

# 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.

## DEPARTMENT OF THE TREASURY

### Office of the Comptroller of the Currency

#### 12 CFR Part 10

[Docket No. 98-01]

RIN 1557-AB62

#### Municipal Securities Dealers

**AGENCY:** Office of the Comptroller of the Currency, Treasury.

**ACTION:** Notice of proposed rulemaking.

**SUMMARY:** The Office of the Comptroller of the Currency (OCC) proposes to revise its Municipal Securities Dealers regulation to remove unnecessary provisions. This change would not have any substantive effect on the operations of national banks, but would simplify the OCC's rule regarding bank municipal securities dealers (MSDs) by removing a redundant restatement of rules found elsewhere.

**DATES:** Comments must be received by March 17, 1998.

**ADDRESSES:** Comments should be directed to: Office of the Comptroller of the Currency, Communications Division, 250 E Street, SW, Washington, DC 20219, Attention: Docket No. 98-01. Comments will be available for public inspection and photocopying at the same location. In addition, comments may be sent by facsimile transmission to FAX number (202) 874-5274 or by electronic mail to [regs.comments@occ.treas.gov](mailto:regs.comments@occ.treas.gov).

**FOR FURTHER INFORMATION CONTACT:** Joe Malott, National Bank Examiner, Capital Markets (202) 874-5070; Donald Lamson, Assistant Director, Securities and Corporate Practices; or Ursula Pfeil, Attorney, Legislative and Regulatory Activities (202) 874-5090.

#### SUPPLEMENTARY INFORMATION:

#### Background and Discussion of Proposal

Section 15B(b) of the Securities Exchange Act of 1934 (Exchange Act) (15 U.S.C. 78o-4(b)) created the

Municipal Securities Rulemaking Board (MSRB) and mandated that the MSRB adopt rules that establish qualification criteria for municipal securities brokers or dealers and associated persons. To implement section 15B(b), the MSRB adopted Rule G-7 (Information Concerning Associated Persons) (Rule G-7).<sup>1</sup> Rule G-7 requires, among other things, that municipal securities principals and representatives associated with a bank MSD file with the bank either (a) Form MSD-4 (Uniform Application for Municipal Securities Principal or Municipal Securities Representative Associated with a Bank Municipal Securities Dealer) or (b) a similar form prescribed by the bank's primary regulator. A national bank MSD is in turn required by Rule G-7 to submit to the OCC the form that the bank's associated municipal securities principals and representatives file with it. Rule G-7 also requires bank MSDs to update information as necessary, to retain records for specified periods of time, and to file with the appropriate banking agency "such of the information prescribed by [Rule G-7] as such \* \* \* agency \* \* \* shall by rule or regulation require." Rule G-7(g).

Shortly after the MSRB adopted Rule G-7, the OCC adopted part 10 in order to prescribe the information and forms that national bank MSDs are to submit. (42 FR 16813 (March 30, 1977)). Part 10 currently sets out the scope of the rule (§ 10.1); definitions used therein (§ 10.2); information about where and how to file the appropriate forms (§ 10.3); and requirements governing the submission and retention of Form MSD-4 and Form MSD-5 (Uniform Termination Notice for Municipal Securities Principal or Municipal Securities Representative Associated with a Bank Municipal Securities Dealer) (§ 10.4).

As explained in the following section-by-section analysis, much of current part 10 either is substantively identical to the requirements contained in Rule G-7 or is otherwise unnecessary.

<sup>1</sup> The MSRB rules may be obtained by contacting the Municipal Securities Rulemaking Board by telephone at (202) 223-9347 or by mail at 1150 18th Street, N.W., Suite 400, Washington, DC 20036-3816.

#### Section-by-Section Analysis

##### Section 10.1 of Current and Proposed Rules

This section identifies the entities and individuals covered by part 10. Section 10.1 of the proposed rule clarifies that subsidiaries of national banks are not covered by the rule. This clarification is consistent with MSRB Rule G-7, which states that "bank dealers" are to comply with the rules and requirements adopted by the appropriate bank regulatory agency. The term "bank dealer" is defined in Rule D-8 of the MSRB's rules to include "a municipal securities dealer which is a bank or a separately identifiable department or division of a bank as defined in rule G-1 of the [Municipal Securities Rulemaking] Board." Subsidiaries of banks are not included in the definition of "bank dealer," and are, therefore, governed directly by the MSRB's filing requirements. The proposed change to § 10.1 reflects this fact. It does not, however, affect the content of what these subsidiaries are to file or who regulates their municipal securities activities.<sup>2</sup>

##### Section 10.2 of Current Rule

The terms defined in current § 10.2 are not used in part 10 as proposed. Accordingly, this section is removed.

