

PART 200—ORGANIZATION; CONDUCT AND ETHICS; AND INFORMATION AND REQUESTS

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(15 U.S.C. 78d); sec. 8G, Pub. L. 95–452, 92 Stat. 1101 (5 U.S.C. App.); sec. 913, Pub. L. 111–203, 124 Stat. 1376, 1827; sec. 3(a), Pub. L. 114–185, 130 Stat. 538; E.O. 11222, 30 FR 6469, 3 CFR, 1964–1965 Comp., p. 36; E.O. 12356, 47 FR 14874, 3 CFR, 1982 Comp., p. 166; E.O. 12600, 52 FR 23781, 3 CFR, 1987 Comp., p. 235; Information Security Oversight Office Directive No. 1, 47 FR 27836; and 5 CFR 735.104 and 5 CFR parts 2634 and 2635, unless otherwise noted.

SOURCE: 25 FR 6719, July 15, 1960, unless otherwise noted.

EDITORIAL NOTE: Nomenclature changes to part 200 appear at 76 FR 60371, Sept. 29, 2011.

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SOURCE: 27 FR 12712, Dec. 22, 1962, unless otherwise noted.

§ 200.1 General statement and statutory authority.

The Securities and Exchange Commission was created in 1934 under the Securities Exchange Act. That Act transferred to the Commission the administration of the Securities Act of 1933, formerly administered by the Federal Trade Commission. Subsequent laws assigned to the Securities and Exchange Commission for administration are: Trust Indenture Act of 1939, Investment Company Act of 1940, and Investment Advisers Act of 1940. In addition, under the Bankruptcy Code, the Commission is a statutory party in cases arising under chapters 9 and 11. Considered together, the laws administered by the Commission provided for the following.

(a) Public disclosure of pertinent facts concerning public offerings of securities and securities listed on national securities exchanges and certain securities traded in the over-the-counter markets.

(b) Enforcement of disclosure requirements in the soliciting of proxies for meetings of security holders by companies whose securities are registered pursuant to section 12 of the Securities Exchange Act of 1934, and their subsidiaries and investment companies.

(c) Regulation of the trading in securities on national securities exchanges and in the over-the-counter markets.

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(d) Investigation of securities frauds, manipulations, and other violations, and the imposition and enforcement of legal sanctions therefor.

(e) Registration, and the regulation of certain activities, of brokers, dealers and investment advisers.

(f) Supervision of the activities of mutual funds and other investment companies.

(g) Administration of statutory standards governing protective and other provisions of trust indentures under which debt securities are sold to the public.

(h) Protection of the interests of public investors involved in bankruptcy reorganization cases and in bankruptcy cases involving the adjustment of debts of a municipality.

(i) Administrative sanctions, injunctive remedies, civil money penalties and criminal prosecution. There are also private rights of action for investors injured by violations of the Acts.

[27 FR 12712, Dec. 22, 1962, as amended at 43 FR 13375, Mar. 30, 1978; 49 FR 12684, Mar. 30, 1984; 60 FR 14623, Mar. 20, 1995; 60 FR 32794, June 23, 1995; 76 FR 71874, Nov. 21, 2011]

§ 200.2 Statutory functions.

Following are brief descriptions of the Commission's functions under each of the statutes it administers:

(a) *Securities Act of 1933.* (1) Issuers of securities making public offerings for sale in interstate commerce or through the mails, directly or by others on their behalf, are required to file with the Commission registration statements containing financial and other pertinent data about the issuer and the offering. A similar requirement is provided with respect to such public offerings on behalf of a controlling person of the issuer. Unless a registration statement is in effect with respect to such securities, it is unlawful to sell the securities in interstate commerce or through the mails. (There are certain limited exemptions, such as government securities, non-public offerings, and intrastate offerings.) The effectiveness of a registration statement may be refused or suspended after a hearing if the statement contains material misstatements or omissions, thus barring sale of the securities until it is appropriately amended. Registra-

tion is not a finding by the Commission as to the accuracy of the facts disclosed; and it is unlawful so to represent. Moreover, registration of securities does not imply approval of the issue by the Commission or insure investors against loss in their purchase, but serves rather to provide information upon which investors may make an informed and realistic evaluation of the worth of the securities.

(2) Persons responsible for filing false information with the Commission subject themselves to the risk of fine or imprisonment or both; and the issuing company, its directors, officers, and the underwriters and dealers and others may be liable in damages to purchasers of registered securities if the disclosures in the registration statements and prospectus are materially defective. Also the statute contains antifraud provisions which apply generally to the sale of securities, whether or not registered.

(b) *Securities Exchange Act of 1934.* This Act requires the filing of registration applications and annual and other reports with national securities exchanges and the Commission, by companies whose securities are listed on the exchanges. Annual and other reports must be filed also by certain companies whose securities are traded on the over-the-counter markets. These must contain financial and other data prescribed by the Commission for the information of investors. Material misstatements or omissions are grounds for suspension or withdrawal of the security from exchange trading. This Act makes unlawful any solicitation of proxies, authorizations, or consents in contravention of Commission rules. These rules require disclosure of information about the subject of the solicitation to security holders. The Act requires disclosure of the holdings and the transactions by an officer, director, or beneficial owner of over 10 percent of any class of equity security of certain companies. It also requires disclosure of the beneficial owners of more than five percent of any class of equity securities of a registered company. It provides substantive and procedural protection to security holders in third-party and issuer tender offers.

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The Act also provides for the registration with, and regulation by, the Commission of national securities exchanges, brokers or dealers engaged in an over-the-counter securities business, and national associations of such brokers or dealers. It gives the Commission rulemaking power with respect to short sales, stabilizing, floor trading activities of specialists and odd-lot dealers, and such matters as excessive trading by exchange members. The Act authorizes the Board of Governors of the Federal Reserve System to prescribe minimum margin requirements for listed securities.

(c) *Trust Indenture Act of 1939.* This Act safeguards the interests of purchasers of publicly-offered debt securities issued under trust indentures by requiring the inclusion of certain protective provisions in, and the exclusion of certain types of exculpatory clauses from, trust indentures. The Act also requires that an independent indenture trustee represent the debtors by prescribing certain relationships that could conflict with proper exercise of duties.

(d) *Investment Company Act of 1940.* This Act establishes a comprehensive regulatory framework for investment companies and subjects their activities to regulation under standards prescribed for the protection of investors. Among other things, the Act provides for the registration of investment companies with the Commission; requires them to disclose their financial condition and investment policies to their shareholders; prohibits them from substantially changing investment policies without shareholder approval; bars persons guilty of securities fraud from serving as officers or directors; prevents underwriters, investment bankers, or brokers from constituting more than a minority of the directors of an investment company; requires that management contracts be submitted to shareholders for their approval; prohibits transactions between investment companies and their directors, officers, or affiliated companies or persons, except when approved by the Commission; and prohibits investment companies from issuing senior securities except under specified terms and conditions. The Act also regulates advisory

fees, sales and repurchases of securities, exchange offers, and other activities of investment companies. The Act authorizes the Commission to exempt any person or class of persons or securities from any provisions of, or rules under, the Act and to conduct any investigation it deems necessary to determine existing or potential violations of the Act. It also authorizes the Commission to prepare reports to security holders on the fairness of plans of reorganization, merger, or consolidation. The Commission may institute a court action to enjoin acts or practices of management involving, among other things, a breach of fiduciary duty and the consummation of plans of reorganization, merger, or consolidation that are grossly unfair to security holders.

(e) *Investment Advisers Act of 1940.* Persons who, for compensation, engage in the business of advising others with respect to their security transactions must register with the Commission. Their activities in the conduct of such business are subject to standards of the act which make unlawful those practices which constitute fraud or deceit and which require, among other things, disclosure of any interests they may have in transactions executed for clients. The Act grants to the Commission rule-making power with respect to fraudulent and other activities of investment advisers.

(f) *Chapter 11 of the Bankruptcy Code.* Chapter 11 of the Bankruptcy Code (11 U.S.C. 1101 *et seq.*) provides for Commission participation as a statutory party in reorganization cases. Under section 1109(a) of the Bankruptcy Code (11 U.S.C. 1109(a)), which also applies to Chapter 9 cases regarding municipalities, the Commission “may raise and may appear and be heard on any issue in the case.”

(11 U.S.C. 901, 1109(a))

[27 FR 12712, Dec. 22, 1962, as amended at 49 FR 12684, Mar. 30, 1984; 60 FR 14624, Mar. 20, 1995; 76 FR 71874, Nov. 21, 2011]

GENERAL ORGANIZATION

§ 200.10 The Commission.

The Commission is composed of five members, not more than three of whom may be members of the same political party. The members are appointed by

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the President, with the advice and consent of the Senate, for 5-year terms, one term ending each year. The Chairman is designated by the President pursuant to the provisions of section 3 of Reorganization Plan No. 10 of 1950 (3 CFR, 1949–1953 Comp., p. 1006). The terms Chair, Chairperson, Chairman, Chairwoman, and the like may be used interchangeably. The Commission is assisted by a staff, which includes lawyers, accountants, engineers, financial security analysts, investigators, and examiners, as well as administrative and clerical employees.

[86 FR 9441, Feb. 16, 2021]

§ 200.11 Headquarters Office—Regional Office relationships.

(a)(1) Division and Office Heads in the Headquarters Office (100 F Street, NE., Washington, DC 20549) have Commission-wide responsibility to the Commission for the overall development, policy and technical guidance, and policy direction of the operating programs under their jurisdiction.

(2) Each Regional Director is responsible for the direction and supervision of the Regional Director's work force and for the execution of all programs in the Regional Director's office's region as shown in paragraph (b) of this section, in accordance with established policy, and reports, on enforcement matters, to the Director or Deputy Director of the Division of Enforcement who is responsible for Regional Office enforcement matters and, on examination matters, to the Director of the Division of Examinations.

(b) Regional Directors of the Commission.

Atlanta Regional Office: Alabama, Georgia, North Carolina, South Carolina, and Tennessee—Regional Director, 950 East Paces Ferry Rd. NE, Suite 900, Atlanta, GA 30326-1382.

Boston Regional Office: Connecticut, Maine, Massachusetts, New Hampshire, Rhode Island, and Vermont—Regional Director, 33 Arch Street, 24th Floor, Boston, MA 02110-1424.

Chicago Regional Office: Kentucky, Illinois, Indiana, Iowa, Michigan, Minnesota, Missouri, Ohio, and Wisconsin—Regional Director, 175 West Jackson Boulevard, Suite 1450, Chicago, IL 60604-2511.

Denver Regional Office: Colorado, Kansas, Nebraska, New Mexico, North Dakota, South Dakota, Utah, and Wyoming—Regional Di-

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rector, 1961 Stout Street, Suite 1700, Denver, CO 80294-1961.

Fort Worth Regional Office: Arkansas, Kansas (for certain purposes), Oklahoma, and Texas—Regional Director, Burnett Plaza, Suite 1900, 801 Cherry Street, Unit #18, Fort Worth, TX 76102-6819.

Los Angeles Regional Office: Arizona, Southern California (zip codes 93599 and below, except 93200-93299), Guam, Hawaii, and Nevada—Regional Director, 444 South Flower Street, Suite 900, Los Angeles, CA 90071-2939.

Miami Regional Office: Florida, Louisiana, Mississippi, Puerto Rico, and the Virgin Islands—Regional Director, 801 Brickell Avenue, Suite 1950, Miami, FL 33131-4901.

New York Regional Office: New York and New Jersey—Regional Director, 100 Pearl Street, Suite 20-100, New York, NY 10004-2616.

Philadelphia Regional Office: Delaware, District of Columbia, Maryland, Pennsylvania, Virginia, and West Virginia—Regional Director, 1617 John F. Kennedy Boulevard, Suite 520, Philadelphia, PA 19103-1805.

San Francisco Regional Office: Alaska, Northern California (zip codes 93600 and up, plus 93200-93299), Idaho, Montana, Oregon, and Washington—Regional Director, 44 Montgomery Street, Suite 700, San Francisco, CA 94104-4619.

(c) The geographic allocation set forth in paragraph (b) of this section determines where registered brokers, dealers, transfer agents, clearing agents, registered securities associations, investment advisers, and others as designated in this chapter must file reports required to be filed in regional offices.

[73 FR 32223, June 5, 2008, as amended at 86 FR 9441, Feb. 16, 2021; 89 FR 101468, Dec. 16, 2024]

§ 200.12 Functional responsibilities.

This section sets forth the administrative and substantive responsibilities of the Division Directors, Office Heads, Regional Directors, and certain other Commission officers. All Commission officers and other staff members, except administrative law judges and the Inspector General, shall perform, in addition to the duties herein set forth, such additional duties as the chairman of the Commission may assign from time to time. These officers also serve as liaison with Government and other agencies concerning matters within

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their respective functional responsibilities.

[37 FR 23826, Nov. 9, 1972, as amended at 59 FR 5943, Feb. 9, 1994; 60 FR 14624, Mar. 20, 1995; 73 FR 32223, June 5, 2008]

§ 200.13 Chief Operating Officer.

(a) The Chief Operating Officer is responsible for developing and executing the overall management policies of the Commission for all its operating divisions and staff offices. The Chief Operating Officer also provides executive direction to, and exercises administrative control over, the Office of Human Resources, the Office of Acquisitions, the Office of Financial Management, the Office of Support Operations, the EDGAR Business Office, and the Office of Information Technology.

(b) The Chief Operating Officer appoints personnel, reviews and approves policies and procedures, and assures appropriate resources to implement the programs set forth in paragraph (a) of this section, and authorizes and transmits reports required by them.

(c) The Chief Operating Officer also designates certifying officers for agency payments.

(d) The Chief Operating Officer shall be responsible for:

(1) Implementing the goals of the Chairman and the mission of the Commission;

(2) Providing overall organizational management to improve agency performance;

(3) Assisting the Chairman in promoting ongoing quality improvement, developing strategic plans, and measuring results;

(4) Directing ongoing reengineering of the Commission's administrative processes;

(e) Overseeing Commission-specific application of performance measures, procurement reforms, personnel reductions, financial management improvements, telecommunications and information technology policies, and other Government-wide systems reforms; and

(f) Reforming the Commission's management practices.

[60 FR 14624, Mar. 20, 1995, as amended at 76 FR 60371, Sept. 29, 2011; 86 FR 9441, Feb. 16, 2021]

§ 200.13a The Secretary of the Commission.

(a) The Secretary of the Commission is responsible for the preparation of the daily and weekly agendas of Commission business; the orderly and expeditious flow of business at formal Commission meetings; the maintenance of the Official Minute record of all actions of the Commission; and the service of all instruments of formal Commission action. The Secretary is custodian of the official seal of the Commission, and also has the responsibility for authenticating documents.

(b) The Secretary has been delegated responsibilities relating to the Commission's rules of practice, administrative proceedings under the Commission's statutes, and other responsibilities.

(c) In addition, the Secretary administers the Commission's Library.

[50 FR 12239, Mar. 28, 1985, as amended at 86 FR 9441, Feb. 16, 2021]

§ 200.13b Director of the Office of Public Affairs.

The Director of the Office of Public Affairs is the chief public information officer for the Commission, and oversees activities that communicate the Commission's actions to those interested in or affected by them. The Director's responsibilities include serving as liaison with the news media, dissemination of information to the news media and to the general public, supervision of internal and some external publications and of audio-visual presentations. Responsibilities of the Director, and of the Director's staff, include special projects that may be deemed appropriate to communicate information on Commission actions.

[86 FR 9442, Feb. 16, 2021]

§ 200.14 Office of Administrative Law Judges.

(a) Under the Administrative Procedure Act (5 U.S.C. 551-559) and the federal securities laws, the Office of Administrative Law Judges conducts hearings in proceedings instituted by the Commission. The Administrative Law Judges are responsible for the fair and orderly conduct of the proceedings and have the authority to:

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- (1) Administer oaths and affirmations;
- (2) Issue subpoenas;
- (3) Rule on offers of proof;
- (4) Examine witnesses;
- (5) Regulate the course of a hearing;
- (6) Hold pre-hearing conferences;
- (7) Rule upon motions; and
- (8) Unless waived by the parties, prepare an initial decision containing the conclusions as to the factual and legal issues presented, and issue an appropriate order.

(b) The Chief Administrative Law Judge performs the duties of an Administrative Law Judge under the Administrative Procedure Act and the duties delegated to the Chief Administrative Law Judge by the Commission that are compatible with those duties. The Chief Administrative Law Judge is responsible for the orderly functioning of the Office of Administrative Law Judges apart from the conduct of administrative proceedings and acts as liaison between that Office and the Commission.

[60 FR 14625, Mar. 20, 1995, as amended at 86 FR 9442, Feb. 16, 2021]

§ 200.15 Office of International Affairs.

(a) The Office of International Affairs ("OIA") is responsible for the negotiation and implementation of the Commission's bilateral and multilateral agreements and understandings with foreign financial regulatory authorities. OIA coordinates and participates in activities relating to the Commission's international cooperation programs and develops initiatives to enhance the Commission's ability to enforce the federal securities laws in matters with international elements.

(b) OIA assists in and facilitates the efforts of the Commission's other divisions and offices in responding to international issues and in developing legislative, rulemaking and other initiatives relating to international securities markets. OIA facilitates the development of and, where appropriate, provides advice and presents Commission positions relating to international initiatives of other U.S. Government departments and agencies affecting regulation of securities markets. OIA plans, coordinates and participates in Com-

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mission meetings with foreign financial regulatory authorities.

[58 FR 52418, Oct. 8, 1993]

§ 200.16 [Reserved]

§ 200.16a Inspector General.

(a) Under the Inspector General Act of 1978, as amended, (5 U.S.C. app.) the Inspector General performs independent and objective investigations and audits relating to the Commission's programs and operations. An investigation seeks to detect and prevent waste, fraud, and abuse in the Commission's programs and operations, such as violations of federal statutes or regulations by contractors and Commission employees or the Standards Of Ethical Conduct For Employees of the Executive Branch. An audit seeks to determine whether:

(1) Program goals and results identified in enabling legislation are achieved.

(2) Resources are efficiently and economically used and managed.

(3) Financial operations are properly conducted.

(4) Financial reports are fairly presented.

(5) Applicable laws and regulations are complied with.

(b) In cooperation with Commission management, the Inspector General generally promotes economy, efficiency, and the effectiveness of waste or fraud detection and prevention in the Commission's programs and operations. The Inspector General also keeps the Congress and the Commission informed about problems and deficiencies in the Commission's programs and operations.

(c) The Inspector General reports to the Commission, but is independent of all other Commission management. In addition, the Inspector General independently prepares semi-annual reports to the Congress.

(d) With respect to misconduct of Commission employees and contractors, the Inspector General, after consultation with the Ethics Counsel, where appropriate, serves as the Commission's liaison with other federal audit and investigative agencies, such as the Department of Justice and the

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Executive Council on Integrity and Efficiency.

(e) Subpoenas issued in the course of an audit or investigation conducted by the Office of the Inspector General shall be effected by any method prescribed by §201.232(a) and (c) of this chapter.

[60 FR 14625, Mar. 20, 1995, as amended at 77 FR 8095, Feb. 14, 2012]

§ 200.17 [Reserved]

§ 200.18 Director of Division of Corporation Finance.

The Director of the Division of Corporation Finance is responsible to the Commission for the administration of all matters (except those pertaining to investment companies registered under the Investment Company Act of 1940) relating to establishing and requiring adherence to standards of business and financial disclosure with respect to securities being offered for public sale pursuant to the registration requirements of the Securities Act of 1933 (15 U.S.C. 77a *et seq.*) or the exemptions therefrom; establishing and requiring adherence to standards of reporting and disclosure with respect to securities traded on national securities exchanges or required to be registered pursuant to section 12 (g) of the Securities Exchange Act of 1934 (15 U.S.C. 78l(g)) and with respect to securities whose issuers are required to file reports pursuant to section 15(d) of that Act (15 U.S.C. 78c(d)); establishing and requiring adherence to disclosure and procedural standards in the solicitation of proxies for the election of directors and other corporate actions; establishing and requiring adherence to standards of disclosure with respect to the filing of statements respecting beneficial ownership and transaction statements pursuant to sections 13 (d), (e), and (g) (15 U.S.C. 78m(d), 78m(e), and 78m(g)) of the Securities Exchange Act of 1934; administering the disclosure and substantive provisions of the Williams Act relating to tender offers; and ensuring adherence to enforcement of the standards set forth in the Trust Indenture Act of 1939 (15 U.S.C. 77aaa *et seq.*) regarding indenture covering debt securities. Those duties shall include, with the exception of enforcement and

related activities under the jurisdiction of the Division of Enforcement, the responsibility to the Commission for the administration of the disclosure requirements and other provisions of the Securities Act of 1933, the Securities Exchange Act of 1934, and the Trust Indenture Act of 1939, as listed below:

(a) All matters under the Securities Act of 1933 (15 U.S.C. 77a *et seq.*) including the examination and processing of material filed pursuant to the requirements of that Act (except such material filed by investment companies registered under the Investment Company Act of 1940), the interpretation of the provisions of the Securities Act of 1933, and the proposing to the Commission of rules under that Act.

(b) All matters, except those pertaining to investment companies registered under the Investment Company Act of 1940, arising under the Securities Exchange Act of 1934 (15 U.S.C. 78a *et seq.*) in connection with:

(1) The registration of securities pursuant to section 12 of the Act (15 U.S.C. 78l), including the exemptive provisions of section 12(h) (15 U.S.C. 78l(h)).

(2) The examination and processing of periodic reports filed pursuant to sections 13 and 15(d) of the Act (15 U.S.C. 78m, 78o(d)).

(3) The examination and processing of proxy soliciting material filed pursuant to section 14(a) and information statements filed pursuant to section 14(c) of the Act (15 U.S.C. 78n(a), 78n(c)).

(4) The examination and processing of statements respecting beneficial ownership transaction statements and tender offer statements filed pursuant to sections 13 (d), (e), and (g) and 14 (d), (e), (f), and (g) of the Securities Exchange Act of 1934 (15 U.S.C. 78m(d), 78m(e), 78m(g), and 78n(d)), and the administration of the other protective standards of these provisions.

(5) The interpretation of the foregoing provisions of the Act, as well as Section 16 thereof (15 U.S.C. 78p), and proposing of rules under those portions of the Act to the Commission.

(c) All matters, except those pertaining to investment companies registered under the Investment Company

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Act of 1940, arising under the Trust Indenture Act of 1939 (15 U.S.C. 77aaa *et seq.*).

[41 FR 29374, July 16, 1976, as amended at 50 FR 12239, Mar. 28, 1985; 60 FR 14625, Mar. 20, 1995]

§ 200.19a Director of the Division of Trading and Markets.

The Director of the Division of Trading and Markets is responsible to the Commission for the administration and execution of the Commission's programs under the Securities Exchange Act of 1934 relating to the structure and operation of the securities markets and the prevention of manipulation in the securities markets. These responsibilities include oversight of the national market system, the national clearance and settlement system, and self-regulatory organizations, such as the national securities exchanges, registered securities associations, clearing agencies, the Municipal Securities Rulemaking Board, and the Securities Investor Protection Corporation. In addition, these responsibilities include administering the Commission's rules related to supervised investment bank holding companies and ultimate holding companies of brokers or dealers that compute deductions for market and credit risk pursuant to § 240.15c3-1e of this chapter. This supervision includes the assessment of internal risk management controls and mathematical models used to calculate net capital and allowances for market, credit, and operational risks. Duties also include the registration and regulation of brokers, dealers, municipal securities dealers, government securities brokers and dealers, transfer agents, and securities information processors. The functions involved in the regulation of such entities include reviewing proposed rule changes of self-regulatory organizations, recommending the adoption and amendment of Commission rules, responding to interpretive, exemptive, and no-action requests, and conducting inspections, examinations, and market surveillance. In addition, the Director shall have the duties specified below:

(a) Administration of all matters arising under the Securities Exchange

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Act of 1934 (15 U.S.C. 78a *et seq.*), except:

(1) The examination and processing of applications for registration of securities on national securities exchanges pursuant to section 12 of the Act (15 U.S.C. 78l).

(2) The examination and processing of periodic reports filed pursuant to sections 13 and 15(d) of the Act (15 U.S.C. 78m, 78o(d)).

(3) The examination and processing of proxy soliciting material pursuant to regulations adopted under section 14 of the Act (15 U.S.C. 78n).

(4) The examination and processing of ownership reports filed under section 16(a) of the Act (15 U.S.C. 78p(a)).

