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ADMINISTRATIVE CONFERENCE OF THE UNITED STATES

1 CFR Part 303

Employee Responsibilities and Conduct

AGENCY: Administrative Conference of the United States.

ACTION: Final rule.

SUMMARY: The Administrative Conference of the United States is amending its regulations on Employee Responsibilities and Conduct. This action is necessary because the U.S. Office of Government Ethics (OGE) and the Office of Personnel Management (OPM) have published new regulations for the executive branch that supersede standards of conduct and related requirements that had applied to Federal employees under earlier statutes and Presidential executive orders. The Conference's existing regulations are being replaced by provisions that cross-reference OGE and OPM regulations and identify the General Counsel as the Conference's Designated Agency Ethics Official.

EFFECTIVE DATE: November 5, 1993.

FOR FURTHER INFORMATION CONTACT: Gary J. Edles or Michael W. Bowers, (202) 254-7020.

SUPPLEMENTARY INFORMATION: The Office of Government Ethics (OGE) has promulgated Standards of Ethical Conduct for Employees of the Executive Branch (5 CFR part 2635). These standards of conduct became effective on February 3, 1993, and superseded agency regulations that had been promulgated pursuant to 5 CFR part 735. OGE also has promulgated regulations concerning Financial Disclosure, Qualified Trusts, and Certificates of Divestiture for Executive Branch Employees (5 CFR part 2634). These regulations became effective October 5, 1992, and superseded

existing executive branch public and confidential disclosure regulations.

The Administrative Conference has reviewed its employee standards of conduct and has decided to replace all of its existing provisions with those adopted by OGE, and include cross-references to OGE and OPM regulations and a section that identifies the Conference's General Counsel as the designated agency ethics official.

This rule relates solely to internal agency management and procedures and, therefore, is not subject to the advance notice and other public procedures otherwise required by 5 U.S.C. 553 or to the regulatory planning and review requirements of Executive Order 12866. This regulation affects only Federal employees and will not have an impact on small entities, as defined by the Regulatory Flexibility Act (5 U.S.C. chapter 6).

List of Subjects in 1 CFR Part 303

Conflict of interests, Standards of conduct.

For the reasons set forth in the preamble, 1 CFR part 303 is amended as follows:

PART 303—EMPLOYEE RESPONSIBILITIES AND CONDUCT

1. The authority citation for part 303 is revised to read as follows:

Authority: 5 U.S.C. app. (Ethics in Government Act); E.O. 12674, 3 CFR, 1989 Comp., p. 215, as modified by E.O. 12731, 3 CFR 1990 Comp., p. 306; 5 CFR parts 2634 and 2635.

2. Section 303.101 is revised to read as follows:

§ 303.101 Cross-reference to standards of ethical conduct for employees and financial disclosure regulations.

Employees, including special government employees, of the Administrative Conference are subject and should refer to the executive branch-wide Standards of Ethical Conduct at 5 CFR part 2635. Certain employees of the Administrative Conference are required to file financial disclosure statements pursuant to 5 CFR part 2634.

3. Section 303.102 is revised to read as follows:

§ 303.102 Counseling and advisory services.

The General Counsel is the Designated Agency Ethics Official

(DAEO) for the Administrative Conference. The DAEO will advise employees on the applicability and interpretation of laws and regulations dealing with conflict of interests and ethical conduct. The DAEO may appoint an alternate agency ethics official to assist in carrying out agency responsibilities for implementing the Ethics in Government Act and related statutes, presidential executive orders, and other conflict of interest laws.

§§ 303.103–303.109 [Removed]

4. Sections 303.103 through 303.109 are removed.

Dated: October 27, 1993.

Brian C. Griffin,
Chairman.

[FR Doc. 93-27157 Filed 11-4-93; 8:45 am]

BILLING CODE 6110-01-W

DEPARTMENT OF JUSTICE

Immigration and Naturalization Service

8 CFR Parts 103, 240, and 299

[INS No. 1608-93]

RIN 1115-AC30

Temporary Protected Status, Exception to Registration Deadlines

AGENCY: Immigration and Naturalization Service, Justice.

ACTION: Interim rule with request for comments.