##### Section 10.3 of Current Rule

Section 10.3 provides information about the mechanics of filing the MSD-4 and MSD-5 forms with the OCC. This information is unnecessary in light of the filing instructions that accompany these forms. Therefore, the proposed rule removes this section.

##### Section 10.4 of Current Rule/§ 10.2 of Proposed Rule

Section 10.4(a)(1) of the current rule states that Form MSD-4 is an appropriate means of carrying out the purposes of Rule G-7(b). Two provisions in Rule G-7 make it appropriate for the proposed rule to retain a provision identifying which form national bank MSDs are to use and what information is to be submitted in order to comply with Rule G-7. First,

<sup>2</sup> Subsidiaries of national banks that engage in municipal securities activities must register with the NASD and are regulated by NASD Regulation, Inc., the subsidiary of NASD charged with regulating the securities industry and the Nasdaq Stock Market.

paragraph (b) of Rule G-7 states that "in the case of a bank dealer a completed Form MSD-4 or similar form prescribed by the appropriate regulatory agency for such bank dealer, containing the foregoing information [i.e., the information listed in Rule G-7(b)(i)-(x)], shall satisfy the requirements of this paragraph [(b)]." Given that Rule G-7(b) provides bank regulators the option of using a form other than Form MSD-4, there remains a need for the OCC to clarify which form national banks should use. Second, as previously noted, paragraph (g) of Rule G-7 states that bank MSDs are to file with their appropriate regulatory agency "such of the information prescribed by this rule [i.e., Rule G-7] as such \* \* \* agency \* \* \* shall by rule or regulation require." Repealing all of part 10 arguably would create an unintended gap in the filing requirements for bank MSDs, because there would be no rule or regulation requiring national banks to file.

In light of paragraphs (b) and (g) of Rule G-7, the proposed rule retains a requirement, at § 10.2(a), stating that a national bank is to use Form MSD-4 to submit the information required by Rule G-7(b)(i)-(x) to be obtained from a person identified in § 10.1(b). Section 10.2(a) also states that a national bank receiving completed MSD-4 forms must submit these forms to the OCC before permitting any person to be associated with it as a municipal securities principal or a municipal securities representative. Should the MSRB amend Rule G-7 to remove the reference to rules or regulations issued by the banking agencies, the OCC will revisit the need for a continued reference to the MSRB rules in part 10.<sup>3</sup>

Section 10.4(a)(2) of the current rule repeats filing requirements found in Rule G-7 and, therefore, is removed.

Section 10.4(b) of the current rule instructs national bank MSDs regarding how they should proceed if a Form MSD-4 contains materially inaccurate

or incomplete information. This section is unnecessary, given that paragraph (c) of Rule G-7 requires that the information required to be submitted must remain accurate and complete. A national bank MSD receiving updated information from an associated municipal securities representative or municipal securities principal is obligated pursuant to Rule G-7 to submit the amended information to the OCC in order to ensure that the individuals are properly registered. Accordingly, the proposed rule removes current § 10.4(b).

Current § 10.4(c) requires national bank MSDs to file Form MSD-5 within 30 days of terminating a person's association with the bank as a municipal securities representative or principal. This requirement does not appear in Rule G-7. In order to facilitate the effective supervision of MSD activity by national banks, the proposal retains the requirement, at proposed § 10.2(b), that a termination notice be submitted.

Finally, current § 10.4(d)(1) restates record retention requirements found in Rule G-7(e) while § 10.4(d)(2) states that the MSD-4 and MSD-5 forms are covered by section 32(a) of the Exchange Act (15 U.S.C. 78ff). These provisions in current § 10.4 are unnecessary and are, therefore, removed.

#### Comments

The OCC invites general comments on all aspects of this proposal, including specific comments on the proposed changes.

#### Regulatory Flexibility Act

It is hereby certified that this proposal will not have a significant economic impact on a substantial number of small entities. Accordingly, a regulatory flexibility analysis is not required.

As noted earlier, the OCC has only eliminated unnecessary provisions that appear in the current rule. This proposal will, therefore, reduce the regulatory burden on national banks, regardless of size. No new burden is added by the proposed changes.

#### Executive Order 12866

The OCC has determined that this proposal is not a significant regulatory action under Executive Order 12866.

