

Dated: October 7, 1998.

Michael J. Armstrong,

Associate Director for Mitigation.

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DEPARTMENT OF TRANSPORTATION

Maritime Administration

46 CFR Part 351

[Docket No. (MARAD-98-4433)]

RIN 2133-AB35

Use of Brokerage Firms as Depositories Under the Capital Construction Fund Program

AGENCY: Maritime Administration, Department of Transportation.

ACTION: Final rule.

SUMMARY: The Maritime Administration (MARAD) is amending its existing regulations to approve brokerage firms, under certain conditions, as acceptable depositories under the Capital Construction Fund (CCF) program. Since CCF fund holders may invest CCF funds in securities, brokerage firms should also be considered as acceptable depositories, under certain conditions.

EFFECTIVE DATE: October 16, 1998.

FOR FURTHER INFORMATION CONTACT: Philip Budwick, Division of Maritime Assistance Programs, Office of Chief Counsel, Maritime Administration, Room 7228, 400 7th Street, SW, Washington, DC 20590 (Telephone 202-366-5167; Fax 202-366-7485).

SUPPLEMENTARY INFORMATION:

Background

The CCF program assists owners and operators of U.S.-flag vessels in accumulating capital for the construction, reconstruction, or acquisition of vessels through the deferment of Federal income taxes on certain deposits of money or other property placed into a CCF fund. Money placed into a CCF fund may be held in interest earning accounts or invested in securities, such as stocks and bonds, and such funds, as well as accumulated interest and earnings, may be used to construct, reconstruct, or acquire qualified vessels. CCF funds are held in depositories approved under the relevant regulations or as individually approved by the Maritime Administration

The regulations at 46 CFR part 351 provide that any depository which is a member of the Federal Deposit

Insurance Corporation (FDIC) will be approved as a depository for any authorized maritime program, including the CCF program. Part 351 applies a general approach for approval of depositories under several maritime programs and is a general, but not exclusive, qualification for CCF depositories. It does not take into account the unique aspects of the CCF program, i.e., the statutory provisions regarding investment of CCF funds in securities. Since CCF fund holders may invest CCF funds in securities, brokerage firms should also be considered as acceptable depositories, under certain conditions. MARAD is hereby amending its regulations to allow CCF fund holders to select brokerage firms as acceptable depositories.

Rulemaking Analysis and Notices

Executive Order 12866 (Regulatory Planning and Review), Department of Transportation Regulatory Policies and Procedures, and Pub. L. 104-121

This rulemaking is not considered to be an economically significant regulatory action under section 3(f) of Executive Order 12866, and is also not considered a major rule for purposes of Congressional review under Pub. L. 104-121, 5 U.S.C. 804. It is not considered to be a significant rule under the Department's Regulatory Policies and Procedures (44 FR 11034; February 26, 1979). Accordingly, it has not been reviewed by the Office of Management and Budget.

MARAD has determined that this rulemaking presents no substantive issue which it could reasonably expect to produce meaningful public comment since it is merely conforming its regulations to the statutory provisions of the CCF program found at 46 App. U.S.C. 1177(c). Accordingly, MARAD has determined that the notice and public comment procedure otherwise required by the Administrative Procedure Act, 5 U.S.C. 553(c), is unnecessary and good cause exists, pursuant to 5 U.S.C. 553(d)(3), to make the changes effective 2 days after publication.

Federalism

MARAD has analyzed this rulemaking in accordance with principles and criteria contained in Executive Order 12612 and has determined that these regulations do not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

Regulatory Flexibility

The Maritime Administrator certifies that this rulemaking will not have a significant economic impact on a substantial number of small entities.

Environmental Assessment

MARAD has concluded that this rulemaking would have no environmental impact and that an environmental impact statement is not required under the National Environmental Policy Act of 1969.

Paperwork Reduction Act

This rulemaking contains no reporting requirement that is subject to OMB approval under 5 CFR part 320, pursuant to the Paperwork Reduction Act of 1980 (44 U.S.C. 3501. *et seq.*).

List of Subjects in 46 CFR Part 351

Depositories, Maritime carriers.

Accordingly, Part 351 of 46 CFR Chapter II, Subchapter J is amended as follows:

PART 351—DEPOSITORIES

1. The authority citations following §§ 351.1 and 351.2 are removed, and an authority citation is added to part 351 to read as follows:

Authority: Sec. 204, 49 Stat. 1987, as amended; 46 U.S.C. 1114.

2. Section 351.2, Qualification of depository, is amended by revising paragraph (a) to read as follows:

§ 351.2 Qualification of depository.

(a) General qualification. Any depository which is a member of the Federal Deposit Insurance Corporation will be approved for deposit of funds under the maritime programs authorized by the Act. With respect to the Capital Construction Fund program, any depository which is a member of the Securities Investor Protection Corporation, and is organized as a corporation under the laws of the United States, any State, territory, or possession thereof or the District of Columbia, will also be approved for the deposit of funds.

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Dated: October 6, 1998.

By Order of the Maritime Administrator.

Joel C. Richard,

Secretary.

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