(5) The denial or suspension of registration of securities registered on national securities exchanges, pursuant to section 19(a)(2) (15 U.S.C. 78s(a)(2)) by reason of failure to comply with the reporting requirements of that Act.

(6) The enforcement and related activities under the jurisdiction of the Division of Enforcement.

[37 FR 16792, Aug. 19, 1972, as amended at 43 FR 13376, Mar. 30, 1978; 60 FR 14625, Mar. 20, 1995; 69 FR 34461, June 21, 2004; 73 FR 40152, July 11, 2008]

§ 200.19b Director of the Division of Enforcement.

The Director of the Division of Enforcement is responsible to the Commission for supervising and conducting all enforcement activities under the acts administered by the Commission. The Director recommends the institution of administrative and injunctive actions arising out of such enforcement activities and determines the sufficiency of evidence to support the allegations in any proposed complaint. The Director supervises the Regional Directors and, in collaboration with the General Counsel, reviews cases to be recommended to the Department of Justice for criminal prosecution. The Director grants or denies access to nonpublic information in the Commission's enforcement files under § 240.24c-1 of this chapter; provided that access under that section shall be granted only with the concurrence of the head of the division or office responsible for

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the information or the files containing it.

[60 FR 14626, Mar. 20, 1995]

§ 200.19c Director of the Division of Examinations.

The Director of the Division of Examinations (“Examinations”) is responsible for the compliance inspections and examinations relating to the regulation of exchanges, national securities associations, clearing agencies, securities information processors, the Municipal Securities Rulemaking Board, brokers and dealers, municipal securities dealers, municipal advisors, security-based swap data repositories, security-based swap dealers, major security-based swap participants, transfer agents, investment companies, and investment advisers, under sections 13(n)(2), 15B, 15C(d)(1), 15F, and 17(b) of the Securities Exchange Act of 1934 (15 U.S.C. 78m(n)(2), 78o-4, 78o-5(d)(1), 78o-10, and 78q(b)), section 31(b) of the Investment Company Act of 1940 (15 U.S.C. 80a-30(b)), and section 204 of the Investment Advisers Act of 1940 (15 U.S.C. 80b-4).

[86 FR 9442, Feb. 16, 2021]

§ 200.19d Director of the Office of Municipal Securities.

The Director of the Office of Municipal Securities is responsible to the Commission for the administration and execution of the Commission’s programs under the Securities Exchange Act of 1934 relating to the registration and regulation of municipal advisors, the practices of municipal securities brokers and dealers, and oversight of the Municipal Securities Rulemaking Board. The functions involved include recommending the adoption and amendment of Commission rules, reviewing proposed rule changes of the Municipal Securities Rulemaking Board, and responding to interpretive and no-action requests.

[86 FR 9442, Feb. 16, 2021]

§ 200.19e Director of the Office of Credit Ratings.

The Director of the Office of Credit Ratings is responsible to the Commission for the administration and execution of the Commission’s programs

under the Securities Exchange Act of 1934 relating to the registration and regulation of nationally recognized statistical rating organizations. The functions involved in the regulation of such entities include compliance inspections and examinations, recommending the adoption and amendment of Commission rules, and responding to interpretive and no-action requests.

[86 FR 9442, Feb. 16, 2021]

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§ 200.20b Director of Division of Investment Management.

The Director of the Division of Investment Management is responsible to the Commission for the administration of the Commission’s responsibilities under the Investment Company Act of 1940 and the Investment Advisers Act of 1940, and with respect to matters pertaining to investment companies registered under the Investment Company Act of 1940 and pooled investment funds or accounts, the administration of all matters relating to establishing and requiring adherence to standards of economic and financial reporting and the administration of fair disclosure and related matters under the Securities Act of 1933 and the Securities Exchange Act of 1934 and enforcement of the standards set forth in the Trust Indenture Act of 1939 regarding indentures covering debt securities, as listed in paragraphs (a) through (e) of this section. These duties shall include inspections arising in connection with such administration but shall exclude enforcement and related activities under the jurisdiction of the Division of Enforcement.

(a) The administration of all matters arising under the Investment Company Act of 1940 (15 U.S.C. 80a), except those arising under section 30(h) of the Act (15 U.S.C. 80a-29(h)).

(b) All matters arising under the Securities Act of 1933 (15 U.S.C. 77a *et seq.*) arising from or pertaining to material field pursuant to the requirements of that Act by investment companies registered under the Investment Company Act of 1940 (15 U.S.C. 80a-1 *et seq.*) and pooled investment funds or accounts.

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(c) All matters arising under the Securities Exchange Act of 1934 (15 U.S.C. 78a *et seq.*), except the examination and processing of statements of beneficial ownership of securities and changes in such ownership filed under section 16(a) (15 U.S.C. 78p(a)) of such Act, pertaining to investment companies registered under the Investment Company Act of 1940 and pooled investment funds or accounts in connection with:

(1) The registration of securities pursuant to section 12 of the Act (15 U.S.C. 78l), including the exemptive provisions of section 12(h) (15 U.S.C. 78l(h)).

(2) The examination and processing of periodic reports filed pursuant to sections 13 and 15(d) of the Act (15 U.S.C. 78m, 78o(d)).

(3) The examination and processing of proxy soliciting material filed pursuant to section 14(a) and information material filed pursuant to section 14(c) of the Act (15 U.S.C. 78n(a), 78n(c)).

(d) All matters pertaining to investment companies registered under the Investment Company Act of 1940 and pooled investment funds or accounts arising under the Trust Indenture Act of 1939 (15 U.S.C. 77aaa *et seq.*).

(e) All matters arising under the Investment Advisers Act of 1940 (15 U.S.C. 80b–1 *et seq.*).

[41 FR 29375, July 16, 1976, as amended at 50 FR 5064, Feb. 5, 1985; 60 FR 14626, Mar. 20, 1995; 67 FR 43535, July 8, 2002; 76 FR 71874, Nov. 21, 2011]

§ 200.21 The General Counsel.

(a) The General Counsel is the chief legal officer of the Commission. The General Counsel is responsible for the representation of the Commission in judicial proceedings in which it is involved as a party or as *amicus curiae*, for directing and supervising all civil litigation involving the Commission in the United States District Courts, except for law enforcement actions filed on behalf of the Commission, for directing and supervising the Commission's responsibilities under the Bankruptcy Code and all related litigation, and for representing the Commission in all cases in appellate courts. The General Counsel is responsible for the review of cases which the Division of Enforcement recommends be referred to the Department of Justice with a rec-

ommendation for criminal prosecution. In addition, the General Counsel is responsible for advising the Commission at its request or at the request of any division director or office head, or on the General Counsel's own motion, with respect to interpretations involving questions of law; for the conduct of administrative proceedings relating to the disqualification of lawyers from practice before the Commission; for conducting preliminary investigations, as described in 17 CFR 202.5(a), into potential violations of 17 CFR 201.102(e) by attorneys; for the preparation of the Commission comments to the Congress on pending legislation; and for the drafting, in conjunction with appropriate divisions and offices, of legislative proposals to be sponsored by the Commission. The General Counsel is responsible for providing advice to Commission attorneys on professional responsibility issues relating to their official duties. The General Counsel is further responsible for investigating allegations of professional misconduct by Commission staff and, where appropriate, making referrals to state professional boards or societies. The General Counsel is also responsible for the review and clearance of the form and content of articles, treatises, and prepared speeches and addresses by members of the staff relating to the Commission or to the statutes and rules administered by the Commission. The General Counsel also is responsible for coordinating and reviewing the interpretive positions of the various divisions and offices. In addition, the General Counsel is responsible for appropriate disposition of all Freedom of Information Act and Privacy Act appeals pursuant to the authority delegated in § 200.30–14, and is the Commission's advisor with respect to legal problems arising under the Freedom of Information Act, the Privacy Act, the Federal Reports Act, the Federal Advisory Committee Act, the Civil Service laws and regulations, the statutes and rules applicable to the Commission's procurement, contracting, fiscal and related administrative activities, and other statutes and regulations of a similar nature applicable to a number of Government agencies.

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(b)(1) The General Counsel is also responsible for assisting members of the Commission in the preparation of the opinions of the Commission, and for the preparation of opinions and decisions on motions and certifications of questions and rulings by administrative law judges in the course of administrative law proceedings, except:

(i) In cases where, pursuant to a waiver by the parties of separation of function requirements, another Division or Office of the Commission's staff undertakes to prepare an opinion or decision, in which cases the General Counsel may assist in such preparation; and

(ii) With respect to administrative proceedings against lawyers under § 201.102(e) of this chapter (Rule 102(e) of the Commission's Rules of Practice) or other cases in which the Chairman or the General Counsel has determined that separation of function requirements or other circumstances would make inappropriate the exercise of such functions by the General Counsel.

(2) The General Counsel deals with general problems arising under the Administrative Procedure Act, including the revision or adoption of rules of practice. The General Counsel is also responsible for the exercise of such review functions with respect to adjudicatory matters as are delegated to the General Counsel by the Commission pursuant to 101 Stat. 1254 (15 U.S.C. 78d-1, 78d-2) or as may be otherwise delegated or assigned to the General Counsel.

(c) The General Counsel also is responsible to the Commission for the administration of the Government in the Sunshine Act for publicly certifying, pursuant to § 200.406, that, in the General Counsel's opinion, particular Commission meetings may properly be closed to the public. In the absence of the General Counsel, the Solicitor to the Commission shall be deemed the General Counsel for purposes of § 200.406. In the absence of the General Counsel and the Solicitor, the most senior Associate General Counsel available shall be deemed the General Counsel for purposes of § 200.406. In the absence of the General Counsel, the Solicitor, and every Associate General Counsel, the most senior Assistant

General Counsel available shall be deemed the General Counsel for purposes of § 200.406. In the absence of the General Counsel, the Solicitor, every Associate General Counsel and every Assistant General Counsel, such attorneys as the General Counsel may designate (in such order of succession as the General Counsel directs) shall exercise the responsibilities imposed by § 200.406.

[86 FR 9442, Feb. 16, 2021]

§ 200.21a The Ethics Counsel.

(a) The Ethics Counsel is responsible for administering the Commission's Ethics Program and for interpreting subpart M of this part and 5 CFR part 2635. The Ethics Counsel serves as Counselor to the Commission and its staff with regard to ethical and conflicts of interest questions and acts as the Commission's liaison on such matters with the Office of Human Resources, the Office of Government Ethics, the Office of the Inspector General, and the Department of Justice. When appropriate and subject to the authority of, and in consultation with, the Inspector General, the Ethics Counsel shall inquire into alleged violations of subparts C, F, and M of this part, and 5 CFR part 2635.

(b) The Ethics Counsel shall:

(1) Receive and review allegations of misconduct by a Commission employee that relate to the Commission's Ethics Program.

(2) Refer matters involving management questions to Division Directors, Office Heads, or Regional Directors, and matters involving alleged or apparent employee misconduct to the Office of the Inspector General, except for matters involving alleged professional misconduct ultimately referable to state professional boards or societies, which the Ethics Counsel shall refer to the General Counsel.

(3) Refer complaints that appear to involve a violation of Federal criminal statutes, and do not appear to be frivolous, to the Inspector General for referral to the Department of Justice under 28 U.S.C. 535.

(4) Act as liaison with the Office of the Inspector General on matters that the Ethics Counsel has referred to that

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Office, and with state or local authorities on matters that, on occasion, the Ethics Counsel may refer to them.

(5) Arrange for the review of proposed publications and prepared speeches under § 200.735-4(e).

(6) Provide advice, counseling, interpretations, and opinions with respect to subparts C, F, and M of this part, and 5 CFR part 2635.

(7) Draft rules and regulations as necessary to implement the Commission's Ethics Program.

[60 FR 14626, Mar. 20, 1995, as amended at 73 FR 32224, June 5, 2008; 76 FR 71449, Nov. 18, 2011; 79 FR 1735, Jan. 10, 2014; 86 FR 9443, Feb. 16, 2021]

§ 200.22 The Chief Accountant.

The Chief Accountant of the Commission is the principal adviser to the Commission on, and is responsible to the Commission for, all accounting and auditing matters arising in the administration of the federal securities laws. The Chief Accountant oversees the accounting profession's standard-setting and self-regulatory organizations, develops or supervises the development of accounting and auditing rules, regulations, opinions and policy, and interprets Commission accounting policy and positions. The Chief Accountant is responsible for recommending the institution of administrative and disciplinary proceedings relating to the disqualification of accountants to practice before the Commission. The Chief Accountant supervises the procedures to be followed in the Commission's enforcement activities involving accounting and auditing issues and helps resolve differences on accounting issues between registrants and the Commission staff.

[60 FR 14626, Mar. 20, 1995]

§ 200.23a Director of the Division of Economic and Risk Analysis and Chief Economist.

The Director of the Division of Economic and Risk Analysis and Chief Economist serves as economic advisor to the Commission and its staff and is responsible to the Commission for sound economic analysis of market events and conditions; economic analysis in support of Commission rule-making; economic and risk analysis to

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inform and support the Commission's enforcement actions and its examination program; development of financial and market data analysis tools; preparation of economic statistics; promotion of data standards; review and guidance of staff research and publications; and assisting the Commission and its staff in responding to policy, legislative, or international issues relating to securities markets.

[86 FR 9443, Feb. 16, 2021]

§ 200.23b [Reserved]

§ 200.24 Office of Financial Management.

This Office, under the direction of the Chief Financial Officer, is responsible to the Chief Operating Officer, Chairman and Commission for the internal financial management and programming functions of the Securities and Exchange Commission. These functions include: Budgeting, accounting, payroll and administrative audit. The Chief Financial Officer, and the Chief Financial Officer's designees, serve as liaison to the Commission before the Office of Management and Budget and Congressional Appropriations Committees on appropriation matters, and the Treasury Department and the General Accounting Office on financial and programming matters.

[86 FR 9443, Feb. 16, 2021]

§ 200.24a Director of the Office of Investor Education and Advocacy.

The Director of the Office of Investor Education and Advocacy is responsible to the Chairman for the Commission's investor education and investor assistance programs. These programs include, but are not limited to:

(a) Educating investors through in-person outreach, digital and social media, and other communication channels, including the Commission's website for individual investors, *Investor.gov*, by preparing and distributing to the public educational content describing the operations of the securities markets, developing strategies for prudent investor behavior, and increasing public knowledge of the functions of the Commission.

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(b) Implementing and administering a nationwide system for resolving investor complaints against individuals and entities regulated by the Commission by processing complaints received from individual investors and seeking to ensure that regulated individuals and entities process and respond to such complaints.

(c) Providing information to investors and others who inquire about individuals and entities regulated by the Commission, the operation of the securities markets, or the functions of the Commission.

(d) Advising the Commission and its staff, and exchanging information with domestic and international regulators and self-regulatory organizations, about problems frequently encountered by investors and possible solutions to them.

(e) Transmitting to other offices and divisions of the Commission information provided by investors which concerns the responsibilities of these offices and divisions.

(f) Providing for greater investor input in Commission rulemaking proceedings.

[86 FR 9443, Feb. 16, 2021]

§§ 200.25–200.26 [Reserved]

§ 200.26a Office of Information Technology.

The Office of Information Technology is responsible for the analysis, design programming, operation, and maintenance of all agency information systems; developing and implementing long-range technology plans and programs; coordinating all information systems analysis activities being considered or carried out by other divisions and offices, and furnishing such organizations with appropriate assistance and support; providing technical advice to the staff in connection with development of Commission rules and regulations having technology implications; providing expert advice on the Commission's surveillance of technology in the securities industry; evaluating and recommending new technology concepts and capabilities for application within the Commission; and developing technology and auto-

mation capabilities and support within the Commission.

[86 FR 9444, Feb. 16, 2021]

§ 200.27 The Regional Directors.

Each Regional Director is responsible for executing the Commission's programs within the Regional Director's geographic region as set forth in § 200.11(b), subject to review, on enforcement matters, by the Director or Deputy Director of the Division of Enforcement and, on examination matters, by the Director of the Division of Examinations, and subject to policy direction and review by the other Division Directors, the General Counsel, and the Chief Accountant. The Regional Directors' responsibilities include particularly the investigation of transactions in securities on national securities exchanges, in the over-the-counter market, and in distribution to the public; the examination of members of national securities exchanges and registered brokers and dealers, transfer agents, investment advisers and investment companies, including the examination of reports filed under § 240.17a-5 of this chapter; the prosecution of injunctive actions in U.S. District Courts and administrative proceedings before Administrative Law Judges; the rendering of assistance to U.S. Attorneys in criminal cases; and the making of the Commission's facilities more readily available to the public in that area. In addition, the Regional Director of the New York Regional Office is responsible for the Commission's participation in cases under chapters 9 and 11 of the Bankruptcy Code in Connecticut, Maine, Massachusetts, New Hampshire, New Jersey, New York, Pennsylvania, Rhode Island, and Vermont; the Regional Director of the Atlanta Regional Office is responsible for such participation in Alabama, Delaware, District of Columbia, Florida, Georgia, Louisiana, Maryland, Mississippi, North Carolina, Puerto Rico, South Carolina, Tennessee, Virgin Islands, Virginia, and West Virginia; the Regional Director of the Chicago Regional Office is responsible for such participation in Arkansas, Colorado, Illinois, Indiana, Iowa,

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Kansas, Kentucky, Michigan, Minnesota, Missouri, Nebraska, New Mexico, North Dakota, Ohio, Oklahoma, South Dakota, Texas, Wisconsin, and Wyoming; and the Regional Director of the Los Angeles Regional Office is responsible for such participation in Alaska, Arizona, California, Guam, Hawaii, Idaho, Montana, Nevada, Oregon, Utah, and Washington.

[73 FR 32224, June 5, 2008, as amended at 86 FR 9444, Feb. 16, 2021]

§ 200.28 Issuance of instructions.

(a) Within the spheres of responsibilities heretofore set forth, Division and Office Heads, and all Regional Directors may issue such definitive instructions as may be necessary pursuant to this section.

(b) All existing procedures and authorizations not inconsistent with this section shall continue in effect until and unless modified by definitive instructions issued pursuant to this paragraph.

[27 FR 12712, Dec. 22, 1962, as amended at 73 FR 32224, June 5, 2008]

§ 200.29 Rules.

The individual operating divisions shall have the initial responsibility for proposing amendments to existing rules or new rules under the statutory provisions within the jurisdiction of the particular division. Where any such proposals presents a legal problem or is a matter of first impression, or involves a matter of enforcement policy or questions involving statutes other than those administered by the Commission, or may have an effect on prior judicial precedent or pending litigation, submission of the proposal should be made to the Office of the General Counsel for an expression of opinion prior to presentation of the matter to the Commission.

§ 200.30–1 Delegation of authority to Director of Division of Corporation Finance.

Pursuant to sections 4A and 4B of the Securities Exchange Act of 1934, as amended (15 U.S.C. 78d–1, 78d–2), the Securities and Exchange Commission hereby delegates, until the Commission orders otherwise, the following func-

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tions to the Director of the Division of Corporation Finance, to be performed by the Director or under the Director's direction by such person or persons as may be designated from time to time by the Chairman of the Commission:

(a) With respect to registration of securities pursuant to the Securities Act of 1933 (15 U.S.C. 77a *et seq.*), and Regulation C thereunder (§230.400 *et seq.* of this chapter):

(1) To determine the effective dates of amendments to registration statements filed pursuant to section 8(c) of the Act (15 U.S.C. 77h(c)).

(2) To consent to the withdrawal of registration statements or amendments or exhibits thereto, pursuant to Rule 477 (§230.477 of this chapter), and to issue orders declaring registration statements abandoned, pursuant to Rule 479 (§230.479 of this chapter).

(3) To grant applications for confidential treatment of contract provisions pursuant to §230.406 of this chapter (Rule 406 under the Act); to issue orders scheduling hearings on such applications and to deny any such application as to which the applicant waives the applicant's right to a hearing, provided such applicant is advised of the applicant's right to have such denial reviewed by the Commission.

(4) To accelerate the use or publication of any summary prospectus filed with the Commission pursuant to section 10(b) of the Act (15 U.S.C. 77j(b)) and Rule 431(g) (§230.431(g) of this chapter) thereunder.

(5) To take the following action pursuant to section 8(a) of the Act (15 U.S.C. 77h(a)):

(i) To determine registration statements to be effective within shorter periods of time than 20 days after the filing thereof;

(ii) To consent to the filing of amendments prior to the effective dates of registration statements as part thereof, or to determine that amendments filed prior to the effective dates of registration statements have been filed pursuant to orders of the Commission, so as to be treated as parts of the registration statements for the purpose of section 8(a) of the Act (15 U.S.C. 77h(a));

(iii) To determine to be effective applications for qualification of trust indentures filed with registration statements.

(6) Pursuant to instructions as to financial statements contained in forms adopted under the Act:

(i) To permit the omission of one or more financial statements therein required or the filing in substitution therefor of appropriate statements of comparable character, or

(ii) To require the filing of other financial statements in addition to, or in substitution for, the statements therein required.

(7) Acting pursuant to section 4(a)(3) of the Act (15 U.S.C. 77d(3)) or Rule 174 thereunder (§230.174 of this chapter), to reduce the 40-day period or the 90-day period with respect to transactions referred to in section 4(a)(3)(B) of the Act (15 U.S.C. 77d(a)(3)(B)).

(8) To act on applications to dispense with any written consents of an expert pursuant to Rule 437 (§230.437 of this chapter).

(9) To determine whether to object, pursuant to Rule 401(g)(1) (§230.401(g)(1) of this chapter), and to notify issuers, pursuant to Rule 401(g)(2) (§230.401(g)(2) of this chapter), of an objection to the use of an automatic shelf registration as defined in Rule 405 (§230.405 of this chapter) or any post-effective amendment thereto that becomes effective immediately pursuant to Rule 462 (§230.462 of this chapter).

(10) To authorize the granting or denial of applications, upon a showing of good cause, that it is not necessary under the circumstances that the issuer be considered an ineligible issuer as defined in Rule 405.

(b) With respect to the Securities Act of 1933 (15 U.S.C. 77a *et seq.*) and Regulation A thereunder (§230.251 *et seq.* of this chapter):

(1) to authorize the granting of applications under Rule 262 (§230.262 of this chapter) upon a showing of good cause that it is not necessary under the circumstances that an exemption under Regulation A be denied;

(2) To determine the date and time of qualification for offering statements and amendments to offering statements pursuant to Rule 252(e) (§230.252(e) of this chapter);

(3) To consent to the withdrawal of an offering statement or to declare an offering statement abandoned pursuant to Rule 259 (§230.259 of this chapter); and

(4) To deny a Form 1-Z filing pursuant to Rule 257 (§230.257 of this chapter).

(c) With respect to the Securities Act of 1933 (15 U.S.C. 77a *et seq.*) and Regulation D thereunder (§§230.500 through 230.508 of this chapter), to authorize the granting of applications under §§230.504(b)(3), 230.506(d)(2)(ii), and 230.507(b) of this chapter upon the showing of good cause that it is not necessary under the circumstances that the exemption under Regulation D be denied.

(d) With respect to the Securities Act of 1933 (15 U.S.C. 77a *et seq.*) and §§227.100 through 227.503 of this chapter, to authorize the granting of applications under §227.503(b)(2) of this chapter upon the showing of good cause that it is not necessary under the circumstances that the exemption under Regulation Crowdfunding be denied.

(e) With respect to the Trust Indenture Act of 1939 (15 U.S.C. 77aaa *et seq.*):

(1) To determine to be effective prior to the 20th day after filing thereof applications for qualification of indentures filed on Form T-3 (§269.3 of this chapter) pursuant to section 307 of the Act (15 U.S.C. 77ggg), and Rule 7a-1 thereunder (§260.7a-1 of this chapter);

(2) To authorize the issuance of orders exempting certain securities from the Act under sections 304(c) and (d) thereof (15 U.S.C. 77ddd(c) and 77ddd(d)) and §§260.4c-1 and 260.4d-7 of this chapter.

(3) In cases in which opportunity for hearing is waived, to authorize the issuance of orders determining that a trusteeship under an indenture to be qualified and another indenture is not so likely to involve a material conflict of interest as to make it necessary to disqualify the trustee pursuant to section 310(b)(1)(ii) of the Act (15 U.S.C. 77jjj(b)(1)(ii)) and Rule 10b-2 thereunder (§260.10b-2 of this chapter).

