

747-25-3274, Revision 4, dated February 23, 2006. Previously accomplishing the modification in accordance with Boeing Special Attention Service Bulletin 747-25-3274, Revision 1, dated January 9, 2003; Revision 2, dated August 26, 2004; or Revision 3, dated December 16, 2004; is acceptable for compliance with this paragraph, except as specified in paragraph 1.D, "Description", of Revision 4 of the service bulletin.

(2) For airplanes on which the modification of Door 3, as specified in Boeing Special Attention Service Bulletin 747-25-2666, Revision 2; and Goodrich Service Bulletin 25-238, Revision 1; has been accomplished: No further action is required for Door 3 only.

#### Concurrent Modification

(b) For Groups 2, 5, 6, 7, 8, 11, 12, 13, 14, and 15 airplanes: Prior to or concurrently with accomplishment of paragraph (a) of this AD, modify the outboard cover panel of the cable release sliders of the floor-mounted upper deck slide pack assembly, as specified in Figure 2 of Boeing Service Bulletin 747-25-3307, Revision 2, dated July 8, 2004.

#### Alternative Methods of Compliance

(c)(1) The Manager, Seattle Aircraft Certification Office (ACO), FAA, has the authority to approve AMOCs for this AD, if requested in accordance with the procedures found in 14 CFR 39.19.

(2) Before using any AMOC approved in accordance with 14 CFR 39.19 on any airplane to which the AMOC applies, notify the appropriate principal inspector in the FAA Flight Standards Certificate Holding District Office.

#### Incorporation by Reference

(d) Unless otherwise specified in this AD, the actions must be done in accordance with Boeing Service Bulletin 747-25-3274, Revision 4, dated February 23, 2006; and Boeing Service Bulletin 747-25-3307, Revision 2, dated July 8, 2004; as applicable. This incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. To get copies of this service information, contact Boeing Commercial Airplanes, P.O. Box 3707, Seattle, Washington 98124-2207. To inspect copies of this service information, go to the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or to the National Archives and Records Administration (NARA). For information on the availability of this material at the NARA, call (202) 741-6030, or go to [http://www.archives.gov/federal\\_register/code\\_of\\_federal\\_regulations/ibr\\_locations.html](http://www.archives.gov/federal_register/code_of_federal_regulations/ibr_locations.html).

#### Effective Date

(e) This amendment becomes effective on April 10, 2006.

Issued in Renton, Washington, on February 24, 2006.

**Michael J. Kaszycki,**

*Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.*

[FR Doc. 06-1983 Filed 3-3-06; 8:45 am]

**BILLING CODE 4910-13-P**

## DEPARTMENT OF JUSTICE

### 28 CFR Part 50

[Docket No. CIV 105; AG Order No. 2807-2006]

RIN 1105-AA82

#### Minimum Qualifications for Annuity Brokers in Connection With Structured Settlements Entered Into by the United States

**AGENCY:** Department of Justice.

**ACTION:** Final rule.

**SUMMARY:** This final rule sets forth the minimum qualifications an individual annuity broker must meet in order to be included on the list of annuity brokers, established by the Attorney General, for the provision of annuity brokerage services in connection with structured settlements entered into by the United States. The final rule also sets forth the procedures that annuity brokers must follow in order to be included on the list.

**DATES:** This rule is effective on April 5, 2006.

#### FOR FURTHER INFORMATION CONTACT:

Roger D. Einerson, Assistant Director, Torts Branch, FTCA Staff, P.O. Box 888, Benjamin Franklin Station, Washington, DC 20044. 202-616-4250.

**SUPPLEMENTARY INFORMATION:** This rule implements section 11015(a) of Public Law 107-273, the 21st Century Department of Justice Appropriations Act, which provides: "Not later than 6 months after the date of enactment of this Act, the Attorney General shall establish a list of annuity brokers who meet minimum qualifications for providing annuity brokerage services in connection with structured settlements entered by the United States." The Attorney General published an interim rule implementing section 11015(a) on April 15, 2003, at 68 FR 18119. Public comments were due by no later than July 14, 2003. On May 1, 2003, the Department of Justice transmitted to all United States Attorneys the first list of annuity brokers who had submitted timely Declarations demonstrating that they met the minimum qualifications for providing annuity brokerage services in connection with structured settlements

entered into by the United States. The Department has transmitted new calendar-year lists since the original calendar-year list, as well as updates of each calendar-year list.

