

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.¹ 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.²

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

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

² 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.

District routing symbol lists are amended by removing the headings and listings for the First Federal Reserve District and revising the listings for the Third Federal Reserve District. The revisions read as follows:

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

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C. Each Federal Reserve check-processing office is listed below, followed by the Federal Reserve routing symbols of the banks that are located within the check-processing region served by that office. Because some check-processing regions cross Federal Reserve District lines, there are some cases in which banks in different Federal Reserve Districts are located in the same check-processing region and therefore considered local to each other. For example, banks in Fairfield County, Connecticut are located in the Second District and have Second District routing symbols (0211 or 2211), but the head office of the Federal Reserve Bank of Philadelphia processes the checks of these banks. Thus, as indicated below, checks drawn on banks with 0211 or 2211 routing numbers would be local for banks served by the head office of the Federal Reserve Bank of Philadelphia.

Third Federal Reserve District

[Federal Reserve Bank of Philadelphia]
Head Office

0110 ¹	2110
0111	2111
0112	2112
0113	2113
0114	2114
0115	2115
0116	2116
0117	2117
0118	2118
0119	2119
0210	2210
0211	2211
0212	2212
0213	2213
0214	2214
0215	2215
0216	2216
0219	2219
0260	2260
0280	2280
0310	2310
0311	2311
0312	2312
0313	2313
0319	2319
0360	2360

¹ The first two digits identify the bank's Federal Reserve District. For example, 01 identifies the First Federal Reserve District (Boston), and 12 identifies the Twelfth District (San Francisco). Adding 2 to the first digit denotes a thrift institution. For example, 21 identifies a thrift in the First District, and 32 denotes a thrift in the Twelfth District.

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By order of the Board of Governors of the Federal Reserve System, acting through the

Secretary of the Board under delegated authority, July 15, 2008.

Jennifer J. Johnson,

Secretary of the Board.

[FR Doc. E8-16481 Filed 7-17-08; 8:45 am]

BILLING CODE 6210-01-P

SMALL BUSINESS ADMINISTRATION

13 CFR Parts 121 and 123

RIN 3245-AF41

Small Business Size Standards: Inflation Adjustment to Size Standards, Business Loan Program, and Disaster Assistance Loan Program

AGENCY: U.S. Small Business Administration.

ACTION: Final rule.

SUMMARY: This rule finalizes the U.S. Small Business Administration's (SBA) December 6, 2005 interim final rule that amended monetary-based small business size standards for inflation. This rule adds an 8.7 percent increase to the inflation-adjusted size standards of the December 2005 interim final rule. This accounts for the inflation that has occurred since then. This rule also adopts the interim final rule's two-step process for determining eligibility for SBA's Business Loan and Economic Injury Disaster Loan (EIDL) Programs. Furthermore, the rule adopts the revised date that SBA uses to determine size status for purposes of EIDL applications for businesses located in declared disaster areas as a result of Hurricanes Katrina, Rita, and Wilma.

DATES: *Effective Date:* This rule is effective on August 18, 2008.

FOR FURTHER INFORMATION CONTACT: Carl Jordan, Office of Size Standards, (202) 205-6618 or sizestandards@sba.gov.

SUPPLEMENTARY INFORMATION:

Inflation Adjustment

On December 6, 2005, SBA increased by 8.7% most of its monetary-based small business size standards (*e.g.*, receipts, net income, net worth, and financial assets) for the effects of inflation that had occurred since the time of the previous adjustment in February 2002 (70 FR 72577). Since then, the U.S. economy has experienced additional inflation, due in part to significant increases in the price of crude oil. Because of the rapid rate of increasing inflation and the important policy objective of maintaining the value of size standards in inflation-adjusted terms, SBA is further adjusting the size standards implemented in the 2005 interim final rule. In all, this rule

increases size standards since February 2002 by 18.2 percent, that is, by an additional 8.7 percent over the 8.7 percent increase in the 2005 interim final rule ($1.087 \times 1.087 = 1.182$, or 18.2 percent). This additional increase ensures that size standards are up-to-date for determining small business status and restores the eligibility of businesses that may have lost their small business status due solely to price level increases rather than from increases in business activity.

The December 6, 2005 interim final rule increased SBA's most common size standard for the retail trade and services industries (referred to as the "nonmanufacturer anchor size standard") from \$6.0 million in average annual receipts to \$6.5 million. This rule further increases the nonmanufacturer anchor size standard to \$7.0 million. This rule also increases other monetary-based size standards proportionately. For example, the interim final rule increased the size standard for Computer Systems Design Services (NAICS 541512) from \$21 million to \$23 million. This rule increases that industry's size standard to \$25.0 million.

The revisions adopted by this final rule demonstrate that SBA must stay abreast of changes in the economy to ensure that size standards are established at appropriate levels. To meet that objective, SBA is conducting a comprehensive review of all of its small business size standards over a 2-year period. This review will consist of a series of proposed rules beginning in 2008 examining industries within a specific NAICS Industry Sector. SBA expects that, as a result of this comprehensive review, it will propose in the future additional revisions to certain size standards based on its evaluation of industry data.

How SBA Adjusts Small Business Size Standards for Inflation

For purposes of this final rule, SBA uses the same methodology as used in the 2005 interim final rule, but applies the most current inflation statistics available. The methodology is described below:

1. *Select a measure of inflation.* SBA uses the chain-type price index for the Gross Domestic Product (GDP), a broad measure of inflation for the economy as a whole. The U.S. Department of Commerce, Bureau of Economic Analysis (BEA), publishes this index quarterly in its National Income and Product Accounts publications (Table 1.1.4, Line 1).

2. *Select base period.* For this rule, SBA selects the third quarter of 2001 as