

# Proposed Rules

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This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

## OFFICE OF PERSONNEL MANAGEMENT

### 5 CFR Part 870

RIN 3206-AG63

#### Federal Employees' Group Life Insurance Program: Miscellaneous Changes, Clarifications, and Corrections

**AGENCY:** U.S. Office of Personnel Management.

**ACTION:** Proposed rule.

**SUMMARY:** The U.S. Office of Personnel Management (OPM) is proposing changes to the Federal Employees' Group Life Insurance (FGLI) Program regulations to provide for the new election opportunities for certain civilian and Defense Department employees deployed in support of a contingency operation required by Public Law 110-417; to provide for the continuation of coverage opportunities for Federal employees called to active duty required by Public Law 110-181; and to update the regulations with other changes, clarifications, and corrections.

**DATES:** OPM must receive comments on or before March 1, 2010.

**ADDRESSES:** Send written comments to Ingrid Burford, Senior Policy Analyst, Strategic Human Resources Policy, U.S. Office of Personnel Management, 1900 E Street, NW., Washington, DC 20415-9700; or deliver to OPM, Room 3415, 1900 E Street, NW., Washington, DC; or FAX to (202) 606-0636. Comments may also be sent through the Federal eRulemaking Portal at <http://www.regulations.gov>. All submissions received through the Portal must include the agency name and docket number or the Regulation Identifier Number (RIN) for this rulemaking. Please specify the subpart and section number for each comment.

**FOR FURTHER INFORMATION CONTACT:** Ingrid Burford, (202) 606-0004.

**SUPPLEMENTARY INFORMATION:** On October 27, 2000, OPM published proposed regulations (65 FR 64530)

with miscellaneous changes, clarifications, and corrections. We have identified additional changes, clarifications, and corrections.

Therefore, we are withdrawing the October 27, 2000, proposed regulations and issuing new proposed regulations. We will respond to any comments received on these proposed regulations when we publish final regulations.

The proposed changes, clarifications, and corrections are:

#### Changes

(1) Public Law 106-398 amended 5 U.S.C. 8702 to allow Department of Defense (DoD) employees who are designated as "emergency essential" under 10 U.S.C. 1580 to elect Basic insurance within 60 days of being so designated. Section 1103 of Public Law 110-417, the Duncan Hunter National Defense Authorization Act for Fiscal Year 2009, which became effective on October 14, 2008, further amended chapter 87 of title 5, U.S. Code, to allow "emergency essential" DoD employees, as well as civilian employees deployed in support of a contingency operation, to elect Basic Insurance, Option A (Standard) coverage and Option B (Additional) coverage up to a maximum of five (5) multiples. We are amending the regulations to include these election opportunities. These changes can be found in § 870.503(e) and (f) and § 870.506(f) and (g).

(2) Public Law 110-279, enacted July 17, 2008, provides for certain Federal employee benefits to be continued for certain employees of the Senate Restaurants after the operations of the Senate Restaurants are contracted to be performed by a private business concern. The law provides that a Senate Restaurants employee, who is an employee of the Architect of the Capitol on the date of enactment and who accepts employment by the private business concern as part of the transition, may elect to continue coverage under certain Federal employee benefits programs during continuous employment with the business concern. Former Senate Restaurant employees who have FEGLI coverage as of the date of transfer may continue their coverage, if they also elected to continue their retirement coverage under either chapter 83 or 84 of title 5, U.S. Code. These individuals will continue to be eligible for FEGLI

during continuous employment with the private contractor unless the employees opt out of the FEGLI program. We are revising the FEGLI regulations to address coverage for these individuals. These changes can be found in § 870.601(a) and § 870.602(b).

(3) Section 1102 of Public Law 110-181, the National Defense Authorization Act for Fiscal Year 2008, enacted January 28, 2008, amended 5 U.S.C. 8706 to authorize the continuation of FEGLI coverage for up to 24 months for Federal employees called to active duty. FEGLI coverage is free for the first 12 months, but employees must pay the full cost (Government and employee share) of the premiums for the additional 12 months. We are amending the regulations to include this election opportunity. These changes can be found in § 870.601(d)(3)(iii).

(4) Public Law 110-177, the Court Security Improvement Act of 2007, enacted January 7, 2008, deems certain categories of judicial officers to be considered as judges of the United States under section 8701 of title 5, United States Code. The law requires magistrate judges retired under section 377 of title 28, United States Code, to be considered Federal judges under the Federal Employees' Group Life Insurance (FEGLI) law. Public Law 111-8, the Omnibus Appropriations Act of 2009, enacted March 9, 2009, further amended the FEGLI law, by identifying additional judges who should continue to be treated as employees following retirement. This law requires bankruptcy judges and magistrate judges retired under section 377 of title 28, U.S. Code, and judges retired under section 373 of title 28, to be considered Federal judges under the FEGLI law. In addition, a 1955 OPM General Counsel's opinion identified additional judges who also should continue to be treated as employees following retirement (DC judges and Tax Court judges). We are changing the regulations to add these judges. These changes can be found in § 870.703(e)(1).

(5) Currently, with a change in family circumstances an employee must already have Basic insurance and may elect only Option B and Option C. The number of multiples of Option B that such an employee may elect with a change in family circumstances is limited. We are proposing to eliminate the limitations on the coverage an

employee may elect, so that an employee making an election based on a change in family circumstances, may elect Basic insurance and any and all Optional insurance, including up to the maximum number of multiples available of Option B and Option C. These changes can be found in § 870.503(b)(3) and § 870.506(a).

(6) Newly eligible employees must be in pay and duty status before Optional insurance can become effective. The six-month belated election opportunity allows Optional insurance to become effective retroactive to the pay period following the one in which the employee became eligible, but it does not require the employee to be in pay and duty status at that time. We are proposing a change to the regulations to apply the same pay and duty status requirements for belated elections that are required for elections made on a timely basis. These changes can be found in § 870.503 and § 870.506.

(7) We are proposing a change to provide that no one but the insured individual has the right to convert coverage when insurance terminates, unless the insured individual has assigned his or her insurance, with the exception that an individual having power of attorney may convert on behalf of the insured. In addition, a family member may convert Option C coverage. These changes can be found in § 870.603(a)(1).

(8) We are proposing to change the time frame for making an initial election of Optional insurance from 31 days to 60 calendar days after the employee becomes eligible. We are also proposing to extend the time frame for electing coverage by providing satisfactory medical information from 31 days to 60 calendar days after OFEGLI's (Office of Federal Employees' Group Life Insurance) approval. These changes will make these election time frames consistent with other election opportunities for Federal benefits. These changes can be found in § 870.504 (a)(1) and § 870.506(c).

(9) When an employee who elected a partial living benefit dies, the post-election BIA (Basic Insurance Amount) is multiplied by the extra benefit age factor in effect at the time that OFEGLI received the living benefit application. We are proposing to change this computation to use the age factor in effect nine months from the date OFEGLI received the living benefit application, to be consistent with the age factor used to compute the amount of the living benefit. These changes can be found in § 870.203.

(10) Public Law 108-445, The Department of Veterans Affairs (VA)

Health Care Personnel Enhancement Act of 2004, provided for the payment of market pay, in addition to base pay, for physicians and dentists employed by the VA. Accordingly, in addition to base pay, market pay must be used to determine the annual rate of pay described in § 870.204 for these individuals. Public Law 96-330, currently cited in § 870.204(a)(2)(x), relating to the treatment of bonuses for physicians and dentists employed by the VA, is no longer in effect. We are revising § 870.204 to include market pay in the determination of annual pay for these individuals.

(11) In situations of concurrent employment, the amount of Basic insurance and Option B insurance is based on the combined salaries. However, if an employee accepts a temporary position while in nonpay status from a covered position, the amount of insurance is based on whichever salary is higher. We are proposing to eliminate this exception, so that this situation will be treated the same as other instances of concurrent employment. These changes can be found in § 870.204(g).

(12) Currently, the earliest that coverage elected as a result of providing satisfactory medical information can become effective is the day after the date OFEGLI approves the employee's request for coverage. We are changing the regulations to allow Basic insurance to become effective on the date of OFEGLI's approval if the employee is in pay and duty status. We are also allowing Option A and Option B coverage to become effective on the date of OFEGLI's approval if the employing office receives the employee's election on or before that date and the employee is in pay and duty status. These changes can be found in § 870.503 and § 870.506.

(13) We are proposing to treat reemployed compensationers the same as reemployed annuitants. When a compensationner returns to work under conditions that allow him or her to continue receiving compensation, Basic insurance (and Options A and C) held as a compensationner are suspended and the insured obtains coverage as an employee. If the reemployed compensationner dies in service, OFEGLI would pay Basic insurance benefits based on whichever amount is higher: The suspended compensationner coverage or the coverage through reemployment. As with reemployed annuitants, Option B would remain with the individual's compensation, unless the employee elects to have it through reemployment. If a reemployed compensationner stops working and continues to receive compensation, he

or she could continue the FEGLI acquired through reemployment if the individual meets the 5-year/all-opportunity requirement and has been reemployed for the length of time required for a reemployed annuitant to earn a supplemental annuity (1 year for full-time employment). These changes can be found in § 870.707.

(14) Public Law 106-522, 114 Stat. 2440, enacted November 22, 2000, changed the entitlement to Federal employee benefits for the District of Columbia (DC) Offender Supervision Trustee and employees of the Trustee. Previously these employees were treated as Federal employees for purposes of Federal employee retirement and insurance programs only if they transferred to the DC government within three days of separating from Federal service. Public Law 106-522 gave these employees retroactive entitlement to be treated as Federal employees on the date of their appointment or the date their sub-organizations transferred to the Trustee's office, whichever is later. We are reflecting this change in the regulations. These changes can be found in § 870.302(a)(3).

