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EXPORT-IMPORT BANK OF THE UNITED STATES

5 CFR Part 6201

12 CFR Part 400

[Public Notice 2010-31]

Supplemental Standards of Ethical Conduct for Employees of the Export-Import Bank of the United States

AGENCY: Export-Import Bank of the United States (Ex-Im Bank).

ACTION: Final rule.

SUMMARY: The Ex-Im Bank, with the concurrence of the Office of Government Ethics (OGE), is issuing a final rule that supplements the Standards of Ethical Conduct for Employees of the Executive Branch (Standards). This final rule adopts prior interim regulations as final, with a revision deleting a section related to prohibited financial interests. This rule also adopts as final, without change, the Ex-Im Bank's residual cross-reference provision.

DATES: Effective Date: September 15, 2010.

ADDRESSES: Office of the General Counsel, Export-Import Bank of the United States, 811 Vermont Ave., NW., Washington, DC 20571.

FOR FURTHER INFORMATION CONTACT: Faisal B. Siddiqui, Assistant General Counsel for Administration, Export-Import Bank of the United States, Phone: (202) 565-3435/Fax: (202) 565-3563.

SUPPLEMENTARY INFORMATION:

I. Background

On April 7, 1995, Ex-Im Bank, with the concurrence of OGE, published an interim rule setting forth the Supplemental Standards of Ethical Conduct for Employees of the Export-Import Bank of the United States—5

CFR part 6201. See 60 FR 17625–17628. It is noted that no comments were received in response to the request for comments published in the **Federal Register** as part of the interim rule. In that rulemaking, Ex-Im Bank also issued a residual cross-reference provision in place of its older standards of conduct at 12 CFR part 400. The Ex-Im Bank, with OGE concurrence, now publishes as final, with the changes to the interim rule noted below, the Supplemental Standards of Ethical Conduct for Employees of the Export-Import Bank of the United States. Ex-Im Bank is also publishing as final, without change, its residual cross-reference provision.

II. Analysis of Revisions

The final rule amends the interim rule Ex-Im Bank Supplemental Standards by removing the section related to prohibited financial interests at 5 CFR 6201.102, and by re-designating § 6201.103—Prior Approval for Outside Employment as § 6201.102.

In light of over a decade of experience, Ex-Im Bank has determined that the provisions of § 6201.102 of the interim rule that prohibit Ex-Im Bank employees who are required to file public or confidential financial disclosure forms (SF278s or OGE Form 450s), as well their spouses and dependent children, from owning specified securities in “designated entities” with which Ex-Im Bank conducts business are unnecessary given the Bank's practice of screening employees for potential financial conflicts.

Ex-Im Bank has determined that its implementation of the government-wide statutory and regulatory scheme is sufficient to ensure that Ex-Im Bank employees do not take official agency action with regard to prohibited financial interests. Ex-Im Bank employees will continue to be bound by 5 CFR 2635.401–2635.403 (Standards of Ethical Conduct for the Employees of the Executive Branch, Subpart D: Conflicting Financial Interests) and related statutes and regulations, including 18 U.S.C. 208 and 5 CFR part 2640, with regard to their financial interests.

The revision will not impact Ex-Im Bank's ability to ensure that its employees do not engage in conduct that violates applicable conflict of interest statutes and regulations. Ex-Im Bank will continue to utilize its

participant database—which lists the lenders, exporters, suppliers, borrowers and buyers that utilize Ex-Im Bank programs—to carefully screen all financial disclosure reports (both the public and confidential reports) and maintain regular contact with filers regarding the matters in which they are working to ensure that no conflicts arise.

Upon determining that an employee owns a security or has a financial interest that poses a potential conflict of interest, Ex-Im Bank's Designated Agency Ethics Official (DAEO) or his designated alternate, writes a memorandum to the employee advising him or her of the potential conflict and the applicable law and regulation regarding conflicts. If recusal or waiver is not appropriate, the employee is directed to divest the interest.

Ex-Im Bank is confident that the policy and practices noted above, carried out in accordance with the government-wide laws and regulations governing financial conflicts of interest, are a sufficient means of screening for and handling conflicts of interest with regard to securities ownership and ensure that a reasonable person would not question the impartiality and objectivity with which Ex-Im Bank administers its programs.

III. Matters of Regulatory Procedure

Administrative Procedure Act

Pursuant to 5 U.S.C. 553(b)(3)(A) and (B), (d)(1) and (d)(3), good cause exists for the waiver of a general notice of proposed rulemaking, the opportunity for public comment, and the 30-day delay in effectiveness of this final rule, which adopts as final a prior interim rule, with revisions. This determination is based on the fact that this rulemaking applies solely to agency practices and procedures, and relieves a restriction on certain financial interests of employees who file public or confidential financial disclosure reports, and their spouses and minor children, that Ex-Im Bank has determined is no longer needed. It is important and in the public interest that the revisions take effect as promptly as possible.

Small Business Regulatory Enforcement Fairness Act of 1996

This rule is not a “major rule,” as defined by the Small Business Regulatory Enforcement Fairness Act of

1996. 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. 5 U.S.C. 804.

Unfunded Mandates Reform Act

For the purposes of the Unfunded Mandates Reform Act of 1995 (2 U.S.C. chapter 25), this rule will not significantly or uniquely affect small governments and will not result in increased expenditures by State, local, and tribal governments, or by the private sector, of \$100 million or more (as adjusted for inflation).

