

# Rules and Regulations

Federal Register

Vol. 74, No. 125

Wednesday, July 1, 2009

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## FEDERAL RETIREMENT THRIFT INVESTMENT BOARD

### 5 CFR Part 1600

#### Employee Contribution Elections and Contribution Allocations

**AGENCY:** Federal Retirement Thrift Investment Board.

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

**SUMMARY:** The Federal Retirement Thrift Investment Board (Agency) is announcing the effective date of its regulation published on June 19, 2009 (74 FR 29111) pertaining to the timing of agency contributions.

**DATES:** *Effective Date:* The Agency's interim final rule published on June 19, 2009 (74 FR 29111) took effect on June 22, 2009 when President Obama signed HR 1256 (Pub. L. 111-31) which contained the Thrift Savings Plan Enhancement Act of 2009 (Act).

**FOR FURTHER INFORMATION CONTACT:** Laurissa Stokes at (202) 942-1645.

**SUPPLEMENTARY INFORMATION:** The Act provides that Agency Automatic (1%) Contributions and Agency Matching Contributions shall commence immediately. The regulatory amendment is necessary because FRTIB regulations follow current law, which provides that Agency Automatic (1%) Contributions and Agency Matching Contributions shall not commence until the equivalent of the second open season that begins after the employee commenced employment. The FRTIB is setting a August 1, 2009 effective date for this regulation to allow employing agencies sufficient time to make the necessary computer programming changes to implement it. The regulation took effect on June 22, 2009, and employing agencies must implement

this change as soon as practicable but no later than the first pay period in August.

**Gregory T. Long,**

*Executive Director, Federal Retirement Thrift Investment Board.*

[FR Doc. E9-15536 Filed 6-30-09; 8:45 am]

**BILLING CODE 6760-01-P**

## FEDERAL ELECTION COMMISSION

### 11 CFR Part 111

[Notice 2009-09]

#### Civil Monetary Penalties Inflation Adjustments

**AGENCY:** Federal Election Commission.

**ACTION:** Final rules.

**SUMMARY:** In accordance with the Federal Civil Penalties Inflation Adjustment Act of 1990, as amended, the Federal Election Commission is adopting final rules to apply inflation adjustments to certain civil monetary penalties under the Federal Election Campaign Act of 1971, as amended ("FECA"), the Presidential Election Campaign Fund Act, and the Presidential Primary Matching Payment Account Act. The civil penalties being adjusted are for certain violations of these statutes that are not knowing and willful, involving contributions and expenditures; knowing and willful violations of the prohibition against the making of a contribution in the name of another; knowing and willful violations of the confidentiality provisions of FECA; certain penalties for late filed or non-filed reports under the administrative fines program; and failure to file timely 48-hour notices. The adjusted civil monetary penalties are calculated according to the formula set forth in the law and will be effective for violations occurring on or after the effective date of these rules. Further information is provided in the supplementary information that follows.

**DATES:** Effective on July 1, 2009.

**FOR FURTHER INFORMATION CONTACT:** Mr. Robert M. Knop, Assistant General Counsel, or Ms. Cheryl A.F. Hemsley, or Ms. Jessica Selinkoff, Attorneys, 999 E Street, NW., Washington, DC 20463, (202) 694-1650 or (800) 424-9530.

**SUPPLEMENTARY INFORMATION:** The Federal Civil Penalties Inflation

Adjustment Act of 1990, as amended,<sup>1</sup> (the "Inflation Adjustment Act") requires Federal agencies to adjust for inflation the civil monetary penalties within their jurisdiction at least once every four years according to detailed formulae. A civil monetary penalty ("civil penalty") is defined in the Inflation Adjustment Act as any penalty, fine, or other sanction that is for a specific amount, or has a maximum amount, as provided by Federal law, and is assessed or enforced by an agency in an administrative proceeding or by a Federal court pursuant to Federal law.<sup>2</sup> Further, the Inflation Adjustment Act contains a 10% penalty cap on the first adjustment of any civil penalty. That is, the first adjustment made to the civil penalty may not exceed 10% of the starting civil penalty.<sup>3</sup> Under the Federal Election Campaign Act of 1971 ("FECA"), as amended, 2 U.S.C. 431 *et seq.*, the Federal Election Commission ("Commission") has jurisdiction over several civil penalties for respondents who violate FECA, the Presidential Election Campaign Fund Act, 26 U.S.C. 9001 *et seq.*, or the Presidential Primary Matching Payment Account Act, 26 U.S.C. 9031 *et seq.* ("chapters 95 and 96 of Title 26"). These rules fulfill the Commission's non-discretionary obligation under the Inflation Adjustment Act to adjust for inflation, according to the prescribed formula, the civil monetary penalties ("civil penalties") within its jurisdiction.

#### Immediate Effectiveness of Final Rule

The Commission is required by statute to adjust the civil penalties under its jurisdiction by a Cost of Living Adjustment ("COLA") formula. This application of the COLA does not involve Commission discretion or any policy judgments. Thus, the Commission finds that the "good cause" exception to the notice and comment requirement in section 553 of the Administrative Procedures Act applies to these rules because notice and comment are unnecessary. 5 U.S.C. 553(b)(B) and (d)(3).

For the same reasons, these rules do not need to be submitted to the Speaker

<sup>1</sup> 28 U.S.C. 2461 note, as amended by Debt Collection Improvement Act of 1996, Public Law 104-134, 110 Stat. 1321-73, sec. 31001(s)(1) (1996); Public Law 105-362, 112 Stat. 3293 (1998).

<sup>2</sup> 28 U.S.C. 2461 note (3)(2).

<sup>3</sup> 28 U.S.C. 2461 note (7).