(15) Public Law 105-311, the Federal Employees Life Insurance Improvement Act, 112 Stat. 2950, enacted October 30, 1998, amended chapter 87 of title 5, U.S. Code, to allow retiring employees to elect either No Reduction or Full Reduction for their Option B and Option C coverage. This election was to be made at the time of retirement, the same as the election for Basic insurance. Implementing this provision required programming changes to the electronic records system for annuitants to allow for "mixed" elections, *i.e.*, electing reductions for some coverage, but not for other coverage. While these system changes were being made, annuitants were required to elect either No Reduction or Full Reduction for Option B and Option C coverage at the time of retirement. Then, shortly before the annuitant's 65th birthday, the insured was given a second opportunity to make another election, this time being allowed to choose No Reduction for some multiples and Full Reduction for others. We are proposing to eliminate the opportunity for a second election at age 65. There are several reasons for this proposed change: (i) The law states the election must be made at the time of retirement; (ii) administering the second election opportunity at age 65 is an ongoing cost to the Program; (iii) the 2nd election may be confusing to some annuitants, since the election for the Basic insurance reduction is made at the time of retirement without a second opportunity at age 65; and (iv) the

mailing itself is problematic with regard to individuals who are paying their premiums directly, as described in § 870.405, and individuals who have assigned their coverage. Individuals who have retired since this statutory provision became effective (April 24, 1999) and who have not yet turned 65 will be given the opportunity to make their “final” election. These changes can be found in § 870.705(d).

(16) We are proposing to eliminate the requirement for designated beneficiaries of assignees to notify the appropriate employing office of any change in address, since we do not require any other designated beneficiaries to make such a notification. The requirement will still apply to assignees themselves. These changes can be found in § 870.910.

(17) The current regulations regarding reconsiderations require the insured individual to provide his or her Social Security Number when filing a request for reconsideration. We are proposing to eliminate this requirement. Annuitants and compensationers may be identified by their retirement or compensation claim numbers. Agencies are able to identify employees by their names, addresses, and dates of birth. These changes can be found in § 870.105.

(18) Beginning April 24, 1999 and continuing until April 24, 2002, eligible employees could elect portability for Option B coverage that would otherwise terminate. The 3-year portability demonstration project has expired and employees are no longer able to elect portability. We are removing subpart L and all references to portability from the regulations, including the definitions of “Portability Office” and “ported coverage” from § 870.101.

(19) The current regulations specify that only the insured individual may elect a living benefit and no one can elect a living benefit on his or her behalf. We are proposing to change the regulations to allow another person with a power of attorney to apply for a living benefit on the insured individual's behalf. These changes can be found in § 870.1103.

#### Clarifications

(1) The regulations state that when incontestability (allowing erroneous coverage to remain in effect under certain conditions) applies, if the individual does not want the erroneous coverage, he or she may cancel the coverage on a prospective basis; there is no refund of premiums. We are clarifying the regulations to state that if the erroneous coverage is Option C, and there are no eligible family members, the cancellation is retroactive to the end

of the pay period in which the individual last had any eligible family members. In this case, our proposed revision also would provide for a refund of the Option C premiums for this period of erroneous coverage. We are also clarifying the regulations to provide that an annuitant or compensationer cannot enroll for life insurance coverage after retirement and any erroneous enrollments must be corrected. These changes can be found in § 870.104.

(2) We are clarifying the regulations to better describe the “on or after” provision for the effective date of coverage. Most elections require that the employee be in pay and duty status before coverage can become effective. In these instances, the coverage becomes effective the day the employing office receives the election, if the employee is in pay and duty status on that date. If the employee is not in pay and duty status on the date the employing office receives the election, the coverage becomes effective the next date that the employee is in pay and duty status. These changes are found throughout the regulations where effective dates are discussed.

(3) We are clarifying the computation of premium pay and availability pay to state that the employee's annual rate of basic pay is multiplied by the applicable percentage factor to determine pay for FEGLI purposes. These changes can be found in § 870.204(g).

(4) We are adding some definitions for clarity, including definitions of “covered position,” “beneficiary,” “acquisition of an eligible child,” and “accidental death and dismemberment.” We are also clarifying the definition of “court order.” These changes can be found in § 870.101.

(5) We are clarifying the requirements for continuing FEGLI during an extended period of non-pay for the special non-pay situations discussed in § 870.508 to require that all such elections for continuing coverage must be made in writing.

#### Corrections

(1) We are correcting the regulations to state that premiums are based on the amount of insurance last in force on an individual in the pay period, rather than the amount in force on the last day of the pay period. In most instances this is the same thing; however, if an individual dies or separates during a pay period, the amount of insurance in force on the last day of the pay period is \$0. In these instances, the amount of withholding from the final pay must be based on the amount of insurance on the date of death or separation. This change can be found in § 870.401(b).

(2) In § 870.701(c), Eligibility for life insurance, there is an incorrect reference at the end to § 870.702(a)(2). That reference should be to § 870.703(a)(2). The regulations have been changed to reflect this correction.

(3) In § 870.707(e)(2), Reemployed annuitants and compensationers, there is an incorrect reference at the end to § 870.702. That reference should be to § 870.703. The regulations have been changed to reflect this correction.

#### Regulatory Flexibility Act

I certify that this regulation will not have a significant economic impact on a substantial number of small entities because the regulation only affects life insurance benefits of Federal employees and retirees.

#### Executive Order 12866, Regulatory Review

This rule has been reviewed by the Office of Management and Budget in accordance with Executive Order 12866.

#### List of Subjects in 5 CFR Part 870

Administrative practice and procedure, Government employees, Hostages, Iraq, Kuwait, Lebanon, Life insurance, Retirement.

**John Berry,**  
*Director, U.S. Office of Personnel Management.*

Accordingly, OPM is proposing to amend 5 CFR part 870 as follows:

#### PART 870—FEDERAL EMPLOYEES' GROUP LIFE INSURANCE PROGRAM

1. The authority citation for 5 CFR part 870 is revised to read as follows:

**Authority:** 5 U.S.C. 8716; Subpart J also issued under section 599C of Pub. L. 101–513, 104 Stat. 2064, as amended; Sec. 870.302(a)(3)(ii) also issued under section 153 of Pub. L. 104–134, 110 Stat. 1321; Sec. 870.302(a)(3) also issued under sections 11202(f), 11232(e), and 11246(b) and (c) of Pub. L. 105–33, 111 Stat. 251, and section 7(e) of Pub. L. 105–274, 112 Stat. 2419; Sec. 870.302(a)(3) also issued under section 145 of Pub. L. 106–522, 114 Stat. 2472; Secs. 870.302(b)(8), 870.601(a), and 870.602(b) also issued under Pub. L. 110–279, 122 Stat. 2604; Subpart E also issued under 5 U.S.C. 8702(c); Sec. 870.601(d)(3) also issued under 5 U.S.C. 8706(d); Sec. 870.703(e)(1) also issued under section 502 of Pub. L. 110–177, 121 Stat. 2542; Sec. 870.705 also issued under 5 U.S.C. 8714b(c) and 8714c(c); Public Law 104–106, 110 Stat. 521.

#### Subpart A—Administration and General Provisions

2. Section 870.101 is amended as follows:

a. Remove the definitions of “Portability Office” and “ported coverage”.

b. Add the following definitions of “accidental death and dismemberment”, “acquisition of an eligible child”, “beneficiary”, and “covered position”, and revise the definition of “court order” as follows:

#### **§ 870.101 Definitions.**

*Accidental death and dismemberment* refers to the insured’s death or loss of a hand, a foot, or vision in one eye that results directly from, and occurs within one year of, a bodily injury caused solely through violent, external, and accidental means.

*Acquisition of an eligible child* occurs when:

- (1) A child is born to the insured;
- (2) The insured adopts a child;
- (3) The insured acquires a foster child;
- (4) The insured’s stepchild or recognized natural child moves in with the insured;
- (5) An otherwise eligible child’s marriage is dissolved by divorce or annulment, or his or her spouse dies;
- (6) The insured gains custody of an eligible child.

\* \* \* \* \*

*Beneficiary* means the individual, corporation, trust, or other entity that receives FEGLI benefits when an insured individual dies.

\* \* \* \* \*

*Court order* means:

- (1) A court decree of divorce, annulment, or legal separation; or
- (2) A court-approved property settlement agreement relating to a court decree of divorce, annulment, or legal separation—that requires benefits to be paid to a specific person or persons and is received in the employing office before the insured dies.

*Covered position* means a position in which an employee is not excluded from FEGLI eligibility by law or regulation.

\* \* \* \* \*

3. Sections 870.104 and 870.105 are revised to read as follows:

#### **§ 870.104 Incontestability.**

(a) If an individual erroneously becomes insured, the coverage will remain in effect if at least 2 years pass before the error is discovered, and if the individual has paid applicable premiums during that time. This applies to errors discovered on or after October 30, 1998, and applies only to employees, not retirees or compensationers.

(b) If an employee is erroneously allowed to continue insurance into

retirement or while receiving compensation, the coverage will remain in effect if at least 2 years pass before the error is discovered, and if the annuitant or compensationers has paid applicable premiums during that time. This applies to such errors discovered on or after October 30, 1998.

(c) If an individual is erroneously enrolled in life insurance on or after the date he or she retires or begins receiving compensation, the coverage cannot remain in effect even if 2 years pass and the individual paid applicable premiums.

(d) If an individual who is allowed to continue erroneous coverage under this section does not want the coverage, he or she may cancel the coverage on a prospective basis, effective at the end of the pay period in which the waiver is properly filed. There is no refund of premiums. *Exception:* If an employee obtained Option C erroneously and did not have any eligible family members, that coverage may be cancelled retroactively and the insured will obtain a refund of the erroneous Option C premiums.