#### Unfunded Mandates Act of 1995

Section 202 of the Unfunded Mandates Act of 1995 (Unfunded Mandates Act) requires that an agency prepare a budgetary impact statement before promulgating a proposal likely to result in a rule that includes a Federal mandate that may result in the annual

expenditure of \$100 million or more in any one year by State, local, and tribal governments, in the aggregate, or by the private sector. If a budgetary impact statement is required, section 205 of the Unfunded Mandates Act requires an agency to identify and consider a reasonable number of alternatives before promulgating a proposal.

The OCC has determined that the proposal, if adopted, will not result in expenditures by State, local, and tribal governments, or by the private sector, of more than \$100 million in any one year. Accordingly, the OCC has not prepared a budgetary impact statement or specifically addressed the regulatory alternatives considered.

#### List of Subjects in 12 CFR Part 10

National banks, Reporting and recordkeeping requirements, Securities.

#### Authority and Issuance

For the reasons set out in the preamble, the OCC proposes to revise part 10 of chapter I of title 12 of the Code of Federal Regulations as set forth below:

#### PART 10—MUNICIPAL SECURITIES DEALERS

Sec.

10.1 Scope.

10.2 Filing requirements.

**Authority:** 5 U.S.C. 93a, 481, and 1818; 15 U.S.C. 78o-4(c)(5) and 78q-78w.

#### § 10.1 Scope.

This part applies to:

(a) Any national bank, District bank, and separately identifiable department or division of either (collectively, a national bank) that acts as a municipal securities dealer, as that term is defined in section 3(a)(30) of the Securities Exchange Act of 1934 (15 U.S.C. 78c(a)(30)); and

(b) Any person who is associated or to be associated with a national bank in the capacity of a municipal securities principal or a municipal securities representative, as those terms are defined in Rule G-3 of the Municipal Securities Rulemaking Board (MSRB).<sup>1</sup>

#### § 10.2 Filing requirements.

(a) A national bank shall use Form MSD-4 (Uniform Application for Municipal Securities Principal or Municipal Securities Representative Associated with a Bank Municipal Securities Dealer) for obtaining the information required by MSRB Rule G-7(b)(i)-(x) from a person identified in

<sup>1</sup> The MSRB rules may be obtained by contacting the Municipal Securities Rulemaking Board at 1150 18th Street, NW., Suite 400, Washington, DC 20036-3816.

<sup>3</sup> The Board of Governors of the Federal Reserve System (Board) and Federal Deposit Insurance Corporation (FDIC) recently published proposed amendments to each agency's MSD regulation. See 62 FR 15272 (March 31, 1997) (Board) and 62 FR 26994 (May 16, 1997) (FDIC). Both the Board and the FDIC propose to repeal their MSD rules altogether. However, both agencies intend for banks within their respective jurisdictions to continue filing the MSD-4 and MSD-5 forms with those agencies. Accordingly, the OCC, Board, and FDIC intend to impose substantively identical requirements on bank MSDs. The stylistic differences between the OCC's proposed rule and those of the Board and FDIC reflect the OCC's view that it is necessary and helpful to national bank MSDs for the OCC's rule to address those areas identified in Rule G-7 where bank dealers are to look to the rules of their primary regulator.

§ 10.1(b). A national bank receiving a completed MSD-4 form from a person identified in § 10.1(b) must submit this form to the OCC before permitting the person to be associated with it as a municipal securities principal or a municipal securities representative.

(b) A national bank must submit Form MSD-5 (Uniform Termination Notice for Municipal Securities Principal or Municipal Securities Representative Associated with a Bank Municipal Securities Dealer) to the OCC within 30 days of terminating a person's association with the bank as a municipal securities principal or municipal securities representative.

(c) Forms MSD-4 and MSD-5, with instructions, may be obtained by contacting the OCC at 250 E Street, SW., Washington, DC 20219, Attention: Bank Dealer Activities.

Dated: December 1, 1997.

**Eugene A. Ludwig,**

*Comptroller of the Currency.*

[FR Doc. 98-815 Filed 1-15-98; 8:45 am]

BILLING CODE 4810-33-P

## DEPARTMENT OF LABOR

### Mine Safety and Health Administration

#### 30 CFR Parts 56, 57, 62, 70, and 71

RIN-AA53

#### Health Standards for Occupational Noise Exposure

**AGENCY:** Mine Safety and Health Administration (MSHA), Labor.

**ACTION:** Proposed rule; Extension of comment period.

**SUMMARY:** On December 23, 1997, MSHA published a notice soliciting comments on a report from the National Institute for Occupational Safety and Health (NIOSH) entitled "Prevalence of Hearing Loss For Noise-Exposed Metal/Nonmetal Miners." This notice extends the original comment period on the report.