The Department of Justice received four written comments and a number of oral comments in response to the interim rule. The comments were received from annuity brokers, an association representing annuity brokers, a federal agency, and several United States Attorneys' offices. The written comments were, for the most part, unrelated to either the minimum qualifications established by the Attorney General pursuant to section 11015(a) of Public Law 107-273, or the mandatory procedures that annuity brokers must follow in order to be included on the list or any updated list. The oral comments related almost exclusively to the organization of the May 1, 2003 list that was transmitted to all United States Attorneys' offices, the effective date of that list, and the application of that list.

Rather than respond to each comment individually, the Department will respond to the subject matter of the concerns raised. The Department of Justice has considered the comments and responds as follows:

1. One commenter suggested that the minimum qualifications established by the Attorney General should be more stringent in order to better protect the interests of the United States. The commenter suggested that an annuity broker should be required to be licensed with more than one annuity company in order to meet minimum qualifications, so that the United States could take advantage of competitive annuity pricing from more than one annuity company. The commenter also suggested that the minimum qualifications should require an annuity broker to be licensed with companies that qualify under the Uniform Periodic Payment of Judgments Act. While these may be valid considerations in selecting an annuity broker for a particular case, the qualifications established by the Attorney General, pursuant to section 11015(a) of Public Law 107-273, were only minimum qualifications. The enhanced qualifications suggested by the commenter go beyond minimum qualifications. The United States Attorneys or their designees may consider additional criteria in selecting a broker, including those suggested by the commenter. However, these suggestions will not be incorporated into the final rule as mandatory minimum qualifications.

2. Some of the commenters noted that section 11015 and the interim rule did

not make clear which persons in the United States Attorneys' offices are authorized to select annuity brokers. Section 11015(b) provides: "In any structured settlement that is not negotiated exclusively through the Civil Division of the Department of Justice, the United States Attorney (or his designee) involved in any settlement negotiations shall have the exclusive authority to select an annuity broker from the list of such brokers established by the Attorney General, provided that all documents related to any settlement comply with Department of Justice requirements." Therefore, in any case that is being negotiated exclusively by the United States Attorney's office, the United States Attorney (or his or her designee) has exclusive authority to select a broker, provided that the broker appears on the list current at the time of the selection.

3. Several commenters asked whether a plaintiff is permitted to make the selection of an annuity broker on behalf of the United States, or whether a plaintiff may insist that the United States Attorney's office use an annuity broker already selected by the plaintiff as his or her annuity broker in the case. Section 11015(b) clearly confers authority to select the broker to the United States Attorney or his or her designee. Nothing in section 11015(b) or any other law entitles a plaintiff to select an annuity broker on behalf of the United States, or to require that the United States use an annuity broker already selected by the plaintiff. As is true with any party in litigation, the United States has the right to select its own experts and consultants, including annuity brokers, and to engage in frank and confidential discussions with its experts and consultants.

4. Several commenters questioned whether the United States Attorneys' offices may refuse to consider an annuity broker who appears on the list solely on the ground that the annuity broker has offered his or her services to plaintiffs in other cases in the past. Nothing in the rule either requires or prevents the selection of such an annuity broker by the United States Attorney or his or her designee.

5. Some commenters asked whether the United States Attorneys' offices may select annuity brokers who do not appear on the list that is current at the time of the selection. It is clear that Congress intended section 11015 to limit the selection of brokers to the "list of such brokers established by the Attorney General." Accordingly, as a matter of Department policy, the Attorney General expects United States Attorneys or their designees to select

only brokers who appear on the list that is current at the time of the selection.

The purpose of establishing a new list each calendar year, and updating the list during the calendar year, is to provide United States Attorneys with the names of annuity brokers who have demonstrated minimum qualifications by submitting a Declaration during the calendar year, and who have maintained those minimum qualifications during the year. With the transmittal of each new calendar year's list or of any update, all prior lists are superseded, and the most current list available is to be used when selecting a broker. The Civil Division's Web site will post the current list or current updated list. (The Civil Division's Web site is accessible by the public, including annuity brokers, at (<http://www.usdoj.gov/civil/home.html>).