(4) To authorize the issuance of orders exempting any person, registration statement, indenture, security or transaction, or any class or classes of

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persons, registration statements, indentures, securities, or transactions from the requirements of one or more provisions of the Act pursuant to section 304(d) of the Act (15 U.S.C. 77ddd(d)) and rule 4d-7 thereunder (17 CFR 260.4d-7 of this chapter).

(5) To determine to be effective prior to the 10th day after filing thereof an application for determining the eligibility under section 310(a) of the Act of a person designated as trustee for delayed offerings of debt securities under the Securities Act pursuant to section 305(b)(2) of the Act and rule 5b-1 [17 CFR 260.5b-1 of this chapter] thereunder.

(6) To authorize the issuance of an order permitting a foreign person to act as sole trustee under qualified indentures under section 310(a) of the Act (15 U.S.C. 77jjj(a)) and §260.10a-1 through §260.10a-5 of this chapter.

(7) To issue notices with respect to applications for, and authorize the issuance of orders granting, a stay of a trustee's duty to resign pursuant to section 310(b) of the Act and Rule 10b-4 [17 CFR 260.10b-4 of this chapter] thereunder.

(f) With respect to the Securities Exchange Act of 1934 (15 U.S.C. 78a *et seq.*):

(1) To determine to be effective applications for registration of securities on a national securities exchange prior to 30 days after receipt of a certification pursuant to section 12(d) of the Act (15 U.S.C. 78l(d));

(2) Pursuant to instructions as to financial statements contained in forms adopted under the Act:

(i) To extend the time for filing or to permit the omission of one or more financial statements therein required or the filing in substitution therefor of appropriate statements of comparable character.

(ii) To require the filing of other financial statements in addition to, or in substitution for, the statements therein required;

(3)(i) To grant and deny applications for confidential treatment filed pursuant to section 24(b) of the Act (15 U.S.C. 78x(b)) and Rule 24b-2 thereunder (§240.24b-2 of this chapter);

(ii) To revoke a grant of any such application for confidential treatment.

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(4) To authorize the use of forms of proxies, proxy statements, or other soliciting material within periods of time less than that prescribed in §§240.14a-6 and 240.14a-8(j)(1) of this chapter; to authorize the filing of information statements within periods of time less than that prescribed in §240.14c-5a of this chapter; and to authorize the filing of information under §240.14f-1 of this chapter within periods of time less than that prescribed therein.

(5) To grant or deny applications filed pursuant to section 12(g)(1) of the Act (15 U.S.C. 78l(g)(1)) for extensions of time within which to file registration statements pursuant to that section, provided the applicant is advised of the applicant's right to have any such denial reviewed by the Commission.

(6) To accelerate at the request of the issuer the effective date of registration statements filed pursuant to section 12(g) of the Act (15 U.S.C. 78l(g)).

(7) To issue notices of applications for exemptions and to grant exemptions under section 12(h) of the Act (15 U.S.C. 78l(h)).

(8) At the request of the issuer to accelerate the termination of registration of any class of equity securities as provided in section 12(g)(4) of the Act (15 U.S.C. 78l(g)(4)) or as provided in §240.12g-4(a) of this chapter.

(9) Upon receipt of a notification from the Secretary of the Treasury designating a security for exemption pursuant to section 3(a)(12), to issue public releases announcing such designation.

(10) To issue public releases listing those foreign issuers which appear to be current in submitting the information specified in Rule 12g3-2(b) (§240.12g3-2(b)).

(11) To grant exemptions from Rule 14d-10 (§240.14d-10 of this chapter) pursuant to Rule 14d-10(f) (§240.14d-10(f) of this chapter).

(12) To grant an exemption from §240.14b-2(b) or §240.14b-2(c), or both, of this chapter.

(13) To determine with respect to a tender or exchange offer otherwise eligible to be made pursuant to rule 13e-4(g) (§240.13e-4(g) of this chapter) or rule 14d-1(b) (§240.14d-1(b) of this chapter) whether, in light of any exemptive

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order granted by a Canadian federal, provincial or territorial regulatory authority, application of certain or all of the provisions of section 13(e)(1) and sections 14(d)(1) through 14(d)(7) of the Exchange Act, rule 13e-4, Regulation 14D (§§ 240.14d-1—240.14d-103 of this chapter) and Schedules TO and 14D-9 thereunder (§§ 240.14d-100 and 240.14d-101 of this chapter), and rule 14e-1 of Regulation 14E (§§ 240.14e-1—240.14f-1 of this chapter), to such offer is necessary or appropriate in the public interest.

(14) To administer the provisions of § 240.24c-1 of this chapter; provided that access to nonpublic information as defined in such section shall be provided only with the concurrence of the head of the Commission division or office responsible for such information or the files containing such information.

(15) To administer the provisions of Section 24(d) of the Act (15 U.S.C. 78x(d)).

(16) To grant requests for exemptions from:

(i) Tender offer provisions of sections 13(e) and 14(d)(1) through 14(d)(7) of the Act (15 U.S.C. 78m(e) and 78n(d)(1) through 78n(d)(7)), Rule 13e-3 (§ 240.13e-3 of this chapter) and Rule 13e-4 (§ 240.13e-4 of this chapter), Regulation 14D (§§ 240.14d-1 through 240.14d-11 of this chapter) and Schedules 13E-3, TO, and 14D-9 (§§ 240.13e-100, 240.14d-100 and 240.14d-101 of this chapter) thereunder, pursuant to Sections 14(d)(5), 14(d)(8)(C) and 36(a) of the Act (15 U.S.C. 78n(d)(5), 78(d)(8)(C), and 78mm(a)); and

(ii) The tender offer provisions of Rules 14e-1, 14e-2 and 14e-5 of Regulation 14E (§§ 240.14e-1, 240.14e-2 and 240.14e-5 of this chapter) pursuant to section 36(a) of the Act (15 U.S.C. 78mm(a)).

(17) At the request of a foreign private issuer, pursuant to Rule 12h-6 (§ 240.12h-6 of this chapter), to accelerate the termination of the registration of a class of securities under section 12(g) of the Act (15 U.S.C. 78l(g)) or the duty to file reports under section 13(a) of the Act (15 U.S.C. 78m(a)) or section 15(d) of the Act (15 U.S.C. 78o(d)).

(18) To review and, either unconditionally or upon specified terms and conditions, grant or deny exemptions from the requirements of Rules 14a-3(b)

and 14c-3(a) (§§ 240.14a-3(b) and 240.14c-3(a) of this chapter) under the Act pursuant to Section 36 of the Act, in cases where upon examination, the matter does not appear to the Director to present significant issues that have not been addressed previously or to raise questions of fact or policy indicating that the public interest or the interest of investors warrants that the Commission consider the matter, where an applicant demonstrates that it:

(i) Is required to hold a meeting of security holders as a result of an action taken by one or more of the applicant's security holders pursuant to state law;

(ii) Is unable to comply with the requirements of Rule 14a-3(b) or Rule 14c-3(a) under the Act for audited financial statements to be included in the annual report to security holders to be furnished to security holders in connection with the security holder meeting required to be held as a result of the security holder demand under state law;

(iii) Has made a good faith effort to furnish the audited financial statements before holding the security holder meeting;

(iv) Has made a determination that it has disclosed to security holders all available material information necessary for the security holders to make an informed voting decision in accordance with Regulation 14A or Regulation 14C (§§ 240.14a-1—240.14b-2 or §§ 240.14c-1—240.14c-101 of this chapter); and

(v) Absent a grant of exemptive relief, it would be forced to violate either state law or the rules and regulations administered by the Commission.

(g) Notwithstanding anything in the foregoing:

(1) Matters arising under the Investment Company Act of 1940 (15 U.S.C. 80a-1 *et seq.*), the Securities Act of 1933 (15 U.S.C. 77a *et seq.*), the Securities Exchange Act of 1934 (15 U.S.C. 78a *et seq.*) and the Trust Indenture Act of 1939 (15 U.S.C. 77aaa *et seq.*) pertaining to investment companies registered under the Investment Company Act of 1940 are not within the scope of the functions delegated to the Director of the Division of Corporation Finance, except those arising under section 30(f) of

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the Investment Company Act of 1940 (15 U.S.C. 80a-29(f));

(2) In any case in which the Director of the Division of Corporation Finance believes it appropriate, the Director may submit the matter to the Commission.

(h) With respect to the Securities Act of 1933 (15 U.S.C. 77a *et seq.*) and Rule 701 thereunder (§ 230.701 of this chapter), to authorize the granting of applications under Rule 703(b) (§ 230.703(b) of this chapter) upon a showing of good cause that it is not necessary under the circumstances that an exemption under Rule 701 be denied.

(i) With respect to the Securities Act of 1933 (15 U.S.C. 77a *et seq.*) and Rule 144A thereunder (§ 230.144A of this chapter), taking into account then-existing market practices, to designate any securities or classes of securities to be securities that will not be deemed “of the same class as securities listed on a national securities exchange or quoted in a U.S. automated inter-dealer quotation system” within the meaning of Rule 144A(d)(3)(i) (§ 230.144A(d)(3)(i) of this chapter).

(j) With respect to the Securities Act of 1933 (15 U.S.C. 77a *et seq.*) and Regulation S thereunder (§ 230.901 *et seq.* of this chapter), and in consultation with the Director of the Division of Trading and Markets, to designate any foreign securities exchange or non-exchange market as a “designated offshore securities market” within the meaning of Rule 902(a) (§ 230.902(a) of this chapter).

(k) With respect to the Securities Act of 1933 (15 U.S.C. 77a *et seq.*), the Securities Exchange Act of 1934 (15 U.S.C. 78a *et seq.*), the Trust Indenture Act of 1939 (15 U.S.C. 77aaa *et seq.*), and Regulation S-T thereunder (part 232 of this chapter), to grant or deny a request submitted pursuant to Rule 13(b) of Regulation S-T (§ 232.13(b) of this chapter) to adjust the filing date of an electronic filing.

(l) With respect to the Securities Act of 1933 (15 U.S.C. 77a *et seq.*), the Securities Exchange Act of 1934 (15 U.S.C. 78a *et seq.*), the Trust Indenture Act of 1939 (15 U.S.C. 77aaa *et seq.*), and Regulation S-T thereunder (part 232 of this chapter), to set the terms of, and grant or deny as appropriate, continuing hardship exemptions, pursuant to Rule 202

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of Regulation S-T, (§ 232.202 of this chapter), from the electronic submission requirements of Regulation S-T (part 232 of this chapter).

(m) With respect to Section 104(i)(2)(A) of the Sarbanes-Oxley Act of 2002 (15 U.S.C. 7214 (as amended by Pub. L. 116-222)), to identify each “covered issuer,” as that term is defined in Section 104(i)(1)(A) of the Sarbanes-Oxley Act of 2002, that has retained a registered public accounting firm to issue an audit report where that registered public accounting firm has a branch or office that is located in a foreign jurisdiction and Public Company Accounting Oversight Board has determined that it is unable to inspect or investigate completely because of a position taken by an authority in the foreign jurisdiction.

[41 FR 29375, July 16, 1976]

EDITORIAL NOTE: For FEDERAL REGISTER citations affecting § 200.30-1, see the List of CFR Sections Affected, which appears in the Finding Aids section of the printed volume and at www.govinfo.gov.

§ 200.30-2 Delegation of authority to the Director of the Division of Economic and Risk Analysis and Chief Economist.

Pursuant to sections 4A and 4B of the Securities Exchange Act of 1934, as amended (15 U.S.C. 78d-21, 78d-22), the Securities and Exchange Commission hereby delegates, until the Commission orders otherwise, the following functions to the Director of the Division of Economic and Risk Analysis and Chief Economist, to be performed by that person or under that person's direction by such person or persons as may be designated from time to time by the Chairman of the Commission:

(a) To update taxonomies and schemas required for use in Commission filings and made available on the Commission's website.

(b) [Reserved]

[86 FR 9444, Feb. 16, 2021]

§ 200.30-3 Delegation of authority to Director of Division of Trading and Markets.

Pursuant to sections 4A and 4B of the Securities Exchange Act of 1934, as amended (15 U.S.C. 78d-1, 78d-2), the Securities and Exchange Commission

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hereby delegates, until the Commission orders otherwise, the following functions to the Director of the Division of Trading and Markets to be performed by the Director or under the Director's direction by such person or persons as may be designated from time to time by the Chairman of the Commission:

(a) With respect to the Securities Exchange Act of 1934 (15 U.S.C. 78a *et seq.*):

(1) To approve the withdrawal or striking from listing and registration of securities registered on any national securities exchange pursuant to section 12(d) of the Act (15 U.S.C. 78l(d)) and Rules 12d2-1 and 12d2-2 thereunder (§§ 240.12d2-1 and 240.12d2-2 of this chapter);

(2) [Reserved]

(3) Pursuant to section 15(b) of the Act (15 U.S.C. 78o(b)):

(i) To authorize the issuance of orders granting registration of brokers or dealers within forty-five days of the filing of an application for registration as a broker or dealer (or within such longer period as to which the applicant consents);

(ii) To authorize the issuance of orders canceling registrations of brokers or dealers, or pending applications for registration, if such brokers or dealers or applicants for registration are no longer in existence or have ceased to do business as brokers or dealers;

(4) Pursuant to Rule 19h-1 (§ 240.19h-1 of this chapter):

(i) To grant applications with respect to membership in, association with a member of, or participation in, a self-regulatory organization and for other relief as to persons who are subject to an applicable disqualification where such relationships or other relief have been approved or recommended by a self-regulatory organization;

(ii) To extend the time for Commission consideration of notices for admission to membership or participation in a self-regulatory organization or association with a member of persons subject to a statutory disqualification pursuant to paragraph (a)(7) of that rule.

(5) Pursuant to § 240.17a-5(m)(3) of this chapter (Rule 17a-5(m)(3)), to consider applications by brokers and dealers for exemptions from, and extension of time within which to file, reports re-

quired by § 240.17a-5 of this chapter (Rule 17a-5) and to grant, and to authorize the issuance of orders denying, such applications, provided such applicant is advised of the applicant's right to have such denial reviewed by the Commission.

(6) Pursuant to Rules 14e-4(c), 14e-5(d), and 15c2-11(h) (§§ 240.14e-4(c), 240.14e-5(d), and 240.15c2-11(h) of this chapter), and Rules 101(d), 102(e), 104(j), and 105(c) of Regulation M (§§ 242.101(d), 242.102(e), 242.104(j), and 242.105(c) of this chapter), to grant requests for exemptions from Rules 14e-4, 14e-5, and 15c2-11 (§§ 240.14e-4, 240.14e-5, and 240.15c2-11 of this chapter), and Rules 101, 102, 104, and 105 of Regulation M (§§ 242.101, 242.102, 242.104, and 242.105 of this chapter).

(7) Pursuant to Rule 15c3-1 (§ 240.15c3-1 of this chapter) and Rule 18a-1 (§ 240.18a-1 of this chapter):

(i) To approve lesser equity requirements in specialist or market maker accounts pursuant to Rule 15c3-1(a)(6)(iii)(B) (§ 240.15c3-1(a)(6)(iii)(B) of this chapter);

(ii) To grant exemptions from Rule 15c3-1 (§ 240.15c3-1 of this chapter) pursuant to Rule 15c3-1(b)(3) (§ 240.15c3-1(b)(3) of this chapter);

(iii) To grant temporary exemptions upon specified terms and conditions from the debt equity requirements of Rule 15c3-1(d) (§ 240.15c3-1(d) of this chapter);

(iv) To approve a change in election of the alternative capital requirement pursuant to Rule 15c3-1(a)(1)(ii) (§ 240.15c3-1(a)(1)(ii) of this chapter);

(v) To review applications of OTC derivatives dealers filed pursuant to Appendix F of § 240.15c3-1f of this chapter, and to grant or deny such applications in full or in part; and

(vi)(A) To review amendments to applications of brokers or dealers and security-based swap dealers filed pursuant to §§ 240.15c3-1e, 240.15c3-1g, and 240.18a-1(d) of this chapter and to approve such amendments, unconditionally or subject to specified terms and conditions;

(B) To grant extensions and exemptions from the notification requirements of § 240.15c3-1g(e) of this chapter, unconditionally or subject to specified terms and conditions;

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(C) To impose additional conditions, pursuant to §§ 240.15c3-1e(e) and 240.18a-1(d)(9)(iii) of this chapter, on a broker or dealer that computes certain of its net capital deductions pursuant to § 240.15c3-1e of this chapter, or on an ultimate holding company of the broker or dealer that is not an ultimate holding company that has a principal regulator, as defined in § 240.15c3-1(c)(13)(ii) of this chapter, or on a security-based swap dealer that computes certain of its net capital deductions pursuant to § 240.18a-1(d) of this chapter;

(D) To require that a broker or dealer, or the ultimate holding company of the broker or dealer, or a security-based swap dealer provide information to the Commission pursuant to §§ 240.15c3-1e(a)(1)(viii)(G), 240.15c3-1e(a)(1)(ix)(C) and (a)(4), 240.18a-1(d)(2), and 240.15c3-1g(b)(1)(i)(H), and (b)(2)(i)(C) of this chapter;

(E) To determine, pursuant to §§ 240.15c3-1e(a)(10)(ii) and 240.18a-1(d)(7)(ii), that the notice that a broker or dealer and security-based swap dealer must provide to the Commission pursuant to §§ 240.15c3-1e(a)(10)(i) and 240.18a-1(d)(7)(i) of this chapter will become effective for a shorter or longer period of time; and

(F) To approve, pursuant to §§ 240.15c3-1e(a)(7)(ii) and 240.18a-1(d)(5)(ii) of this chapter, the temporary use of a provisional model, in whole or in part, unconditionally or subject to any conditions or limitations;

(vii)(A) To approve the prepayments of a subordinated loan agreement of a security-based swap dealer pursuant to § 240.18a-1d(b)(6) of this chapter;

(B) To approve a prepayment of a revolving subordinated loan agreement of a security-based swap dealer pursuant to § 240.18a-1d(c)(4) of this chapter; and

(C) To examine a proposed subordinated loan agreement filed by a security-based swap dealer and to find it acceptable pursuant to § 240.18a-1d(c)(5) of this chapter.

(8) Pursuant to Rule 17a-10(d) (§ 240.17a-10(d) of this chapter), to consider applications by broker-dealers for extensions of time in which to file reports required by Rule 17a-10 (§ 240.17a-10 of this chapter), and to grant, and to

authorize the issuance of orders denying, such applications provided such applicant is advised of the applicant's right to have such denial reviewed by the Commission. Any extension granted shall not be for more than 150 days after the close of the calendar year for which the report on Form X-17A-10 (§ 249.618 of this chapter) is made.

(9) Pursuant to Rule 10b-17(b)(2) (§ 240.10b-17(b)(2) of this chapter), to review applications of various issuers for exemption from the notice requirements of Rule 10b-17 (§ 240.10b-17 of this chapter) and to grant or deny such applications, with authority to issue orders granting and denying same, provided each applicant is advised of the applicant's right to have a denial reviewed by the Commission.

(10)(i) Pursuant to Rule 15c3-3 (§ 240.15c3-3 of this chapter) and Rule 18a-4 (§ 240.18a-4 of this chapter) to find and designate as control locations for purposes of Rule 15c3-3(c)(7) (§ 240.15c3-3(c)(7) of this chapter), Rule 15c3-3(p)(2)(ii)(E) (§ 240.15c3-3(p)(2)(ii)(E) of this chapter), and Rule 18a-4(b)(2)(v) (§ 240.18a-4(b)(2)(v) of this chapter), certain broker-dealer and security-based swap accounts which are adequate for the protection of customer securities.

(ii) Pursuant to section 36(a) of the Act (15 U.S.C. 78mm(a)) to review and, either unconditionally or on specified terms and conditions, grant or deny exemptions from the collateral requirements of paragraph (b)(3) of Rule 15c3-3 of the Act (§ 240.15c3-3 of this chapter) for a type of collateral after concluding that the characteristics of such collateral are substantially comparable to the characteristics of a type of collateral previously exempted by the Commission.

(iii) Pursuant to section 36(a) of the Act (15 U.S.C. 78mm(a)), to review and grant written applications for an exemption, unconditionally or subject to specified terms and conditions, for a broker or dealer to utilize a clearing agency registered with the Commission under section 17A of the Act (15 U.S.C. 78q-1) or a derivatives clearing organization registered with the Commodity Futures Trading Commission under section 5b of the Commodity Exchange Act (7 U.S.C. 7a-1) that does not meet

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the requirements of 17 CFR 240.15c3-3a, Note G.(b)(1)(i) through (iii).

(11) Upon written application or upon its own motion, either unconditionally or on specified terms and conditions, to grant or deny by order an exemption from the requirements of Regulation SHO (§242.200 of this chapter) under the Act pursuant to Section 36 of the Act (15 U.S.C. 78mm).

(12) Pursuant to section 19(b) of the Act, 15 U.S.C. 78s(b), and Rule 19b-4 (§240.19b-4) of this chapter, to publish notices of proposed rule changes filed by self-regulatory organizations and to approve such proposed rule changes, and to find good cause to approve a proposed rule change earlier than 30 days after the date of publication of such proposed rule change and to publish the reasons for such finding. Pursuant to section 19(b) of the Act, 15 U.S.C. 78s(b), and Rule 19b-4 (§240.19b-4) of this chapter, to disapprove a proposed rule change, provided that, with respect to a particular proposed rule change, if two (2) or more Commissioners object in writing to the Director within five (5) business days of being notified by the Director that the Division intends to exercise its authority to disapprove that particular proposed rule change, then the delegation of authority to approve or disapprove that proposal is withdrawn, and the Director shall either present a recommendation to the Commission or institute pursuant to delegated authority proceedings to determine whether the proposed rule change should be disapproved. In addition, pursuant to section 19(b)(10) of the Act, 15 U.S.C. 78s(b)(10), to notify a self-regulatory organization that a proposed rule change does not comply with the rules of the Commission relating to the required form of a proposed rule change, and to determine that a proposed rule change is unusually lengthy and complex or raises novel regulatory issues and to inform the self-regulatory organization of such determination.

(13) Pursuant to section 15B(a) of the Act [15 U.S.C. 78o-4(a)], to authorize the issuance of orders granting registration of municipal securities dealers within forty-five days of the filing of an application for registration as a municipal securities dealer (or within

such longer period as to which the applicant consents).

(14) Pursuant to section 17A(c)(2) of the Act (15 U.S.C. 78q-1(c)(2)), to authorize the issuance of orders accelerating registration of transfer agents for which the Commission is the appropriate regulatory agency before the expiration of thirty days following the dates on which applications for registration as a transfer agent are filed.

(15) [Reserved]

(16) Pursuant to sections 17A(b)(1), 17A(b)(2) and 19(a) of the Act (15 U.S.C. 78q-1(b)(1), 78q-1(b)(2) and 78s(a)), to publish notice of the filing of applications for registration and for exemption from registration as a clearing agency.

(17) Pursuant to Rule 17f-2 (§240.17f-2 of this chapter).

(i) To disapprove a “Notice Pursuant to Rule 17f-2” pursuant to Rule 17f-2(e) (§240.17f-2(e) of this chapter).

(ii) To grant exemptions upon specified terms, conditions, and periods, for classes of persons subject to Rule 17f-2 pursuant to Rule 17f-2(a)(2) (§240.17f-2(a)(2) of this chapter).

(iii) To approve amendments to plan of a registered national securities exchange or a national securities association submitted pursuant to Rule 17f-2(c) (§240.17f-2(c) of this chapter).

(18) Pursuant to Rule 17d-1 (§240.17d-1 of this chapter) to designate one self-regulatory organization responsible for the examination of brokers and dealers which are members of more than one such organization to insure compliance with applicable financial responsibility rules.

(19)(i) To grant and deny applications for confidential treatment filed pursuant to section 24(b) of the Act (15 U.S.C. 78x(b)) and Rule 24b-2 thereunder (240.24b-2 of this chapter);

(ii) To revoke a grant of confidential treatment for any such application.

(20) Pursuant to sections 8(c) and 15(c)(2) of the Act (15 U.S.C. 78h(c) and 78o(2)) and paragraphs (g) of Rules 8c-1 and 15c2-1 thereunder, to make findings that the agreements, safeguards, and provisions of registered clearing agencies are adequate for the protection of investors.

(21) Under section 17A(c)(4)(B) of the Act (15 U.S.C. 78q-1(c)(4)(B)), to set

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terms and conditions upon which transfer agents registered with the Commission may withdraw from registration as a transfer agent by filing a written notice of withdrawal.