SUMMARY: This rule amends the regulations of the Immigration and Naturalization Service (the Service) by providing an exception to the deadlines for registering for Temporary Protected Status (TPS) to those persons who did not register for TPS because they are or were in a valid immigrant or nonimmigrant status during the initial registration period. In addition, this rule updates the application process to reflect current form numbers and also amends the rule to reflect the correct exclusion grounds to conform with the Immigration Act of 1990 (IMMACT 90). This rule is necessary to ensure that those persons who were in a valid nonimmigrant status during the initial period of registration are still provided with an opportunity to apply for the benefits of Temporary Protected Status.

DATES: This interim rule is effective November 5, 1993. Written comments

must be submitted on or before December 6, 1993.

ADDRESSES: Please submit written comments, in triplicate, to the Records Systems Division, Director, Policy Directives and Instructions Branch, Immigration and Naturalization Service, 425 I Street, NW., room 5307, Washington, DC, 20536. To ensure proper handling, please reference INS No. 1608-93 on your correspondence.

FOR FURTHER INFORMATION CONTACT: Kathryn A. Kazalonis, Senior Immigration Examiner, Naturalization and Special Projects Branch, Adjudications Division, Immigration and Naturalization Service, 425 I Street, NW., room 7223, Washington DC, 20536, Telephone: (202) 514-5014.

SUPPLEMENTARY INFORMATION: Temporary Protected Status (TPS), as provided by section 244A of the Immigration and Nationality Act (8 U.S.C. 1254a) (the Act), affords temporary protection in the United States to persons of designated foreign states that are experiencing ongoing civil strife, environmental disaster, or certain other extraordinary and temporary conditions. This rule provides an exception to the registration deadlines for TPS for persons otherwise eligible for registration for TPS who are or were in a valid immigrant or nonimmigrant status during the initial registration period. This situation was not addressed in the previous rule nor in any of the public comments submitted to the Service. As a result, such persons have found themselves faced with the prospect of having to return to their country of nationality while it is still designated for TPS, since they were only eligible for TPS if they applied during the initial period of designation.

This rule applies to those persons, in the United States, who are or were in any valid nonimmigrant status, or in a valid immigrant status, such as conditional or temporary resident status, on the date their country of nationality or, if stateless, last habitual residence was designated for Temporary Protected Status, who did not register for TPS during the first period of designation. They will now be able to apply for TPS after the announced registration period, whether their valid status has subsequently continued, ended, or been terminated.

This rule allows persons who are or were in a valid immigrant or nonimmigrant status during the initial period to be granted TPS if application is made during any extension of the designation, provided the application is submitted within 30 days of the

expiration of the previous status, or within 90 days of the effective date of this rule, whichever is later. This will enable this specific group of aliens to delay applying for TPS until such time as its protection is actually needed.

This rule will also provide, for those persons who fell out of status between the end of the first period of registration and the effective date of this rule, a finding of lawful status as a nonimmigrant during that period. Those persons who would otherwise have been eligible for TPS during the first period of registration as persons from a designated country who: (1) Were in a valid status during that period of registration; (2) fell out of valid status during any subsequent period of registration; and (3) were prevented from registering for TPS by the regulation in effect at the time, will be held to have maintained a valid status during that period.

Persons covered by this exception must meet all other requirements of TPS including presence in the United States at the time the foreign state in question was designated for TPS. This rule is not intended to extend protection to persons who arrived in the United States after the designation was made, whether legally or illegally, nor is it intended to cover persons who were not in valid status during the initial period of designation.

This exception has been made by adding an alternative eligibility requirement at § 240.2(f); revising the reference as to when an application for TPS registration may be made at § 240.7(b); and adding a provision for acceptable evidence regarding the applicant's valid status at § 240.9(a).

In addition, § 240.3 has been amended to provide the current citations for exclusion grounds that are either waived or not waived for persons applying for TPS. Section 244A of the Act was amended effective June 1, 1991, the date the changes to section 212(a) of the Act became effective by statute. In practice, since that time, only the new grounds have been enforced.