#### **§ 870.105 Initial decision and reconsideration.**

(a) An individual may ask his or her agency or retirement system to reconsider its initial decision denying:

- (1) Life insurance coverage;
- (2) The opportunity to change coverage;
- (3) The opportunity to designate a beneficiary; or
- (4) The opportunity to assign insurance.

(b) An employing office’s decision is an initial decision when the employing office gives it in writing and informs the individual of the right to an independent level of review (reconsideration) by the appropriate agency or retirement system.

(c) A request for reconsideration must be made in writing and must include the following:

- (1) The employee’s (or annuitant’s) name, address, date of birth;
- (2) The reason(s) for the request; and
- (3) The retirement claim number (Civil Service Annuity Claim Number) or compensation number, if applicable.

(d) A request for reconsideration must be made within 31 calendar days from the date of the initial decision (60 calendar days if overseas). This time limit may be extended when the individual shows that he or she was not notified of the time limit and was not otherwise aware of it or that he or she was unable, due to reasons beyond the individual’s control, to make the request within the time limit.

(e) The reconsideration must take place at or above the level at which the initial decision was made.

(f) After reconsideration, the agency or retirement system must issue a final decision to the insured individual. This decision must be in writing and must fully state the findings.

#### **Subpart B—Types and Amounts of Insurance**

4. In § 870.202, paragraph (a)(1) is revised to read as follows:

#### **§ 870.202 Basic insurance amount (BIA).**

(a)(1) An employee’s Basic insurance amount (BIA) is either:

- (i) The employee’s annual rate of basic pay, rounded to the next higher thousand, plus \$2,000; or
- (ii) \$10,000; whichever is higher, unless the employee has elected a Living Benefit under subpart K of this part. Effective for pay periods beginning on or after October 30, 1998, there is no maximum BIA.

**Note:** If an employee’s pay is “capped” by law, the amount of the Basic insurance is based on the capped amount, which is the amount the employee is actually being paid. It is not based on the amount the employee’s pay would have been without the pay cap.

\* \* \* \* \*

5. Section 870.203 is revised to read as follows:

#### **§ 870.203 Post-election BIA.**

(a) The BIA of an individual who elects a Living Benefit under subpart K of this part is the amount of insurance left after the effective date of the Living Benefit election. This amount is the individual’s post-election BIA.

(1) The post-election BIA of an individual who elects a full Living Benefit is 0.

(2) If an employee elects a partial Living Benefit, the employee still has some Basic insurance. OFEGLI determines this amount by computing the BIA as of the date it receives the completed Living Benefit application and reducing the amount by a percentage. This percentage represents the amount of the employee’s partial Living Benefit payment, compared to the amount the employee could have received if he or she had elected a full Living Benefit. The amount that is left is rounded up or down to the nearest multiple of \$1,000. (If the amount is midway between multiples, it is rounded up to the next higher multiple.)

(b) The post-election BIA cannot change after the effective date of the Living Benefit election.

(c) If an employee elected a partial Living Benefit and that employee is

under age 45 at the time of death, OFEGLI will multiply the post-election BIA by the appropriate factor, as specified in § 870.202(c), in effect on the date 9 months after the date OFEGLI received the completed Living Benefit application.

6. In § 870.204, paragraphs (a)(2)(x) and (g) are revised to read as follows:

**§ 870.204 Annual rates of pay.**

(a) \* \* \*

(2) \* \* \*

(x) Market pay for physicians and dentists of the Department of Veterans Affairs under 38 U.S.C. 7431; and

\* \* \* \* \*

(g)(1) Except as provided in paragraphs (g)(2) and (3) of this section, if an employee legally serves in more than one position at the same time, and at least one of those positions entitles the employee to life insurance coverage, the annual pay for life insurance purposes is the sum of the annual rate of basic pay fixed by law or regulation for each position.

(2) Paragraph (g)(1) does not apply to—

(i) An employee of the Postal Service who works on a part-time flexible schedule; or

(ii) A temporary, intermittent decennial census worker.

(3) If an employee's annual pay includes premium pay or availability pay under § 870.204(e), (f), or (g), the annual pay is determined by multiplying the employee's annual rate of basic pay by the applicable percentage factor.

7. In § 870.205, paragraph (b)(1) is revised to read as follows:

**§ 870.205 Amount of Optional insurance.**

\* \* \* \* \*

(b)(1) Option B coverage comes in 1, 2, 3, 4, or 5 multiples of an employee's annual pay (after the pay has been rounded to the next higher thousand, if not already an even thousand). Effective for pay periods beginning on or after October 30, 1998, there is no maximum amount for each multiple.

**Note:** If an employee's pay is "capped" by law, the amount of the Option B insurance is based on the capped amount, which is the amount the employee is actually being paid. It is not based on the amount the employee's pay would have been without the pay cap.

\* \* \* \* \*

8. Section 870.206 is revised to read as follows:

**§ 870.206 Accidental death and dismemberment.**

(a)(1) Accidental death and dismemberment coverage is an

automatic part of Basic and Option A insurance for employees.

(2) There is no accidental death and dismemberment coverage with Option B or Option C.

(3) Individuals who are insured as annuitants or compensationers do not have accidental death and dismemberment coverage.

(b)(1) Under Basic insurance, accidental death benefits are equal to the BIA, but without the age factor described in § 870.202(c).

(2) Under Option A, accidental death benefits are equal to the amount of Option A.

(c)(1) Under Basic insurance, accidental dismemberment benefits for the loss of a hand, foot, or the vision in one eye are equal to one-half the BIA. For loss of 2 or more of these in a single accident, benefits are equal to the BIA.

(2) Under Option A, accidental dismemberment benefits for the loss of a hand, foot, or the vision in one eye are equal to one-half the amount of Option A. For loss of 2 or more of these in a single accident, benefits are equal to the amount of Option A.

(3) Accidental dismemberment benefits are paid to the employee.

(4) Accidental death benefits are paid to the employee's beneficiaries.

**Subpart C—Eligibility**

9. Section 870.302 is revised to read as follows:

**§ 870.302 Exclusions.**

(a) The following individuals are excluded from life insurance coverage by law:

(1) An employee of a corporation supervised by the Farm Credit Administration, if private interests elect or appoint a member of the board of directors.

(2) An individual who is not a citizen or national of the United States and whose permanent duty station is outside the United States. *Exception:* an individual who met the definition of *employee* on September 30, 1979, by service in an Executive agency, the United States Postal Service, or the Smithsonian Institution in the area which was then known as the Canal Zone.

(3) An individual first employed by the government of the District of Columbia on or after October 1, 1987. *Exceptions:*

(i) An employee of St. Elizabeths Hospital, who accepts employment with the District of Columbia government following Federal employment without a break in service, as provided in section 6 of Public Law 98–621 (98 Stat. 3379);

(ii) An employee of the District of Columbia Financial Responsibility and Management Assistance Authority (Authority), who makes an election under the Technical Corrections to Financial Responsibility and Management Assistance Act (section 153 of Pub. L. 104–134 (110 Stat. 1321)) to be considered a Federal employee for life insurance and other benefits purposes; employees of the Authority who are former Federal employees are subject to the provisions of §§ 870.503(d) and 870.705 of this part;

(iii) The Corrections Trustee or an employee of that Trustee who accepts employment with the District of Columbia government within 3 days after separating from the Federal Government.

(iv) The Pretrial Services, Parole, Adult Probation and Offender Supervision Trustee or an employee of that Trustee;

(v) Effective October 1, 1997, a judicial or nonjudicial employee of the District of Columbia Courts, as provided by Public Law 105–33 (111 Stat. 251); and

(vi) Effective April 1, 1999, an employee of the Public Defender Service of the District of Columbia, as provided by Public Law 105–274 (112 Stat. 2419).

(4) A teacher in a Department of Defense dependents school overseas, if employed by the Federal Government in a nonteaching position during the recess period between school years.

(b) The following employees are also excluded from life insurance coverage:

(1) An employee serving under an appointment limited to 1 year or less. *Exceptions:*

(i) An employee whose full-time or part-time temporary appointment has a regular tour of duty and follows employment in a position in which the employee was insured, with no break in service or with a break in service of no more than 3 days;

(ii) An acting postmaster;

(iii) A Presidential appointee appointed to fill an unexpired term; and

(iv) Certain employees who receive provisional appointments as defined in § 316.403 of this chapter.

(2) An employee who is employed for an uncertain or purely temporary period, who is employed for brief periods at intervals, or who is expected to work less than 6 months in each year. *Exception:* an employee who is employed under an OPM-approved career-related work-study program under Schedule B lasting at least 1 year and who is expected to be in pay status for at least one-third of the total period of time from the date of the first

appointment to the completion of the work-study program.

(3) An intermittent employee (a non-full-time employee without a regularly-scheduled tour of duty). *Exception:* an employee whose intermittent appointment follows, with no break in service or with a break in service of no more than 3 days, employment in a position in which he or she was insured and to which he or she is expected to return.

(4) An employee whose pay, on an annual basis, is \$12 a year or less.

(5) A beneficiary or patient employee in a Government hospital or home.

(6) An employee paid on a contract or fee basis. *Exception:* an employee who is a United States citizen, who is appointed by a contract between the employee and the Federal employing authority which requires his or her personal service, and who is paid on the basis of units of time.

(7) An employee paid on a piecework basis. *Exception:* an employee whose work schedule provides for full-time or part-time service with a regularly-scheduled tour of duty.

(8) A Senate restaurant employee, except a former Senate restaurant employee who had life insurance coverage on the date of transfer to a private contractor on or after July 17, 2008, and who elected to continue such coverage and to continue coverage under either chapter 83 or 84 of title 5, United States Code.

(c) OPM makes the final determination regarding the applicability of the provisions of this section to a specific employee or group of employees.