(22) Under section 17A(c)(4)(B) of the Act (15 U.S.C. 78q-1(c)(4)(B)), to authorize the issuance of orders canceling registrations of transfer agents registered with the Commission or denying applications for registration as a transfer agent with the Commission, if such transfer agents are no longer in existence or are not engaged in business as transfer agents.

(23) Pursuant to section 17(b) of the Act (15 U.S.C. 78q(b)), prior to any examination of a registered clearing agency, registered transfer agent, or registered municipal securities dealer whose appropriate regulatory agency is not the Commission, to notify and consult with the appropriate regulatory agency for such clearing agency, transfer agent, or municipal securities dealer.

(24) Pursuant to section 17(c)(3) of the Act, 15 U.S.C. 78q(c)(3), in regard to clearing agencies, transfer agents and municipal securities dealers for which the Commission is not the appropriate regulatory agency, (i) to notify the appropriate regulatory agency of any examination conducted by the Commission of any such clearing agency, transfer agent, or municipal securities dealer; (ii) to request from the appropriate regulatory agency a copy of the report of any examination of any such clearing agency, transfer agent, or municipal securities dealer conducted by such appropriate regulatory agency and any data supplied to it in connection with such examination; and (iii) to furnish to the appropriate regulatory agency on request a copy of the report of any examination of any such clearing agency, transfer agent, or municipal securities dealer conducted by the Commission and any data supplied to it in connection with such examination.

(25) Pursuant to Rule 17f-1 (§ 240.17f-1 of this chapter), to designate persons not subject to § 240.17f-1 as reporting institutions upon specified terms, conditions, and time periods.

(26)-27[Reserved]

(28) To grant exemptions from Rule 602 (17 CFR 242.602), pursuant to Rule 602(d) (17 CFR 242.602(d)).

(29) [Reserved]

(30) Pursuant to section 17(a) of the Act, 15 U.S.C. 78q, to approve amendments to the plans which are consistent with the reporting structure of §§ 240.17a-5(a)(2) and 240.17a-10(b) of this chapter (Rules 17a-5(a)(2) and 17a-10(b)) filed by self-regulatory organizations pursuant to §§ 240.17a-5(a)(3) and 240.17a-10(b) of this chapter (Rules 17a-5(a)(3) and 17a-10(b)).

(31) Pursuant to section 19(b)(2)(A) of the Act, 15 U.S.C. 78s(b)(2)(A), to extend for a period not exceeding 90 days from the date of publication of notice of the filing of a proposed rule change pursuant to section 19(b)(1) of the Act, 15 U.S.C. 78s(b)(1), the period during which the Commission must by order approve or disapprove the proposed rule change or institute proceedings to determine whether the proposed rule change should be disapproved and to determine whether such longer period is appropriate and publish the reasons for such determination.

(32) Under § 240.10b-10(f) of this chapter, to grant exemptions from § 240.10b-10 of this chapter.

(33) Pursuant to Rule 17a-6 (§ 240.17a-6 of this chapter) to approve record destruction plans and amendments thereto filed by a national securities exchange or a national securities association.

(34) Pursuant to Rule 17d-2 (§ 240.17d-2 of this chapter) to publish notice of plans and plan amendments filed pursuant to Rule 17d-2 and to approve such plans and plan amendments.

(35) [Reserved]

(36) To grant exemptions from Rule 603 (17 CFR 242.603), pursuant to Rule 603(d) (17 CFR 242.603(d)).

(37) [Reserved]

(38) To disclose:

(i) To the Comptroller of the Currency, the Board of Governors of the Federal Reserve System, the Federal Deposit Insurance Corporation, and the state banking authorities, information and documents deemed confidential regarding registered clearing agencies and registered transfer agents; and

(ii) To the Department of Treasury, information and documents deemed

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confidential regarding possible laundering of money through or by brokers or dealers, including compliance by brokers or dealers with the Currency and Foreign Transactions Reporting Act of 1970, as amended.

(39) Under § 240.9b-1 of this chapter:

(i) To enable distribution of an options disclosure document or amendment to an options disclosure document to the public prior to the time required in the Rule or to lengthen the period before distribution can be made;

(ii) To require refiling of an amendment to an options disclosure document pursuant to the procedure set forth in § 240.9b-1(b)(2)(i) of this chapter.

(40) [Reserved]

(41) Pursuant to Rule 6a-2(c) (§ 240.6a-2 of this chapter) to exempt registered national securities exchanges from the filing requirements imposed by Rule 6a-2 with respect to certain affiliates and subsidiaries of the exchange.

(42) Under 17 CFR 242.608(e), to grant or deny exemptions from 17 CFR 242.608.

(43) To grant or deny exemptions from Rule 17Ad-14 (§ 240.17Ad-14 of this chapter), pursuant to Rule 17Ad-14(d) (§ 240.17Ad-14(d) of this chapter). (sections 4A and 4B of the Securities Exchange Act of 1934, as amended, 15 U.S.C 78d-1, 78d-2).

(44) To review, publish notice of, and where appropriate, approve plans, and amendments to plans, submitted by self-regulatory organizations pursuant to Rule 19d-1(c) under the Act (§ 240.19d-1(c)).

(45) [Reserved]

(46) Pursuant to section 15(b)(9) of the Act, 15 U.S.C. 78o(b)(9) to review and, where appropriate, grant exemptions from the requirement of section 15(b)(8) of the Act, 15 U.S.C. 78o(b)(8).

(47) Pursuant to section 15(a)(2) of the Act, 15 U.S.C. 78o(a)(2), to review and, either unconditionally or on specified terms and conditions, grant exemptions from the broker-dealer registration requirements of section 15(a)(1) of the Act, 15 U.S.C. 78o(a)(1), to Government securities brokers or Government securities dealers that have registered with the Commission under section 15C(a)(2) of the Act, 15 U.S.C. 78o-5(a)(2), solely with respect

to effecting any transactions in, or inducing or attempting to induce the purchase or sale of, any security principally backed by a guaranty of the United States.

(48) [Reserved]

(49) Pursuant to section 11A(b) of the Act (15 U.S.C. 78k-1(b)) and 17 CFR 242.609 (Rule 609 thereunder), to publish notice of and, by order, grant under section 11A(b) of the Act and Rule 609 thereunder: Applications for registration as a securities information processor; and exemptions from Rule 609, either conditionally or unconditionally.

(50) Pursuant to sections 17A(b) and 19(a) of the Act (15 U.S.C. 78q-1(b) and 78s(a)):

(i) To authorize the issuance of orders granting an extension to a temporary clearing agency registration, for up to two years or such longer period as the clearing agency consents.

(ii) To authorize the issuance of orders granting the withdrawal of an application to become a registered clearing agency, at any time prior to final determination of such application by the Commission, upon submission of a request for such withdrawal by applicant.

(51) Pursuant to paragraph (a)(4) of § 240.9b-1 of this chapter, to authorize the issuance of orders designating securities as "standardized options."

(52) Pursuant to Rules 17h-1T and 17h-2T of the Act (§§ 240.17h-1T and 240.17h-2T of this chapter):

(i) To designate certain broker-dealers as Reporting Brokers or Dealers; *or and*

(ii) To grant or deny an exemption, conditionally or unconditionally, to a broker or dealer pursuant to section 17(h) of the Act.

(53) To administer the provisions of § 240.24c-1 of this chapter; provided that access to nonpublic information as defined in such section shall be provided only with the concurrence of the head of the Commission division or office responsible for such information or the files containing such information.

(54) To administer the provisions of Section 24(d) of the Act (15 U.S.C. 78x(d)).

(55) Pursuant to §240.15c6-1 of this chapter, taking into account then existing market practices, to exempt contracts for the purchase or sale of any securities from the requirements of §240.15c6-1(a) of this chapter.

(56) Pursuant to §270.17Ad-16 of this chapter, to designate by order the appropriate qualified registered securities depository.

(57) Pursuant to section 19(b)(2) of the Act, 15 U.S.C. 78s(b)(2), and section 19(b)(3) of the Act, 15 U.S.C. 78s(b)(3), to institute proceedings to determine whether a proposed rule change of a self-regulatory organization should be disapproved and to provide to the self-regulatory organization notice of the grounds for disapproval under consideration. If the Commission has not taken action on a proposed rule change for which delegated authority has been withdrawn under paragraph (a)(12) of this section prior to the expiration of the applicable time period specified in section 19(b)(2) of the Act, 15 U.S.C. 78s(b)(2), then the Director shall institute pursuant to delegated authority proceedings to determine whether the proposed rule change should be disapproved. In addition, pursuant to section 19(b)(2)(B) of the Act, 15 U.S.C. 78s(b)(2)(B), to extend for a period not exceeding 240 days from the date of publication of notice of the filing of a proposed rule change pursuant to Section 19(b)(1) of the Act, 15 U.S.C. 78s(b)(1), the period during which the Commission must issue an order approving or disapproving the proposed rule change and to determine whether such longer period is appropriate and publish the reasons for such determination.

(58) Pursuant to section 19(b)(3)(C) of the Act, 15 U.S.C. 78s(b)(3)(C), to temporarily suspend a change in the rules of a self-regulatory organization.

(59) Pursuant to paragraph (f)(6)(iii) of Rule 19b-4 (§240.19b-4 of this chapter), to reduce the period before which a proposed rule change can become operative, and to reduce the period between an SRO submission of a filing and a pre-filing notification.

(60) [Reserved]

(61) To grant exemptions from Rule 604 (17 CFR 242.604), pursuant to Rule 604(c) (17 CFR 242.604(c)).

(62) Pursuant to section 36 of the Act (15 U.S.C. 78mm) to review and, either unconditionally or on specified terms and conditions, grant or deny exemptions from section 11(d)(1) of the Act (15 U.S.C. 78k(d)(1)).

(63) Pursuant to §240.15a-1(b)(1) of this chapter, to issue orders identifying other permissible securities activities in which an OTC derivatives dealer may engage.

(64) Pursuant to §240.15a-1(b)(2) of this chapter, to issue orders determining that a class of fungible instruments that are standardized as to their material economic terms is within the scope of eligible OTC derivative instrument.

(65) Pursuant to §240.17a-12 of this chapter:

(i) To authorize the issuance of orders requiring over-the-counter (OTC) derivatives dealers to file, pursuant to §240.17a-12(a)(1)(ii) of this chapter, monthly, or at least at such times as shall be specified, Part II of Form X-17A-5 (§249.617 of this chapter) and such other financial and operational information as shall be specified.

(ii) Pursuant to §240.17a-12(n) of this chapter, to consider applications by OTC derivatives dealers for exemptions from, and extensions of time within which to file, reports required by §240.17a-12 of this chapter, and to grant or deny such applications.

(66) To issue orders under Rules 15b3-1(c)(4), 15b6-1(e), 15Ba2-2(e)(4), 15Bc3-1(e), 15Ca2-1(c)(4), and 15Cc1-1(d) (17 CFR 240.15b3-1(c)(4), 240.15b6-1(e), 240.15Ba2-2(e)(4), 240.15Bc3-1(e), 240.15Ca2-1(c)(4), and 240.15Cc1-1(d)).

(67) [Reserved]

(68) Pursuant to Rule 605(b) (17 CFR 242.605(b)), to grant or deny exemptions, conditionally or unconditionally, from any provision or provisions of Rule 605 (17 CFR 242.605).

(69) Pursuant to Rule 606(c) (17 CFR 242.606(c)), to grant or deny exemptions, conditionally or unconditionally, from any provision or provisions of Rule 606 (17 CFR 242.606).

(70) Pursuant to Sections 15(a)(2) and 36 of the Act (15 U.S.C. 78o(a)(2) and 78mm), to review and, either unconditionally or on specified terms and conditions, to grant or deny exemptions to

any bank, savings association, or savings bank from the broker-dealer registration requirements of Section 15(a)(1) of the Act (15 U.S.C. 78o(a)(1)) or any applicable provision of this Act (15 U.S.C. 78c *et seq.*) and the rules and regulations thereunder based solely on such bank's, savings association's, or savings bank's status as a broker or dealer.

(71) Pursuant to section 6(a) of the Act, 15 U.S.C. 78f(a), and Rule 6a-1 thereunder, 17 CFR 240.6a-1:

(i) To publish a notice of filing of an application for registration as a national securities exchange, or for exemption from registration based on limited volume;

(ii) To publish amendments to an application for registration as a national securities exchange, or for exemption from registration based on limited volume; and

(iii) To extend deadlines for submission of comments to an application for registration as a national securities exchange, or for exemption from registration based on limited volume; and amendments to an application for registration as a national securities exchange, or for exemption from registration based on limited volume.

(72) Pursuant to section 36 of the Act (15 U.S.C. 78mm) to review and, either unconditionally or on specified terms and conditions, grant, or deny exemptions from rule 17a-25 of the Act (§240.17a-25 of this chapter).

(73) Pursuant to Section 19(b)(7)(A) of the Act, 15 U.S.C. 78s(b)(7)(A), to publish notices of proposed rule changes filed by self-regulatory organizations relating to security futures products.

(74) Pursuant to Section 19(b)(7)(C) of the Act, 15 U.S.C. 78s(b)(7)(C), to abrogate a change in the rules of a self-regulatory organization relating to security futures products and require that it be refiled in accordance with Section 19(b)(1) of the Act, 15 U.S.C. 78s(b)(1).

(75) Pursuant to Section 6(g)(3) of the Act, 15 U.S.C. 78f(g)(3), to publish acknowledgement of receipt of a notice of registration as a national securities exchange for the sole purpose of trading security futures products under Section 6(g) of the Act and Rule 6a-4 of the Act (17 CFR 240.6a-4).

(76) Pursuant to section 36 of the Act (15 U.S.C. 78mm) to review and grant or deny exemptions from the rule filing requirements of section 19(b) (15 U.S.C. 78s(b)) of the Act, in a case where a self-regulatory organization elects to incorporate by reference one or more rules of another self-regulatory organization, provided that the following specified terms and conditions are met:

(i) A self-regulatory organization electing to incorporate rules of another self-regulatory organization has requested to incorporate rules other than trading rules (e.g., the self-regulatory organization has requested to incorporate rules such as margin, suitability, arbitration);

(ii) A self-regulatory organization electing to incorporate rules of another self-regulatory organization has requested to incorporate by reference categories of rules (rather than to incorporate individual rules within a category); and

(iii) The incorporating self-regulatory organization has reasonable procedures in place to provide written notice to its members each time a change is proposed to the incorporated rules of another self-regulatory organization.

(77)-(79) [Reserved]

(80) To calculate the amount of fees and assessments due from covered SROs based on the trade data that the covered SROs submit on Form R31 (17 CFR 249.11) and to issue Section 31 bills to covered SROs, in consultation with the Chief Operating Officer and the Chief Economist, pursuant to Rules 31 and 31T of this chapter (17 CFR 240.31 and 240.31T).

(81) To grant or deny exemptions from Rule 610 (17 CFR 242.610), pursuant to Rule 610(e) (17 CFR 242.610(e)).

(82) To grant or deny exemptions from Rule 611 (17 CFR 242.611), pursuant to Rule 611(d) (17 CFR 242.611(d)).

(83) To grant or deny exemptions from Rule 612 (17 CFR 242.612), pursuant to Rule 612(c) (17 CFR 242.612(c)).

(84) [Reserved]

(85) Pursuant to Rule 608(b)(1)(ii) (17 CFR 242.608(b)(1)(ii)), to publish notice of the filing of a proposed amendment to an effective national market system plan; pursuant to Rule 608(b)(1)(iii) (17 CFR 242.608(b)(1)(iii)), to notify plan

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participants that the filing of a national market system plan or a proposed amendment to an effective national market system plan does not comply with paragraph (a) of Rule 608 (17 CFR 242.608) or plan filing requirements in other sections of Regulation NMS and 17 CFR 240, subpart A, and to determine that such plan or amendment is unusually lengthy and complex or raises novel regulatory issues and to inform the plan participants of such determination; pursuant to Rule 608(b)(2)(i) (17 CFR 242.608(b)(2)(i)), to institute proceedings to determine whether such plan or amendment should be disapproved, to provide the plan participants notice of the grounds for disapproval under consideration, and to extend for a period not exceeding 240 days from the date of publication of notice of the filing of such plan or amendment the period during which the Commission must issue an order approving or disapproving such plan or amendment and to determine whether such longer period is appropriate and publish the reasons for such determination; pursuant to Rule 608(b)(3)(iii) (17 CFR 242.608(b)(3)(iii)), to summarily abrogate a proposed amendment put into effect upon filing with the Commission and require that such amendment be refiled in accordance with paragraph (a)(1) of Rule 608 and reviewed in accordance with paragraph (b)(2) of Rule 608; and pursuant to Rule 608(b)(4) (17 CFR 242.608(b)(4)), to put a proposed amendment into effect summarily upon publication of notice and on a temporary basis not to exceed 120 days.

(86) To authorize the issuance of orders granting on-going registration to security-based swap dealers and major security-based swap participants based on the security-based swap dealer's or major security-based swap participant's application, pursuant to §240.15Fb2-1(e) of this chapter (Rule 15Fb2-1(e)).

(87) To authorize the issuance of orders canceling the registration of security-based swap dealers and major security-based swap participants registered pursuant to §240.15Fb2-1 of this chapter (Rule 15Fb2-1) if such persons are no longer in existence or have ceased to do business as security-based swap dealers or major security-based

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swap participants, pursuant to §240.15Fb3-3(a) of this chapter (Rule 15Fb3-3(a)).

(88) To determine by order, pursuant to §240.15Fb3-2(b) of this chapter (Rule 15Fb3-2(b)), whether notices of withdrawal of registration filed by security-based swap dealers or major security-based swap participants pursuant to section 15F(b) of the Securities Exchange Act of 1934 (15 U.S.C. 78o-10(b)) shall become effective sooner than the normal 60 day period provided in Rule 15Fb3-2(b) (§240.15Fb3-2(b) of this chapter).

(89) To authorize the publication in the FEDERAL REGISTER of notices that a complete application for substituted compliance has been submitted to the Commission, pursuant to §240.0-13 of this chapter (Rule 0-13).

(90) To grant applications made pursuant to §201.194 of this chapter (Rule 194 of the Commission's Rules of Practice).

(91) Pursuant to section 19(b) of the Act, 15 U.S.C. 78s(b), and §240.19b-4(n) of this chapter (Rule 19b-4), to publish notices of advance notices filed by designated clearing agencies.

(92) Pursuant to section 19(b) of the Act, 15 U.S.C. 78s(b), and §240.19b-4(n) of this chapter (Rule 19b-4), to publish notices of withdrawals of advance notices filed by designated clearing agencies.

(93) Pursuant to section 806(e)(1) of the Payment, Clearing, and Settlement Supervision Act of 2010, 12 U.S.C. 5465(e)(1)(D), to require a designated clearing agency to provide any information necessary to assess the effect the proposed change would have on the nature or level of risks associated with the designated clearing agency's payment, clearing, or settlement activities and the sufficiency of any proposed risk management techniques.

(94) Pursuant to section 806(e)(1) of the Payment, Clearing, and Settlement Supervision Act of 2010, 12 U.S.C. 5465(e)(1)(H), to extend the review period for an additional 60 days for proposed changes that raise novel or complex issues and provide the designated clearing agency with prompt written notice of such extension.

(95) Pursuant to §§ 242.803 and 242.808(a) and (b) of this chapter (Rules 803 and 808(a) and (b)):

(i) To publish notice on the Commission's website of a completed application ("Form SBSEF"), to register as a security-based swap execution facility;

(ii) To make available on the Commission's website certain specified parts of a Form SBSEF;

(iii) To notify the applicant that its application is incomplete and will not be deemed to have been submitted for purposes of the Commission's review;

(iv) To request from the applicant any additional information and documentation necessary to review an application;

(v) To notify the applicant that its application is materially incomplete and to specify the deficiencies in the application, for purposes of staying the 180-day period for Commission review of the Form SBSEF; and

(vi) Upon receipt of a request submitted in good form by a security-based swap execution facility for vacation of its registration, to issue an order vacating the security-based swap execution facility's registration and to send a copy of the request and its order to all other security-based swap execution facilities, national securities exchanges that trade security-based swaps, and registered clearing agencies that clear security-based swaps.

(96) Pursuant to §§ 242.804(c)(1) and (2) and 242.808(b) of this chapter:

(i) To make publicly available on the Commission's website a security-based swap execution facility's filing of new products pursuant to the self-certification procedures of § 242.804 of this chapter;

(ii) To stay for a period of up to 90 days the effectiveness of a security-based swap execution facility's self-certification of a new product;

(iii) To publish notice on the Commission's website of a 30-day period for public comment; and

(iv) To withdraw the stay or notify the security-based swap execution facility that the Commission objects to the proposed certification.

(97) Pursuant to §§ 242.805(b) through (e) and 242.808(b) of this chapter:

(i) To make publicly available on the Commission's website a security-based

swap execution facility's filing of new products for Commission review and approval pursuant to § 242.805 of this chapter (Rule 805);

(ii) To notify the submitting security-based swap execution facility that a submission for a new product does not comply with paragraph (a) of § 242.805 of this chapter (Rule 805);

(iii) To extend by an additional 45 days the period for consideration of a new product voluntarily submitted by a security-based swap execution facility to the Commission for approval, if the product raises novel or complex issues that require additional time to analyze, and to notify the security-based swap execution facility of the extension within the initial 45-day review period and briefly describe the nature of the specific issue(s) for which additional time for review is required;

(iv) To extend the period for consideration of a new product voluntarily submitted by a security-based swap execution facility to the Commission for approval by such longer period as to which the security-based swap execution facility agrees in writing;

(v) To approve a proposed new product and provide notice of the approval to the security-based swap execution facility;

(vi) To notify the security-based swap execution facility that the Commission will not, or is unable to, approve the product, and to specify the nature of the issues raised and the specific provision of the Act or the Commission's rules thereunder, including the form or content requirements § 242.805(a) of this chapter, that the product violates, appears to violate, or potentially violates but which cannot be ascertained from the submission.

(98) Pursuant to §§ 242.806(b) through (e) and 242.808(b) of this chapter:

(i) To make publicly available on the Commission's website a security-based swap execution facility's filing of new rules and rule amendments for Commission review and approval pursuant to § 242.806(a) of this chapter;

(ii) To notify the submitting security-based swap execution facility that a submission for a new rule or rule amendment does not comply with § 242.806(a) of this chapter;

(iii) To extend by an additional 45 days the period for consideration of a new rule or rule amendment voluntarily submitted by a security-based swap execution facility to the Commission, if the proposed rule or rule amendment raises novel or complex issues that require additional time to review or is of major economic significance, the submission is incomplete, or the requester does not respond completely to the Commission questions in a timely manner, and to notify the security-based swap execution facility of the extension within the initial 45-day review period and briefly describe the nature of the specific issue(s) for which additional time for review is required;

(iv) To extend the period for consideration of a new rule amendment voluntarily submitted by a security-based swap execution facility to the Commission for approval by such longer period as to which the security-based swap execution facility agrees in writing;

(v) To approve a proposed rule or rule amendment and provide notice of the approval to the security-based swap execution facility;

(vi) To notify a security-based swap execution facility that the Commission will not, or is unable to, approve the new rule or rule amendment and to specify the nature of the issues raised and the specific provision of the Act or the Commission's rules thereunder, including the form or content requirements of this section, with which the new rule or rule amendment is inconsistent or appears to be inconsistent with the Act or the Commission's rules thereunder, including the form or content requirements of Rule 806, with which the new rule or rule amendment is inconsistent or appears to be inconsistent; and

(vii) To approve a proposed rule or a rule amendment, including changes to terms and conditions of a product, on an expedited basis under such conditions as shall be specified in the written notification.

(99) Pursuant to §§ 242.807(c) and 242.808(b) of this chapter:

(i) To make publicly available on the Commission's website a security-based swap execution facility's filing of new rules and rule amendments pursuant to

the self-certification procedures of § 242.807 of this chapter;

(ii) To stay for a period of up to 90 days the effectiveness of a security-based swap execution facility's self-certification of a new rule or rule amendment;

(iii) To publish notice on the Commission's website of a 30-day period for public comment; and

(iv) To withdraw the stay or notify the security-based swap execution facility that the Commission objects to the proposed certification.

(100) Pursuant to §§ 242.809 of this chapter, to provide written notice to a security-based swap execution facility of a stay or tolling pending issuance of a joint interpretation upon request for a joint interpretation of whether a proposed product is a swap, security-based swap, or mixed swap made pursuant to § 240.3a68-2 of this chapter by the security-based swap execution facility, the Commission, or the Commodity Futures Trading Commission.

