certain percentage of the bond premium determined by SBA and published in Notices in the **Federal Register** from time to time. The fee is rounded to the nearest dollar. SBA does not receive any portion of a Surety's non-premium charges. See paragraph (d) of this section for additional requirements when the Contract or bond amount changes.

(d) \* \* \*

(1) \* \* \*

(2) *Increases; fees.* Notification of increases in the Contract or bond amount under this paragraph (d) must be accompanied by the Principal's check for the increase in the Principal's guarantee fee computed on the increase in the Contract amount. If the increase in the Principal's fee is less than \$40, no payment is due until the total amount of increases in the Principal's fee equals or exceeds \$40. The Surety's check for payment of the increase in the Surety's guarantee fee, computed on the increase in the bond Premium, must be submitted to SBA within 60 calendar days of SBA's approval of the supplemental Prior Approval Agreement, unless the amount of such increased guarantee fee is less than \$40. When the total amount of increase in the guarantee fee equals or exceeds \$40, the Surety's check must be submitted to SBA within 60 calendar days.

\* \* \* \* \*

■ 7. Revise § 115.60(a)(2) to read as follows:

**§ 115.60 Selection and admission of PSB Sureties.**

(a) \* \* \*

(1) \* \* \*

(2) An agreement that the Surety will neither charge a bond premium in excess of that authorized by the appropriate State insurance department, nor impose any non-premium fee unless such fee is permitted by applicable State law and approved by SBA.

\* \* \* \* \*

**§ 115.61 [Removed & Reserved]**

■ 8. Remove and reserve § 115.61.

■ 9. Revise § 115.62 to read as follows:

**§ 115.62 Prohibition on participation in Prior Approval program.**

A PSB Surety is not eligible to submit applications under subpart B of this part. This prohibition does not extend to an Affiliate, as defined in 13 CFR

§ 121.103, of a PSB Surety that is not itself a PSB Surety provided that the relationship between the PSB Surety and the Affiliate has been fully disclosed to SBA and that such Affiliate has been approved by SBA to participate as a Prior Approval Surety pursuant to § 115.11.

**Steven C. Preston,**

*Administrator.*

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**BILLING CODE 8025-01-M**

## DEPARTMENT OF THE TREASURY

### Internal Revenue Service

#### 26 CFR Parts 1 and 602

[TD 9332]

**RIN 1545-BG00**

#### Exclusions From Gross Income of Foreign Corporations

**AGENCY:** Internal Revenue Service (IRS), Treasury.

**ACTION:** Final and temporary regulations.

**SUMMARY:** This document contains final and temporary regulations under section 883(a) and (c) of the Internal Revenue Code (Code), relating to the exclusion from gross income of income derived by certain foreign corporations engaged in the international operation of ships or aircraft. These regulations revise § 1.883-3 of the final regulations, relating to the eligibility of controlled foreign corporations for the exclusion under section 883, following the repeal of section 954(a)(4) and (f) (foreign base company shipping provisions) by section 415 of the American Jobs Creation Act of 2004. In addition, these regulations provide certain additional guidance under section 883(a) and (c), including for foreign corporations that are organized in countries providing an exemption from taxation for certain shipping and air transport income solely through an income tax convention. The text of these temporary regulations also serves as the text of the proposed regulations (REG-138707-06) set forth in the Proposed Rules section in this issue of the **Federal Register**.

**DATES:** *Effective Date:* These regulations are effective on June 25, 2007.

*Applicability Date:* For dates of applicability, see § 1.883-5T.

**FOR FURTHER INFORMATION CONTACT:** Patricia A. Bray, at (202) 622-3880 (not a toll-free number).

**SUPPLEMENTARY INFORMATION:**

### Paperwork Reduction Act

These regulations are being issued without prior notice and public procedure pursuant to the Administrative Procedure Act (5 U.S.C. 553). For this reason, the collections of information contained in these regulations has been reviewed, and pending receipt and evaluation of public comments, approved by the Office of Management and Budget under control number 1545-1667. Responses to these collections of information are mandatory.

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 the Office of Management and Budget.

For further information concerning these collections of information, where to submit comments on the collections of information and the accuracy of the estimated burden, and suggestions for reducing this burden, please refer to the preamble to the cross-referencing notice of proposed rulemaking published in the Proposed Rules section of this issue of the **Federal Register**.

Books and records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

### Background

#### 1. Section 883 and the Final Regulations

Sections 883(a)(1) and (a)(2) of the Code generally provide that income from the international operation of ships or aircraft derived by a foreign corporation will be excluded from gross income and exempt from U.S. taxation if the foreign country in which the corporation is organized grants an equivalent exemption to corporations organized in the United States. Section 883(c)(1) provides that a foreign corporation cannot qualify for the section 883(a) exemption if 50 percent or more of the value of its stock is owned by individuals who are not residents of a country that grants an equivalent exemption to U.S. corporations. However, under section 883(c)(2), section 883(c)(1) does not apply to a foreign corporation that is a controlled foreign corporation as defined in section 957(a)(CFC). In addition, under section 883(c)(3), section 883(c)(1) does not apply to a foreign corporation whose stock is primarily and regularly traded on an established securities market in the