In § 240.6, the reference for Form I-104 is removed and the title of Form I-821 is changed from "Temporary Protected Status Eligibility Questionnaire" to "Application for Temporary Protected Status." Form I-821 also have been revised to consolidate requests on Forms I-104 and I-821 for biographical information concerning the applicant, information regarding his or her eligibility, grounds of inadmissibility or excludability, and a list of immediate relatives in the United States. Therefore, submission of

Form I-104 is no longer necessary for registration for TPS.

Section 103.7(b)(1), which lists the fees for prescribed immigration forms, has been amended by removing the reference to Form I-104 and adding Form I-821 as the form to be used in applying for TPS. Additionally, § 299.1 and § 299.5 have been revised to reflect the new title of the Form I-821.

The Service's implementation of this rule as an interim rule, with provisions for post-promulgation public comment, is based upon the "good cause" exception found at 5 U.S.C. 553(b)(3) and 553(d)(1). The reasons and necessity for immediate implementation of this interim rule without prior notice and comment are as follows: This rule grants an exemption to persons who were previously not eligible to obtain the benefits of TPS, and are currently in need of TPS protection. A notice and comment period for the proposed rule would have been impracticable and contrary to the public interest. Moreover, this interim rule confers a benefit upon eligible persons and does not impose a penalty of any kind. It is imperative that this interim rule become effective upon publication so that those persons who are entitled to the benefit may apply accordingly.

In accordance with 5 U.S.C. 605(b), the Commissioner of the Immigration and Naturalization Service certifies that this rule does not have a significant adverse economic impact on a substantial number of small entities. This is not a major rule as defined in section 1(b) of E.O. 12992, nor does this rule have Federalism implications warranting the preparation of a Federal Assessment in accordance with E.O. 12612.

The information collection requirements contained in this rule have been cleared by the Office of Management and Budget under the provisions of the Paperwork Reduction Act. The clearance numbers for these collections are contained in 8 CFR 299.5, Display of Control Numbers.

List of Subjects

8 CFR Part 103

Administrative practice and procedure, Fees, Forms.

8 CFR Part 240

Administrative practice and procedure, Immigration, Aliens, Reporting and recordkeeping requirements.

8 CFR Part 299

Immigration, Forms.

Accordingly, chapter I of title 8 of the Code of Federal Regulations is amended as follows:

PART 103—POWERS AND DUTIES OF SERVICE OFFICERS; AVAILABILITY OF SERVICE RECORDS

1. The authority citation for part 103 continues to read as follows:

Authority: 5 U.S.C. 552, 552a; 8 U.S.C. 1101, 1103, 1201, 1252 note, 1252b, 1304, 1356; 31 U.S.C. 9701; E.O. 12356, 47 FR 14874, 15557, 3 CFR, 1982 Comp., p. 166; 8 CFR part 2.

2. Section 103.7(b)(1), is amended by removing the entry for Form I-104 from the list of forms, and by adding, in proper numerical sequence, Form I-821 to the list of forms, to read as follows:

§ 103.7 Fees.

(b) * * *

(1) * * *

Form I-821. For filing an initial application for Temporary Protected Status under section 244A of the Act, as amended by the Immigration Act of 1990, to be remitted in the form of a cashier's check, certified bank check, or money order. The exact amount of the fee, not to exceed fifty dollars (\$50.00), will be determined at the time a foreign state is designated for Temporary Protected Status.

PART 240—TEMPORARY PROTECTED STATUS FOR NATIONALS OF DESIGNATED STATES

3. The authority citation for part 240 continues to read as follows:

Authority: 8 U.S.C. 1103, 1254a, 1254a note.

4. Section 240.2 is amended by revising paragraph (f) to read as follows:

§ 240.2 Eligibility.

(f)(1) Registers for Temporary Protected Status during the initial registration period; or

(2) Is or was in valid immigrant or nonimmigrant status during the

registration period, and registers no later than 30 days from the expiration of such status during any subsequent period of redesignation, or by February 3, 1994, whichever date is later.

5. Section 240.3 is amended by revising paragraphs (a) and (c) to read as follows:

§ 240.3 Applicability of grounds of inadmissibility.

(a) *Grounds of inadmissibility not to be applied.* Paragraphs (4), (5) (A) and (B), and (7)(A)(i) of section 212(a) of the Act shall not render an alien ineligible for Temporary Protected Status.

