

Amendments to the Mandatory Retirement for Expiration of Time in Class

(Based on the Memorandum of Understanding between the U.S. and Foreign Commercial Service and the American Foreign Service Association; Effective April 14, 2016)

Section 1. Authority and Coverage.

Section 607 of the Foreign Service Act of 1980 requires the establishment of maximum time in class limitations for career members of the Senior Foreign Service and for Foreign Service Officers. This policy applies to all career Foreign Service Officers and career members of the Senior Foreign Service. It does not apply to members of the Service who are on limited appointments (either non-career or career candidate) nor to career members of the Service who are not officers (e.g. Foreign Service secretaries).

Section 2. Purpose.

The purpose of this policy is to ensure a steady flow of highly skilled employees who display maximum effectiveness in furthering the organization's mission. The intent of the Department of Commerce is to maintain a career Foreign Service system that allows for the progressive advancement of talent through the ranks balanced by the need to retain the expertise and experience of its most capable officers. This purpose is achieved by: a) affording a suitable career to employees who perform satisfactorily; and b) retiring those who do not progress in their careers.

Section 3. Effect on Previous Time in Class (TIC) Limitations.

This policy supersedes FCS Operational bulletin 83-3, dated December 30, 1983. In cases where TIC limits have been changed, employees who are covered on the effective date of this policy shall receive the benefit of the longer TIC limit.

Section 4. Time in Class Limits.

<u>Class</u>	<u>TIC Limit</u>
Career Minister	5 years
Minister Counselor and Counselor (Combined)	13 years, with no more than 8 years in Counselor Class
FS-04 through FS-01 (combined)	20 years, with no more than 15 years in classes 3, 2 or 1, and no more than 12 years in class 4
FS-05	4 years

Section 5. Time in Class Limits for Mid-level Entrants.

For officers who achieve career tenure above the class FS-04 level, the following TIC limits apply:

<u>Class at Tenure</u>	<u>Time in Class Limit</u>
FS-01	15 years
FS-02	17 years

Section 6. Computation of TIC.

Time in class begins on the effective date of commissioning, and subsequently on the effective date of promotion.

Section 7. Exceptions for Certain FS-01 Officers.

Officers in class FS-01 who request in writing consideration for promotion into the Senior Foreign Service will have a TIC¹ limit that is the shorter of:

- a) The Officer's current Time in Service (TIS) date;
- b) The Officer's current single class Time in Class (TIC) date; or
- c) Ten (10) Selection Board reviews.

When TIS or TIC is extended under Section 8 a-k, below, the 10-Selection Board reviews TIC limit referred to in Section 7c also will be extended by the same amount of time.

Section 8. Covered Service.

The calculation of an employee's TIC shall include all periods of service in class except:

- a) Periods of separation from the Service.
- b) Periods of leave without pay in excess of three months.
- c) Periods during which a member has been assigned to an international agency with reemployment rights.
- d) Periods of sabbatical leave.
- e) Periods for which a Selection Board has non-rated a member on grounds of insufficient performance data.
- f) Periods of long-term training. For TIC/TIS purposes, long-term training means training that was approved in advance for a period of more than 6 months.
- g) Periods in which the Director, Office of Foreign Service Human Capital determines should not be counted for TIC/TIS to correct denial of opportunity for promotion consideration resulting from inadequate or incorrect performance data or administrative error.
- h) Periods of service on a limited appointment (either career candidate or non career).
- i) Periods which are non-rated by the direction of the Foreign Service Grievance Board, the Merit Systems Protection Board, or any other authorized board or commission, or a court.
- j) Periods when an officer is called to active military service (does not apply to training duty for active reservists).

¹ For all references to Time in Class it shall be presumed that this applies also to Time in Service (TIS).

- k) Periods for which the Vice President or Representative of the American Foreign Service Association receives a TIC/TIS extension under the AFSA/FCS Collective Bargaining Agreement (Article VII, Section 3).
- l) Periods in which the Secretary of State has recommended a member to the President for a Presidential appointment, or while the member is awaiting White House nomination or Congressional and/or White House confirmation/attestation of this appointment, unless the Director General determines that such action is no longer in the interest of the Service. This exception applies only to those employees who have reached their maximum time-in-class.

Section 9. Limited Career Extensions.

.01 A Limited Career Extension (LCE) is an extension of service beyond the maximum TIC date, and may be granted to covered employees in the Senior Foreign Service who are in their last year of TIC. LCEs are granted by the Director General, US&FCS (or equivalent in another operating unit) based upon the recommendations of the Senior Selection Board.

.02. The number of LCE opportunities is determined each year in conjunction with promotion opportunities. The final number is determined by the Director General (or equivalent in another operating unit) based on a balance between the need for experience and expertise in the Senior Foreign Service and the need to provide for a regular and predictable flow of talent through the ranks and into the Senior Foreign Service. If LCE opportunities are available, the Precepts for the Senior Selection Board will indicate that fact, but not the number.

.03 An LCE may last up to 5 years, during which time the employee who is extended will maintain full career status, including consideration for promotion and performance pay, if otherwise eligible.

Section 10. Effective Date of Retirement for TIC.

.01 Covered employees whose TIC expires shall be retired six months after the expiration of the TIC limit, unless an earlier date is requested by the employee. The Office of Foreign Service Personnel will notify the employee in writing, in accordance with Section 11 of this Subchapter, after the Director General (or equivalent in another operating unit) accepts the recommendations of the last Selection Board that convenes before the employee's TIC date.

.02 If an employee's TIC date expires while serving in a position to which appointment was made by the President, the employee's retirement from the Foreign Service shall become effective upon completion of that service, but not less than 6 months from the expiration of TIC.

.03 The Director General (or equivalent in another operating unit) may postpone the retirement date, in compelling circumstances, for up to one additional year from the original retirement date.

.04 Once a retirement date has been established, the employee's performance records shall not be reviewed by any Selection Board which convenes during the intervening period, nor will the employee receive any within-class salary increase during the intervening period.

Section 11. Notification.

.01 The Director, Office of Foreign Service Human Capital, will provide employees who will be retired under this policy the following information:

- a) The statutory authority for the retirement action.
- b) The effective date of retirement.

- c) Notice of the right to file an appeal with the Foreign Service Grievance Board for the reasons stated in Section 12 below, and a warning that failure to appeal the decision within 15 working days will remove the employee's case from the jurisdiction of the Grievance Board.
- d) An explanation of the procedures for filing an appeal.
- e) Notice of the Director General's (or equivalent in another operating unit) authority to postpone the retirement date under section 10.03 above.
- f) Notice that if the employee exercises his/her right to file an appeal with the Foreign Service Grievance board, and if the Grievance Board so recommends, the effective date of retirement will be postponed pending a final decision from the Board.
- g) Notice of the provisions of this policy regarding selection boards and within-grade pay increases stated in section 10.04 of this policy.

Section 12. Grounds for Appeal.

A covered employee may appeal mandatory retirement for expiration of time in class to the Foreign Service Grievance Board only if the retirement is alleged to be contrary to laws or regulations, or predicated upon an inaccuracy, omission, error, or falsely prejudicial information in any part of the official personnel record of the officer.