(101) Pursuant to § 242.811 of this chapter:

(i) To request pursuant § 242.811(a) of this chapter that a security-based swap execution facility file with the Commission information related to its business as a security-based swap execution facility, and to specify the form, manner, and timeframe for the filing by the security-based swap execution facility;

(ii) To request pursuant to § 242.811(b) of this chapter that a security-based swap execution facility file with the Commission a written demonstration, containing supporting data, information, and documents, that it is in compliance with one or more Core Principles or with its other obligations under the Act or the Commission's rules thereunder, to specify the Core Principles and other obligations under the Act or the Commission's rules that the security-based swap execution facility's filing must address, and to specify the form, manner, and timeframe for the security-based swap execution facility's filing;

(iii) To specify, pursuant to § 242.811(c)(2) of this chapter, the form and manner of the notification required pursuant to § 242.811(c)(1) of this

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chapter by a security-based swap execution facility of any transaction involving the direct or indirect transfer of 50 percent or more of the equity interest in the security-based swap execution facility, and to request supporting documentation of the transaction;

(iv) To specify the form and manner of the certification required pursuant to §242.811(c)(4) of this chapter; and

(v) To specify the form and manner of the submission by a security-based swap execution facility of documents filed in any material legal proceeding to which the security-based swap execution facility is a party or its property or assets is subject, as specified in §242.811(d)(1) of this chapter, or in any material legal proceeding instituted against any officer, director, or other official of the security-based swap execution facility from conduct in such person's capacity as an official of the security-based swap execution facility, as specified in §242.811(d)(2) of this chapter, and to request further documents.

(102) Pursuant to §242.822 of this chapter (Rule 822), to require that a security-based swap execution provide information in its possession to the Commission and to specify the form and manner of that provision, and to require a security-based swap execution facility to share information with other regulation organizations, data repositories, and third-party data reporting services as necessary and appropriate to fulfill the security-based swap execution facility's regulatory and reporting responsibilities.

(b)-(c) [Reserved]

(d) To notify the Securities Investor Protection Corporation ("SIPC") of facts concerning the activities and the operational and financial condition of any registered broker or dealer which is or appears to be a member of SIPC and which is in or approaching financial difficulty within the meaning of section 5 of the Securities Investor Protection Act of 1970, as amended, 15 U.S.C. 78aaa *et seq.*

(e) To determine whether, and issue orders regarding, proposals for designation of a contract market for futures trading on an index or group of securities meet the eligibility criteria set

forth under section 2(a)(1)(B)(ii) of the Commodity Exchange Act, 7 U.S.C. 2(a).

(f) With respect to the Securities Investor Protection Act of 1970, as amended, 15 U.S.C. 78aaa *et seq.* ("SIPA"):

(1) Pursuant to Section 3(a)(2)(B) of SIPA, to:

(i) Extend for a period not exceeding 90 days from the date of the filing of the determination by the Securities Investor Protection Corporation ("SIPC") that a registered broker-dealer is not a SIPC member because it conducts its principal business outside the United States and its territories and possessions, the period during which the Commission must affirm, reverse or amend any determination by SIPC; and

(ii) Affirm such determination filed by SIPC.

(2) Pursuant to Section (3)(e)(1) of SIPA, to:

(i) Determine whether proposed bylaw changes filed by SIPC should not be disapproved or whether the proposed bylaw change is a matter of such significant public interest that public comment should be obtained, in which case the Division will notify SIPC of such finding and publish notice of the proposed bylaw change in accordance with Section 3(e)(2) of SIPA; and

(ii) Accelerate the effective date of proposed bylaw changes filed by SIPC.

(3) Pursuant to Section (3)(e)(2) of SIPA, to publish notice of proposed rule changes filed by SIPC.

(g) To consult on behalf of the Commission pursuant to section 18(t)(1) of the Federal Deposit Insurance Act (12 U.S.C. 1828(t)(1)) with respect to matters described in §200.19a.

(h) To consult on behalf of the Commission pursuant to sections 5318A(a)(4), 5318A(e)(2) and 5318(h)(2) of the Bank Secrecy Act (31 U.S.C. 5318A(a)(4), 5318A(e)(2) and 5318(h)(2)) with respect to matters described in §200.19a.

(i) To consult on behalf of the Commission pursuant to the Uniting and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism Act of 2001 (USA PATRIOT Act), as amended (Pub. L. 107-56 (2001), 115 Stat. 272) with

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respect to matters described in § 200.19a.

(j) With respect to the Securities Act of 1933 (15 U.S.C. 77a *et seq.*), the Securities Exchange Act of 1934 (15 U.S.C. 78a *et seq.*), the Trust Indenture Act of 1939 (15 U.S.C. 77aaa *et seq.*), and Regulation S-T thereunder (part 232 of this chapter), to grant or deny a request submitted pursuant to Rule 13(b) of Regulation S-T (§232.13(b) of this chapter) to adjust the filing date of an electronic filing.

(k) With respect to the Securities Act of 1933 (15 U.S.C. 77a *et seq.*), the Securities Exchange Act of 1934 (15 U.S.C.) 78a *et seq.*), the Trust Indenture Act of 1939 (15 U.S.C. 77aaa *et seq.*), and Regulation S-T thereunder (part 232 of this chapter) to set the terms of, and grant or deny as appropriate, continuing hardship exemptions, pursuant to Rule 202 of Regulation S-T (§232.202 of this chapter), from the electronic submission requirements of Regulation S-T (part 232 of this chapter).

(l) Notwithstanding anything in paragraphs (a) through (k) of this section, in any case in which the Director of the Division of Trading and Markets believes it appropriate, the Director may submit the matter to the Commission.

[37 FR 16795, Aug. 19, 1972]

EDITORIAL NOTE: For FEDERAL REGISTER citations affecting §200.30–3, see the List of CFR Sections Affected, which appears in the Finding Aids section of the printed volume and at www.govinfo.gov.

§ 200.30–3a Delegation of authority to Director of the Office of Municipal Securities.

Pursuant to the provisions of Pub. L. 100–181, 101 Stat. 1254, 1255 (15 U.S.C. 78d–1, 78d–2), the Securities and Exchange Commission hereby delegates, until the Commission orders otherwise, the following functions to the Director of the Office of Municipal Securities to be performed by the Director or under the Director's direction by such person or persons as may be designated from time to time by the Chairman of the Commission:

(a) With respect to the Securities Exchange Act of 1934 (15 U.S.C. 78a *et seq.*):

(1) Pursuant to section 15B of the Act (15 U.S.C. 78o–4):

(i) To authorize the issuance of orders granting registration of municipal advisors within 45 days of the filing of an application for registration as a municipal advisor (or within such longer period as to which the applicant consents); and

(ii) To authorize the issuance of orders canceling the registration of a municipal advisor, if such municipal advisor is no longer in existence or has ceased to do business as a municipal advisor.

(2) Pursuant to section 19(b) of the Act, 15 U.S.C. 78s(b), and §240.19b–4 of this chapter (Rule 19b–4), to publish notices of proposed rule changes filed by the Municipal Securities Rulemaking Board and to approve such proposed rule changes, and to find good cause to approve a proposed rule change earlier than 30 days after the date of publication of such proposed rule change and to publish the reasons for such finding. Pursuant to section 19(b) of the Act, 15 U.S.C. 78s(b), and Rule 19b–4 (§240.19b–4 of this chapter), to disapprove a proposed rule change, provided that, with respect to a particular proposed rule change, if two (2) or more Commissioners object in writing to the Director within five (5) business days of being notified by the Director that the Office intends to exercise its authority to disapprove that particular proposed rule change, then the delegation of authority to approve or disapprove that proposal is withdrawn, and the Director shall either present a recommendation to the Commission or institute proceedings to determine whether the proposed rule change should be disapproved. In addition, pursuant to section 19(b)(10) of the Act, 15 U.S.C. 78s(b)(10), to notify the Municipal Securities Rulemaking Board that a proposed rule change does not comply with the rules of the Commission relating to the required form of a proposed rule change, and to determine that a proposed rule change is unusually lengthy and complex or raises novel regulatory issues and to inform the Municipal Securities Rulemaking Board of such determination.

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(3) Pursuant to section 15B(a) of the Act [15 U.S.C. 78o-4(a)], to authorize the issuance of orders granting registration of municipal securities dealers within forty-five days of the filing of an application for registration as a municipal securities dealer (or within such longer period as to which the applicant consents).

(4)(i) To grant and deny applications for confidential treatment filed pursuant to section 24(b) of the Act (15 U.S.C. 78x(b)) and §240.24b-2 of this chapter (Rule 24b-2 thereunder);

(ii) To revoke a grant of confidential treatment for any such application.

(5) Pursuant to section 17(b) of the Act (15 U.S.C. 78q(b)), prior to any examination of a registered municipal securities dealer whose appropriate regulatory agency is not the Commission, to notify and consult with the appropriate regulatory agency for such municipal securities dealer.

(6) Pursuant to section 17(c)(3) of the Act, 15 U.S.C. 78q(c)(3), in regard to municipal securities dealers for which the Commission is not the appropriate regulatory agency:

(i) To notify the appropriate regulatory agency of any examination conducted by the Commission of any such municipal securities dealer;

(ii) To request from the appropriate regulatory agency a copy of the report of any examination of any such municipal securities dealer conducted by such appropriate regulatory agency and any data supplied to it in connection with such examination; and

(iii) To furnish to the appropriate regulatory agency on request a copy of the report of any examination of any such municipal securities dealer conducted by the Commission and any data supplied to it in connection with such examination.

(7) Pursuant to section 19(b)(2)(A) of the Act, 15 U.S.C. 78s(b)(2)(A), to extend for a period not exceeding 90 days from the date of publication of notice of the filing of a proposed rule change by the Municipal Securities Rulemaking Board pursuant to section 19(b)(1) of the Act, 15 U.S.C. 78s(b)(1), the period during which the Commission must by order approve or disapprove the proposed rule change or institute proceedings to determine

whether the proposed rule change should be disapproved and to determine whether such longer period is appropriate and publish the reasons for such determination.

(8) Pursuant to 17 CFR 15c2-12(e) (Rule 15c2-12(e)), to grant or deny exemptions, either unconditionally or on specified terms and conditions, from Rule 15c2-12.

(9) To administer the provisions of §240.24c-1 of this chapter; provided that access to nonpublic information as defined in §240.24c-1 shall be provided only with the concurrence of the head of the Commission division or office responsible for such information or the files containing such information.

(10) To administer the provisions of section 24(d) of the Act (15 U.S.C. 78x(d)).

(11) Pursuant to section 19(b)(2) of the Act, 15 U.S.C. 78s(b)(2), and section 19(b)(3) of the Act, 15 U.S.C. 78s(b)(3), to institute proceedings to determine whether a proposed rule change of the Municipal Securities Rulemaking Board should be disapproved and to provide to the Municipal Securities Rulemaking Board notice of the grounds for disapproval under consideration. If the Commission has not taken action on a proposed rule change for which delegated authority has been withdrawn under paragraph (a)(12) of this section prior to the expiration of the applicable time period specified in section 19(b)(2) of the Act, 15 U.S.C. 78s(b)(2), then the Director shall institute pursuant to delegated authority proceedings to determine whether the proposed rule change should be disapproved. In addition, pursuant to section 19(b)(2)(B) of the Act, 15 U.S.C. 78s(b)(2)(B), to extend for a period not exceeding 240 days from the date of publication of notice of the filing of a proposed rule change pursuant to section 19(b)(1) of the Act, 15 U.S.C. 78s(b)(1), the period during which the Commission must issue an order approving or disapproving the proposed rule change and to determine whether such longer period is appropriate and publish the reasons for such determination.

(12) Pursuant to section 19(b)(3)(C) of the Act, 15 U.S.C. 78s(b)(3)(C), to temporarily suspend a change in the rules

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of the Municipal Securities Rulemaking Board.

(13) Pursuant to §240.19b-4(f)(6)(iii) of this chapter (Rule 19b-4(f)(6)(iii)), to reduce the period before which a proposed rule change can become operative, and to reduce the period between an Municipal Securities Rulemaking Board submission of a filing and a pre-filing notification.

(14) Pursuant to section 36 of the Act (15 U.S.C. 78mm), to review and grant or deny exemptions from the rule filing requirements of section 19(b) (15 U.S.C. 78s(b)) of the Act, in a case where the Municipal Securities Rulemaking Board elects to incorporate by reference one or more rules of another self-regulatory organization, provided that the following specified terms and conditions are met:

(i) The Municipal Securities Rulemaking Board, when electing to incorporate rules of another self-regulatory organization, has requested to incorporate rules other than trading rules (*e.g.*, the Municipal Securities Rulemaking Board has requested to incorporate rules such as margin, suitability, arbitration);

(ii) The Municipal Securities Rulemaking Board, when electing to incorporate rules of another self-regulatory organization has requested to incorporate by reference categories of rules (rather than to incorporate individual rules within a category); and

(iii) The Municipal Securities Rulemaking Board has reasonable procedures in place to provide written notice to its members each time a change is proposed to the incorporated rules of another self-regulatory organization.

(b) To consult on behalf of the Commission pursuant to section 18(t)(1) of the Federal Deposit Insurance Act (12 U.S.C. 1828(t)(1)) with respect to matters described in §200.19a.

(c) Notwithstanding anything in the foregoing, in any case in which the Director of the Office of Municipal Securities believes it appropriate, he may submit the matter to the Commission.

[78 FR 67632, Nov. 12, 2013, as amended at 86 FR 9445, Feb. 16, 2021]

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§ 200.30-3b Delegation of authority to Director of the Office of Credit Ratings.

Pursuant to the provisions of Public Law 100-181, 101 Stat. 1254, 1255 (15 U.S.C. 78d-1, 78d-2), the Securities and Exchange Commission hereby delegates, until the Commission orders otherwise, the following functions to the Director of the Office of Credit Ratings to be performed by the Director or under the direction of the Director by such person or persons as may be designated from time to time by the Chairman of the Commission:

(a) With respect to the Securities Exchange Act of 1934 (15 U.S.C. 78a *et seq.*):

(1) To grant and deny applications for confidential treatment filed pursuant to section 24(b) of the Act (15 U.S.C. 78x(b)) and §240.24b-2 of this chapter (Rule 24b-2 thereunder);

(2) To revoke a grant of confidential treatment for any such application.

(b) With respect to the Securities Exchange Act of 1934 (15 U.S.C. 78a *et seq.*):

(1) To administer the provisions of §240.24c-1 of this chapter; provided that access to nonpublic information as defined in §240.24c-1 shall be provided only with the concurrence of the head of the Commission division or office responsible for such information or the files containing such information.

(2) To administer the provisions of section 24(d) of the Act (15 U.S.C. 78x(d)).

[86 FR 9446, Feb. 16, 2021]

§ 200.30-4 Delegation of authority to Director of Division of Enforcement.

Pursuant to the provisions of Pub. L. No. 100-181, 101 Stat. 1254, 1255 (15 U.S.C. 78d-1, 78d-2), the Securities and Exchange Commission hereby delegates, until the Commission orders otherwise, the following functions to the Director of the Division of Enforcement to be performed by him or under his direction by such other person or persons as may be designated from time to time by the Chairman of the Commission.

(a)(1) To designate officers empowered to administer oaths and affirmations, subpoena witnesses, compel their

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attendance, take evidence, and require the production of any books, papers, correspondence, memoranda, contracts, agreements, or other records in the course of investigations instituted by the Commission pursuant to section 19(c) of the Securities Act of 1933 (15 U.S.C. 77s(c)), section 21(b) of the Securities Exchange Act of 1934 (15 U.S.C. 78u(b)), section 42(b) of the Investment Company Act of 1940 (15 U.S.C. 80a-41(b)) and section 209(b) of the Investment Advisers Act of 1940 (15 U.S.C. 80b-9(b)).

(2) In nonpublic investigative proceedings, to grant requests of persons to procure copies of the transcript of their testimony under § 203.6 of this chapter.

(3) To terminate and close all investigations authorized by the Commission pursuant to section 20 of the Securities Act of 1933 (15 U.S.C. 77t), section 21 of the Securities Exchange Act of 1934 (15 U.S.C. 78u), section 42 of the Investment Company Act of 1940 (15 U.S.C. 80a-41) and section 209 of the Investment Advisers Act of 1940 (15 U.S.C. 80b-9).

(4) To terminate the authority to administer oaths and affirmations, subpoena witnesses, compel their attendance, take evidence, and require the production of any books, papers, correspondence, memoranda, contracts, agreements, or other records in the course of investigations instituted by the Commission pursuant to section 19(c) of the Securities Act of 1933 (15 U.S.C. 77s(c)), section 21(b) of the Securities Exchange Act of 1934 (15 U.S.C. 78u(b)), section 42(b) of the Investment Company Act of 1940 (15 U.S.C. 80a-41(b)) and section 209(b) of the Investment Advisers Act of 1940 (15 U.S.C. 80b-9(b)).

(5) To grant or deny applications made pursuant to Rule 193 of the Commission's Rules of Practice, § 201.193 of this chapter, provided, that, in the event of a denial, the applicant shall be notified that such a denial may be appealed to the Commission for review.

(6) To notify the Securities Investor Protection Corporation ("SIPC") of facts concerning the activities and the operational and financial condition of any registered broker or dealer which is or appears to be a member of SIPC

and which is in or approaching financial difficulty within the meaning of section 5 of the Securities Investor Protection Act of 1970, as amended, 15 U.S.C. 78aaa *et seq.*

(7) To administer the provisions of § 240.24c-1 of this chapter; provided that access to nonpublic information as defined in such section shall be provided only with the concurrence of the head of the Commission division or office responsible for such information or the files containing such information.

(8) Pursuant to Rule 204-2(j)(3)(ii) (§ 275.204-2(j)(3)(ii) of this chapter) under the Investment Advisers Act of 1940 (15 U.S.C. 80b-1 *et seq.*), to make written demands upon non-resident investment advisers subject to the provisions of such rule to furnish to the Commission true, correct, complete and current copies of any or all books and records which such non-resident investment advisers are required to make, keep current or preserve pursuant to any provision of any rule or regulation of the Commission adopted under the Investment Advisers Act of 1940, or any part of such books and records which may be specified in any such demand.

(9) To administer the provisions of Section 24(d) of the Securities Exchange Act of 1934 (15 U.S.C. 78x(d)).

(10) To institute subpoena enforcement proceedings in federal court to seek an order compelling the production of documents or an individual's appearance for testimony pursuant to subpoenas issued pursuant to paragraph (a)(1) of this section in connection with investigations pursuant to section 19(c) of the Securities Act of 1933 (15 U.S.C. 77s(c)), section 21(b) of the Securities Exchange Act of 1934 (15 U.S.C. 78u(b)), section 42(b) of the Investment Company Act of 1940 (15 U.S.C. 80a-41(b)) and section 209(b) of the Investment Advisers Act of 1940 (15 U.S.C. 80b-9(b)).

(11) To authorize staff to appear in federal bankruptcy court to preserve Commission claims in connection with investigations pursuant to section 19(c) of the Securities Act of 1933 (15 U.S.C. 77s(c)), section 21(b) of the Securities Exchange Act of 1934 (15 U.S.C. 78u(b)), section 42(b) of the Investment Company Act of 1940 (15 U.S.C. 80a-41(b))

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and section 209(b) of the Investment Advisers Act of 1940 (15 U.S.C. 80b-9(b)).

(12) Pursuant to Section 36 of the Securities Exchange Act of 1934 (15 U.S.C. 78mm) to review and, either unconditionally or on specified terms and conditions, grant, or deny exemptions from rule 17a-25 of the Act (§240.17a-25 of this chapter), provided that the Division of Trading and Markets is notified of any such granting or denial of an exemption.

(13) [Reserved]

(14) To submit witness immunity requests to the U.S. Attorney General pursuant to 18 U.S.C. 6002-6004, and, upon approval by the U.S. Attorney General, to seek or, for the period from June 17, 2011 through December 19, 2012, to issue orders compelling an individual to give testimony or provide other information pursuant to subpoenas that may be necessary to the public interest in connection with investigations and related enforcement actions pursuant to section 22(b) of the Securities Act of 1933 (15 U.S.C. 77v(b)), section 21(c) of the Securities Exchange Act of 1934 (15 U.S.C. 78u(c)), section 42(c) of the Investment Company Act of 1940 (15 U.S.C. 80a-41(c)) and section 209(c) of the Investment Advisers Act of 1940 (15 U.S.C. 80b-9(c)).

(15) With respect to debts arising from actions to enforce the federal securities laws, to terminate collection activity or discharge debts, to accept offers to compromise debts when the principal amount of the debt is \$5 million or less, to reject offers to compromise debts, and to accept or reject offers to enter into payment plans.

(16) To disclose information, in accordance with Section 21F(h)(2) of the Securities Exchange Act of 1934 (15 U.S.C. 78u-6(h)(2)), that would reveal, or could reasonably be expected to reveal, the identity of a whistleblower.

(17) With respect to disgorgement and Fair Fund plans established in administrative proceedings instituted by the Commission pursuant to the federal securities laws, to appoint a person as a plan administrator, if that person is included in the Commission's approved pool of administrators, and, for an administrator appointed pursuant to this delegation, to set the amount of or waive for good cause shown, the admin-

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istrator's bond required by §201.1105(c) of this chapter.

(18) With respect to enforcement proceedings in Federal court, to:

(i) Dismiss claims against entities that are defunct, the subject of Federal or foreign bankruptcy proceedings, or without material assets; and

(ii) Dismiss claims against persons or entities that duplicate or overlap with other pending claims against those persons or entities, unless the dismissal would involve claims requiring a higher level of intent than that required by the remaining claims, result in a reduction of disgorgement available for the claims in the Commission's complaint, or eliminate the statutory basis for a bar sought in the Commission's complaint.

(19) To file applications in Federal court to seek an order pursuant to section 21(h)(2) of the Securities Exchange Act of 1934 (15 U.S.C. 78u(h)(2)) in connection with investigations pursuant to section 19(c) of the Securities Act of 1933 (15 U.S.C. 77s(c)), section 21(b) of the Securities Exchange Act of 1934 (15 U.S.C. 78u(b)), section 42(b) of the Investment Company Act of 1940 (15 U.S.C. 80a-42(b)), and section 209(b) of the Investment Advisers Act of 1940 (15 U.S.C. 80b-9(b)).

(20) To institute proceedings pursuant to section 12(j) of the Securities Exchange Act of 1934 (15 U.S.C. 78l(j)) with respect to a security based on the issuer's alleged failure to file required periodic reports and, in connection with the institution of such proceedings, issue orders pursuant to section 12(k)(1)(A) of the Securities Exchange Act of 1934 (15 U.S.C. 78l(k)(1)(A)).

(21) With respect to disgorgement funds and Fair Fund plans established in administrative or cease-and-desist proceedings instituted by the Commission pursuant to the Federal securities laws, to:

(i) Grant extensions of time to submit proposed distribution plans to the Commission;

(ii) Appoint tax administrators, pursuant to a Commission-approved omnibus order;

(iii) Publish notice of proposed plans, including plans that omit elements required by §201.1101 of this chapter

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(Rule 1101 of the Rules on Fair Fund and Disgorgement Plans);

(iv) Issue orders adopting plans as to which no negative comments have been received;

(v) Approve disbursements to investors in accordance with the plans;

(vi) Approve payment of the fees and expenses of administration; and

(vii) Approve final fund accountings.

(b) Notwithstanding anything in the foregoing, in any case in which the Director of the Division of Enforcement believes it appropriate, he may submit the matter to the Commission.

[37 FR 16796, Aug. 19, 1972]

EDITORIAL NOTE: For FEDERAL REGISTER citations affecting § 200.30-4, see the List of CFR Sections Affected, which appears in the Finding Aids section of the printed volume and at www.govinfo.gov.

§ 200.30-5 Delegation of authority to Director of Division of Investment Management.

Pursuant to the provisions of sections 4A and 4B of the Securities Exchange Act of 1934, as amended, (15 U.S.C. 78d-1, 78d-2), the Securities and Exchange Commission hereby delegates, until the Commission orders otherwise, the following functions to the Director of the Division of Investment Management, to be performed by the Director or under the Director's direction by such person or persons as may be designated from time to time by the Chairman of the Commission:

(a) With respect to the Investment Company Act of 1940 (15 U.S.C. 80a-1 *et seq.*):

(1) Except as otherwise provided in this section, to issue notices, under § 270.0-5 of this chapter, with respect to applications for orders under the Act and the rules and regulations thereunder and, with respect to section 8(f) of the Act (15 U.S.C. 80a-8(f)), in cases where no application has been filed, where, upon examination, the matter does not appear to the Director to present significant issues that have not been previously settled by the Commission or to raise questions of fact or policy indicating that the public interest or the interest of investors warrants that the Commission consider the matter.

