

DEPARTMENT OF DEFENSE**Office of the Secretary****32 CFR Parts 230 and 231a**

[0790-AG73]

Financial Institutions on DoD Installations

AGENCY: Department of Defense.

ACTION: Proposed rule.

SUMMARY: This rule proposes to remove 32 CFR part 231a, "Procedures governing Banking Offices on DoD Installations" and to revise part 230 on "Financial Institutions on DoD Installations." This rule is being promulgated to provide administrative guidelines for the operation of banks and credit unions on domestic and overseas installations of the Department of Defense and address areas such as the solicitation for such services, the types of services and the logistics support provided.

DATES: Comments must be received by October 12, 1999.

ADDRESSES: Forward comments to OUSD(C), 1745 Jefferson Davis Highway, Suite 201, Arlington, VA 22202.

FOR FURTHER INFORMATION CONTACT: T. Summers, 703-602-0299.

SUPPLEMENTARY INFORMATION:**Executive Order 12866, Regulatory Planning and Review**

It has been determined that 32 CFR part 230 is not a significant regulatory action. The rule does not:

(1) Have an annual effect to the economy of \$100 million or more or adversely affect in a material way the economy; a section of the economy; productivity; competition; jobs; the environment; public health or safety; or State, local, or tribal governments or communities;

(2) Create a serious inconsistency or otherwise interfere with an action taken or planned by another Agency;

(3) Materially alter the budgetary impact of entitlements, grants, user fees, or loan programs, or the rights and obligations of recipients thereof; or

(4) Raise novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in this Executive Order.

Public Law 96-354, Regulatory Flexibility Act (5 U.S.C. 601)

It has been certified that this rule is not subject to the Regulatory Flexibility Act (5 U.S.C. 601) because it would not, if promulgated, have a significant

economic impact on a substantial number of small entities. This rule is being promulgated to provide administrative guidelines for the operation of banks and credit unions on domestic and overseas installations of the Department of Defense and address areas such as the solicitation for such services, the types of services and the logistics support provided.

Public Law 96-511, Paperwork Reduction Act (44 U.S.C. Chapter 35)

It has been certified that this part does not impose any reporting or recordkeeping requirements under the Paperwork Reduction Act of 1995.

List of Subjects in 32 CFR Part 230 and 231a

Armed forces, Banks, banking, Credit unions, Federal buildings and facilities.

Accordingly, 32 CFR part 230 is proposed to be revised to read as follows:

PART 230—FINANCIAL INSTITUTIONS ON DOD INSTALLATIONS

Sec.

230.1 Purpose.

230.2 Applicability.

230.3 Definitions.

230.4 Policy.

230.5 Responsibilities.

Authority: 10 U.S.C. 136**§ 230.1 Purpose.**

This part:

(a) Updates policies and responsibilities for financial institutions that serve Department of Defense (DoD) personnel on DoD installations worldwide. Associated procedures are contained in DoD 7000.14-R¹.

(b) Ensures that arrangements for the provision of services by financial institutions are consistent among the DoD Components, and that financial institutions operating on DoD installations provide, and are provided, support consistent with the policies stated in this part.

§ 230.2 Applicability.

This part applies to the Office of the Secretary of Defense, the Military Departments, the Chairman of the Joint Chiefs of Staff, the Combatant Commands, the Inspector General of the Department of Defense, the Defense Agencies, the DoD Field Activities, and all other organizational entities within the Department of Defense (hereafter referred to as the "DoD Components.")

¹ Copies may be obtained at <http://web7.whs.osd.mil/corres.htm>

§ 230.3 Definitions.

Terms used in this part are set forth in 32 CFR part 231.

§ 230.4 Policy.

(a) The following pertains to financial institutions on domestic DoD installations:

(1) Except where they already may exist as of July 1, 1999, no more than one banking institution and one credit union shall be permitted to operate on a DoD installation.

(2) Upon the request of an installation commander and with the approval of the Secretary of the Military Department concerned (or designee), duly chartered financial institutions may be authorized to provide financial services on DoD installations to enhance the morale and welfare of DoD personnel and facilitate the administration of public and quasi-public monies. Arrangement for the provision of such services shall be in accordance with this part and related issuances.