List of Subjects in 5 CFR Part 6201 and 12 CFR Part 400

Conflict of interests, Government employees.

Dated: August 25, 2010.

Jonathan J. Cordone,
General Counsel, Export-Import Bank of the United States.

Approved: August 30, 2010.

Robert I. Cusick,
Director, Office of Government Ethics.

■ Accordingly, for the reasons set forth in the preamble, the Export-Import Bank of the United States, with the concurrence of the Office of Government Ethics, is adopting the interim rule, adding 5 CFR part 6201 and revising 12 CFR part 400, which was published at 60 FR 17625–17628, April 7, 1995, as a final rule with the following changes:

TITLE 5—ADMINISTRATIVE PERSONNEL

PART 6201—SUPPLEMENTAL STANDARDS OF ETHICAL CONDUCT FOR EMPLOYEES OF THE EXPORT-IMPORT BANK OF THE UNITED STATES

■ 1. The authority citation for part 6201 is revised to read as follows:

Authority: 5 U.S.C. 7301; 5 U.S.C. App. (Ethics in Government Act of 1978); E.O. 12674, 54 FR 15159, 3 CFR, 1989 Comp., p. 215, as modified by E.O. 12731, 55 FR 42547, 3 CFR, 1990 Comp., p. 306; 5 CFR 2635.105, 2635.803.

§ 6201.102 [Removed]

■ 2. Section 6201.102 is removed.

§ 6201.103 [Redesignated as § 6201.102]

■ 3. Section 6201.103 is redesignated as § 6201.102.

[FR Doc. 2010-22410 Filed 9-14-10; 8:45 am]

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DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 915

[Doc. No. AMS-FV-10-0067; FV10-915-1 IR]

Avocados Grown in South Florida; Increased Assessment Rate

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Interim rule with request for comments.

SUMMARY: This rule increases the assessment rate established for the Avocado Administrative Committee (Committee) for the 2010–11 and subsequent fiscal periods from \$0.27 to \$0.37 per 55-pound bushel container of Florida avocados handled. The Committee locally administers the marketing order which regulates the handling of avocados grown in South Florida. Assessments upon Florida avocado handlers are used by the Committee to fund reasonable and necessary expenses of the program. The fiscal period begins April 1 and ends March 31. The assessment rate will remain in effect indefinitely unless modified, suspended, or terminated.

DATES: Effective September 16, 2010. Comments received by November 15, 2010, will be considered prior to issuance of a final rule.

ADDRESSES: Interested persons are invited to submit written comments concerning this rule. Comments must be sent to the Docket Clerk, Marketing Order Administration Branch, Fruit and Vegetable Programs, AMS, USDA, 1400 Independence Avenue, SW., STOP 0237, Washington, DC 20250–0237; **Fax:** (202) 720–8938; or **Internet:** <http://www.regulations.gov>. Comments should reference the document number and the date and page number of this issue of the **Federal Register** and will be available for public inspection in the Office of the Docket Clerk during regular business hours, or can be viewed at: <http://www.regulations.gov>. All comments submitted in response to this rule will be included in the record and will be made available to the public. Please be advised that the identity of the individuals or entities submitting the

comments will be made public on the Internet at the address provided above.

FOR FURTHER INFORMATION CONTACT:

Doris Jamieson, Marketing Specialist or Christian D. Nissen, Regional Manager, Southeast Marketing Field Office, Marketing Order Administration Branch, Fruit and Vegetable Programs, AMS, USDA; **Telephone:** (863) 324–3375, **Fax:** (863) 325–8793, or **E-mail:** Doris.Jamieson@ams.usda.gov or Christian.Nissen@ams.usda.gov.

Small businesses may request information on complying with this regulation by contacting Antoinette Carter, Marketing Order Administration Branch, Fruit and Vegetable Programs, AMS, USDA, 1400 Independence Avenue, SW., STOP 0237, Washington, DC 20250–0237; **Telephone:** (202) 720–2491, **Fax:** (202) 720–8938, or **E-mail:** Antoinette.Carter@ams.usda.gov.

SUPPLEMENTARY INFORMATION: This rule is issued under Marketing Order No. 915, as amended (7 CFR part 915), regulating the handling of avocados grown in South Florida, hereinafter referred to as the “order.” The order is effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674), hereinafter referred to as the “Act.”

The Department of Agriculture (USDA) is issuing this rule in conformance with Executive Order 12866.

This rule has been reviewed under Executive Order 12988, Civil Justice Reform. Under the marketing order now in effect, Florida avocado handlers are subject to assessments. Funds to administer the order are derived from such assessments. It is intended that the assessment rate as issued herein will be applicable to all assessable Florida avocados beginning April 1, 2010, and continue until amended, suspended, or terminated.

The Act provides that administrative proceedings must be exhausted before parties may file suit in court. Under section 608c(15)(A) of the Act, any handler subject to an order may file with USDA a petition stating that the order, any provision of the order, or any obligation imposed in connection with the order is not in accordance with law and request a modification of the order or to be exempted therefrom. Such handler is afforded the opportunity for a hearing on the petition. After the hearing, USDA would rule on the petition. The Act provides that the district court of the United States in any district in which the handler is an inhabitant, or has his or her principal place of business, has jurisdiction to review USDA’s ruling on the petition,