

Proposed Rules

Federal Register

Vol. 68, No. 125

Monday, June 30, 2003

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

OFFICE OF PERSONNEL MANAGEMENT

5 CFR Part 210

RIN 3206-AJ98

Basic Concepts and Definitions (General)

AGENCY: Office of Personnel Management.

ACTION: Proposed rule.

SUMMARY: The Office of Personnel Management (OPM) is proposing a plain language rewrite of its regulations on basic concepts and definitions as part of a broader review of OPM's regulations. The purpose of the revisions is to make the regulations more readable.

DATES: Comments must be received on or before August 29, 2003.

ADDRESSES: Send, deliver or fax comments to Ellen Tunstall, 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; fax: 202-606-2329.

FOR FURTHER INFORMATION CONTACT: Ms. Karen Jacobs on (202) 606-0960, by TTY on (202) 418-3134, by fax on (202) 606-2329, or by e-mail at kkjacobs@opm.gov.

SUPPLEMENTARY INFORMATION: OPM is working on an agency-wide project to make regulations found in title 5 of the Code of Federal Regulations (CFR) more readable. Part 210 contains the definitions commonly used throughout title 5 of the CFR. As a part of this project, we are adding definitions for words *agency* and *must*; and we are deleting the definitions for *eligible* and *metropolitan area of Washington, DC*. The new definitions are added to permit the use of standard definitions, where appropriate, for these commonly used terms. The definitions for *metropolitan area of Washington, DC* and *eligible* are being deleted because we have found that these definitions frequently vary depending on how they are used.

Regulatory Flexibility Act

I certify that these regulations will not have a significant economic impact on a substantial number of small entities (including small businesses, small organizational units, and small governmental jurisdictions) because the regulations apply only to appointment procedures for certain employees in Federal agencies.

E.O. 12866, Regulatory Review

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

List of Subjects in 5 CFR Part 210

Government employees.

Office of Personnel Management.

Kay Coles James,
Director.

Accordingly, OPM proposes to revise 5 CFR part 210 as follows:

PART 210—BASIC CONCEPTS AND DEFINITIONS (GENERAL)

Sec.

210.101 What is the scope of coverage for OPM regulations contained in title 5 of the Code of Federal Regulations?

210.102 Definitions.

Authority: 5 U.S.C. 1302, 1305, 2101a, 2102, 2103, 3102, 3109, 3110, 3112, 3136, 3301, 3302, 3304, 3304a, 3319, 3324, 3376, 3397, 3402, 3502, 3596, 4118, 4305, 4315, 4502, 4505a, 4506, 4705, 5115, 5304, 5307, 5338, 5343, 5365, 5372, 5372b, 5385, 5504, 5527, 5542, 5544, 5545a, 5545b, 5548, 5550a, 5553, 5583, 5596, 5753, 5754, 5755, 5902, 5903, 5948, 6101, 6133, 6311, 6322, 6326, 6327, 6334, 6336, 6340, 6365, 6373, 6387, 6391, 7201, 7204, 7325, 7504, 7514, 8332, 8334, 8341, 8342, 8343a, 8347, 8411, 8461, 8714d, 8716, 8906a, 8909, 8913, 9008; E.O. 10577, 11228, 11589, 12109; 3 CFR, 1954-1958 Comp. p. 218.

§ 210.101 What is the scope of coverage for OPM regulations contained in title 5 of the Code of Federal Regulations?

In general, the scope of coverage for a part is stated specifically in the part or is otherwise apparent from the substance of the part. Parts 315 through 339 of this chapter apply to all positions in the competitive service and to all incumbents of those positions, but do not apply to positions in the excepted service or to incumbents of those positions, except as specified.

§ 210.102 Definitions.

These definitions apply throughout this chapter, except when a defined term is specifically modified in or specifically defined for the purpose of a particular part.

Agency has the same meaning as executive agency in 5 U.S.C. 105.

Appointing officer means a person having power by law, or by lawfully delegated authority, to make appointments to positions in the Federal Government.

Competitive service has the same meaning as 5 U.S.C. 2102.

Days means calendar days and not workdays.

Demotion means a change of an employee, while serving continuously within the same agency:

(1) To a lower grade when both the old and the new positions are under the General Schedule or under the same type of graded wage schedule; or

(2) To a position with a lower rate of pay when both the old and the new positions are under the same type of ungraded wage schedule, or are in different pay method categories.

Employee means a civilian officer or employee.

Excepted Service has the same meaning as 5 U.S.C. 2103.

Must means an individual is obligated to act in the manner specified. It has the same meaning and effect as "shall."

Noncompetitive action means a promotion, demotion, reassignment, transfer, or reinstatement.

Noncompetitive actions may also include appointments based on prior service.

OPM means the Office of Personnel Management.

Overseas means outside the continental United States, but does not include Alaska, Guam, Hawaii, the Isthmus of Panama, Puerto Rico, or the Virgin Islands.

Position change means a promotion, demotion, or reassignment.

Promotion means a change of an employee, while serving continuously within the same agency:

(1) From one General Schedule grade to a higher General Schedule grade;

(2) From one grade to a higher grade when both positions are under the same type of graded wage schedule; or

(3) To a position with a higher rate of pay when both the old and the new positions are under the same type of

ungraded wage schedule, or are in different pay method categories.

Reassignment means a change of an employee, while serving continuously within the same agency, from one position to another consistent with the provisions of part 335 of this chapter.

Reemployed annuitant means an employee whose annuity under subchapter III of chapter 83, or subchapter II or V of chapter 84 of title 5, United States Code, continued on reemployment in an appointive position on or after October 1, 1956.