(3) Financial institutions or branches thereof, shall be established on DoD installations only after approval by the Secretary of the Military Department concerned (or designee) and the appropriate regulatory agency.

(i) Only banking institutions insured by the Federal Deposit Insurance Corporation (FDIC) and credit unions insured by the National Credit Union Share Insurance Fund (NCUSIF) shall operate on DoD installations. These financial institutions may be either state or federally chartered. Foreign banking institutions operating on overseas DoD installations and chartered to provide financial services in that country are excepted from this requirement.

(ii) Military banking facilities (MBFs) shall be established on DoD installations only when a demonstrated and justified need cannot be met through other means. Normally, MBFs shall be authorized only at overseas locations. They may be considered for use at domestic DoD installations only when DoD Components have been unable to obtain, through normal means, financial services from a state or federally chartered financial institution authorized to operate in that state. In times of mobilization, it may become necessary to designate additional MBFs as an emergency measure. The Director, Defense Finance and Accounting Service (DFAS) may recommend the designation of banking facilities to the Department of the Treasury under provisions of 12 U.S.C. 265.

(iii) Retail banking operations shall not be performed by any DoD Component. Solicitations for such services shall be issued, or proposals

accepted, only in accordance with the policies identified in this part. DoD Components shall rely on commercially available sources in accordance with DoD Directive 4100.15².

(iv) Retail fees and services for products (to include related minimum balance requirements for noninterest checking, Negotiable Order of Withdrawal (NOW) and savings accounts) offered by financial institutions operating on domestic installations and domestic credit unions operating on DoD installations overseas shall not exceed 110 percent of the industry-wide averages for banks in the "Annual Report to Congress on Retail Fees and Services of Depository Institutions," published by the Board of Governors of the Federal Reserve System.

(4) Installation commanders shall not seek the provision of financial services from any entity other than the on-base banking office or credit union. The Director, DFAS, with the concurrence of the Under Secretary of Defense Comptroller, (USD(C)), may approve exceptions to this policy. Such requests for exception shall be proposed through the Secretary of the Military Department concerned (or designee).

(5) Financial institutions authorized to locate on DoD installations shall be provided logistic support as set forth in Volume 5 of the DoD Financial Management Regulation (DoD 7000.14-R).

(6) Military disbursing offices, nonappropriated fund instrumentalities including MWR activities, the Military Exchange Services and other DoD Component activities requiring financial services shall use on-base financial institutions to the maximum extent feasible and consistent with sound management practice.

(7) The Department encourages the delivery of retail financial services on DoD installations via nationally networked automated teller machines (ATMs). ATMs are considered electronic banking services and, as such, shall be provided only by duly chartered financial institutions.

(i) Notwithstanding the provisions contained in paragraph (a) (3) (iv) of this section, on-base ATM service offered by financial institutions operating on domestic installations and domestic credit unions operating on DoD installations overseas shall be provided without surcharge.

(ii) Proposals by the installation commander to install ATMs from other than on-base financial institutions shall comply with the provisions of

paragraph (a) (4) of this section, and will be considered only when ATM service is unavailable or existing service is inadequate and the on-base financial institution(s) either declines to provide the service, fails to improve existing service so that it is adequate or does not formally respond to the request within 30 days of the date of the request.

(8) Expansion of financial services (to include in-store banking) provided by on base financial institutions must be approved by the installation commander. Such requests for expansion of services should be coordinated with the installation bank/credit union liaison officer prior to the commander's consideration. Approved expansion of services will be documented as an amendment to the existing operating agreement between the installation commander and the on-base financial institution. The amendment to the operating agreement and any required lease (to include a change to an existing lease) shall be in place prior to the initiation of new financial services or offices.

(9) The installation commander shall ensure, to the maximum extent feasible, that all financial institutions operating on his or her installation are given the opportunity to participate in pilot programs to demonstrate new financial-related technology (e.g., smart cards) or establish new business lines (e.g., in-store banking) where a determination has been made by the installation commander that the offering of such services is warranted.