#### Subpart D—Cost of Insurance

10. In § 870.401, paragraph (b)(3) is revised to read as follows:

##### § 870.401 Withholdings and contributions for Basic insurance.

\* \* \* \* \*

(b) \* \* \*

(3) The amount withheld from the pay of an insured employee whose BIA changes during a pay period is based on the BIA last in force during the pay period

\* \* \* \* \*

11. In § 870.404, paragraph (a) is revised to read as follows:

##### § 870.404 Withholdings and contributions provisions that apply to both Basic and Optional insurance.

(a) Withholdings (and Government contributions, when applicable) are based on the amount of insurance last

in force on an employee during the pay period.

\* \* \* \* \*

12. In § 870.405, paragraphs (c)(2), (g)(1), and (g)(5) are revised to read as follows:

##### § 870.405 Direct premium payments.

\* \* \* \* \*

(c) \* \* \*

(2) Within 31 calendar days of receiving the notice (60 days for individuals living overseas), the insured individual (or assignee) must return the notice to the employing office or retirement system, choosing either to terminate some or all of the insurance or to make direct premium payments. An employee, annuitant, or compensationner is considered to receive a mailed notice 15 days after the date of the notice.

\* \* \* \* \*

(g)(1) If an individual on direct pay fails to make the required premium payment on time, the employing office or retirement system must notify the individual. The individual must make the payment within 31 calendar days after receiving the notice (60 days if living overseas). An individual is considered to have received a mailed notice 15 days after the date of the notice, 30 days if living overseas.

\* \* \* \* \*

(5) If, for reasons beyond his or her control, an insured individual is unable to pay within 30 days of receiving the past due notice (45 days if living overseas), he or she may request reinstatement of coverage by writing to the employing office or retirement system within 60 days from the date of cancellation. The individual must provide proof that the inability to pay within the time limit was for reasons beyond his or her control. The employing office or retirement system will decide if the individual is eligible for reinstatement of coverage. If the employing office or retirement system approves the request, the coverage is reinstated back to the date of cancellation, and the individual must pay the back premiums.

#### Subpart E—Coverage

13. Sections 870.503 and 870.504 are revised to read as follows:

##### § 870.503 Basic insurance: Canceling a waiver.

(a) An annuitant or compensationner who has filed a waiver of Basic insurance cannot cancel the waiver.

(b) An employee who has filed a waiver of Basic insurance may cancel the waiver and become insured if:

(1) The employee makes an election during an open enrollment period as described in § 870.507;

(2) At least 1 year has passed since the effective date of the waiver, and the employee provides satisfactory medical evidence of insurability; or

(3) The employee has a change in family circumstances (marriage or divorce, a spouse's death, or acquisition of an eligible child) and files an election as provided in paragraph (b)(3)(i), (b)(3)(ii), or (b)(3)(iii) of this section. Except as provided in paragraph (b)(3)(iii) of this section, the effective date of Basic insurance elected under this paragraph (b)(3) is the 1st day the employee actually enters on duty in a pay status on or after the day the employing office receives the election.

(i) An employee must file an election under this paragraph with the employing office, in a manner designated by OPM, along with proof of the event, no later than 60 calendar days following the date of the change in family circumstances that permits the election; the employee may also file the election before the event and provide proof no later than 60 calendar days following the event.

(ii) An employee making an election under this paragraph based on acquisition of an eligible foster child must file the election with the employing office no later than 60 calendar days after completing the required certification.

(iii) Within 6 months after an employee becomes eligible to make an election of Basic insurance due to a change in family circumstances, an employing office may determine that the employee was unable, for reasons beyond his or her control, to elect Basic insurance within the time limit. In this case, the employee must elect Basic insurance within 60 calendar days after he or she is notified of the determination. The insurance is retroactive to the 1st day of the first pay period beginning after the date the individual became eligible, if the employee was in pay and duty status that day. If the employee was not in pay and duty status that day, the coverage becomes effective the 1st day after the date the employee returned to pay and duty status. The individual must pay the full cost of the Basic insurance from that date for the time that he or she is in pay status.

(c) OFEGLI reviews the employee's request and determines whether the employee complied with paragraph (b)(2) of this section. If the employee complied, then OFEGLI approves the Request for Insurance. The Basic insurance is effective on the date of

OFEGLI's approval if the employee is in pay and duty status on that date. If the employee is not in pay and duty status on the date of OFEGLI's approval, the Basic insurance is effective the first day the employee returns to pay and duty status, as long as it is within 60 calendar days after OFEGLI's approval. If the employee is not in pay and duty status within 60 calendar days after OFEGLI's approval, the approval is revoked automatically.

(d) When an employee who has been separated from service for at least 180 days is reinstated on or after April 1, 1981, a previous waiver of Basic insurance is automatically cancelled. Unless the employee files a new waiver, Basic insurance becomes effective on the 1st day he or she actually enters on duty in pay status in a position in which he or she is eligible for coverage.

*Exception:* For employees who waived Basic insurance after February 28, 1981, separated, and returned to Federal service before December 9, 1983, the waiver remained in effect; these employees were permitted to elect Basic insurance by applying to their employing office before March 7, 1984.

(e)(1) An employee of the Department of Defense who is designated as an "emergency essential employee" under section 1580 of title 10, United States Code, may cancel a waiver of Basic insurance without providing satisfactory medical information.

(2) An election of Basic insurance under paragraph (e)(1) of this section must be made within 60 days of being designated "emergency essential." Basic insurance is effective on the date the employing office receives the election, if the employee is in pay and duty status on that date. If the employee is not in pay and duty status on the day the employing office receives the election, the coverage becomes effective on the date the employee returns to pay and duty status.

(f)(1) A civilian employee who is eligible for Basic insurance coverage and is deployed in support of a contingency operation as defined by section 101(a)(13) of title 10, United States Code, may cancel a waiver of Basic Insurance without providing satisfactory medical information.

(2) An election of Basic insurance under paragraph (f)(1) of this section must be made within 60 days after the date of notification of deployment in support of a contingency operation. Basic insurance is effective on the date the employing office receives the election, if the employee is in pay and duty status on that date. If the employee is not in pay and duty status on the day the employing office receives the

election, the coverage becomes effective on the date the employee returns to pay and duty status.

#### **§ 870.504 Optional insurance: Election.**

(a)(1) Each employee must elect or waive Option A, Option B, and Option C coverage, in a manner designated by OPM, within 60 days after becoming eligible unless, during earlier employment, he or she filed an election or waiver that remains in effect. The 60-day time limit for Option B or Option C begins on the 1st day after February 28, 1981, on which an individual is an *employee* as defined in § 870.101.

(2) An employee of the District of Columbia Financial Responsibility and Management Assistance Authority who elects to be considered a Federal employee under section 153 of Public Law 104-134 (110 Stat. 1321) must elect or waive Option A, Option B, and Option C coverage within 31 days after the later of:

(i) The date his or her employment with the Authority begins, or

(ii) The date the Authority receives his or her election to be considered a Federal employee.

(3) Within 6 months after an employee becomes eligible, an employing office may determine that the employee was unable, for reasons beyond his or her control, to elect any type of Optional insurance within the time limit. In this case, the employee must elect or waive that type of Optional insurance within 60 days after being notified of the determination. The insurance is retroactive to the 1st day of the 1st pay period beginning after the date the individual became eligible (or after April 1, 1981, whichever is later), if the employee was in pay and duty status that day. If the employee was not in pay and duty status that day, the coverage becomes effective the 1st day after the date the employee returned to pay and duty status. The individual must pay the full cost of the Optional insurance from that date for the time that he or she is in pay status (or retired or receiving compensation with unreduced Optional insurance).

(b) Any employee who does not file a Life Insurance Election with his or her employing office, in a manner designated by OPM, specifically electing any type of Optional insurance, is considered to have waived it and does not have that type of Optional insurance.

(c) For the purpose of having Option A as an employee, an election of this insurance filed on or before February 28, 1981, is considered to have been cancelled effective at the end of the pay period which included March 31, 1981,

unless the employee did not actually enter on duty in pay status during the 1st pay period that began on or after April 1, 1981. In that case, the election is considered to have been cancelled on the 1st day after the end of the next pay period in which the employee actually entered on duty in pay status. In order to have Option A as an employee after the date of this cancellation, an employee must specifically elect the coverage by filing the Life Insurance Election with his or her employing office, subject to § 870.504(a) or 870.506(b).

(d) Optional insurance is effective the 1st day an employee actually enters on duty in pay status on or after the day the employing office receives the election. If the employee is not in pay and duty status on the date the employing office receives the election, the coverage becomes effective the next date that the employee is in pay and duty status.

(e) For an employee whose Optional insurance stopped for a reason other than a waiver, the insurance is reinstated on the 1st day he or she actually enters on duty in pay status in a position in which he or she again becomes eligible.

14. Sections 870.506, 870.507, and 870.508 are revised to read as follows:

#### **§ 870.506 Optional insurance: Canceling a waiver.**

(a) *When there is a change in family circumstances* (see § 870.503(b)(3)). (1) An employee may cancel a waiver of Options A, B, and C due to a change in family circumstances as provided in paragraphs (a)(2) through (a)(6) of this section.

(2) An employee who has waived Options A and B coverage may elect coverage, and an employee who has fewer than 5 multiples of Option B may increase the number of multiples, upon his or her marriage or divorce, upon a spouse's death, or upon acquisition of an eligible child.

(3) An employee electing or increasing Option B coverage may elect any number of multiples, as long as the total number of multiples does not exceed 5.

(4)(i) An employee who has waived Option C coverage may elect it, and an employee who has fewer than 5 multiples of Option C may increase the number of multiples, upon his or her marriage or acquisition of an eligible child. An employee may also elect or increase Option C coverage upon divorce or death of a spouse, if the employee has any eligible children.