Register means a list of qualified applicants in order of relative standing for certification. A register is sometimes referred to as an inventory.

Reinstatement means the noncompetitive reemployment of a former career or career-conditional employee into the competitive service.

Senior Executive Service has the same meaning as 5 U.S.C. 2101a.

Status quo employee means an employee who failed to acquire a competitive status when the position in which the employee was serving was placed in the competitive service by a statute, Executive order, or Civil Service rule that permitted the employee's retention without the acquisition of status.

Tenure means the period of time an employee may reasonably expect to serve. It is determined by the type of appointment under which the employee is serving without regard to whether the employee has competitive status or whether the employee's appointment is in a competitive position or in an excepted position.

Transfer means a change of an employee, without a break in service of 1 full workday, from a position in one agency to a position in another agency.

[FR Doc. 03-16410 Filed 6-27-03; 8:45 am]

BILLING CODE 6325-38-P

FEDERAL DEPOSIT INSURANCE CORPORATION

12 CFR Part 330

RIN 3064-AC54

Deposit Insurance Regulations; Living Trust Accounts

AGENCY: Federal Deposit Insurance Corporation (FDIC).

ACTION: Notice of proposed rulemaking.

SUMMARY: The FDIC is publishing for notice and comment alternative proposed rules to amend its deposit insurance regulations. The purpose of the rulemaking is to clarify and simplify

the regulations on the insurance coverage of living trust accounts.

DATES: Written comments must be received by the FDIC not later than August 29, 2003.

ADDRESSES: All comments should be addressed to Robert E. Feldman, Executive Secretary, Attention: Comments/Legal ESS, Federal Deposit Insurance Corporation, 550 17th Street, NW., Washington, DC 20429. Comments may be hand-delivered to the guard station located at the rear of the 550 17th Street Building (located on F Street) on business days between 7 a.m. and 5 p.m. (fax number: (202) 898-3838; or send by email to comments@FDIC.gov). Comments may be inspected and photocopied in the FDIC Public Information Center, Room 100, 801 17th Street, NW., Washington, DC 20429, between 9 a.m. and 4:30 p.m. on business days, and the FDIC may post the comments on its Internet site at <http://www.fdic.gov/regulations/laws/federal/propose.html>.

FOR FURTHER INFORMATION CONTACT:

Joseph A. DiNuzzo, Counsel, Legal Division (202) 898-7349; Martin W. Becker, Senior Receivership Management Specialist, Division of Resolutions and Receiverships (202) 898-6644; or Kathleen G. Nagle, Supervisory Consumer Affairs Specialist, Division of Supervision and Consumer Protection (202) 898-6541, Federal Deposit Insurance Corporation, Washington, DC 20429.

SUPPLEMENTARY INFORMATION:

I. Background

One of the FDIC's paramount goals in the area of deposit insurance is to ensure that depositors and insured depository institution employees understand the FDIC's deposit insurance rules. To that end, in July 1998, after an extensive review of the existing rules for deposit insurance coverage, the FDIC simplified its entire deposit insurance regulations. Also, in April 1999, the FDIC amended the rules for the insurance coverage of joint accounts and payable-on-death accounts to make them more easily understood.

Despite the FDIC's efforts to simplify and clarify the deposit insurance regulations, there is still significant public and industry confusion about the insurance coverage of living trust accounts. At recent depository institution failures there has been a disproportionately high percentage of uninsured living trust deposits, when compared to the percentage of uninsured deposits in other categories of coverage. The FDIC receives numerous calls daily from bankers,

members of the public and industry representatives indicating their misunderstanding of the coverage for living trust accounts. As discussed below, the confusion among bankers and the public about the insurance coverage of living trust accounts is understandable.

A living trust is a formal revocable trust created by an owner (also known as a grantor) and over which the owner retains control during his or her lifetime. Upon the owner's death, the trust generally becomes irrevocable. A living trust is an increasingly popular probate instrument designed to achieve specific estate and tax planning goals. A living trust account is subject to the FDIC's insurance rules on revocable trust accounts. Section 330.10 of the FDIC's regulations (12 CFR 330.10) provides that revocable trust accounts are insured up to \$100,000 per "qualifying" beneficiary designated by the owner of the account. If there are multiple owners of a living trust account, coverage is available separately for each owner. Qualifying beneficiaries are defined as the owner's spouse, children, grandchildren, parents and siblings (12 CFR 330.10(a)).

The most common type of revocable trust account is the "payable-on-death" ("POD") account, sometimes referred to as a *Totten Trust* account, comprised simply of a signature card on which the owner designates the beneficiaries to whom the funds in the account will pass upon the owner's death. The per-beneficiary coverage available on revocable trust accounts is separate from the insurance coverage afforded to any single-ownership accounts held by the owner or beneficiary at the same insured institution. That means, for example, if an individual has at the same insured bank or thrift a single-ownership account with a balance of \$100,000 and a POD account (naming at least one qualifying beneficiary) with a balance of \$100,000, both accounts would be insured separately for a combined amount of \$200,000. If the POD account names more than one qualifying beneficiary, then that account would be separately insured for up to \$100,000 per qualifying beneficiary (12 CFR 330.10(a)).

Separate, per-beneficiary insurance coverage is available for revocable trust accounts only if the account satisfies certain requirements. First, the title of the account must include a term such as "in trust for" or "payable-on-death to" (or corresponding acronym). Second, each beneficiary must be either the owner's spouse, child, grandchild, parent or sibling. Third, the beneficiaries must be specifically named