(10) Requests for termination of financial services must be approved by the installation commander, substantiated by sufficient evidence and forwarded to the Secretary of the Military Department concerned (or designee). The Secretary of the Military Department (or designee) shall coordinate such requests with the Under Secretary of Defense (Comptroller), through the Director, DFAS, before notification to the appropriate regulatory agency.

(b) The following pertains to financial institutions on overseas DoD installations:

(1) The extension of services by MBFs and credit unions overseas shall be consistent with the policies stated in this part and with the pertinent status of forces agreement, other intergovernmental agreement, or host-country law.

(2) The policies governing the operation of financial institutions on domestic DoD installations identified in paragraph (a) of this section shall apply to financial institutions operating overseas.

(3) Financial services at overseas DoD installations may be provided by:

(i) Domestic on-base credit unions operating overseas under a geographic franchise and, where applicable, as authorized by the pertinent status of forces agreement, other intergovernmental agreement, or host-country law.

(ii) MBFs operated under and authorized by the pertinent status of forces agreement, other intergovernmental agreement, or host-country law.

(iii) Domestic and foreign banks located on overseas DoD installations that are:

(A) Chartered to provide financial services in that country, and

(B) A party to a formal operating agreement with the installation commander to provide such services, and

(C) Identified, where applicable, in the status of forces agreements, other intergovernmental agreements, or host-country law.

(4) Financial institutions authorized to locate on DoD installations shall be provided logistical support as set forth in the Volume 5 of the DoD Financial Management Regulation (DoD 7000.14-R).

(5) In countries served by MBFs operated under contract, nonappropriated fund instrumentalities and on-base credit unions that desire and are authorized to provide accommodation exchange services shall acquire foreign currency from the MBF at the MBF accommodation rate; and shall sell such foreign currency at a rate of exchange that is no more favorable to the customer than that available from the MBF.

(6) Additional guidance pertaining to financial services overseas is set forth in Volume 5 of DoD 7000.14-R.

§ 230.5 Responsibilities.

(a) The Under Secretary of Defense (Comptroller) (USD(C)) shall develop and monitor policies governing establishment, operation, and termination of financial institutions on DoD installations and take final action on requests for exceptions to this part.

(b) The Under Secretary of Defense (Acquisition and Technology) (USD(A&T)) shall develop and monitor policies and procedures governing logistical support furnished to financial institutions on DoD installations, including the use of DoD real property and equipment.

(c) The Under Secretary of Defense (Personnel and Readiness) (USD(P&R)) shall advise the USD(C) on all aspects of on-base financial institution services

² See footnote 1 to § 230.1(a).

that affect the morale and welfare of DoD personnel.

(d) DoD Component responsibilities pertaining to this part are set forth in Volume 5 of the DoD Financial Management Regulation (DoD 7000.14-R).

PART 231a—[Removed]

By the authority of 10 U.S.C. 301, 32 CFR part 231a is proposed to be removed.

Dated: August 5, 1999.

L.M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

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DEPARTMENT OF DEFENSE

Office of the Secretary

32 CFR Part 231

RIN 0790-AG74

Procedures Governing Banks, Credit Unions and Other Financial Institutions on DoD Installations

AGENCY: Department of Defense.

ACTION: Proposed rule.

SUMMARY: This proposed rule reflects the transition of operational responsibilities for banks and credit unions from the Office of the Under Secretary of Defense (Comptroller) to the Defense Finance and Accounting Service; to address changes in financial-related technology and the vehicles through which financial services are delivered (i.e., in-store banking, electronic banking (ATMs)); and incorporates the procedural guidance contained in other DoD documents.

DATES: Comments must be received by October 12, 1999.

ADDRESSES: Forward comments to: OUSD(C), 1745 Jefferson Davis Highway, Suite 201, Arlington, VA 22202.

FOR FURTHER INFORMATION CONTACT: T. Summers, 703-602-0299.