(2) Except as otherwise provided in this section, to authorize the issuance of orders where a notice, under § 270.0-5 of this chapter, has been issued and no request for a hearing has been received from any interested person within the period specified in the notice and the Director believes that the matter presents no significant issues that have not been previously settled by the Commission and it does not appear to the Director to be necessary in the public interest or the interest of investors that the Commission consider the matter.

(3) To permit the withdrawal of applications pursuant to the Act (15 U.S.C. 80a-1 *et seq.*)

(4) In connection with the mailing of reports to stockholders and the filing with the Commission of registration statements and of reports:

(i) To grant reasonable extensions of time, upon a showing of good cause and that it would not be contrary to the public interest or inconsistent with the protection of investors; and

(ii) To deny requests for extensions of time, provided the applicant is advised that the applicant can request Commission review of any such denial.

(5) [Reserved]

(6) To authorize the issuance of orders granting confidential treatment pursuant to section 45(a) of the Act (15 U.S.C. 80a-44(a)) where applications for confidential treatment are made regarding matters of disclosure in registration statements filed pursuant to section 8 of the Act (15 U.S.C. 80a-8), or in reports filed pursuant to section 30 of the Act (15 U.S.C. 80a-29), but only when the Commission has previously by order granted confidential treatment to the same information.

(7) To issue notices, pursuant to Rule 0-5(a) (§ 270.0-5(a) of this chapter) with respect to applications for temporary and permanent orders under section 9(c) of the Investment Company Act of 1940 (15 U.S.C. 80a-9(c)), and to conditionally or unconditionally exempt persons, for a temporary period not exceeding 60 days, from section 9(a) of the Investment Company Act of 1940 (15 U.S.C. 80a-9(a)), if, on the basis of the facts then set forth in the application, it appears that:

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(i)(A) The prohibitions of section 9(a), as applied to the applicant, may be unduly or disproportionately severe, or (B) the applicant's conduct has been such as not to make it against the public interest or the protection of investors to grant the temporary exemption; and

(ii) Granting the temporary exemption would protect the interests of the investment companies being served by the applicant by allowing time for the orderly consideration of the application for permanent relief or the orderly transition of the applicant's responsibilities to a successor, or both.

(8) To issue—

(i) Notices, pursuant to Rule 0-5(a) (§270.0-5(a) of this chapter), with respect to applications for permanent orders under section 9(c) of the Act [15 U.S.C. 80a-9(c)], and, orders, pursuant to paragraph (a)(2) of this section, that exempt conditionally or unconditionally persons from section 9(a) of the Act [15 U.S.C. 80a-9(a)], if, on the basis of the facts then set forth in the application, it appears that:

(A) The prohibitions of section 9(a) of the Act, as applied to the applicant, may be unduly or disproportionately severe, or the applicant's conduct has been such as not to make it against the public interest or the protection of investors to grant the exemption;

(B) The prohibitions arise under section 9(a)(3) of the Act solely because the applicant employs, or will employ, a person who is disqualified under section 9(a) (1) or (2) of the Act; and,

(C) The employee does not and will not serve in any capacity directly related to providing investment advice to, or acting as depositor for, any registered investment company, or acting as principal underwriter for any registered open-end company, registered unit investment trust or registered face amount certificate company.

(ii) Temporary orders under section 9(c) of the Act [15 U.S.C. 80a-9(c)], exempting conditionally or unconditionally persons from section 9(a) of the Act [15 U.S.C. 80a-9(a)], if, on the basis of the application, it appears that:

(A) The prohibitions arise under section 9(a)(3) of the Act solely because the applicant employs a person who is

disqualified under section 9(a) (1) or (2) of the Act; and

(B) Applicant meets the requirements of paragraphs (a)(8)(i) (A) and (C) of this section.

(9) To notify an applicant under 17 CFR 270.0-5(f)(1)(ii) that an application pursuant to the Act (15 U.S.C. 80a-1 *et seq.*) is not eligible for expedited review under 17 CFR 270.0-5.

(b) With respect to matters pertaining to investment companies registered under the Investment Company Act of 1940 (15 U.S.C. 80a *et seq.*), pooled investment funds or accounts, and the general assets or separate accounts of insurance companies, all arising under the Securities Act of 1933 (15 U.S.C. 77a *et seq.*), the Securities Exchange Act of 1934 (15 U.S.C. 78a *et seq.*), and the Trust Indenture Act of 1939 (15 U.S.C. 77aaa *et seq.*), the same functions as are delegated to the Director of the Division of Corporation Finance in regard to companies other than such investment companies in paragraphs (a), (e), and (f) of §200.30-1.

(c) *With respect to the Securities Act of 1933.* (1) To issue notices with respect to applications for orders under section 3(a)(2) exempting from section 5 interests or participations issued in connection with stock bonus, pension, profit-sharing, or annuity plans covering employees some or all of whom are employees within the meaning of section 401(c)(1) of the Internal Revenue Code of 1954 where, upon examination, the matter does not appear to the Director to present issues not previously settled by the Commission or to raise questions of fact or policy indicating that the public interest or the interest of investors requires that a hearing be held.

(2) To authorize the issuance of orders where a notice has been issued and no request for a hearing has been received from any interested person within the period specified in the notice and the matter involved presents no issue that the Director believes has not been settled previously by the Commission and it does not appear to the Director to be necessary in the public interest or the interest of investors that a hearing be held.

(3) With respect to post-effective amendments filed pursuant to § 230.485(a) or § 230.486(a) of this chapter:

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(i) To suspend the operation of paragraph (a) of such sections and to issue written notices to registrants of such suspensions;

(ii) To determine such amendments to be effective within shorter periods of time than the sixtieth day after the filing thereof.

(4) With respect to post-effective amendments filed pursuant to § 230.485(b) or § 230.486(b) of this chapter:

(i) To approve additional purposes for post-effective amendments which shall be eligible for immediate effectiveness pursuant to paragraph (b) of such sections.

(ii) To suspend the operation of paragraph (b) of such sections and to issue written notices to registrants of such suspensions.

(5) With respect to registration statements filed pursuant to paragraph (a) of Rule 487 under the Act (17 CFR 230.487(a)):

(i) To suspend the operation of said paragraph (a) and to issue written notices to registrants of such suspensions.

(6) With respect to registration statements filed pursuant to paragraph (a) of rule 488 under the Act (17 CFR 230.488(a)):

(i) To suspend the operation of said paragraphs (a) and to issue written notices to registrants of such suspensions;

(ii) To determine such amendments to be effective within shorter periods of time than the thirtieth day after the filing thereof.

(d) With respect to the Securities Act of 1933 and Regulation E thereunder (§ 230.601 *et seq.* of this chapter):

(1) To authorize the offering of securities:

(i) Less than ten days subsequent to the filing with the Commission of a notification on Form 1-E (§ 239.200 of this chapter) pursuant to Rule 604(a) (§ 230.604(a) of this chapter);

(ii) Less than ten days subsequent to the filing of an amendment to a notification on Form 1-E (§ 239.200 of this chapter) pursuant to Rule 604(c) (§ 230.604(c) of this chapter).

(2) To authorize the use of a revised or amended offering circular less than ten days subsequent to the filing thereof pursuant to Rule 605(e) (§ 230.605(e) of this chapter).

(3) To authorize the use of communications specified in paragraphs (a), (b) and (c) of Rule 607 (§ 230.607 of this chapter), less than five days subsequent to the filing thereof.

(4) To permit the withdrawal of any notification, or any exhibit or other documents filed as a part thereof, pursuant to Rule 604(d) (§ 230.604(d) of this chapter).

(e) With respect to the Securities Exchange Act of 1934:

(1) To grant and deny applications filed pursuant to section 24(b) of the Securities Exchange Act of 1934 (15 U.S.C. 78x(b)) and § 240.24b-2 of this chapter (Rule 24b-2) for confidential treatment of information filed pursuant to section 13(f) of that Act (15 U.S.C. 78m(f)) and § 240.13f-1 of this chapter (Rule 13f-1) and the instructions to Form N-PX (§§ 249.326 and 274.129 of this chapter).

(2) To revoke a grant of confidential treatment for any such application.

(3) To administer the provisions of § 240.24c-1 of this chapter; provided that access to nonpublic information as defined in such section shall be provided only with the concurrence of the head of the Commission division or office responsible for such information or the files containing such information.

(4) To administer the provisions of section 24(d) of the Act (15 U.S.C. 78x(d)).

(f) To issue certifications to investment companies that are principally engaged in the furnishing of capital to corporations that are principally engaged in the development or exploitation of inventions, technological improvements, new processes, or products not previously generally available, under Section 851(e) of the Internal Revenue Code of 1986 (26 U.S.C. 851(e)), where applications from the investment companies do not present issues that have not been previously settled by the Commission and do not require a hearing.

(g) With respect to the Investment Advisers Act of 1940 (15 U.S.C. 80b-1 to 80b-22):

(1) Pursuant to section 203(c) of the Act (15 U.S.C. 80b-3(c)): To authorize the issuance of orders granting registration of investment advisers within 45 days of the filing of an application

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for registration as an investment adviser (or within such longer period as to which the applicant consents).

(2) Pursuant to section 203(h) of the Act (15 U.S.C. 80b-3(h)), to authorize the issuance of orders canceling registration of investment advisers, or applications for registration, if such investment advisers or applicants for registration are no longer in existence, not engaged in business as investment advisers, or are prohibited from registering as investment advisers under Section 203A of the Act (15 U.S.C. 80b-3a).

(3) To issue notices, under §275.0-5 of this chapter, with respect to applications for orders under the Act and the rules and regulations thereunder where, upon examination, the matter does not appear to the Director to present significant issues that have not been previously settled by the Commission or to raise questions of fact or policy indicating that the public interest or the interest of investors warrants that the Commission consider the matter.

(4) To authorize the issuance of orders where a notice, pursuant to §275.0-5 of this chapter, has been issued, no request for a hearing has been received from any interested person within the period specified in the notice, and the Director believes that the matter presents no significant issues that have not been previously settled by the Commission and it does not appear to the Director to be necessary in the public interest or the interest of investors that the Commission consider the matter.

(5) To permit the withdrawal of applications pursuant to the Act (15 U.S.C. 80b-1 *et seq.*).

(6) Pursuant to Rule 204-2(j)(3)(ii) (§275.204-2(j)(3)(ii) of this chapter), to make written demands upon non-resident investment advisers subject to the provisions of such rule to furnish to the Commission true, correct, complete and current copies of any or all books and records which such non-resident investment advisers are required to make, keep current or preserve pursuant to any provision of any rule or regulation of the Commission adopted under the Act, or any part of such

books and records which may be specified in any such demand.

(7) Pursuant to section 203A(d) of the Act (15 U.S.C. 80b-3a(d)), to set the terms of, and grant or deny as appropriate, continuing hardship exemptions under §275.203-3 of this chapter.

(h) To consult on behalf of the Commission pursuant to sections 5318A(a)(4), 5318A(e)(2) and 5318(h)(2) of the Bank Secrecy Act (31 U.S.C. 5318A(a)(4), 5318A(e)(2) and 5318(h)(2)) with respect to matters described in §200.20b.

(i) To consult on behalf of the Commission pursuant to the Uniting and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism Act of 2001 (USA PATRIOT Act), as amended (Pub. L. 107-56 (2001), 115 Stat. 272) with respect to matters described in §200.20b.

(j) Notwithstanding anything in the foregoing:

(1) [Reserved]

(2) In any case in which the Director of the Division of Investment Management believes it appropriate, the Director may submit the matter to the Commission.

(k) With respect to the Investment Company Act of 1940 (15 U.S.C. 80a *et seq.*), the Securities Act of 1933 (15 U.S.C. 77a *et seq.*), the Securities Exchange Act of 1934 (15 U.S.C. 78a *et seq.*), the Trust Indenture Act of 1939 (15 U.S.C. 77aaa *et seq.*), and Regulation S-T thereunder (part 232 of this chapter), to grant or deny a request submitted under Regulation S-T to adjust the filing date of an electronic filing.

(l) With respect to the Investment Company Act of 1940 (15 U.S.C. 80a *et seq.*) and rule 8b-25 thereunder (§270.8b-25), the Securities Act of 1933 (15 U.S.C. 77a *et seq.*), the Securities Exchange Act of 1934 (15 U.S.C. 78a *et seq.*), the Trust Indenture Act of 1939 (15 U.S.C. 77aaa *et seq.*), and Regulation S-T thereunder (part 232 of this chapter), to set the terms of, and grant or deny as appropriate, continuing hardship exemptions under rule 202 of Regulation S-T (§232.202 of this chapter) from the electronic submission requirements of Regulation S-T (part 232 of this chapter).

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(m) With respect to Regulation S-T (part 232 of this chapter), to grant or deny a request to adjust the filing date of a filing submitted under Regulation S-T.

(n) With respect to Regulation S-T (part 232 of this chapter), to set the terms of, and grant or deny as appropriate, continuing hardship exemptions pursuant to rule 202 of Regulation S-T (§§ 232.202 of this chapter) from the electronic submission requirements of Regulation S-T (part 232 of this chapter).

[41 FR 29376, July 16, 1976]

EDITORIAL NOTE: For FEDERAL REGISTER citations affecting § 200.30-5, see the List of CFR Sections Affected, which appears in the Finding Aids section of the printed volume and at www.govinfo.gov.

§ 200.30-6 Delegation of authority to Regional Directors.

Pursuant to sections 4A and 4B of the Securities Exchange Act of 1934, as amended (15 U.S.C. 78d-1, 78d-2), the Securities and Exchange Commission hereby delegates, until the Commission orders otherwise, the following functions to each Regional Director, to be performed by the Regional Director or under the Regional Director's direction by such person or persons as may be designated from time to time by the Chairman of the Commission:

(a) With respect to the Securities Exchange Act of 1934, 15 U.S.C. 78 *et seq.*:

(1) Pursuant to section 15(b)(2)(C) of the Act (15 U.S.C. 78o(b)(2)(C)):

(i) To delay until the second six month period from registration with the Commission, the inspection of newly registered broker-dealers that have not commenced actual operations within six months of their registration with the Commission; and

(ii) To delay until the second six month period from registration with the Commission, the inspection of newly registered broker-dealers to determine whether they are in compliance with applicable provisions of the Act and rules thereunder, other than financial responsibility rules.

(2) Pursuant to Rule 0-4 (§ 240.0-4 of this chapter), to disclose to the Comptroller of the Currency, the Board of Governors of the Federal Reserve System and the Federal Deposit Insurance Corporation and to the state banking

authorities, information and documents deemed confidential regarding registered clearing agencies and registered transfer agents; *Provided That*, in matters in which the Commission has entered a formal order of investigation, such disclosure shall be made only with the concurrence of the Director of the Division of Enforcement or his or her delegate, and the General Counsel or his or her delegate.

(b) With respect to the Investment Advisers Act of 1940, 15 U.S.C. 80b-1 *et seq.*: Pursuant to Rule 204-2(j)(3)(ii) (§ 275.204-2(j)(3)(ii) of this chapter), to make written demands upon non-resident investment advisers subject to the provisions of such rule to furnish to the Commission true, correct, complete and current copies of any or all books and records which such non-resident investment advisers are required to make, keep current or preserve pursuant to any provision of any rule or regulation of the Commission adopted under the Investment Advisers Act of 1940, or any part of such books and records which may be specified in any such demand.

(c) In nonpublic investigatory proceedings within the responsibility of the Regional Director, to grant requests of persons to procure copies of the transcript of their testimony given pursuant to Rule 6 of the Commission's rules relating to investigations as in effect subsequent to November 16, 1972 (17 CFR 203.6).

(d) To notify the Securities Investor Protection Corporation ("SIPC") of facts concerning the activities and the operational and financial condition of any registered broker or dealer which is or appears to be a member of SIPC and which is in or approaching financial difficulty within the meaning of section 5 of the Securities Investor Protection Act of 1970, as amended, 15 U.S.C. 78aaa *et seq.*

(e) Notwithstanding anything in paragraphs (a) through (d) of this section, in any case in which the Regional Director believes it appropriate, the Regional Director may submit the matter to the Commission.

[28 FR 2856, Mar. 22, 1963, as amended at 36 FR 7659, Apr. 23, 1971. Redesignated at 37 FR 16792, Aug. 19, 1972]

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EDITORIAL NOTE: For FEDERAL REGISTER citations affecting § 200.30-6, see the List of CFR Sections Affected, which appears in the Finding Aids section of the printed volume and at www.govinfo.gov.

§ 200.30-7 Delegation of authority to Secretary of the Commission.

Pursuant to sections 4A and 4B of the Securities Exchange Act of 1934, as amended (15 U.S.C. 78d-1, 78d-2)(15 U.S.C. 78d-1), the Securities and Exchange Commission hereby delegates, until the Commission orders otherwise, the following functions to the Secretary of the Commission to be performed by the Secretary or under the Secretary's direction by such person or persons as may be designated from time to time by the Chairman of the Commission:

(a) With respect to proceedings conducted pursuant to the Securities Act of 1933, 15 U.S.C. 77a *et seq.*, the Securities Exchange Act of 1934, 15 U.S.C. 78a *et seq.*, the Trust Indenture Act of 1939, 15 U.S.C. 77aaa *et seq.*, the Investment Company Act of 1940, 15 U.S.C. 80a-1 *et seq.*, the Investment Advisers Act of 1940, 15 U.S.C. 80b-1 *et seq.*, the Securities Investor Protection Act of 1970, 15 U.S.C. 78aaaa *et seq.*, the provisions of Rule 102(e) of the Commission's Rules of Practice, Section 201.102(e) of this chapter, and Title I of the Sarbanes-Oxley Act of 2002, 15 U.S.C. 7211-7219;

(1) To fix the time and place for hearings and oral arguments before the Commission pursuant to Rule 451 of the Commission's Rules of Practice, § 201.451 of this chapter;

(2) In appropriate cases to extend and reallocate the time prescribed in Rule 451(c) of the Commission's Rules of Practice, § 201.451(c) of this chapter;

(3) To postpone or adjourn hearings or otherwise adjust the date for commencement of hearings before the Commission pursuant to Rule 161 of the Commission's Rules of Practice, § 201.161 of this chapter, and to advance such hearings;

(4) To grant or deny extensions of time within which to file papers with the Commission under Rule 161 of the Commission's Rules of Practice, § 201.161 of this chapter, or under part 201, subpart F of the Commission's Rules pertaining to Fair Fund and Disgorgement Plans, §§ 201.1100-201.1106;

(5) To permit the filing of briefs with the Commission exceeding 14,000 words in length, pursuant to Rule 450(c) of the Commission's Rule of Practice, § 201.450(c) of this chapter, and to permit the filing of motions with the Commission in excess of 7,000 words pursuant to Rule 154(c) of the Commission's Rules of Practice, § 201.154(c) of this chapter;

(6) To certify records of proceedings upon which are entered orders the subject of review in courts of appeals pursuant to section 9 of the Securities Act of 1933, 15 U.S.C. 77i, section 25 of the Securities Exchange Act of 1934, 15 U.S.C. 78y, section 322(a) of the Trust Indenture Act of 1939, 15 U.S.C. 77vvv(a), section 43 of the Investment Company Act of 1940, 15 U.S.C. 80a-42, section 213 of the Investment Advisers Act of 1940, 15 U.S.C. 80b-13, and Title I of the Sarbanes-Oxley Act of 2002, 15 U.S.C. 7211-7219;

(7) Except where the Commission otherwise directs, to issue findings and orders pursuant to offers of settlement which the Commission has determined should be accepted;

(8) To issue findings and orders taking the remedial action described in the order for proceedings where a respondent expressly consents to such action, fails to appear, or defaults in the filing of an answer required to be filed and to grant a request, based upon a showing of good cause, to vacate an order or default, so as to permit presentation of a defense;

(9) To designate officers of the Commission to serve notices of and orders for proceedings and decisions and orders in such proceedings, the service of which is required by Rules 141 and 150 of the Commission's Rules of Practice, §§ 201.141 and 201.150 of this chapter;

(10) To set the date for sanctions to take effect if an initial decision is not appealed and becomes final pursuant to Rule 360(d) or if an initial decision is affirmed pursuant to Rule 411;

(11) To publish pursuant to Rule 1103 of the Commission's Rules of Practice (§ 201.1103 of this chapter) notice for fair fund and disgorgement plans, and if no negative comments are received, to issue orders approving proposed fair fund plans and disgorgement plans pursuant to Rule 1104 of the Commission's

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Rules of Practice (§201.1104 of this chapter). As part of this plan approval, the requirement set forth in Rule 1105(c) (§201.1105(c) of this chapter) may be waived if the fair or disgorgement funds are held at the U.S. Department of the Treasury and will be disbursed by Treasury. Upon the motion of the staff for good cause shown, to approve the publication of proposed fair fund plans and disgorgement plans that omit plan elements required by Rule 1101 of the Commission's Rules of Practice (§201.1101 of this chapter).

(12) To issue orders instituting previously authorized administrative proceedings pursuant to sections 15(b)(4) or (6), 15B, 15C, or 17A of the Securities Exchange Act of 1934 (15 U.S.C. 78o(b)(4) or (6), 78o–4, 78o–5, or 78q–1), and section 203(e) or (f) of the Investment Advisers Act of 1940 (15 U.S.C. 80b–3(e) or (f)), based on the entry of an injunction or a criminal conviction, and to issue findings and orders in such cases where a respondent consents to a bar from association.

(b) To order the making of private investigations pursuant to section 21(a) of the Securities Exchange Act of 1934, on request of the Division of Corporation Finance or the Division of Enforcement, with respect to proxy contests subject to section 14 of that Act and regulation 14A thereunder, and tender offers filed pursuant to section 14(d) of the Act.

(c) To authenticate all Commission documents produced for administrative or judicial proceedings.

(d) The functions otherwise delegated to the General Counsel under §200.30–14(h) and (j), with respect to any proceeding in which the Chairman or the General Counsel has determined, pursuant to §200.30–14(i) and (k), that separation of functions requirements or other circumstances would make inappropriate the General Counsel's exercise of such delegated functions.

(e) Notwithstanding anything in paragraphs (a) through (d) of this section, in any case in which the Secretary of the Commission believes it appropriate the Secretary may submit the matter to the Commission.

[35 FR 17989, Nov. 24, 1970. Redesignated at 37 FR 16792, Aug. 19, 1972]

EDITORIAL NOTE: For FEDERAL REGISTER citations affecting §200.30–7, see the List of CFR Sections Affected, which appears in the Finding Aids section of the printed volume and at www.govinfo.gov.

§ 200.30–8 [Reserved]

§ 200.30–9 Delegation of authority to hearing officers.

Pursuant to the provisions of Section 4A of the Securities Exchange Act of 1934 (15 U.S.C. 78d–1), the Securities and Exchange Commission hereby delegates, until the Commission orders otherwise, to each Administrative Law Judge (“Judge”) the authority:

(a) To make an initial decision in any proceeding at which the Judge presides in which a hearing is required to be conducted in conformity with the Administrative Procedure Act (5 U.S.C. 557) unless such initial decision is waived by all parties who appear at the hearing and the Commission does not subsequently order that an initial decision nevertheless be made by the Judge, and in any other proceeding in which the Commission directs the Judge to make such a decision; and

(b) To issue, upon entry pursuant to Rule 531 of the Commission's Rules of Practice, §201.531 of this chapter, of an initial decision on a permanent order, a separate order setting aside, limiting or suspending any temporary sanction, as that term is defined in Rule 101(a)(11) of the Commission's Rules of Practice, §201.101(a) of this chapter, then in effect in accordance with the terms of the initial decision.

[60 FR 32794, June 23, 1995]

§ 200.30–10 Delegation of authority to Chief Administrative Law Judge.