(c) *Grounds of inadmissibility that may not be waived.* The Service may not waive the following provisions of section 212(a) of the Act:

(1) Paragraphs (2)(A)(i), (2)(B), and (2)(C) (relating to criminals and drug offenses);

(2) Paragraphs (3)(A), (3)(B), (3)(C), and (3)(D) (relating to national security); or

(3) Paragraph (3)(E) (relating to those who assisted in the Nazi persecution).

6. Section 240.6 is amended by revising the last sentence to read as follows:

§ 240.6 Application.

* * * Each application must consist of a completed Application for Temporary Protected Status (Form I-821), Application for Employment Authorization (Form I-765), two completed fingerprint cards (Form FD-258) for every applicant who is fourteen years of age or older, two identification photographs (1½"×1½"), and supporting evidence as provided in § 240.9.

7. Section 240.7 is amended by revising paragraph (b) to read as follows:

§ 240.7 Filing the application.

(b) An application for Temporary Protected Status must be filed during the registration period established by the Attorney General, except in the case of an alien described in § 240.2(f)(2).

8. Section 240.9 is amended by adding paragraph (a)(4) to read as follows:

§ 240.9 Evidence.

(a) * * *

(4) *Evidence of valid immigrant or nonimmigrant status.* In the case of an alien described in § 240.2(f)(2), Form I-551 or Form I-94 must be submitted by the applicant.

9. Section 240.10 a new paragraph (f)(2)(v) is added to read as follows:

§ 240.10 Decision by the district director or Administrative Appeals Unit (AAU).

(f) * * *

(2) * * *

(v) An alien eligible to apply for Temporary Protected Status under § 240.2(f)(2), who was prevented from filing a late application for registration because the regulations failed to provide him or her with this opportunity, will be considered to have been maintaining lawful status as a nonimmigrant until the benefit is granted.

PART 299—IMMIGRATION FORMS

10. The authority citation for part 299 continues to read as follows:

Authority: 8 U.S.C. 1101, 1103; 8 CFR part 2.

11. Section 299.1 is amended by revising the entry for Form I-821 to read as follows:

§ 299.1 Prescribed forms.

Form No., Title and Description

I-821 (5-22-91)—Application for Temporary Protected Status.

12. Section 299.5 is amended by revising the entry for Form I-821 to read as follows:

§ 299.5 Display of control numbers.

INS form No.

INS form title

Currently assigned OMB control No.

I-821 Application for Temporary Protected Status 1115-0170

Dated: September 8, 1993.

Chris Sale,

Acting Commissioner, Immigration and Naturalization Service.

[FR Doc. 93-27221 Filed 11-4-93; 8:45 am]

BILLING CODE 4410-10-M

RESOLUTION TRUST CORPORATION

12 CFR Part 1625

RIN 3205-AA11

Procedures Applicable to RTC Investigations

AGENCY: Resolution Trust Corporation.

ACTION: Final rule.

SUMMARY: The Resolution Trust Corporation (RTC) hereby issues this final rule setting forth procedures applicable to the conduct of RTC investigations which involve the exercise of powers established in section 8(n) of the Federal Deposit Insurance Act, as amended. The RTC is authorized to exercise such investigatory powers in carrying out its statutory obligations to resolve failed savings associations.

In the absence of its own investigative regulations, the RTC has been relying, with some exceptions, on the investigative regulations of the Federal Deposit Insurance Corporation. This final rule provides the RTC with its own set of investigative regulations and will thus provide the public with specific guidance regarding procedures applicable to the RTC's conduct of investigations in which it exercises the investigative powers, including subpoena powers, contained in section 8(n). Promulgation of the RTC's own investigative regulations will eliminate possible confusion or ambiguity regarding procedures applicable to the RTC and will eliminate the need for the RTC to specify exceptions to the FDIC procedures on which the RTC has been partially relying. The RTC regulations will thereby provide the public with greater guidance and certainty regarding applicable RTC investigative procedures and will reduce the possibility of needless litigation over questions involving procedures applicable specifically to the RTC.

EFFECTIVE DATE: This final rule is effective November 5, 1993.

FOR FURTHER INFORMATION CONTACT:

Suzanne Rigby, Professional Liability Section, telephone 202/736-0314; Gregg H.S. Golden, Litigation Section, telephone 202/736-3042.

