MEMORANDUM

March 15, 2005

TO: NIH Staff

FROM: Deputy Director, NIH

SUBJECT: Conflict of Interest Regulations Update

On February 3, 2005, NIH announced new interim final ethics regulations, promulgated by the Department of Health and Human Services and the Office of Government Ethics, in consultation with NIH. The new interim final rules provide authority for the issuance of certain limited waivers and exceptions.

The goal is to apply the rules necessary to help prevent conflicts of interests and preserve the public's trust in NIH's programs and information, while avoiding unintended consequences or undue burden on employees.

As part of the process allowing for certain limited waivers and exceptions, a blanket extension to the filing deadline for the supplemental financial disclosure report has been granted. This decision was made to better allow the agency to prepare for the implementation of the prohibited holdings provision.

What does this mean? NIH employees now have an additional 90 days (until July 5, 2005) to file the supplemental financial disclosure report required by the new supplemental ethics regulation.

Consequently, employees also have another 90 days after that report is due in which to divest their prohibited holdings.

The divestiture period now runs from July 6, 2005, through October 3, 2005. We still strongly recommend that employees consult with their ethics officials in deciding whether it is necessary to divest their holdings in any particular case.

Also, all clinical and research fellows, except those who are designated to file an OGE 450 confidential financial disclosure report and those who stay beyond four years (these groups are currently co-extensive), have been granted an exception to the newly promulgated prohibited holdings rule. This exception was granted because of circumstances unique to fellows and not applicable to other employees. (IRTAs, CRTAs and Visiting Fellows are not employees for purposes of the rule and therefore are not subject to the rule.)

What does this mean? NIH fellows will not be required to divest all of their holdings in biotechnology, pharmaceutical, and medical device companies or the like, and will not be held to the $15,000 limit with respect to these investments. However, they will be required to report all stock holdings in these types of companies so that these financial interests can be evaluated for specific conflicts of interest with their assigned activities at the NIH.

Thus, on a case-by-case basis, a fellow may be required to divest particular assets that are determined to potentially conflict with their official duties.

The comment period on the interim final regulations is open until April 4, 2005. Comments may be submitted by e-mail to ethics@hhs.gov. The subject line of the e-mail should read: “Comments on Interim Final HHS Supplemental Ethics Rule.” You should know that these comments may be accessible to the public.

Questions about individual employees' circumstances should be directed to your Deputy Ethics Counselor (DEC) in your Institute or Center.

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