Pursuant to sections 4A and 4B of the Securities Exchange Act of 1934, as amended (15 U.S.C. 78d–1), the Securities and Exchange Commission hereby delegates, until the Commission orders otherwise, the following functions to the Chief Administrative Law Judge or to such administrative law judge or administrative law judges as may be designated by the Chief Administrative Law Judge in the Chief Administrative Law Judge's absence, or as otherwise designated by the Chairman of the Commission in the absence of the Chief Administrative Law Judge:

(a) With respect to proceedings conducted before an administrative law judge, pursuant to the Securities Act of 1933, 15 U.S.C. 77a *et seq.*, the Securities Exchange Act of 1934, 15 U.S.C. 78a *et seq.*, the Trust Indenture Act of 1939, 15 U.S.C. 77aaa *et seq.*, the Investment Company Act of 1940, 15 U.S.C. 80a–1 *et seq.*, the Investment Advisers Act of 1940, 15 U.S.C. 80b–1 *et seq.*, the Securities Investor Protection Act of 1970, 15 U.S.C. 78aaa *et seq.*, and the provisions of Rule 102(e) of the Commission's Rules of Practice, §201.102(e) of this chapter:

(1) After a proceeding has been authorized, to fix the time and place for hearing pursuant to Rule 200 of the Commission's Rules of Practice, §201.200 of this chapter;

(2) To designate administrative law judges pursuant to Rule 110 of the Commission's Rules of Practice, §201.110 of this chapter;

(3) To postpone or adjourn hearings or otherwise adjust the date for commencement of hearings pursuant to Rule 161 of the Commission's Rules of Practice, §201.161 of this chapter, or to advance or cancel such hearings, if necessary;

(4) To grant extensions of time within which to file papers pursuant to Rule 161 of the Commission's Rules of Practice, §201.161 of this chapter;

(5) To permit the filing of briefs exceeding 14,000 words in length, pursuant to Rule 450(c) of the Commission's Rules of Practice, §201.450(c) of this chapter;

(6) In the event the designated presiding administrative law judge is unavailable to issue subpoenas requiring the attendance and testimony of witnesses and subpoenas requiring the production of documentary or other tangible evidence at any designated place of hearing upon request therefor by any party, pursuant to §201.232 of this chapter (Rule 232 of the Commission's Rules of Practice);

(7) Pursuant to sections 15(b)(1)(B), 15B(a)(2)(B), and 19(a)(1)(B) of the Securities Exchange Act of 1934 and section 203(c)(2)(B) of the Investment Advisers Act of 1940 to grant extensions of time for conclusion of proceedings instituted to determine whether applications for registration as a broker or dealer, mu-

nicipal securities dealer, national securities exchange, registered securities association, or registered clearing agency, or as an investment adviser should be denied;

(8) To grant motions of staff counsel to discontinue administrative proceedings as to a particular respondent who has died or cannot be found, or because of a mistake in the identity of a respondent named in the order for proceedings.

(b) With respect to proceedings under the Equal Access to Justice Act, 5 U.S.C. 504, to make assignments as provided in §201.37(b) of this chapter, respecting applications made pursuant to that Act.

(c) Notwithstanding anything in paragraphs (a) and (b) of this section, in any case in which the Chief Administrative Law Judge believes it appropriate the Chief Administrative Law Judge may submit the matter to the Commission.

[37 FR 23827, Nov. 9, 1972, as amended at 41 FR 21183, May 24, 1976; 43 FR 13378, Mar. 30, 1978; 54 FR 53051, Dec. 27, 1989; 60 FR 32794, June 23, 1995; 69 FR 13174, Apr. 19, 2004; 70 FR 72569, Dec. 5, 2005; 71 FR 71037, Dec. 8, 2006; 86 FR 9447, Feb. 16, 2021]

§ 200.30–11 Delegation of authority to the Chief Accountant.

Pursuant to the provisions of Pub. L. 101–181, 101 Stat. 1254, 1255 (15 U.S.C. 78d–1, 78d–2), the Securities and Exchange Commission hereby delegates, until the Commission orders otherwise, the following functions to the Chief Accountant of the Commission, to be performed by the Chief Accountant or under the Chief Accountant's direction by such person or persons as may be designated from time to time by the Chairman of the Commission:

(a) In connection with Commission review of inspection reports of the Public Company Accounting Oversight Board ("PCAOB") under 15 U.S.C. 7214(h) and §202.140:

(1) To grant or deny review requests and notify the firm and the PCAOB as to whether the Commission will grant the review request under §202.140(d);

(2) To extend the time periods set forth in §202.140(e) within which the PCAOB, registered public accounting

firm or an associated person may submit responsive information and documents in connection with a request for Commission review.

(3) To request additional information pursuant to §202.140(e) relating to the PCAOB's assessments or determination under review from the PCAOB, the registered public accounting firm, or any associated person of the firm during the course of an interim review of an inspection report, and to grant the PCAOB, the firm or any associated person a period of up to seven calendar days to respond to any information obtained.

(4) To consider requests for review of inspection reports and, based on such review, to not object to all or part of the assessments or determination of the PCAOB and terminate the stay of publication, or to remand to the PCAOB with instructions that the stay of publication is permanent or that the PCAOB take such other actions as the Chief Accountant deems necessary or appropriate with respect to publication, including, but not limited to, revising the final inspection report or determinations before publication, and to provide the written notice communicating the same to the PCAOB and the registered public accounting firm, consistent with §202.140 of this chapter.

(5) To determine that a timely review request by a firm will not operate as a stay of publication of those portions of the final inspection report or determinations described in §202.140(b) that are the subject of the firm's review request pursuant to §202.140(c)(5), as well as to determine that publication of the remainder of the final inspection report or criticisms or defects in the quality control systems would not be necessary or appropriate pursuant to §202.140(c)(5).

(6) To, in the event the Commission does grant a review request pursuant to §202.140, determine that the stay of publication shall not continue pursuant to §202.140(d).

(7) To, in the event that the review pursuant to §202.140(e) has not been completed and a written notice has not been sent 75 calendar days after notification to the firm and the PCAOB that it is granting the request for an interim review, grant an extension of

time under the authority set forth in §202.140(e).

(b)(1) Pursuant to section 107 of the Sarbanes-Oxley Act of 2002, 15 U.S.C. 7217, and section 19(b) of the Act, 15 U.S.C. 78s(b), and applicable rules of the Commission, to publish notices of proposed rule changes filed by the Public Company Accounting Oversight Board.

(2) Pursuant to section 107 of the Sarbanes-Oxley Act of 2002, 15 U.S.C. 7217, and section 19(b) of the Act, 15 U.S.C. 78s(b), and applicable rules of the Commission, to approve or disapprove a proposed rule change, and to find good cause to approve a proposed rule change earlier than 30 days after the date of publication of such proposed rule change and to publish the reasons for such finding. The Office of the Chief Accountant shall notify the Commission no less than five (5) business days before the Chief Accountant intends to exercise the Chief Accountant's authority to approve or disapprove a particular proposed rule change.

(3) Pursuant to section 107 of the Sarbanes-Oxley Act of 2002, 15 U.S.C. 7217, and section 19(b)(2)(A) of the Act, 15 U.S.C. 78s(b)(2)(A), to extend for a period not exceeding 90 days from the date of publication of notice of the filing of a proposed rule change pursuant to section 19(b)(1) of the Act, 15 U.S.C. 78s(b)(1), the period during which the Commission must by order approve or disapprove the proposed rule change or institute proceedings to determine whether the proposed rule change should be disapproved and to determine whether such longer period is appropriate and publish the reasons for such determination.

(4) Pursuant to section 107 of the Sarbanes-Oxley Act of 2002, 15 U.S.C. 7217, section 19(b)(2) of the Act, 15 U.S.C. 78s(b)(2), and section 19(b)(3) of the Act, 15 U.S.C. 78s(b)(3), to institute proceedings to determine whether a proposed rule change of the Public Company Accounting Oversight Board should be disapproved and to provide to the Public Company Accounting Oversight Board notice of the grounds for disapproval under consideration. In addition, pursuant to section 107 of the Sarbanes-Oxley Act of 2002, 15 U.S.C. 7217, and section 19(b)(2)(B) of the Act,

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15 U.S.C. 78s(b)(2)(B), to extend for a period not exceeding 240 days from the date of publication of notice of the filing of a proposed rule change pursuant to section 19(b)(1) of the Act, 15 U.S.C. 78s(b)(1), the period during which the Commission must issue an order approving or disapproving the proposed rule change and to determine whether such longer period is appropriate and publish the reasons for such determination.

(5) Pursuant to section 107 of the Sarbanes-Oxley Act of 2002, 15 U.S.C. 7217, and section 19(b)(3)(C) of the Act, 15 U.S.C. 78s(b)(3)(C), to temporarily suspend a rule of the Public Company Accounting Oversight Board.

(c) To administer the provisions of § 240.24c-1 of this chapter; provided that access to nonpublic information as defined in § 240.24c-1 shall be provided only with the concurrence of the head of the Commission division or office responsible for such information or the files containing such information.

(d) Notwithstanding anything in paragraphs (a) through (c) of this section, in any case in which the Chief Accountant believes it appropriate, the Chief Accountant may submit the matter to the Commission.

[75 FR 47449, Aug. 6, 2010, as amended at 76 FR 2806, Jan. 18, 2011; 86 FR 9447, Feb. 16, 2021]

§ 200.30-12 [Reserved]

§ 200.30-13 Delegation of authority to Chief Financial Officer.

Pursuant to the provisions of 15 U.S.C. 78d-1 and 78d-2, the Securities and Exchange Commission hereby delegates, until the Commission orders otherwise, the following functions to the Chief Financial Officer, to be performed by the Chief Financial Officer or under the Chief Financial Officer's direction by such person or persons as may be designated from time to time by the Chairman of the Commission:

(a) The compromise and collection of federal claims as required by the Federal Claims Collection Act of 1966, as amended and recodified at 31 U.S.C. 3701-3720, in conformance with standards and procedures jointly promulgated by the Secretary of the Treasury

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and the Attorney General of the United States in 31 CFR Parts 900-904.

(b) The administration of filing fee account procedures and policies established in § 202.3a of this chapter.

(c) Pursuant to section 21F(g)(4) of the Securities and Exchange Act of 1934 (15 U.S.C. 78u-6(g)(4)), the making of requests to the Secretary of the Treasury to invest the portion of the Securities and Exchange Commission Investor Protection Fund that is not, in the Secretary of the Treasury's discretion, required to meet the current needs of the fund, and the determination of the maturities for those investments suitable to the needs of the fund.

[68 FR 50954, Aug. 22, 2003, as amended at 76 FR 60372, Sept. 29, 2011; 79 FR 59105, Oct. 1, 2014; 86 FR 9447, Feb. 16, 2021]

§ 200.30-14 Delegation of authority to the General Counsel.

Pursuant to the provisions of Pub. L. 101-181, 101 Stat. 1254, 101 Stat. 1255, 15 U.S.C. 78d-1, 15 U.S.C. 78d-2, and 5 U.S.C. 552a(d)(2)(B)(ii), the Securities and Exchange Commission hereby delegates, until the Commission orders otherwise, the following functions to the General Counsel of the Commission, to be performed by the General Counsel or under the General Counsel's direction by such person or persons as may be designated from time to time by the Chairman of the Commission:

(a) Grant waivers of imputed disqualification requested pursuant to 17 CFR 200.735-8(d).

(b) Determine whether the Commission will submit, after consultation with any Division or Office of the Commission designated by the Commission, an amicus curiae brief in private litigation on issues previously considered and designated by the Commission as appropriate for the exercise of delegated authority. A list of the issues designated by the Commission as subject to this delegated authority and, where determined by the Commission, the position to be taken on each such issue, may be obtained on request addressed to Securities and Exchange Commission, Washington, DC 20549.

(c) Determine the appropriate disposition of all Freedom of Information Act and confidential treatment appeals

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in accordance with §§200.80(f) and (g)(12) and 200.83(e), (f), and (h).

(d) Determine the appropriate disposition of all Privacy Act appeals and related matters in accordance with §§200.304 (a) and (c); 200.307 (a) and (b); 200.308(a) (4)-(10); 200.308(b) (1)-(4); and 200.309(e) (1) and (2).

(e) File notices of appearance in bankruptcy reorganization cases under section 1109(a) of the Bankruptcy Code involving debtors, the securities of which are registered or required to be registered under section 12 of the Securities Exchange Act.

(f) In bankruptcy cases, to take the following actions with respect to plan or settlement provisions that have the effect of releasing, exculpating, discharging, or permanently enjoining actions against non-debtor third parties in contravention of Section 524(e) of the Bankruptcy Code or applicable law:

(1) Object to approval of disclosure statements, including on the basis that the disclosure statement lacks adequate information under Section 1125(b) to support such release provisions;

(2) Object to confirmation of bankruptcy plans; or

(3) Object to approval of settlements.

(g) Approve non-expert, non-privileged, factual testimony by present or former staff members, and the production of non-privileged documents, when validly subpoenaed; and assert governmental privileges on behalf of the Commission in litigation where the Commission appears as a party or in response to third party subpoenas.

(h)(1) With respect to proceedings conducted pursuant to the Securities Act of 1933, 15 U.S.C. 77a *et seq.*, the Securities Exchange Act of 1934, 15 U.S.C. 78a *et seq.*, the Trust Indenture Act of 1939, 15 U.S.C. 77aaa *et seq.*, the Investment Company Act of 1940, 15 U.S.C. 80a-1 *et seq.*, the Investment Advisers Act of 1940, 15 U.S.C. 80b-1 *et seq.*, the Securities Investor Protection Act of 1970, 15 U.S.C. 78aaa *et seq.*, the provisions of Rule 102(e) of the Commission Rules of Practice, §201.102(e) of this chapter, and Title I of the Sarbanes-Oxley Act of 2002, 15 U.S.C. 7211-7219:

(i) To consider an application for review of an interlocutory ruling which an administrative law judge has re-

fused to certify, and to deny such application upon determining that the administrative law judge did not err in refusing to certify the matter.

(ii) To consider an interlocutory ruling which an administrative judge has certified, and to affirm such ruling upon determining that such action is appropriate.

(iii) To issue any order pursuant to an initial decision as to any person who has not filed a petition for review within the time provided, or has withdrawn an appeal, where the Commission has not on its own motion ordered that the initial decision be reviewed.

(iv) Except where the Commission otherwise directs, to issue findings and orders pursuant to offers of settlement which the Commission has determined should be accepted.

(v) To grant petitions for review of initial decisions by a hearing officer.

(vi) To grant motions of staff counsel to discontinue administrative proceedings as to a particular respondent who has died or cannot be found, or because of a mistake in the identity of a respondent named in the order for proceedings.

(vii) To request additional briefs or grant requests for the submission of late or additional briefs, or the acceptance of affidavits or other material for inclusion in the record or in support of motions or petitions addressed to the Commission.

(viii) To issue an order dismissing an application for review upon the request of the applicant that the application be withdrawn.

(ix) To issue an order dismissing an exemptive application upon the request of the applicant that the application be withdrawn.

(x) To determine motions to consolidate proceedings pending before the Commission.

(xi) To determine whether to permit or require that a record of proceedings be supplemented with additional evidence.

(xii) To issue an order setting the effective date of sanctions that were stayed pending appeal to the federal courts, upon issuance of the mandate affirming the Commission's order imposing those sanctions.

(xiii) To issue a briefing schedule order pursuant to Rule 450 of the Commission's Rules of Practice, §201.450 of this chapter.

(xiv) To determine motions for expedited briefing schedules.

(xv) To issue an order raising, pursuant to the provisions of Rule 411(d) of the Commission's Rules of Practice, §201.411(d) of this chapter, any matter relating to whether any sanction, and if so what sanction, is in the public interest.

(2) With respect to proceedings conducted pursuant to the Securities Act of 1933 (15 U.S.C. 77a *et seq.*), the Securities Exchange Act of 1934 (15 U.S.C. 78a *et seq.*), the Investment Company Act of 1940 (15 U.S.C. 80a-1 *et seq.*), the Investment Advisers Act of 1940 (15 U.S.C. 80b-1 *et seq.*), the Securities Investor Protection Act of 1970 (15 U.S.C. 78aaa *et seq.*) and the provisions of Rule 102(e) of the Commission's Rules of Practice (§201.102(e) of this chapter), to issue findings and orders taking the remedial action described in the order for proceedings where the respondents expressly consent to such action, fail to appear or default in the filing of answers required to be filed; or to grant a request, based upon a showing of good cause, to vacate an order of default, so as to permit presentation of a defense.

(3) With respect to proceedings conducted pursuant to the Securities Exchange Act of 1934 (15 U.S.C. 78a *et seq.*), to issue an order dismissing an application for review of a denial by a self-regulatory organization of an application by a person subject to statutory disqualification to become associated with a member firm upon receipt of notice from the self-regulatory organization that the firm is no longer a member of the self-regulatory organization.

(4) With respect to proceedings conducted under sections 19(d), (e), and (f) of the Securities Exchange Act of 1934, 15 U.S.C. 78s(d), (e), and (f), Title I of the Sarbanes-Oxley Act of 2002, 15 U.S.C. 7211-7219, and §201.442 of this chapter (Rule 442 of the Commission's Rules of Practice) to determine that an application for review under any of those sections has been abandoned, under the provisions of §201.420, §201.440, or §201.442 of this chapter

(Rule 420, Rule 440, or Rule 442 of the Commission's Rules of Practice), or otherwise, and accordingly to issue an order dismissing the application.

(5) With respect to proceedings conducted pursuant to the Securities Exchange Act of 1934, 15 U.S.C. 78a *et seq.*, the Investment Company Act of 1940, 15 U.S.C. 80a-1 *et seq.*, the Investment Advisers Act of 1940, 15 U.S.C. 80b-1 *et seq.*, the provisions of §201.102(e) or §201.442 of this chapter (Rule 102(e) or Rule 442 of the Commission's Rules of Practice), and Title I of the Sarbanes-Oxley Act of 2002, 15 U.S.C. 7211-7219, to determine applications to stay Commission orders pending appeal of those orders to the federal courts and to determine application to vacate such stays.

(6) With respect to review proceedings pursuant to Sections 19 (d), (e), and (f) of the Securities Exchange Act of 1934 (15 U.S.C. 78s (d), (e), and (f)), to determine applications for a stay of action taken by a self-regulatory organization pending Commission review of that action and to determine applications to vacate such stays.

(7) In connection with Commission review of actions taken by self-regulatory organizations pursuant to sections 19(d), (e), and (f) of the Securities Exchange Act of 1934, 15 U.S.C. 78s(d), (e), and (f), by the Public Company Accounting Oversight Board pursuant to Title I of the Sarbanes-Oxley Act of 2002, 15 U.S.C. 7211-7219, or by a security-based swap execution facility pursuant to §201.442 of this chapter (Rule 442 of the Commission's Rules of Practice) to grant or deny requests for oral argument in accordance with the provisions of §201.451 of this chapter (Rule 451 of the Commission's Rules of Practice).

(8) In connection with Commission review of actions taken by the Public Company Accounting Oversight Board pursuant to Title I of the Sarbanes-Oxley Act of 2002, 15 U.S.C. 7211-7219, or by a security-based swap execution facility pursuant to §201.442 of this chapter (Rule 442 of the Commission's Rules of Practice), to determine whether to lift the automatic stay of a disciplinary sanction.

(j)(1) With respect to a proceeding conducted pursuant to the Securities

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Act of 1933, 15 U.S.C. 77a *et seq.*, the Securities Exchange Act of 1934, 15 U.S.C. 78a *et seq.*; the Investment Company Act of 1940, 15 U.S.C. 80a-1 *et seq.*; the Investment Advisers Act of 1940, 15 U.S.C. 80b-1 *et seq.*; and the provisions of Rule 102(e) of the Commission's Rules of Practice, 17 CFR 201.102(e), that has been set for hearing before the Commission pursuant to Rule 110 of the Commission's Rules of Practice, 17 CFR 201.110:

(i) To determine procedural requests or similar prehearing matters; and

(ii) To rule upon non-dispositive, prehearing motions.

(2) Provided, however, that the General Counsel may not issue subpoenas, authorize depositions, rule upon the admissibility of evidence or upon motions to quash or to compel, preside over a hearing or the taking of testimony, sanction a party, act upon a dispositive motion, declare a default, dispose of a claim or defense, or otherwise resolve or terminate the proceeding on the merits.

(k) Notwithstanding anything in paragraph (i) of this section, the functions described in paragraph (i) of this section are not delegated to the General Counsel with respect to proceedings in which the Chairman or the General Counsel determines that separation of functions requirements or other circumstances would make inappropriate the General Counsel's exercise of such delegated functions. With respect to such proceedings, such functions are delegated to the Secretary of the Commission pursuant to § 200.30-7.

(l) Notwithstanding anything in paragraph (h) or (j) of this section, in any case described in paragraph (h) or (j) of this section in which the General Counsel believes it appropriate, the General Counsel may submit the matter to the Commission.

(m) With respect to the Securities Exchange Act of 1934 (15 U.S.C. 78a *et seq.*):

(1) To administer the provisions of § 240.24c-1 of this chapter; provided that access to nonpublic information as defined in such section shall be provided only with the concurrence of the head of the Commission division or office responsible for such information or the files containing such information.

(2) To administer the provisions of section 24(d) of the Act (15 U.S.C. 78x(d)).

(n) To refer matters and information concerning possible professional misconduct to state bar associations and other state professional boards or societies.

(o) File applications in district court under Section 21(e)(1) of the Securities Exchange Act of 1934 (15 U.S.C. 78u(e)(1)) to obtain orders commanding persons to comply with Commission orders.

(p)(1) To designate officers empowered to administer oaths and affirmations, subpoena witnesses, compel their attendance, take evidence, and require the production of any books, papers, correspondence, memoranda, contracts, agreements, or other records in the course of investigations instituted by the Commission pursuant to Section 21 of the Securities Exchange Act of 1934 (15 U.S.C. 78u) including for possible violations by attorneys of Rule 102(e) of the Commission Rules of Practice (17 CFR 201.102(e)).

(2) To terminate the authority of officers to administer oaths and affirmations, subpoena witnesses, compel their attendance, take evidence, and require the production of any books, papers, correspondence, memoranda, contracts, agreements, or other records in the course of investigations instituted by the Commission pursuant to Section 21 of the Securities Exchange Act of 1934 (15 U.S.C. 78u) including for possible violations by attorneys of Rule 102(e) of the Commission Rules of Practice (17 CFR 201.102(e)).

[47 FR 20288, May 12, 1982]

EDITORIAL NOTE: For FEDERAL REGISTER citations affecting § 200.30-14, see the List of CFR Sections Affected, which appears in the Finding Aids section of the printed volume and at www.govinfo.gov.

§ 200.30-15 Delegation of authority to Chief Operating Officer.

Under Pub. L. 100-181, 101 Stat. 1254 (15 U.S.C. 78d-1, 78d-2), the Securities and Exchange Commission hereby delegates, until the Commission orders otherwise, the following functions to the Chief Operating Officer to be performed by the Chief Operating Officer or under the Chief Operating Officer's

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direction by persons designated by the Chairman of the Commission: To identify and implement additional changes within the Commission that will promote the principles and standards of the National Performance Review and the strategic and quality management approaches described by the Federal Quality Institute's "Presidential Award for Quality" or its successor awards.

[60 FR 14630, Mar. 20, 1995, as amended at 86 FR 9447, Feb. 16, 2021]

§ 200.30-16 [Reserved]

§ 200.30-17 Delegation of authority to Director of Office of International Affairs.

Pursuant to the provisions of Pub. L. 100-181, 101 Stat. 1254, 1255 (15 U.S.C. 78d-1, 78d-2), the Securities and Exchange Commission hereby delegates, until the Commission orders otherwise, the following functions to the Director of the Office of International Affairs to be performed by the Director or under the Director's direction by such other person or persons as may be designated from time to time by the Chairman of the Commission:

(a) To administer the provisions of § 240.24c-1 of this chapter; provided that access to nonpublic information as defined in such section shall be provided only with the concurrence of the head of the Commission division or office responsible for such information or the files containing such information.

(b) To administer the provisions of section 24(d) of the Securities Exchange Act of 1934 (15 U.S.C. 78x(d)).

[58 FR 52419, Oct. 8, 1993]

§ 200.30-18 Delegation of authority to Director of the Division of Examinations.

Pursuant to the provisions of Public Law 100-181, 101 Stat. 1254, 1255 (15 U.S.C. 78d-1, 78d-2), the Securities and Exchange Commission hereby delegates, until the Commission orders otherwise, the following authority to the Director of the Division of Examinations ("Examinations") to be performed by the Director or by such other person or persons as may be designated from time to time by the Chairman of the Commission:

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(a) To administer the provisions of § 240.24c-1 of this chapter; provided that access to nonpublic information as defined in such Section shall be provided only with the concurrence of the head of the Commission division or office responsible for such information or the files containing such information.

