

Bureau of Indian Affairs, Interior

§ 115.001

tribes or individual Indians be deposited into a trust account?

- 115.709 Will an annual audit be conducted on trust funds?

INVESTMENTS AND INTERESTS

- 115.710 Does money in a trust account earn interest?
- 115.711 How is money in a trust account invested?
- 115.712 What is the interest rate earned on money in a trust account?
- 115.713 When does money in a trust account start earning interest?

Subpart G—Tribal Accounts

- 115.800 When does OTFM open a tribal account?
- 115.801 How often will a tribe receive information about its trust account(s)?
- 115.802 May a tribe make a request to OTFM to receive information about its trust account more frequently?
- 115.803 What information will be provided in a statement of performance?
- 115.804 Will we account to a tribe for those trust funds the tribe receives through direct pay?
- 115.805 If a tribe is paid directly under a contract for the sale or use of trust assets, will we accept those trust funds for deposit into a tribal trust account?
- 115.806 How will the BIA assist in the administration of tribal judgment fund accounts?

INVESTING AND MANAGING TRIBAL TRUST FUNDS

- 115.807 Will OTFM consult with tribes about investments of tribal trust funds?
- 115.808 Could trust fund investments made by OTFM lose money?
- 115.809 May a tribe recommend to OTFM how to invest the tribe's trust funds?
- 115.810 May a tribe directly invest and manage its trust funds?
- 115.811 Under what conditions may a tribe redeposit funds with OTFM that were previously withdrawn under the Trust Reform Act?
- 115.812 Is a tribe responsible for its expenditures of trust funds that are not made in compliance with statutory language or other federal law?
- 115.813 Is there a limit to the amount of trust funds OTFM will disburse from a tribal trust account?
- 115.814 If a tribe withdraws money from its trust account for a particular purpose or project, may the tribe redeposit any money that was not used for its intended purpose?

WITHDRAWING TRIBAL TRUST FUNDS

- 115.815 How does a tribe request trust funds from a tribal trust account?
- 115.816 May a tribe's request for a withdrawal of trust funds from its trust account be delayed or denied?
- 115.817 How does OTFM disburse money to a tribe?

UNCLAIMED PER CAPITA FUNDS

- 115.818 What happens if an Indian adult does not cash his or her per capita check?
- 115.819 What steps will be taken to locate an individual whose per capita check is returned as undeliverable or not cashed within twelve (12) months of issuance?
- 115.820 May OTFM transfer money in a returned per capita account to a tribal account?

Subpart H—Special Deposit Accounts

- 115.900 Who receives the interest earned on trust funds in a special deposit account?
- 115.901 When will the trust funds in a special deposit account be credited or paid out to the owner of the funds?
- 115.902 May administrative or land conveyance fees paid as federal reimbursements be deposited in a special deposit account?
- 115.903 May cash bonds (e.g., performance bonds, appeal bonds, etc.) be deposited into a special deposit account?
- 115.904 Where earnest money is paid prior to Secretarial approval of a conveyance or contract instrument involving trust assets, may the BIA deposit that earnest money into a special deposit account?

Subpart I—Records

- 115.1000 Who owns the records associated with this part?
- 115.1001 How must records associated with this part be preserved?

AUTHORITY: R.S. 441, as amended, R.S. 463, R.S. 465; 5 U.S.C. 301; 25 U.S.C. 2; 25 U.S.C. 9; 43 U.S.C. 1457; 25 U.S.C. 4001; 25 U.S.C. 161(a); 25 U.S.C. 162a; 25 U.S.C. 164; Pub. L. 87-283; Pub. L. 97-100; Pub. L. 97-257; Pub. L. 103-412; Pub. L. 97-458; 44 U.S.C. 3101 *et seq.*

SOURCE: 66 FR 7094, Jan. 22, 2001, unless otherwise noted.

Subpart A—Purpose, Definitions, and Public Information

§ 115.001 What is the purpose of this part?

This part sets forth guidelines for the Secretary of the Interior, including any tribe or tribal organization if that entity is administering specific programs, functions, services or activities,

previously administered by the Secretary of the Interior, but now authorized under a Self-Determination Act contract (pursuant to 25 U.S.C. §450f) or a Self-Governance compact (pursuant to 25 U.S.C. §558cc), to carry out the trust duties owed to tribes and individual Indians to manage and administer trust assets for the exclusive benefit of tribal and individual Indian beneficiaries pursuant to federal law, including the American Indian Trust Fund Management Reform Act of 1994, Public Law 103-412, 108 Stat. 4239, 25 U.S.C. §4001 (Trust Reform Act).

§ 115.002 What definitions do I need to know?

As used in this part:

Account holder means a tribe or a person who owns the funds in a tribal or Individual Indian Money (IIM) account that is maintained by the Secretary.

Account means a record of trust funds that is maintained by the Secretary for the benefit of a tribe or a person.

Administratively restricted account means an IIM account that is placed on temporary hold by OTFM where an account holder's current address of record is unknown or where more documentation is needed to make a distribution from an account.

Adult means an individual who has reached 18 years of age, except when the individual's tribe has determined the age for adulthood to be older than 18 for access to tribal trust fund per capita proceeds.

Adult in need of assistance means an individual who has been determined to be "incapable of managing or administering his or her property, including his or her financial affairs" either (a) through a BIA administrative process that is based on a finding by a licensed medical professional or licensed mental health professional, or (b) by an order or judgment of a court of competent jurisdiction.

BIA means the Bureau of Indian Affairs, Department of the Interior, or its authorized representative.

Bond means security for the performance of certain obligations or a guaranty of such performance as furnished by a third-party surety. As used in this part, bonds may include cash bonds, performance bonds, and surety bonds.

Court of competent jurisdiction means a federal or tribal court with jurisdiction; however, if there is no tribal court with jurisdiction, then a state court with jurisdiction.

Day means a calendar day unless otherwise specified.

Department means the Department of the Interior or its authorized representative.

Deposits mean receiving funds, ordinarily through a Federal Reserve Bank, for credit to a trust fund account.

Emancipated minor means a person under 18 years of age who is married or who is determined by a court of competent jurisdiction to be legally able to care for himself or herself.

Encumber or encumbrance means to attach trust assets held by the Secretary with a claim, lien, or charge that has been approved by the Secretary.

Encumbered account means a trust fund account where some portion of the proceeds are obligated to another party.

Estate account means an account for a deceased IIM account holder.

FOIA means the Freedom of Information Act, 5 U.S.C. §552.

Guardian means a person who is legally responsible for the care and management of an individual and his or her estate. This definition includes, but is not limited to, conservator or guardian of the property. However, this definition does not apply to property subject to §115.106 of this part.

Individual Indian Money (IIM) accounts means an interest bearing account for trust funds held by the Secretary that belong to a person who has an interest in trust assets. These accounts are under the control and management of the Secretary. There are three types of IIM accounts: unrestricted, restricted, and estate accounts.

Legal disability means the lack of legal capability to perform an act which includes the ability to manage or administer his or her financial affairs as determined by a court of competent jurisdiction or another federal agency where the federal agency has determined that the adult requires a representative payee and there is no