(ii) An employee electing or increasing Option C coverage may elect any number of multiples, as long as the



total number of multiples does not exceed 5.

(5)(i) Except as stated in paragraph (a)(5)(iii) of this section, the employee must file an election under paragraph (a)(2) or (a)(4) of this section with the employing office, in a manner designated by OPM, along with proof of the event, no later than 60 calendar days following the date of the event that permits the election; the employee may also file the election before the event and provide proof no later than 60 calendar days following the event.

(ii) An employee making an election under paragraph (a)(4)(i) of this section following the acquisition of an eligible foster child must file the election with the employing office no later than 60 calendar days after completing the required certification.

(iii) In the case of an employee who had a change in family circumstances between October 30, 1998, and April 23, 1999, an election under this section must have been made on or before June 23, 1999.

(iv) Within 6 months after an employee becomes eligible to make an election due to a change in family circumstances, an employing office may determine that the employee was unable, for reasons beyond his or her control, to elect or increase Optional insurance within the time limit. In this case, the employee must elect or increase Optional insurance within 60 calendar days after he or she is notified of the determination. The insurance is retroactive to the 1st day of the first pay period beginning after the date the individual became eligible if the employee was in pay and duty status that day. If the employee was not in pay and duty status that day, the coverage becomes effective the 1st day after that date the employee returned to pay and duty status. The individual must pay the full cost of the Optional insurance from that date for the time that he or she is in pay status.

(6)(i) The effective date of Options A and B insurance elected under paragraph (a)(1) of this section is the 1st day the employee actually enters on duty in pay status on or after the day the employing office receives the election.

(ii) Except as provided in paragraphs (a)(5)(iii) and (a)(6)(iv) of this section, the effective date of Option C coverage elected because of marriage, divorce, death of a spouse, or acquisition of an eligible child is the day the employing office receives the election, or the date of the event, whichever is later.

*Exception:* Coverage elected under paragraph (a)(5)(iii) of this section was effective April 24, 1999.

(iii) The effective date of Option C coverage elected because of the acquisition of a foster child is the date the employing office receives the election or the date the employee completes the certification, whichever is later.

(iv) If the employee does not elect Basic insurance and Option C together (and did not have Basic insurance before), then Option C becomes effective the same day as his or her Basic insurance becomes effective.

(b) *When there is no change in family circumstances.* (1) An employee who has waived Option A or Option B coverage may cancel the waiver and elect coverage if:

(i) The employee makes an election during an open enrollment period; or

(ii) At least 1 year has passed since the effective date of the waiver, and the employee provides satisfactory medical evidence of insurability.

(2) An employee who has Option B coverage of fewer than five multiples of annual pay may increase the number of multiples if at least 1 year has passed since the effective date of his or her last election of fewer than five multiples (including a reduction in the number of multiples), and the employee provides satisfactory medical evidence of insurability.

(3) A waiver of Option C may be cancelled only if there is a change in family circumstances or during an open enrollment period.

(c) OFEGLI reviews the employee's request and determines whether the employee complied with paragraphs (b)(1)(ii) and (b)(2) of this section. If the employee complied, then OFEGLI approves the Request for Insurance. The Option A and B insurance is effective on the date of OFEGLI's approval, if the employee is in pay and duty status on that date. If the employee is not in pay and duty status on the date of OFEGLI's approval, the insurance is effective the first day the employee returns to pay and duty status, as long as it is within 60 calendar days of OFEGLI's approval. If the employee is not in pay and duty status within 60 calendar days after OFEGLI's approval, the approval is revoked automatically.

(d) If an employee waived Option A insurance on or before February 28, 1981, the waiver was automatically cancelled effective on the 1st day the employee entered on duty in pay status on or after April 1, 1981. Option A coverage was effective on the date of the waiver's cancellation, if the employee filed an election of Option A during the March 1, 1981, through March 31, 1981, open enrollment period. If the employee did not file the election with his or her

employing office during the March 1981 open enrollment period, the employee is considered to have waived Option A on March 31, 1981.

(e) When an employee who has been separated from service for at least 180 days is reinstated on or after April 1, 1981, a previous waiver of Optional insurance is automatically cancelled, as follows:

(1) An employee who returned to service between April 1, 1981, and December 8, 1983, after a 180-day break in service was permitted to elect any form of Optional insurance by applying to his or her employing office before March 7, 1984.

(2) An employee who returns to service after December 8, 1983, following a 180-day break in service may elect any form of Optional insurance by applying to his or her employing office within 60 calendar days after reinstatement. Coverage is effective on the 1st day the employee actually enters on duty in pay status in a position in which he or she is eligible for insurance on or after the date the employing office receives the election. If the employee does not file a Life Insurance Election in a manner designated by OPM within the 60-day period, the employee has whatever Optional insurance coverage he or she had immediately before separating from Federal service and is considered to have waived any other Optional insurance. However, an employee who fails to file an election during the 60-day period due to reasons beyond his or her control may enroll belatedly under the conditions stated in § 870.504(a)(3).

(f)(1) An employee of the Department of Defense who is designated as "emergency essential" under section 1580 of title 10, United States Code, may cancel a waiver of Option A and Option B insurance.

(2) An election of Option A or Option B insurance under paragraph (f)(1) must be made within 60 days of being designated "emergency essential." Optional insurance is effective on the date the employing office receives the election, if the employee is in pay and duty status on that date. If the employee is not in pay and duty status on the day the employing office receives the election, the coverage becomes effective on the date the employee returns to pay and duty status.

(g)(1) A civilian employee who is eligible for life insurance coverage and who is deployed in support of a contingency operation as defined by section 101(a)(13) of title 10, United States Code, may cancel a waiver of Option A and/or Option B insurance.



(2) An election of Optional elect insurance under paragraph (g)(1) must be made within 60 days after the date of notification of deployment in support of a contingency operation. Optional insurance is effective on the date the employing office receives the election, if the employee is in pay and duty status on that date. If the employee is not in pay and duty status on the day the employing office receives the election, the coverage becomes effective on the date the employee returns to pay and duty status.

(h) An annuitant or compensation officer is not eligible to cancel a waiver of any type of Optional insurance or to increase multiples of Option B under this section.

#### **§ 870.507 Open enrollment periods.**

(a) There are no regularly scheduled open enrollment periods for life insurance. Open enrollment periods are held only when specifically scheduled by OPM.

(b) During an open enrollment period, unless OPM announces otherwise, eligible employees may cancel their existing waivers of Basic and/or Optional insurance by electing the insurance in a manner designated by OPM.

(c)(1) OPM sets the effective date for all insurance elected during an open enrollment period. The newly elected insurance is effective on the 1st day of the 1st pay period that begins on or after the OPM-established date and that follows a pay period during which the employee was in pay and duty status for at least 32 hours, unless OPM announces otherwise.

(2) A part-time employee must be in pay and duty status for one-half the regularly-scheduled tour of duty shown on his or her current Standard Form 50 for newly-elected coverage to become effective, unless OPM announces otherwise.

(3) An employee who has no regularly-scheduled tour of duty or who is employed on an intermittent basis must be in pay and duty status for one-half the hours customarily worked before newly-elected coverage can become effective, unless OPM announces otherwise. For the purpose of this paragraph, an employing office may determine the number of hours customarily worked by averaging the number of hours worked in the most recent calendar year quarter prior to the start of the open enrollment period.

(d) Within 6 months after an open enrollment period ends, an employing office may determine that an employee was unable, for reasons beyond his or her control, to cancel an existing waiver

by electing to be insured during the open enrollment period. An election under this paragraph must be submitted within 60 days after being notified of the determination. Coverage is retroactive to the first pay period that begins on or after the effective date set by OPM and that follows a pay period during which the employee was in pay and duty status for at least 32 hours, unless OPM announces otherwise. If the employee does not file an election within this 60-day time limit, he or she will be considered to have waived coverage.

#### **§ 870.508 Nonpay status.**

(a) An employee who is in nonpay status is entitled to continue life insurance for up to 12 months. No premium payments are required, unless the employee is receiving compensation.

(b) If an insured employee who is entitled to free insurance while in nonpay status accepts a temporary appointment to a position in which he or she would normally be excluded from insurance coverage, the insurance continues. The amount of Basic insurance (and Option B coverage if the employee has it) is based on the combined salaries of the two positions. Withholdings are made from the employee's pay in the temporary position.

(c) If an insured employee goes on leave without pay (LWOP) to serve as a full-time officer or employee of an employee organization, he or she may elect in writing to continue life insurance within 60 days after the beginning of the LWOP. The insurance continues for the length of the appointment, even if the LWOP lasts longer than 12 months. The employee must pay to the employing office the full cost of Basic and Optional insurance starting with the beginning of the nonpay status; the employee is not entitled to 12 months of free coverage. There is no Government contribution for these employees.

(d) If an insured employee goes on LWOP while assigned to a State government, local government, or institution of higher education, the employee may elect in writing to continue the life insurance for the length of the assignment, even if the LWOP lasts longer than 12 months. The employee must pay his or her premiums to the Federal agency on a current basis starting with the beginning of the nonpay status; the employee is not entitled to 12 months of free coverage. The agency must continue to pay its contribution as long as the employee makes his or her payments.

### **Subpart F—Termination and Conversion**

15. Sections 870.601, 870.602, and 870.603 are revised to read as follows:

#### **§ 870.601 Termination of Basic insurance.**

(a) Except as otherwise provided in this section or § 870.701 of this part, the Basic insurance of an insured employee stops on the date the employee separates from service, subject to a 31-day extension of coverage. *Exception:* If the employee was employed by the Architect of the Capitol as a Senate Restaurants employee the day before the food services operations of the Senate Restaurants were transferred to a private business concern and the employee accepted employment by the business concern and elected to continue his or her Federal retirement benefits and FEGLI coverage, the employee continues to be eligible for FEGLI coverage as long as he or she remains employed by the business concern or its successor.