Although United States Attorneys or their designees should select from only those brokers whose names appear on the current list at the time of selection, they need not necessarily cease using a broker whose name does not appear on a subsequent list. For example, if a broker appeared on the May 1, 2003 list and was selected to work on a case while the May 1, 2003 list was the current list, section 11015(b) would create no impediment to the broker's continuing to work on that case even if the broker does not appear on a subsequent list. Similarly, if a broker was selected to work on a case before the May 1, 2003 list was established, the broker may continue to work on that case even if the broker did not appear on the May 1, 2003 list or any subsequent list.

6. Several commenters inquired about the reason for organizing the May 1, 2003 list by state. The state-by-state format was employed because it was believed to be more useful to the United States Attorneys' offices than an alphabetical list of brokers. However, in practice, the organization by state appears to have caused considerable confusion. There was a concern that the state-by-state listing implied that United States Attorneys or their designees could select from only those annuity brokers who resided within their respective districts or states. Neither section 11015 nor the interim rule imposes such a limitation on the authority of United States Attorneys or their designees to select any broker who appears on a current list. In order to eliminate this concern and avoid any future confusion, annuity brokers will be listed in alphabetical order (*i.e.*, last name, first name, middle name or initial), followed by each broker's city

and state if that information is provided on the Declaration.

7. Another question was whether an annuity broker who appears on the list must be selected. The list consists of annuity brokers who currently meet the minimum qualifications. In each case, the United States Attorney or his or her designee may consider a variety of factors in attempting to select the broker whom he or she believes will best serve the interests of the United States. Nothing in section 11015 or any other law entitles an individual broker to be selected.

8. At least one commenter questioned whether the United States Attorney's office assigned to handle a case for trial purposes must select the annuity broker if the actual negotiations are to be handled by a Civil Division attorney. By its terms, section 11015(b) applies only to structured settlements that are not negotiated exclusively through the Civil Division of the Department of Justice. Therefore, in a case where the negotiations are being handled exclusively by the Civil Division, the Civil Division attorney may select the annuity broker.

9. At least one commenter suggested that the requirements of section 11015 be made to apply to other components of the Department of Justice, and not just to the United States Attorneys' offices. Section 11015 on its face does not require Department of Justice components other than the United States Attorneys' offices to select brokers from the list. Accordingly, like section 11015 itself, the interim rule designed to implement that provision applies only to the selection of brokers by the United States Attorneys' offices.

10. Some of the commenters questioned whether the Department's selection of annuity brokers violates federal procurement laws. The Department of Justice does not pay the annuity brokers it selects for the purpose of assisting in the settlement of a claim or suit against the United States. The annuity broker is paid a commission by the annuity company that issues an annuity contract in the event a settlement is reached that includes the purchase of an annuity. In addition, annuity brokers provide highly technical and professional services.

11. There were comments regarding the longstanding practice of the United States to insist, in appropriate cases, that the United States retain a reversionary interest in some part of a settlement. These comments do not relate to either the minimum qualifications or the procedures for

inclusion on the list, and thus are beyond the scope of the interim rule.

12. Some commenters questioned the Department's use of standardized settlement documents. These comments likewise do not relate to either the minimum qualifications or the procedures for inclusion on the list, and thus are beyond the scope of the interim rule. Indeed, these comments appear to contradict section 11015(b), which affords United States Attorneys the exclusive authority to select a broker from the list, "provided that all documents related to any settlement comply with Department of Justice requirements."

13. Finally, some commenters raised questions about the Department's valuation of settlements. These comments likewise do not relate to either the minimum qualifications or the procedures for inclusion on the list, and thus are beyond the scope of the interim rule.

In summary, the only comment that addressed the minimum qualifications established by the interim rule suggested that the qualifications should be more stringent. Because section 11015(a) requires only that the Attorney General establish a list of annuity brokers who meet minimum qualifications, the Attorney General is adopting the interim rule as a final rule without amendment. The other comments concerned the operation or effect of the interim rule and, for the most part, are addressed by the language of section 11015. The format of the annuity broker list has been changed from an alphabetical listing by state to an alphabetical listing by the last name of the broker.