SUPPLEMENTARY INFORMATION:

I. Background

Section 501 of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 (FIRREA) added a new section 21A to the Federal Home Loan Bank Act (FHLBA) (12 U.S.C. 1441a), establishing powers, authority, and duties for the RTC with respect to failed savings associations. Among other things FIRREA establishes the RTC's duties to minimize the losses resulting from the resolution of failed savings associations, to maximize the recoveries realized from the disposition of such associations or their assets, and to make efficient use of funds obtained by the RTC. In carrying out these duties, the RTC must determine whether there are valid claims against former directors, officers, or others who rendered services to or otherwise dealt with such associations, whether the RTC should seek to avoid transfers of assets or the incurrence of obligations or seek an attachment of assets, whether there are assets that would justify the RTC's pursuing such claims, and whether the pursuit of such claims would otherwise be consistent with the RTC's statutory obligations and sound public policy.

In section 21A(b)(4) of the FHLBA (12 U.S.C. 1441a(b)(4)), Congress granted certain powers to the RTC by reference to the powers of the Federal Deposit Insurance Corporation (FDIC) under sections 11, 12, and 13 of the Federal Deposit Insurance Act, as amended (FDIA) (12 U.S.C. 1821, 1822, and 1823). Section 11(d)(2)(I) of the FDIA provides that the FDIC may, as conservator, receiver, or exclusive manager and for purposes of carrying out any power, authority or duty with respect to an insured depository institution, exercise any power established under section 8(n) of the FDIA (12 U.S.C. 1818(n)). Section 8(n), in turn, enumerates various investigatory powers, including the power to issue subpoenas and subpoenas duces tecum. Section 13(d)(3)(A) of the FDIA (12 U.S.C. 1823(d)(3)(A)) gives the FDIC (and, by virtue of 12 U.S.C. 1441a(b)(4), the RTC) the same powers in its corporate capacity as it has as receiver under section 11, which includes the exercise of the investigatory powers of section 8(n).

On July 27, 1992 (57 FR 33133), the RTC issued a Proposed Rule and Request for Comments regarding procedures applicable to RTC investigations. This proposed rule set forth certain procedures by which the RTC will conduct investigations in which the section 8(n) powers are used.

Although the RTC begins its inquiries into the affairs of a failed savings association as soon as the institution is closed and the RTC is appointed receiver or conservator, the use of the section 8(n) investigatory powers commences with the issuance of the Order of Investigation.

The RTC has received comment on its proposed rule and is now issuing a final rule. To date, in the absence of its own regulations governing investigations in which the section 8(n) powers are used, the RTC, as authorized by section 21A(a)(7) of the FHLBA (12 U.S.C. 1441a(a)(7)), has been following the FDIC's investigative rules in 12 CFR part 308, subpart K, as amended, except where such procedures differ from the provisions of section 8(n). This final rule terminates the RTC's reliance on the FDIC's investigative rules.

II. Comment and Discussion

A. Comment Summary

In response to the July 27, 1992, notice of proposed rule, the RTC received one comment. The comment raised issues falling into two broad categories: (1) The scope of the RTC's authority to conduct investigations and issue regulations pertaining thereto; and (2) the adequacy of the regulations with respect to disclosures by the RTC to persons outside the agency. These issues are discussed below, along with various changes the RTC is making to the proposed rule in response to the comment and for clarification.

B. Discussion of Comment and Agency Responses

The commenter asserted that the RTC's statutory powers are limited to "collecting money due the institution" and do not include the power to conduct investigations into potential professional liability claims. The RTC does not construe its powers so narrowly. Section 11(d)(2)(I) of the Federal Deposit Insurance Act, as amended (12 U.S.C. 1821(d)(2)(I)), reads as follows:

The Corporation may, as conservator, receiver, or exclusive manager and for purposes of carrying out any power, authority, or duty with respect to an insured depository institution (including determining any claim against the institution and determining and realizing upon any asset of any person in the course of collecting money due the institution), exercise any power established under section 1818(n) of this title, and the provisions of such section shall apply with respect to the exercise of any such power under this subparagraph in the same manner as such provisions apply under such section.