(b) The Basic insurance of an employee who separates from service after meeting the requirement for an immediate annuity under § 842.204(a)(1) of this chapter and who postpones receiving the annuity, as provided by § 842.204(c) of this chapter (an MRA+10 annuity), stops on the date he or she separates from service, subject to a 31-day extension of coverage.

(c) The Basic insurance of an insured employee who moves without a break in service to a position in which he or she is excluded from life insurance stops on the last day of employment in the former position, subject to a 31-day extension of coverage. *Exception:* If the position is excluded by regulation (not by law), and the employee does not have a break in service of more than three days, the Basic insurance continues.

(d)(1) Except as provided in § 870.701, the Basic insurance of an insured employee who is in nonpay status stops on the date the employee completes 12 months in nonpay status, subject to a 31-day extension of coverage. The 12 months' nonpay status may be broken by periods of less than 4 consecutive months in pay status. If an employee has at least 4 consecutive months in pay status after a period of nonpay status, he or she is entitled to begin the 12 months' continuation of Basic insurance again. If an employee has used up his or her 12 months' continuation in nonpay status and returns to duty for less than 4 consecutive months, his or her Basic insurance stops on the 32nd day after the last day of the last pay period in pay status.

(2) For the purpose of paragraph (d)(1) of this section, 4 consecutive months in pay status means any 4-month period during which the employee is in pay status for at least part of each pay period.

(3)(i) For the purpose of paragraph (d)(1) of this section, an individual who is entitled to benefits under part 353 of this chapter (USERRA—Uniformed Services Employment and Reemployment Act of 1994), who separates to go on military duty instead of going into a nonpay status, is treated as an employee in nonpay status for life insurance purposes.

(ii) Basic insurance continues free for 12 months or until 90 days after military service ends, whichever comes first.

(iii) Effective January 28, 2008, an employee who enters on active duty, or active duty for training in one of the uniformed services for more than 30 days, may continue enrollment for an additional 12 months, for a total of up to 24 months.

(A) Each agency must notify its employees of the opportunity to elect to continue coverage for the additional 12 months.

(B) An employee wanting coverage for the additional 12 months must elect it prior to the end of the first 12 months in nonpay status, in a manner designated by the employing agency.

(C) Insurance continues free for the first 12 months; however, an employee must pay both the employee and agency share of premiums to the agency on a current basis for Basic coverage, and must pay the entire cost (there is no agency share) for any Optional insurance for the additional 12 months of coverage elected.

(D) For an employee who does not elect to continue coverage for an additional 12 months, coverage terminates at the end of the first 12 months in nonpay status subject to the 31-day extension of coverage and conversion rights as provided in § 870.603 of this part.

(e) Except for employees, annuitants, and compensationers who elect direct payment as provided in § 870.405 of this part, Basic insurance stops, subject to a 31-day extension of coverage, at the end of the pay period in which the employing office or retirement system determines that an individual's periodic pay, annuity, or compensation, after all other deductions, is not enough to cover the full cost of Basic insurance.

#### **§ 870.602 Termination of Optional insurance.**

(a) The Optional insurance of an insured employee stops when his or her

Basic insurance stops, subject to the same 31-day extension of coverage.

(b) The Optional insurance of an employee who separates from service after meeting the requirement for an immediate annuity under § 842.204(a)(1) of this chapter and who postpones receiving the annuity, as provided by § 842.204(c) of this chapter (an MRA+10 annuity), stops on the date he or she separates from service, subject to a 31-day extension of coverage.

*Exception:* If the employee was employed by the Architect of the Capitol as a Senate Restaurants employee the day before the food services operations of the Senate Restaurants were transferred to a private business concern and the employee accepted employment with the business concern and elected to continue his or her Federal retirement benefits and FEGLI coverage, the employee continues to be eligible for FEGLI coverage as long as he or she remains employed by the business concern or its successor.

(c)(1) If an insured employee is not eligible to continue Optional coverage as an annuitant or compensationer as provided by § 870.701, the Optional insurance stops on the date that his or her Basic insurance is continued or reinstated under § 870.701, subject to a 31-day extension of coverage.

(d) If, at the time of an individual's election of Basic insurance during receipt of annuity or compensation, he or she elects no Basic life insurance as provided by § 870.702(a)(1), the Optional insurance stops at the end of the month in which the election is received in OPM, subject to a 31-day extension of coverage.

(e) Except for employees, annuitants, and compensationers who elect direct payment as provided in § 870.405, Optional insurance stops, subject to a 31-day extension of coverage, at the end of the pay period in which the employing office or retirement system determines that an individual's periodic pay, annuity, or compensation, after all other deductions, is not enough to cover the full cost of the Optional insurance. If an individual has more than one type of Optional insurance and his or her pay, annuity, or compensation is sufficient to cover some but not all of the insurance, the multiples of Option C terminate first, followed by Option B, and then the multiples of Option A.

#### **§ 870.603 Conversion of Basic and Optional insurance.**

(a)(1) When group coverage terminates for any reason other than voluntary cancellation, an employee may apply to convert all or any part of his or her Basic and Optional insurance

to an individual policy; no medical examination is required. The premiums for the individual policy are based on the employee's age and class of risk. An employee is eligible to convert the policy only if he or she does not return, within 3 calendar days from the terminating event, to a position covered under the group plan. *Exception:* If an employee is unable to convert, a person having power of attorney for that employee may convert on his or her behalf. If insurance has been assigned under subpart I of this part, it is the assignee(s), not the employee, who has (have) the right to convert.

(2) The employing agency must notify the employee/assignee(s) of the loss of coverage and the right to convert to an individual policy either before or immediately after the event causing the loss of coverage.

(3) The employee/assignee(s) must submit the request for conversion information to OFEGLI. OFEGLI must receive the request for conversion within 31 calendar days of the date on the conversion notification the employee receives from the employing agency (60 days if overseas) or within 60 calendar days after the date of the terminating event (90 days, if overseas), whichever is earlier.

(4) If the employee does not request conversion information within the specified time period as described in paragraph (a)(3) of this section, the employee is considered to have refused coverage unless OFEGLI determines the failure was for reasons beyond the employee's control, as described in paragraph (a)(5) of this section.

(5) When an agency fails to provide the notification required in paragraph (a)(2) of this section, or the employee/assignee fails to request conversion information within the time limit set in paragraph (a)(3) of this section for reasons beyond his or her control, the employee may make a belated request by writing to OFEGLI. The employee/assignee must make the request within 6 months after becoming eligible to convert the insurance. The employee/assignee must show that he or she was not notified of the loss of coverage and the right to convert and was not otherwise aware of it or that he or she was unable to convert to an individual policy for reasons beyond his or her control. OFEGLI will determine if the employee/assignee is eligible to convert. If the request is approved, the employee must convert within 31 calendar days of that determination.

(b) The individual conversion policy is effective the day after the group coverage ends. The employee/assignee

must pay the premiums for any period retroactive to that date.

(c) The 31-day extension of coverage provided under this subpart does not depend upon timely notification of the right to convert to an individual policy. The extension cannot be continued beyond 31 days.

(d) Family members may convert Option C coverage (and name beneficiaries of their choice) if:

(1) The employee dies; or

(2) The insurance stops under circumstances that allow the employee to convert Option C coverage but the employee does not convert.

(e) If an employee with Option C coverage dies, the employing office must send a conversion notice to the family members at the employee's last address on file.

(f) Family members must submit the request for conversion information to OFEGLI. OFEGLI must receive the request for conversion within 31 calendar days of the date on the conversion notification the employee receives from his or her employing agency (60 days if overseas) or within 60 calendar days after the date of the terminating event (90 days, if overseas), whichever is earlier. There is no extension to these time limits. Family members are considered to have refused coverage if they do not request conversion within these time limits.

(g) The family members' conversion policy is effective at the end of the employee's 31-day extension of coverage.

#### Subpart G—Annuitants and Compensationers

16. Section 870.701(c) is revised to read as follows:

##### **§ 870.701 Eligibility for life insurance.**

\* \* \* \* \*

(c) An individual who meets the requirements of paragraph (a) or (b) of this section or § 870.706 for continuation or reinstatement of life insurance must complete an election, in a manner designated by OPM, at the time entitlement is established. For the election to be valid, OPM must receive the election before OPM has made a final decision on the individual's application for annuity or supplemental annuity or an individual's request to continue life insurance as a compensationner. If there is no valid election, OPM considers the individual to have chosen the option described in paragraph (a)(2) of § 870.703.

\* \* \* \* \*

17. Section 870.702(b)(2) is revised to read as follows:

##### **§ 870.702 Amount of Basic insurance.**

\* \* \* \* \*

(b) \* \* \*

(2)(i) For an annuitant or compensationner who elected a partial Living Benefit as an employee, the amount of Basic insurance he or she can continue is the post-election BIA, as described in § 870.203(a)(2).

(ii) If an employee elected a partial Living Benefit and that employee is under age 45 at the time of death, OFEGLI will multiply the post-election BIA by the appropriate factor, as specified in § 870.202(c), that was in effect on the date that is nine months after the date OFEGLI received the completed Living Benefit application.

18. Section 870.703 is revised to read as follows:

##### **§ 870.703 Election of Basic insurance.**

(a) An individual who makes an election under § 870.701(c) and who has not elected a Living Benefit must select one of the options in paragraphs (a)(1) through (4) of this section. No one else can make this election on the individual's behalf.