**DATES:** Submit written comments on the report on or before February 23, 1998.

**ADDRESSES:** Comments may be transmitted by electronic mail, fax, or mail. Comments by electronic mail must be clearly identified and sent to: comments@msha.gov. Faxed comments must be clearly identified and sent to: MSHA, Office of Standards, Regulations, and Variances, 703-235-5551. Send mail comments to: Mine Safety and Health Administration, Office of Standards, Regulations, and Variances, 4015 Wilson Boulevard, Room 631, Arlington, VA 22203-1984.

Commenters are encouraged to supplement written comments with computer files or disks.

**FOR FURTHER INFORMATION CONTACT:** Patricia W. Silvey, Director, MSHA, Office of Standards, Regulations, and Variances, 703-235-1910.

**SUPPLEMENTARY INFORMATION:** On December 17, 1996, MSHA published a proposed rule in the **Federal Register** (61 FR 66348) revising its health standards for occupational noise exposure in coal and metal and nonmetal mines.

On December 16, 1997, MSHA published a notice in the **Federal Register** (62 FR 65777) announcing the availability of a report from NIOSH entitled "Prevalence of Hearing Loss For Noise-Exposed Metal/Nonmetal Miners." The Agency further stated its intent to supplement the rulemaking record with this report and to make it available to interested parties upon request.

MSHA received several requests from the mining community that they be provided an opportunity to comment on the report. On December 23, 1997, MSHA published a notice in the **Federal Register** (62 FR 67013) allowing the public 30 days in which to review the report and submit comments.

In response to a request from the mining community, MSHA is extending this comment period an additional 30 days to February 23, 1998. Interested persons are encouraged to submit comments by this date.

Dated: January 12, 1998.

**J. Davitt McAteer,**

*Assistant Secretary for Mine Safety and Health.*

[FR Doc. 98-1139 Filed 1-15-98; 8:45 am]

BILLING CODE 4510-43-P

## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 55

[FRL-5950-9]

#### Outer Continental Shelf Air Regulations Consistency Update for California

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Proposed rule; consistency update.

**SUMMARY:** EPA is proposing to update a portion of the Outer Continental Shelf (OCS) Air Regulations. Requirements applying to OCS sources located within 25 miles of states' seaward boundaries must be updated periodically to remain

consistent with the requirements of the corresponding onshore area (COA), as mandated by section 328(a)(1) of the Clean Air Act, as amended in 1990 (the Act). The portion of the OCS air regulations that is being updated pertains to the requirements for OCS sources for which the Santa Barbara County Air Pollution Control District (Santa Barbara County APCD) and South Coast Air Quality Management District (South Coast AQMD) are the designated COAs. The intended effect of approving the OCS requirements for the above Districts, contained in the Technical Support Document, is to regulate emissions from OCS sources in accordance with the requirements onshore. The changes to the existing requirements discussed below are proposed to be incorporated by reference into the Code of Federal Regulations and are listed in the appendix to the OCS air regulations.

**DATES:** Comments on the proposed update must be received on or before February 17, 1998.

**ADDRESSES:** Comments must be mailed (in duplicate if possible) to: EPA Air Docket (Air-4), Attn: Docket No. A-93-16 Section XVI, Environmental Protection Agency, Air Division, Region 9, 75 Hawthorne St., San Francisco, CA 94105.

*Docket:* Supporting information used in developing the rule and copies of the documents EPA is proposing to incorporate by reference are contained in Docket No. A-93-16 Section XVI. This docket is available for public inspection and copying Monday-Friday during regular business hours at the following locations:

EPA Air Docket (Air-4), Attn: Docket No. A-93-16 Section XVI, Environmental Protection Agency, Air Division, Region 9, 75 Hawthorne St., San Francisco, CA 94105.

EPA Air Docket (LE-131), Attn: Air Docket No. A-93-16 Section XVI, Environmental Protection Agency, 401 M Street SW, Room M-1500, Washington, DC 20460.

A reasonable fee may be charged for copying.

**FOR FURTHER INFORMATION CONTACT:** Christine Vineyard, Air Division (Air-4), U.S. EPA Region 9, 75 Hawthorne Street, San Francisco, CA 94105, (415) 744-1197.

#### SUPPLEMENTARY INFORMATION:

##### I. Background

On September 4, 1992, EPA promulgated 40 CFR part 55<sup>1</sup>, which

<sup>1</sup> The reader may refer to the Notice of Proposed Rulemaking, December 5, 1991 (56 FR 63774), and