#### **Executive Order 12866**

This rule has been drafted and reviewed in accordance with Executive Order 12866, *Regulatory Planning and Review*, section 1(b), "The Principles of Regulation." The Attorney General has determined that this rule is a significant regulatory action under section 3(f), "Definitions," and accordingly this rule has been reviewed by the Office of Management and Budget. The Attorney General also has assessed both the costs and benefits of this rule as required by section 1(b)(6), and has made a reasoned determination that the benefits of this regulation justify its costs. The costs considered in this connection included the costs attendant to the submission of declarations by annuity brokers who desire to make their services available to United States Attorneys in connection with structured settlements entered by the United States. Costs considered also included the establishing and

maintaining of a list of brokers and the transmitting of the lists, including updated lists, to United States Attorneys. The benefits of the rule clearly outweigh the costs because the costs are the lowest costs feasible to comply with the requirement that a list be established, as required under section 11015(a) of Public Law 107-273.

#### **Executive Order 13132**

This rule will not have substantial, direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 13132, it is determined that this rule does not have sufficient federalism implications to warrant the preparation of a federalism assessment.

#### **Civil Justice Reform**

##### **Executive Order 12988**

This rule meets the applicable standards set forth in sections 3(a) and 3(b)(2) of Executive Order 12988.

#### **Paperwork Reduction Act**

The information collection requirement contained in this final rule has been submitted to the Office of Management and Budget for review and approval under 5 CFR 1320.13.

#### **Regulatory Flexibility Act**

The Attorney General, in accordance with the Regulatory Flexibility Act (5 U.S.C. 605(b)), certifies that this rule will not have a significant economic impact on a substantial number of small entities. The cost of completing the declaration required by this rule will be minimal. Brokers are required to submit a new declaration each calendar year if they want to be included on the list. The declaration is a two-page document that requires the broker to (i) review the minimum qualification criteria in the rule; (ii) complete the declaration by providing his or her name and address, and by signing and dating the declaration; and (iii) mail the document to the Department of Justice. The economic impact is not expected to be significant for purposes of the Regulatory Flexibility Act (5 U.S.C. 605(b)).

#### **Unfunded Mandates Reform Act of 1995**

This rule will not result in the expenditure by State, local, and tribal governments, in the aggregate, or by the private sector, of \$100,000,000 or more in any one year, and it will not significantly or uniquely affect small

governments. Therefore, no actions were deemed necessary under the provisions of the Unfunded Mandates Reform Act of 1995.

#### **Small Business Regulatory Enforcement Fairness Act of 1996**

This rule is not a major rule as defined by section 251 of the Small Business Regulatory Enforcement Fairness Act of 1996, 5 U.S.C. 804. This rule will not result in an annual effect on the economy of \$100,000,000 or more; a major increase in costs or prices; or significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based companies to compete with foreign-based companies in domestic and export markets.

#### **List of Subjects in 28 CFR Part 50**

Administrative practice and procedure, Annuities, and Brokers.

#### **PART 50—[AMENDED]**

Accordingly, the interim rule amending 28 CFR part 50, which was published at 68 FR 18119 on April 15, 2003, is adopted as a final rule without change.

Dated: February 28, 2006.

**Alberto R. Gonzales,**  
*Attorney General.*

[FR Doc. 06-2079 Filed 3-3-06; 8:45 am]

BILLING CODE 4410-19-P

## **POSTAL SERVICE**

### **39 CFR Part 230**

#### **Office of Inspector General; Technical Amendments**

**AGENCY:** Postal Service.

**ACTION:** Final rule.

**SUMMARY:** This rule makes editorial corrections to the Office of Inspector General regulations pertaining to subpoenas served on employees of the Office of Inspector General.

**DATES:** *Effective Date:* March 6, 2006.

**FOR FURTHER INFORMATION CONTACT:** Gladis Griffith, Deputy General Counsel, Office of Inspector General, (703) 248-4683.

**SUPPLEMENTARY INFORMATION:** The Postal Service has previously published rules, at 68 FR 57372, that govern compliance with subpoenas, summonses, and court orders served on Office of Inspector General employees. This notice corrects a faulty cross-reference in the earlier published text.