(1) Termination of the insurance. The individual's insurance stops upon conversion to an individual policy as provided under § 870.603. If the individual does not convert to an individual policy, insurance stops at the end of the month in which OPM or the employing office receives the election;

(2) Continuation or reinstatement of Basic insurance with a maximum reduction of 75 percent during retirement. Premiums are withheld from annuity or compensation (except as provided under § 870.401(d)(1)). The amount of Basic Life insurance in force reduces by 2 percent of the BIA each month until the maximum reduction is reached. This reduction starts at the beginning of the 2nd month after the date the insurance would otherwise have stopped or the date of the insured's 65th birthday, whichever is later;

(3) Continuation or reinstatement of Basic insurance with a maximum reduction of 50 percent during retirement. Premiums are withheld from annuity or compensation. The amount of Basic insurance in force reduces by 1 percent of the BIA each month until the maximum reduction is reached. This reduction starts at the beginning of the 2nd month after the date the insurance would otherwise have stopped or the date of the insured's 65th birthday, whichever is later; or

(4) Continuation or reinstatement of Basic insurance with no reduction after age 65. Premiums are withheld from annuity or compensation.

(b)(1) Unless an employee has elected a partial Living Benefit under subpart K of this part or an individual has assigned the insurance under subpart I of this part, an insured individual may cancel an election under paragraph (a)(3) or (a)(4) of this section at any time. The amount of Basic insurance automatically switches to the amount that would have been in force if the individual had originally elected the 75 percent reduction. This revised amount is effective at the end of the month in which OPM receives the request to cancel the previous election. There is no refund of premiums.

(2) If an individual files a waiver of insurance, the coverage stops without a 31-day extension of coverage or conversion right. Coverage ceases at the end of the month in which OPM received the waiver.

(c) Unless he/she chooses to terminate his/her insurance, an employee who has elected a partial Living Benefit must choose the no reduction election under paragraph (a)(4) of this section. The employee cannot later change to the 75 percent reduction.

(d) If an employee has assigned his or her insurance, he/she cannot cancel an election under paragraph (a)(3) or (a)(4) of this section. Only the assignee(s) may cancel this election. Exception: If the employee elected a partial Living Benefit before assigning the remainder of his or her insurance, the assignee(s) cannot cancel the election under paragraph (a)(4) of this section.

(e)(1) For purposes of this part, a judge who retires under one of the following provisions is considered to be an employee after retirement:

- (i) 28 U.S.C. 371(a) or (b);
- (ii) 28 U.S.C. 372(a);
- (iii) 28 U.S.C. 377;
- (iv) 26 U.S.C. 7447;
- (v) 11 DC Code 776;
- (vi) Section 7447 of the Internal Revenue Code;

(2) The insurance of a judge described in paragraph (e)(1) of this section does not reduce after age 65. Basic insurance continues without interruption or reduction. *Exception:* If the insured is a judge eligible for compensation, and chooses to receive compensation instead of annuity, he or she must select an option described in paragraph (a) of this section.

19. Sections 870.704 and 870.705 are revised to read as follows:

##### **§ 870.704 Amount of Option A.**

(a) The amount of Option A coverage an annuitant or compensationner can continue is \$10,000.

(b) An annuitant's or compensationner's Option A coverage

reduces by 2 percent of the original amount each month up to a maximum reduction of 75 percent. This reduction starts at the beginning of the 2nd month after the date the insurance would otherwise have stopped or the beginning of the 2nd month after the date of the insured's 65th birthday, whichever is later.

(c) Paragraph (b) of this section does not apply to a judge who retires under one of the provisions listed in § 870.703(e)(1). For purposes of this part, such a judge is considered to be an employee after retirement, and Option A insurance continues without interruption or reduction. *Exception:* If the judge is eligible for compensation and chooses to receive compensation instead of annuity, paragraph (b) of this section applies.

**§ 870.705 Amount and election of Option B and Option C.**

(a) The number of multiples of Option B and Option C coverage an annuitant or compensationner can continue is the highest number of multiples in force during the applicable period of service required to continue Option B and Option C.

(b)(1)(i) At the time an employee retires or becomes insured as a compensationner, he or she must elect the number of allowable multiples he or she wishes to continue during retirement or while receiving compensation.

(ii) An employee who elects to continue fewer multiples than the number for which he or she is eligible is considered to have cancelled the multiples that are not continued.

(iii) An employee separating for retirement and an employee becoming insured as a compensationner on or after April 24, 1999, must choose the level of post-age-65 reduction he or she wants. There are two choices: Full Reduction and No Reduction. The election may be made only by the employee and must be made in the manner that OPM designates. The employee may make different elections for Option B and for Option C. He or she may choose Full Reduction for some multiples of an Option and No Reduction for other multiples of the same Option. Failure to make an election for Option B or for Option C will be considered to be an election of Full Reduction for all multiples of that Option.

(iv) For purposes of this part, a judge who retires under one of the provisions listed in § 870.703(e)(1) is considered to be an employee after retirement. The insurance of such a judge does not reduce after age 65. *Exception:* If the judge is eligible for compensation and

chooses to receive compensation instead of annuity, the post-65 reductions and elections apply.

(2) Prior to reaching age 65, an annuitant or compensationner can change from No Reduction to Full Reduction at any time. *Exception:* If the individual has assigned his or her insurance as provided in subpart I of this part, only the assignee can change from No Reduction to Full Reduction for the Option B coverage.

(3)(i) After reaching age 65, an annuitant or compensationner can change from No Reduction to Full Reduction at any time. *Exception:* If the individual has assigned his or her insurance as provided in subpart I of this part, only the assignee can change from No Reduction to Full Reduction for the Option B coverage. If an individual age 65 or over changes to Full Reduction, the amount of insurance in force is computed as if he or she had elected Full Reduction initially. There is no refund of premiums.

(ii) After reaching age 65, an annuitant or compensationner cannot change from Full Reduction to No Reduction.

(c)(1) For each multiple of Option B and/or Option C for which an individual elects Full Reduction, the coverage reduces by 2 percent of the original amount each month. This reduction starts at the beginning of the 2nd month after the date the insurance would otherwise have stopped or the beginning of the 2nd month after the insured's 65th birthday, whichever is later. At 12:00 noon on the day before the 50th reduction, the insurance stops, with no extension of coverage or conversion right.

(2) For each multiple of Option B and/or Option C for which an individual elects No Reduction, the coverage in force does not reduce. After age 65 the annuitant or compensationner continues to pay premiums appropriate to his or her age.

(d)(1) An employee who was already retired or insured as a compensationner on April 24, 1999, and who had Option B, was given an opportunity to make an election for Option B.

(i) Each such annuitant or compensationner who was under age 65 on April 24, 1999, was notified of the option to elect No Reduction. The retirement system will send the individual an election notice before his or her 65th birthday.

(ii) Each such annuitant or compensationner who was age 65 or older on April 24, 1999, and who still had some Option B coverage remaining, was given the opportunity to stop further reductions. The individual had

until October 24, 1999, to make the No Reduction election. The amount of Option B coverage retained was the amount in effect on April 24, 1999. Each annuitant or compensationner who elected No Reduction was required to pay premiums retroactive to April 24, 1999.

(2) An employee who was already retired or insured as a compensationner on April 24, 1999, could not elect No Reduction for Option C.

20. Section 870.707 is revised to read as follows:

**§ 870.707 Reemployed annuitants and compensationners.**

(a)(1) If an insured annuitant or compensationner is appointed to a position in which he or she is eligible for insurance, the amount of his or her Basic life insurance as a annuitant or compensationner (and any applicable withholdings) is suspended on the day before the 1st day in pay status under the appointment, unless the reemployed annuitant or compensationner waives all insurance coverage as an employee. The Basic insurance benefit payable upon the death of a reemployed annuitant or compensationner who has Basic insurance in force as an employee, cannot be less than the benefit that would have been payable if the individual had not been reemployed.

(2) Except as provided in paragraph (b) of this section, the Basic insurance obtained as an employee stops with no 31-day extension of coverage or conversion right, on the date reemployment terminates. Any suspended Basic insurance (and any applicable withholdings) is reinstated on the day following termination of the reemployment.

(b) Basic insurance obtained during reemployment can be continued after the reemployment terminates if the individual:

(1) Qualifies for a supplemental annuity or receives a new retirement right (or if a compensationner, he or she worked an amount of time equivalent to that required for an annuitant to qualify for a supplemental annuity);

(2) Has had Basic insurance as an employee for at least 5 years of service immediately before separation from reemployment or for the full period(s) during which such coverage was available to the individual, whichever is less; and

(3) Does not convert to nongroup insurance when Basic insurance as an employee would otherwise terminate.

(c) If the Basic insurance obtained during reemployment is continued as provided in paragraph (b) of this section, any suspended Basic life

insurance stops, with no 31-day extension of coverage or conversion right.

(d)(1) An annuitant or compensationner appointed to a position in which he or she is eligible for Basic insurance is also eligible for Optional insurance as an employee, unless he or she has on file an uncanceled waiver of Basic or Optional insurance.

(2) If the individual has Option A or C as an annuitant, that insurance (and applicable withholdings) is suspended on the day before his or her 1st day in pay status under the appointment. Unless he or she waives Option A or C (or waives Basic insurance), the individual obtains Option A or C as an employee.

(3) If the individual has Option B as an annuitant or compensationner, that insurance (and applicable withholdings) continues as if the individual were not reemployed, unless:

(i) The individual files with his/her employing office an election of Option B, in a manner designated by OPM, within 60 calendar days after the date of reemployment. In this case Option B (and applicable withholdings) as an annuitant or compensationner is suspended on the date that Option B as an employee becomes effective; or

(ii) The individual waives Basic insurance.

(4) The Option B benefit payable upon the death of a reemployed annuitant or compensationner is the amount in effect as an annuitant or compensationner, unless the individual elected to have Option B as an employee.

