

OFFICE OF GOVERNMENT ETHICS

AGENCY: Office of Government Ethics (OGE)

5 CFR Part 2634

**Executive Branch Financial Disclosure, Qualified
Trusts, and Certificates of Divestiture**

RIN 3209-AAOO

58 FR 46096

Wednesday, September 1, 1993

ACTION: Proposed rule.

SUMMARY: The Office of Government Ethics proposes to amend subpart I of 5 CFR part 2634, an interim rule on executive branch financial disclosure which was published on April 7, 1992. The proposed amendment exempts certain assets and income from disclosure on confidential financial disclosure reports. Specifically, it would eliminate the interim rule's requirement that confidential filers disclose the existence of and income from cash accounts in depository institutions, money market mutual funds and accounts, and U.S. Government obligations and securities.

DATES: Public comments on this proposed rule are welcome and must be received on or before October 1, 1993.

ADDRESSES: Comments on this proposed rule should be sent to the Office of Government Ethics, suite 500, 1201 New York Avenue, NW., Washington, DC 20005-3917, Attention: G. Sid Smith. Any comments on the reporting requirements in this proposed rule should

also be filed with the Office of Management and Budget (OMB) as indicated in the preamble below in the ``Paperwork Reduction Act" discussion.

FOR FURTHER INFORMATION CONTACT: G. Sid Smith, Office of Government Ethics, telephone (202) 523-5757, FAX (202) 523-6325.

SUPPLEMENTARY INFORMATION: This proposed rule amends an interim rule which revised both the public and confidential financial disclosure systems for executive branch employees, pursuant to title I of the Ethics in Government Act of 1978 (Pub. L. 95-521, as amended by the Ethics Reform Act of 1989, Pub. L. 101-194), and pursuant to Executive Order 12674 of April 12, 1989 (as modified). That interim rule was published on April 7, 1992 (57 FR 11800-11830) and corrected on May 22 and December 31, 1992 at 57 FR 21854-21855 and 57 FR 62605, respectively.

Executive branch employees who serve in positions which require them to file confidential financial disclosure reports under the interim rule must disclose the existence of and income from cash accounts (including both demand and time deposits) in depository institutions, such as banks, savings and loan associations, credit unions, and similar depository financial institutions; money market mutual funds and accounts; U.S. Government obligations, including Treasury bonds, bills, notes, and savings bonds; and Government securities issued by U.S. Government agencies. However, for most confidential filers, the disclosure of this information has not been considered by agencies to be critical in assessing the possibility of conflicts of interest. Furthermore, some concerns have been expressed about privacy, and disclosure of such information creates extra work for both filers and agency reviewing officials and could detract from the effectiveness and limited purpose of the confidential disclosure program. These concerns have been communicated to OGE by numerous confidential filers, as well as by several agency reviewing officials.

Accordingly, this proposed amendment to Sec. 2634.907 of subpart I of 5 CFR would exempt all confidential filers from the requirement to disclose these specific assets and the income therefrom. If an agency finds such disclosures to be necessary because of its mission or other special circumstances, it may seek approval from OGE, pursuant to Sec. 2634.901(b) of subpart I of 5 CFR, for a supplemental reporting requirement to include disclosure of any or all of these elements.

Executive Order 12291

As Director of the Office of Government Ethics, I have determined that this amendment does not constitute a major rule as defined under section 1(b) of Executive Order 12291.

Regulatory Flexibility Act

As Director of the Office of Government Ethics, I certify under the Regulatory Flexibility Act (5 U.S.C. chapter 6) that this amendment to the interim rule will not have a significant economic impact on a substantial number of small entities because it will affect only Federal executive branch agencies and employees.

Paperwork Reduction Act

The proposed amendment would affect (lessen) part of the information collection requirement as set forth in 5 CFR 2634.907 (a)(1) and (a)(2), concerning reporting of certain specified interests in property and income, as to filers of the Executive Branch Personnel Confidential Financial Disclosure Report (SF 450, OMB number 3209-0006). Thus, it is subject to the approval of the Office of Management and Budget under the Paperwork Reduction Act (5 U.S.C. chapter 35). Any comments on the reporting requirements should therefore be directed to the Office of Management and Budget, room 3002, New Executive Office Building, Washington, DC 20503, Attention: Mr. Lackey (with a copy to OGE, see the ADDRESSES block above).

List of Subjects in 5 CFR Part 2634

Administrative practice and procedure, Certificates of divestiture, Conflict of interests, Financial disclosure, Government employees, Penalties, Privacy, Reporting and recordkeeping requirements, Trusts and trustees.

Approved: June 8, 1993.

Stephen D. Potts,
Director, Office of Government Ethics.

Accordingly, for the reasons set forth in the preamble, the Office of Government Ethics proposes to amend part 2634 of subchapter B of chapter XVI of title 5 of the Code of Federal

Regulations as follows:

PART 2634--[AMENDED]

1. The authority citation for part 2634 continues to read as follows:

Authority: 5 U.S.C. App. (Ethics in Government Act of 1978); 26 U.S.C. 1043; E.O. 12674, 54 FR 15159, 3 CFR, 1989 Comp., p. 215, as modified by E.O. 12731, 55 FR 42547, 3 CFR, 1990 Comp., p. 306.

Subpart I--Confidential Financial Disclosure Reports

2. Section 2634.907 is amended by revising paragraphs (a)(1) and (a)(2) to read as follows:

Sec. 2634.907 Report contents.

(a) * * *

(1) Interests in property. All the interests in property specified by Sec. 2634.301, except:

(i) Accounts (including both demand and time deposits) in depository institutions, including banks, savings and loan associations, credit unions, and similar depository financial institutions;

(ii) Money market mutual funds and accounts;

(iii) U.S. Government obligations, including Treasury bonds, bills, notes, and savings bonds; and

(iv) Government securities issued by U.S. Government agencies;

(2) Income. All the income items specified by Sec. 2634.302, except from:

(i) Accounts in depository institutions, including banks, savings and loan associations, credit unions, and similar depository financial institutions;

(ii) Money market mutual funds and accounts;

(iii) U.S. Government obligations, including Treasury bonds, bills, notes, and savings bonds; and

(iv) Government securities issued by U.S. Government agencies;

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