SUPPLEMENTARY INFORMATION:

Executive Order 12866, Regulatory Planning and Review

It has been determined that 32 CFR part 231 is not a significant regulatory action. The rule does not:

(1) Have an annual effect to the economy of \$100 million or more or adversely affect in a material way the economy; a section of the economy; productivity; competition; jobs; the environment; public health or safety; or State, local, or tribal governments or communities;

(2) Create a serious inconsistency or otherwise interfere with an action taken or planned by another Agency;

(3) Materially alter the budgetary impact of entitlements, grants, user fees, or loan programs, or the rights and obligations of recipients thereof; or

(4) Raise novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in this Executive Order.

Public Law 96-354, Regulatory Flexibility Act (5 U.S.C. 601)

It has been certified that this rule is not subject to the Regulatory Flexibility Act (5 U.S.C. 601) because it would not, if promulgated, have a significant economic impact on a substantial number of small entities. This rule is being promulgated to provide administrative guidelines for the operation of banks and credit unions on domestic and overseas installations of the Department of Defense and address areas such as the solicitation for such services, the types of services and the logistics support provided.

Public Law 96-511, Paperwork Reduction Act (44 U.S.C. Chapter 35)

It has been certified that this part does not impose any reporting or recordkeeping requirements under the Paperwork Reduction Act of 1995.

List of Subjects in 32 CFR Part 231

Armed forces, Banks, banking, Credit unions, Federal buildings and facilities.

Accordingly, 32 CFR part 231 is proposed to be revised to read as follows:

PART 231—PROCEDURES GOVERNING BANKS, CREDIT UNIONS AND OTHER FINANCIAL INSTITUTIONS ON DOD INSTALLATIONS

Subpart A—Guidelines

- 231.1 Overview.
- 231.2 Policy.
- 231.3 Responsibilities.
- 231.4 General policy provisions.
- 231.5 Procedures-domestic banks.
- 231.6 Procedures-overseas banks.
- 231.7 Procedures-domestic credit unions.
- 231.8 Procedures-overseas credit unions.
- 231.9 Definitions.

Subpart B—DoD Directive 1000.11

- 231.10 Financial institutions on DoD installations.

Subpart C—Guidelines for Application of the Privacy Act to Financial Institution Operations

- 231.11 Guidelines
 - Appendix A to Part 231—Sample Operating Agreement
 - Appendix B to Part 231—In-Store Banking

Appendix C to Part 231—Sample Certificate of Compliance for Credit Unions

Appendix D to Part 231—Foreign Geographic Field of Membership (Franchise) Assignment Listing

Authority: 10 U.S.C. 136.

Subpart A—Guidelines

§ 231.1 Overview.

(a) *Purpose.* This part implements DoD Directive 1000.1,¹ "Financial Institutions on DoD Installations," and prescribes guidance and procedures governing the establishment, support, operation, and termination of banks and credit unions operating on DoD installations worldwide, to include military banking facilities (MBFs). In addition, this part provides guidance intended to ensure that arrangements for the provision of services by financial institutions are consistent among DoD Components, and that financial institutions operating on DoD installations provide, and are provided support consistent with the guidance and procedures stated in this part.

(b) *Applicability.* This part applies to the Office of the Secretary of Defense (OSD), the Military Departments, the Chairman of the Joint Chiefs of Staff (JCS), the Combatant Commands, the Inspector General of the Department of Defense (IG, DoD), the Defense Agencies, the DoD Field Activities, and all nonappropriated fund instrumentalities including the Military Exchange Services and morale, welfare and recreation (MWR) activities.

§ 231.2 Policy.

The policy pertaining to financial institutions operating on DoD installations is contained in DoD Directive 1000.11, "Financial Institutions on DoD Installations" (32 CFR part 230) and in § 231.4.

§ 231.3 Responsibilities.

(a) The Under Secretary of Defense (Comptroller) (USD(C)) shall develop and monitor policies governing establishment, operation, and termination of financial institutions on DoD installations and take final action on requests for exceptions to DoD Directive 1000.11.

(b) The Under Secretary of Defense (Acquisition and Technology) (USD(A&T)) shall develop and monitor policies and procedures governing logistical support furnished to financial institutions on DoD installations, including the use of DoD real property and equipment.

¹ Copies may be obtained at <http://web7.whs.osd.mil/corres.htm>.