(5) Except as provided in paragraph (e) of this section, the Optional insurance obtained as an employee stops, with no 31-day extension or conversion right, on the date reemployment terminates. The amount of suspended Optional insurance that remains in force after applicable monthly reductions after age 65 (and corresponding withholdings) is reinstated on the day after reemployment terminates.

(e) Optional life insurance obtained during reemployment may be continued after the reemployment terminates if the annuitant:

(1) Qualifies for a supplemental annuity or receives a new retirement right (or if a compensationner, he or she worked an amount of time equivalent to that required for an annuitant to qualify for a supplemental annuity);

(2) Continues Basic life insurance under paragraph (a)(2), (3), or (4) of § 870.703; and

(3) Has had Optional insurance as an employee for at least the 5 years of service immediately before separation

from reemployment or for the full period(s) of service during which it was available to him or her, whichever is less.

(f) If Optional insurance obtained during reemployment is continued as provided in paragraph (e) of this section, any suspended Optional insurance stops, with no 31-day extension of coverage or conversion right.

(g) If a reemployed annuitant or compensationner waives life insurance as an employee, the waiver also cancels his or her life insurance as an annuitant or compensationner.

#### **Subpart H—Order of Precedence and Designation of Beneficiary**

21. Section 870.801(a) and (d) are revised to read as follows:

##### **§ 870.801 Order of precedence and payment of benefits.**

(a) Except as provided in paragraph (d) of this section and paragraph (g)(2) of § 870.802, benefits are paid according to the order of precedence stated in 5 U.S.C. 8705(a), as follows:

(1) To the designated beneficiary (or beneficiaries);

(2) If none, to the widow(er);

(3) If none, to the child, or children in equal shares, with the share of any deceased child going to his or her children;

(4) If none, to the parents in equal shares or the entire amount to the surviving parent;

(5) If none, to the executor or administrator of the estate;

(6) If none, to the next of kin according to the laws of the State in which the insured individual legally resided.

\* \* \* \* \*

(d)(1) If there is a court order in effect naming a specific person or persons to receive life insurance benefits upon the death of an insured individual, Basic insurance and Option A and Option B insurance will be paid to the person or persons named in the court order, instead of according to the order of precedence.

(2) To qualify a person for such payment, a certified copy of the court order must be received by the appropriate office on or after July 22, 1998, and before the death of the insured.

(3)(i) For an employee, the appropriate office is the employing agency.

(ii) For an annuitant, the appropriate office is OPM.

(iii) For a compensationner during the first 12 months of nonpay status, the

appropriate office is the employing agency.

(iv) For a compensationner after separation or the completion of 12 months in nonpay status, the appropriate office is OPM.

(4) If, within the applicable time frames, the appropriate office receives conflicting court orders entitling different persons to the same insurance, benefits will be paid based on whichever court order was issued first.

\* \* \* \* \*

22. Section 870.802(b) and (g)(1) are revised to read as follows:

##### **§ 870.802 Designation of beneficiary.**

\* \* \* \* \*

(b) A designation of beneficiary must be in writing, signed by the insured individual, and witnessed and signed by 2 people. The completed designation of beneficiary form may be submitted to the appropriate office via appropriate methods approved by the employing office. The appropriate office must receive the designation before the death of the insured.

(1) For an employee, the appropriate office is the employing office.

(2) For an annuitant or compensationner, the appropriate office is OPM.

\* \* \* \* \*

(g)(1) A designation of beneficiary is automatically cancelled 31 days after the individual stops being insured.

\* \* \* \* \*

#### **Subpart I—Assignments of Life Insurance**

23. Section 870.902 is revised to read as follows:

##### **§ 870.902 Making an assignment.**

(a) To assign insurance, an insured individual must complete an approved assignment form. Only the insured individual may make an assignment; no one may assign insurance on behalf of an insured individual.

(b) The assignment form must be in writing, signed by the insured individual, and witnessed and signed by 2 people. The completed assignment form, indicating the intent to irrevocably assign all ownership of the insurance, must be received by the appropriate office.

(1) For an employee, the appropriate office is the employing office.

(2) For an annuitant or compensationner, the appropriate office is OPM.

24. Section 870.907(c) is revised to read as follows:

##### **§ 870.907 Termination and conversion.**

\* \* \* \* \*

(c) An assignment terminates 31 days after the insurance terminates, unless the insured individual is reemployed in or returns to a position in which he or she is entitled to coverage under this part within 31 days after the insurance terminates. If the individual returns to Federal service, Basic insurance and any Option A and/or Option B insurance acquired through returning to service is subject to the existing assignment.

25. Section 870.910 is revised to read as follows:

**§ 870.910 Notification of current addresses.**

Each assignee must keep the office where the assignment is filed informed of his/her current address.

**Subpart K—Living Benefits**

26. Section 870.1103 is revised to read as follows:

**§ 870.1103 Election procedures.**

(a) The insured individual must request information on Living Benefits and an application form directly from OFEGLI.

(b)(1) The insured individual must complete the first part of the application and have his or her physician complete the second part. The completed application must be submitted directly to OFEGLI.

(2) Another person may apply for a Living Benefit on the insured individual's behalf if all of the following conditions are met:

(i) The insured's physician must certify that the insured individual is physically or mentally incapable of making an election;

(ii) The applicant must have power of attorney or a court order authorizing him or her to elect a Living Benefit on the insured individual's behalf;

(iii) The applicant must place his or her own signature on the application and attach it to a true and correct copy of the power of attorney or court order authorizing the applicant to make the election on the insured individual's behalf; and

(iv) The applicant must either be the insured individual's sole beneficiary or attach a true and correct copy of each beneficiary's written and signed consent.

(c)(1) OFEGLI reviews the application, obtains certification from the insured's employing office regarding the amount of insurance and the absence of an assignment, and determines whether the individual meets the requirements to elect a Living Benefit.

(2) If OFEGLI needs additional information, it will contact the insured or the insured's physician.

(3) Under certain circumstances, OFEGLI may require a medical examination before making a decision. In these cases, OFEGLI is financially responsible for the cost of the medical examination.

(d)(1) If the application is approved, OFEGLI sends the insured a check or makes an electronic funds transfer to the insured's account for the Living Benefit payment and an explanation of benefits.

(i) Until the check has been cashed or deposited, or before the electronic funds transfer has been received, the individual may change his or her mind about electing a Living Benefit; if this happens, the individual must mark the check "void" and return it to OFEGLI.

(ii) Once the insured individual has cashed or deposited the payment, the Living Benefit election becomes effective and cannot be revoked; OFEGLI then sends explanations of benefits to the insured's employing office, so it can make the necessary changes in withholdings and deductions.

(2) If the application is not approved, OFEGLI will notify the insured individual and the employing office. The decision is not subject to administrative review; however, the individual may submit additional medical information or reapply at a later date if future circumstances warrant.

**Subpart L—[Removed]**

27. Subpart L, consisting of §§ 870.1201 through 807.1208, is removed and reserved.

[FR Doc. E9-31023 Filed 12-30-09; 8:45 am]

**BILLING CODE 6325-39-P**

**FEDERAL RESERVE SYSTEM**

**12 CFR Part 204**

**[Regulation D; Docket No. R-1381]**

**Reserve Requirements of Depository Institutions Policy on Payment System Risk**

**AGENCY:** Board of Governors of the Federal Reserve System.

**ACTION:** Notice of proposed rulemaking; request for public comment.

**SUMMARY:** The Board is requesting public comment on proposed amendments to Regulation D, Reserve Requirements of Depository Institutions, to authorize the establishment of term deposits. Term deposits are intended to facilitate the conduct of monetary policy by providing a tool for managing the aggregate quantity of reserve balances. Institutions eligible to receive earnings

on their balances in accounts at Federal Reserve Banks ("eligible institutions") could hold term deposits and receive earnings at a rate that would not exceed the general level of short-term interest rates. Term deposits would be separate and distinct from those maintained in an institution's master account at a Reserve Bank ("master account") as well as from those maintained in an excess balance account. Term deposits would not satisfy required reserve balances or contractual clearing balances and would not be available to clear payments or to cover daylight or overnight overdrafts. The proposal also would make minor amendments to the posting rules for intraday debits and credits to master accounts as set forth in the Board's Policy on Payment System Risk to address transactions associated with term deposits.

**DATES:** Comments must be submitted by February 1, 2010.

**ADDRESSES:** You may submit comments, identified by Docket No. R-1381, by any of the following methods:

- **Agency Web Site:** <http://www.federalreserve.gov>. Follow the instructions for submitting comments at <http://www.federalreserve.gov/generalinfo/foia/ProposedRegs.cfm>.

- **Federal eRulemaking Portal:** <http://www.regulations.gov>. Follow the instructions for submitting comments.

- **E-mail:** [regs.comments@federalreserve.gov](mailto:regs.comments@federalreserve.gov). Include the docket number in the subject line of the message.
- **Fax:** (202) 452-3819 or (202) 452-3102.

- **Mail:** Jennifer J. Johnson, Secretary, Board of Governors of the Federal Reserve System, 20th Street and Constitution Avenue, NW., Washington, DC 20551.

All public comments are available from the Board's Web site at <http://www.federalreserve.gov/generalinfo/foia/ProposedRegs.cfm> as submitted, unless modified for technical reasons. Accordingly, your comments will not be edited to remove any identifying or contact information.

Public comments may also be viewed electronically or in paper in Room MP-500 of the Board's Martin Building (20th and C Streets, NW.) between 9 a.m. and 5 p.m. on weekdays.

**FOR FURTHER INFORMATION CONTACT:** Sophia H. Allison, Senior Counsel (202/452-3565), or Dena L. Milligan, Staff Attorney (202/452-3900), Legal Division, or Seth Carpenter, Associate Director (202/452-2385), or Margaret Gillis DeBoer, Section Chief (202/452-3139), Division of Monetary Affairs; for users of Telecommunications Device for