(b) [Reserved]

(c)(1) Pursuant to Section 17(b) of the Exchange Act (15 U.S.C. 78q(b)), prior to any examination of a registered clearing agency, registered transfer agent, or registered municipal securities dealer whose appropriate regulatory agency is not the Commission, to notify and consult with the appropriate regulatory agency for such clearing agency, transfer agent, or municipal securities dealer.

(2) Pursuant to section 17(b)(1)(B) of the Exchange Act (15 U.S.C. 78q(b)(1)(B)), prior to any examination of a broker or dealer registered pursuant to section 6(g) of the Exchange Act (15 U.S.C. 78f(g)) or a national securities association registered pursuant to section 15A(k) of the Exchange Act (15 U.S.C. 78o-3(k)), to notify and consult with the Commodity Futures Trading Commission regarding the feasibility and desirability of coordinating such examination with examinations conducted by the Commodity Futures Trading Commission in order to avoid unnecessary regulatory duplication or undue regulatory burdens.

(d) Pursuant to Section 17(c)(3) of the Exchange Act (15 U.S.C. 78q(c)(3)), in regard to clearing agencies, transfer agents and municipal securities dealers for which the Commission is not the appropriate regulatory agency:

(1) To notify the appropriate regulatory agency of any examination conducted by the Commission of any such clearing agency, transfer agent, or municipal securities dealer;

(2) To request from the appropriate regulatory agency a copy of the report of any examination of any such clearing agency, transfer agent, or municipal securities dealer conducted by such appropriate regulatory agency and any data supplied to it in connection with such examination; and

(3) To furnish to the appropriate regulatory agency on request a copy of the report of any examination of any such

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clearing agency, transfer agent, or municipal securities dealer conducted by the Commission and any data supplied to it in connection with such examination.

(e)-(h) [Reserved]

(i) With respect to the Investment Advisers Act of 1940 ("Advisers Act") (15 U.S.C. 80b-1 *et seq.*):

(1) Pursuant to Section 203(h) of the Advisers Act (15 U.S.C. 80b-3(h)), to authorize the issuance of orders canceling registration of investment advisers, or applications for registration, if such investment advisers or applicants for registration are no longer in existence or are not engaged in business as investment advisers; and

(2) Pursuant to Rule 204-2(j)(3)(ii) (§ 275.204-2(j)(3)(ii) of this chapter), to make written demands upon non-resident investment advisers subject to the provisions of such rule to furnish to the Commission true, correct, complete, and current copies of any or all books and records which such non-resident investment advisers are required to make, keep current, or preserve pursuant to any provision of any rule or regulation of the Commission adopted under the Advisers Act, or any part of such books and records which may be specified in any such demand.

(j) With respect to the Securities Exchange Act of 1934 (15 U.S.C. 78a *et seq.*):

(1) Under section 15(b) of the Act (15 U.S.C. 78o(b)):

(i) To authorize the issuance of orders granting registration of brokers or dealers within 45 days of the acceptance of an application for registration as a broker or dealer (or within such longer period as to which the applicant consents);

(ii) To grant registration of brokers or dealers sooner than 45 days after acceptance of an application for registration;

(iii) To authorize the issuance of orders canceling registrations of brokers or dealers, or pending applications for registration, if such brokers or dealers or applicants for registration are no longer in existence or are not engaged in business as brokers or dealers; and

(iv) To determine whether notices of withdrawal from registration on Form

BDW shall become effective sooner than the normal 60-day waiting period.

(2) Under section 15B(a) of the Act (15 U.S.C. 78o-4(a)):

(i) To authorize the issuance of orders granting registration of municipal securities dealers within 45 days of the filing of acceptable applications for registration as a municipal securities dealer (or within such longer period as to which the applicant consents); and

(ii) To grant registration of municipal securities dealers sooner than 45 days after receipt by the Commission of acceptable applications for registration.

(3) Under section 15B(c) of the Act (15 U.S.C. 78o-4(c)):

(i) To authorize the issuance of orders canceling registrations of municipal securities dealers, or pending applications for registration, if such municipal securities dealers or applicants for registration are no longer in existence or are not engaged in business as municipal securities dealers; and

(ii) To determine whether notices of withdrawal from registration on Form MSDW shall become effective sooner than the normal 60-day waiting period.

(4) Under section 15C(a) of the Act (15 U.S.C. 78o-5(a)):

(i) To authorize the issuance of orders granting registration of government securities brokers or government securities dealers for which the Commission is the appropriate regulatory agency within 45 days of the acceptance of an application for registration as a government securities broker or government securities dealer (or within such longer period as to which the applicant consents); and

(ii) To grant registration of government securities brokers or government securities dealers for which the Commission is the appropriate regulatory agency sooner than 45 days after acceptance of an application for registration.

(5) Under section 15C(c) of the Act (15 U.S.C. 78o-5(c)):

(i) To authorize the issuance of orders canceling registrations of government securities brokers or government securities dealers registered with the Commission, or pending applications

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for registration, if such government securities brokers or government securities dealers or applicants for registration are no longer in existence or are not engaged in business as government securities brokers or government securities dealers; and

(ii) To determine whether notices of withdrawal from registration on Form BDW shall become effective sooner than the normal 60-day waiting period.

(6) Under section 17A(c) of the Act (15 U.S.C. 78q-1(c)):

(i) To authorize the issuance of orders granting registration of transfer agents within 45 days of the filing of acceptable applications for registration as a transfer agent (or within such longer period as to which the applicant consents);

(ii) To grant registration of transfer agents sooner than 45 days after receipt by the Commission of acceptable applications for registration;

(iii) To authorize the issuance of orders canceling registrations of transfer agents, or pending applications for registration, if such transfer agents or applicants for registration are no longer in existence or are not engaged in business as transfer agents; and

(iv) To determine whether notices of withdrawal from registration on Form TA-W shall become effective sooner than the normal 60-day waiting period.

(7) Under section 15B(a) of the Act (15 U.S.C. 78o-4(a)):

(i) To authorize the issuance of orders granting registration of municipal advisors within 45 days of the filing of an application for registration as a municipal advisor (or within such longer period as to which the applicant consents); and

(ii) To grant registration of municipal advisors sooner than 45 days after the filing of an application for registration.

(8) Under section 15B(c) of the Act (15 U.S.C. 78o-4(c)):

(i) To authorize the issuance of orders canceling the registration of a municipal advisor, if such municipal advisor is no longer in existence or has ceased to do business as a municipal advisor; and

(ii) To determine whether notices of withdrawal from registration on Form

MA-W shall become effective sooner than the 60-day waiting period.

(k) With respect to the Investment Advisers Act of 1940 (15 U.S.C. 80b-1 *et seq.*):

(1) Under section 203(c) of the Act (15 U.S.C. 80b-3(c)):

(i) To authorize the issuance of orders granting registration of investment advisers within 45 days of the filing of acceptable applications for registration as an investment adviser (or within such longer period as to which the applicant consents); and

(ii) To grant registration of investment advisers sooner than 45 days after receipt by the Commission of acceptable applications for registration.

(2) [Reserved]

(l) With respect to the Securities Investor Protection Act of 1970 (15 U.S.C. 78aaa *et seq.*):

(1) To cause a written notice to be sent by registered or certified mail, upon receipt of a copy of a notice sent by or on behalf of the Securities Investor Protection Corporation that a broker or dealer has failed to timely file any report or information or to pay when due all or any part of an assessment as required under section 10(a) of this Act, to such delinquent member advising such member that it is unlawful for the member under the provisions of such section of the Act to engage in business as a broker-dealer while in violation of such requirements of the Act and requesting an explanation in writing within ten days stating what he or she intends to do in order to cure such delinquency;

(2) To authorize formerly delinquent brokers or dealers, upon receipt of written confirmation from or on behalf of the Securities Investor Protection Corporation that the delinquencies referred to in paragraph (c)(1) of this section have been cured, and upon having been advised by the appropriate regional office of this Commission and the Division of Enforcement and Division of Trading and Markets that there is no objection to such member being authorized to resume business, and upon there appearing to be no unusual or novel circumstances which would warrant direct consideration of the matter by this Commission, to resume

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business as registered broker-dealers as provided in section 10(a) of this Act.

(m) With respect to the Securities Exchange Act of 1934 (15 U.S.C. 78a *et seq.*):

(1) Under section 15F(b) of the Act (15 U.S.C. 78o-10(b)):

(i) To authorize the issuance of orders granting on-going registration to security-based swap dealers and major security-based swap participants based on the security-based swap dealer's or major security-based swap participant's application, pursuant to §240.15Fb2-1(e) of this chapter (Rule 15Fb2-1(e));

(ii) To authorize the issuance of orders canceling the registration of security-based swap dealers and major security-based swap participants registered pursuant to §240.15Fb2-1 of this chapter (Rule 15Fb2-1) if such persons are no longer in existence or have ceased to do business as security-based swap dealers or major security-based swap participants, pursuant to §240.15Fb3-3(a) of this chapter (Rule 15Fb3-3(a)); and

(iii) To determine by order, pursuant to §240.15Fb3-2(b) of this chapter (Rule 15Fb3-2(b)), whether notices of withdrawal of registration filed by security-based swap dealers or major security-based swap participants pursuant to section 15F(b) of the Securities Exchange Act of 1934 (15 U.S.C. 78o-10(b)) shall become effective sooner than the normal 60 day waiting period provided in Rule 15Fb3-2(b) (§240.15Fb3-2(b) of this chapter).

(n) Notwithstanding anything in paragraphs (a) through (m) of this section, in any case in which the Director of the Examinations believes it appropriate, the Director may submit the matter to the Commission.

[60 FR 39644, Aug. 3, 1995, as amended at 66 FR 35842, July 9, 2001; 69 FR 41938, July 13, 2004; 73 FR 40152, July 11, 2008; 73 FR 69532, Nov. 19, 2008; 78 FR 67632, Nov. 12, 2013; 86 FR 9447, Feb. 16, 2021]

§ 200.30-19 Delegation of authority to Director of the EDGAR Business Office.

Pursuant to the provisions of Public Law 100-181, 101 Stat. 1254, 1255 (15 U.S.C. 78d-1, 78d-2), the Securities and Exchange Commission hereby dele-

gates, until the Commission orders otherwise, the following functions to the Director of the EDGAR Business Office, to be performed by the Director or under the Director's direction by such other person or persons as may be designated from time to time by the Chairman of the Commission:

(a) With respect to the Securities Act of 1933 (15 U.S.C. 77a *et seq.*), the Securities Exchange Act of 1934 (15 U.S.C. 78a *et seq.*), the Trust Indenture Act of 1939 (15 U.S.C. 77aaa *et seq.*), the Investment Company Act of 1940 (15 U.S.C. 80a-1 *et seq.*) and part 232 of this chapter (Regulation S-T), to grant or deny a request submitted pursuant to §232.13(b) of this chapter to adjust the filing date of an electronic filing, after consultation with the division or office with primary regulatory oversight for the relevant filing.

(b) With respect to the Securities Act of 1933 (15 U.S.C. 77a *et seq.*), the Securities Exchange Act of 1934 (15 U.S.C. 78a *et seq.*), the Trust Indenture Act of 1939 (15 U.S.C. 77aaa *et seq.*), the Investment Company Act of 1940 (15 U.S.C. 80a-1 *et seq.*), and part 232 of this chapter (Regulation S-T) to set the terms of, and grant or deny as appropriate, continuing hardship exemptions pursuant to §232.202 of this chapter from the electronic submission requirements of Regulation S-T, after consultation with the division or office with primary regulatory oversight for the relevant filing.

(c) With respect to the Securities Act of 1933 (15 U.S.C. 77a *et seq.*), the Securities Exchange Act of 1934 (15 U.S.C. 78a *et seq.*), the Trust Indenture Act of 1939 (15 U.S.C. 77aaa *et seq.*), the Investment Company Act of 1940 (15 U.S.C. 80a-1 *et seq.*), and part 232 of this chapter (Regulation S-T) to take actions pursuant to §232.15 of this chapter to promote the reliability and integrity of submissions made through the Electronic Data Gathering, Analysis, and Retrieval system (EDGAR).

[86 FR 7967, Feb. 3, 2021]

Subpart B—Disposition of Commission Business

SOURCE: 42 FR 14692, Mar. 16, 1977, unless otherwise noted.

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§ 200.40 Joint disposition of business by Commission meeting.

Any meeting of the Commission that is subject to the provisions of the Government in the Sunshine Act, 5 U.S.C. 552b, shall be held in accordance with subpart I of this part. The Commission's Secretary shall prepare and maintain a Minute Record reflecting the official action taken at such meetings.

[60 FR 17202, Apr. 5, 1995]

§ 200.41 Quorum of the Commission.

A quorum of the Commission shall consist of three members; provided, however, that if the number of Commissioners in office is less than three, a quorum shall consist of the number of members in office; and provided further that on any matter of business as to which the number of members in office, minus the number of members who either have disqualified themselves from consideration of such matter pursuant to § 200.60 or are otherwise disqualified from such consideration, is two, two members shall constitute a quorum for purposes of such matter.

[60 FR 17202, Apr. 5, 1995]

§ 200.42 Disposition of business by *seriatim* Commission consideration.

(a) Whenever the Commission's Chairman, or the Commission member designated as duty officer pursuant to § 200.43, is of the opinion that joint deliberation among the members of the Commission upon any matter is unnecessary in light of the nature of the matter, impracticable, or contrary to the requirements of agency business, but is of the view that such matter should be the subject of a vote of the Commission, such matter may be disposed of by circulation of any relevant materials concerning the matter among all Commission members. Each participating Commission member shall report his or her vote to the Secretary, who shall record it in the Minute Record of the Commission. Any matter circulated for disposition pursuant to this subsection shall not be considered final until each Commission member has reported his or her vote to the Secretary or has reported to the

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Secretary that the Commissioner does not intend to participate in the matter.

(b) Whenever any member of the Commission so requests, any matter circulated for disposition pursuant to § 200.42(a) shall be withdrawn from circulation and scheduled instead for joint Commission deliberation.

[42 FR 14692, Mar. 16, 1977, as amended at 59 FR 53936, Oct. 27, 1994. Redesignated and amended at 60 FR 17202, Apr. 5, 1995]

§ 200.43 Disposition of business by exercise of authority delegated to individual Commissioner.

(a) *Delegation to duty officer.* (1) Pursuant to the provisions of Pub. L. No. 87-592, 76 Stat. 394, as amended by section 25 of Pub. L. 94-29, 89 Stat. 163, the Commission hereby delegates to an individual Commissioner, to be designated as the Commission's "duty officer" by the Chairman of the Commission (or by the Chairman's designee) from time to time, all of the functions of the Commission; *Provided, however,* That no such delegation shall authorize the duty officer (i) to exercise the function of rulemaking, as defined in the Administrative Procedure Act of 1946, as codified, 5 U.S.C. 551 *et seq.*, with reference to general rules as distinguished from rules of particular applicability; (ii) to make any rule, pursuant to section 19(c) of the Securities Exchange Act of 1934; or (iii) to preside at the taking of evidence as described in section 7(a) of the Administrative Procedure Act, 5 U.S.C. 556(b), except that the duty officer may preside at the taking of evidence with respect to the issuance of a temporary cease-and-desist order as provided by Rule 511(c) of the Commission's Rules of Practice, § 201.511(c) of this chapter.

(2) To the extent feasible, the designation of a duty officer shall rotate, under the administration of the Secretary, on a regular weekly basis among the members of the Commission other than the Chairman.

(b) *Exercise of duty officer authority.* (1) The authority delegated by this rule shall be exercised when, in the opinion of the duty officer, action is required to be taken which, by reason of its urgency, cannot practicably be scheduled for consideration at a Commission meeting. After consideration of a staff

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recommendation involving such a matter, the duty officer shall forthwith report his or her action thereon to the Secretary.

(2) The duty officer may, when in his or her opinion it would be proper and timely, exercise the authority delegated in this section to initiate by order a nonpublic formal investigative proceeding pursuant to section 19(b) of the Securities Act of 1933 (15 U.S.C. 77s(b)), section 21(b) of the Securities Exchange Act of 1934 (15 U.S.C. 78u(b)), section 42(b) of the Investment Company Act of 1940 (15 U.S.C. 80a-41(b)), section 209(b) of the Investment Advisers Act of 1940 (15 U.S.C. 80b-9(b)), and part 203 (Rules Relating to Investigations) of this title (17 CFR part 203). After consideration of a staff recommendation for initiation by order of a nonpublic formal investigative proceeding, the duty officer shall forthwith report his or her action thereon to the Secretary.

(3) In any consideration of Commission business by a duty officer, the provisions of subpart I herein, § 200.400 *et seq.*, shall not apply, whether or not the duty officer, in exercising his or her authority, consults with, or seeks the advice of, other members of the Commission individually.

(c) *Commission affirmation of duty officer action.* (1) Any action authorized by a duty officer pursuant to § 200.43(a) shall be either (i) circulated to the members of the Commission for affirmation pursuant to § 200.42; or (ii) scheduled for affirmation at a Commission meeting at the earliest practicable date consistent with the procedures in subpart I.

(2)(i) The Commission may, in its discretion, at any time review any unaffirmed action taken by a duty officer, either upon its own initiative or upon the petition of any person affected thereby. The vote of any one member of the Commission, including the duty officer, shall be sufficient to bring any such unaffirmed action taken by a duty officer before the Commission for review.

(ii) A person or party adversely affected by any unaffirmed action taken by a duty officer shall be entitled to seek review by the Commission of the duty officer's unaffirmed actions, but

only in the event that the unaffirmed action by the duty officer (A) denies any request for action pursuant to sections 8(a) or 8(c) of the Securities Act of 1933, or the first sentence of section 12(d) of the Securities Exchange Act of 1934; (B) suspends trading in a security pursuant to section 12(k) of the Securities Exchange Act of 1934; or (C) is pursuant to any provision of the Securities Exchange Act of 1934 in a case of adjudication, as defined in section 551 of Title 5, U.S. Code, not required by that Act to be determined on the record after notice and opportunity for hearing (except to the extent there is involved a matter described in section 554(a) (1) through (6) of Title 5, United States Code).

(3) Affirmed or unaffirmed action taken by the duty officer shall be deemed to be, for all purposes, the action of the Commission unless and until the Commission directs otherwise. Rules 430 and 431 of the Commission's Rules of Practice, §§ 201.430 and 201.431 of this chapter, shall not apply to duty officer action.

[42 FR 14692, Mar. 16, 1977, as amended at 59 FR 53936, Oct. 27, 1994. Redesignated and amended at 60 FR 17202, Apr. 5, 1995; 60 FR 32795, June 23, 1995; 69 FR 13175, Mar. 19, 2004; 76 FR 71874, Nov. 21, 2011]

Subpart C—Canons of Ethics

SOURCE: 25 FR 6725, July 15, 1960, unless otherwise noted.

§ 200.50 Authority.

The Canons of Ethics for Members of the Securities and Exchange Commission were approved by the Commission on July 22, 1958.

§ 200.51 Policy.

It is characteristic of the administrative process that the Members of the Commission and their place in public opinion are affected by the advice and conduct of the staff, particularly the professional and executive employees. It shall be the policy of the Commission to require that employees bear in mind the principles specified in the Canons.

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§ 200.52 Copies of the Canons.

The Canons have been distributed to employees of the Commission. In addition, executive and professional employees are issued copies of the Canons upon entrance on duty.

§ 200.53 Preamble.

(a) Members of the Securities and Exchange Commission are entrusted by various enactments of the Congress with powers and duties of great social and economic significance to the American people. It is their task to regulate varied aspects of the American economy, within the limits prescribed by Congress, to insure that our private enterprise system serves the welfare of all citizens. Their success in this endeavor is a bulwark against possible abuses and injustice which, if left unchecked, might jeopardize the strength of our economic institutions.

(b) It is imperative that the members of this Commission continue to conduct themselves in their official and personal relationships in a manner which commands the respect and confidence of their fellow citizens. Members of this Commission shall continue to be mindful of, and strictly abide by, the standards of personal conduct set forth in its regulation regarding Conduct of Members and Employees and Former Members and Employees of the Commission, which is set forth in subpart M of this part 200, most of which has been in effect for many years, and which was originally codified in 1953.

(c) However, in addition to the continued observance of those principles of personal conduct, it is fitting and proper for the members of the Commission to restate and resubscribe to the standards of conduct applicable to its executive, legislative and judicial responsibilities.

[25 FR 6725, July 15, 1960, as amended at 31 FR 13533, Oct. 20, 1966]

§ 200.54 Constitutional obligations.

The members of this Commission have undertaken in their oaths of office to support the Federal Constitution. Insofar as the enactments of the Congress impose executive duties upon the members, they must faithfully execute the laws which they are charged

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with administering. Members shall also carefully guard against any infringement of the constitutional rights, privileges, or immunities of those who are subject to regulation by this Commission.

§ 200.55 Statutory obligations.

In administering the law, members of this Commission should vigorously enforce compliance with the law by all persons affected thereby. In the exercise of the rulemaking powers delegated this Commission by the Congress, members should always be concerned that the rulemaking power be confined to the proper limits of the law and be consistent with the statutory purposes expressed by the Congress. In the exercise of their judicial functions, members shall honestly, fairly and impartially determine the rights of all persons under the law.

§ 200.56 Personal conduct.

Appointment to the office of member of this Commission is a high honor and requires that the conduct of a member, not only in the performance of the duties of his office but also in his everyday life, should be beyond reproach.

§ 200.57 Relationships with other members.

Each member should recognize that his conscience and those of other members are distinct entities and that differing shades of opinion should be anticipated. The free expression of opinion is a safeguard against the domination of this Commission by less than a majority, and is a keystone of the commission type of administration. However, a member should never permit his personal opinion so to conflict with the opinion of another member as to develop animosity or unfriendliness in the Commission, and every effort should be made to promote solidarity of conclusion.

§ 200.58 Maintenance of independence.

This Commission has been established to administer laws enacted by the Congress. Its members are appointed by the President by and with the advice and consent of the Senate to

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serve terms as provided by law. However, under the law, this is an independent Agency, and in performing their duties, members should exhibit a spirit of firm independence and reject any effort by representatives of the executive or legislative branches of the government to affect their independent determination of any matter being considered by this Commission. A member should not be swayed by partisan demands, public clamor or considerations of personal popularity or notoriety; so also he should be above fear of unjust criticism by anyone.

§ 200.59 Relationship with persons subject to regulation.

In all matters before him, a member should administer the law without regard to any personality involved, and with regard only to the issues. Members should not become indebted in any way to persons who are or may become subject to their jurisdiction. No member should accept loans, presents or favors of undue value from persons who are regulated or who represent those who are regulated. In performing their judicial functions, members should avoid discussion of a matter with any person outside this Commission and its staff while that matter is pending. In the performance of his rule-making and administrative functions, a member has a duty to solicit the views of interested persons. Care must be taken by a member in his relationship with persons within or outside of the Commission to separate the judicial and the rule-making functions and to observe the liberties of discussion respectively appropriate. Insofar as it is consistent with the dignity of his official position, he should maintain contact with the persons outside the agency who may be affected by his rule-making functions, but he should not accept unreasonable or lavish hospitality in so doing.

§ 200.60 Qualification to participate in particular matters.

The question in a particular matter rests with that individual member. Each member should weigh carefully the question of his qualification with respect to any matter wherein he or any relatives or former business associ-

ates or clients are involved. He should disqualify himself in the event he obtained knowledge prior to becoming a member of the facts at issue before him in a quasi-judicial proceeding, or in other types of proceeding in any matter involving parties in whom he has any interest or relationship directly or indirectly. If an interested person suggests that a member should disqualify himself in a particular matter because of bias or prejudice, the member shall be the judge of his own qualification.

§ 200.61 Impressions of influence.

A member should not, by his conduct, permit the impression to prevail that any person can improperly influence him, that any person unduly enjoys his favor or that he is affected in any way by the rank, position, prestige, or affluence of any person.

§ 200.62 Ex parte communications.

All proceedings required to be determined by the Commission on the record shall be determined by the members solely upon the record and the arguments of the parties or their counsel properly made in the regular course of such proceeding. A member shall at all times comply with the Commission's Code of Behavior governing ex parte communications between persons outside the Commission and decisional employees, §200.110 *et seq.*

[28 FR 4446, May 3, 1963]

§ 200.63 Commission opinions.

The opinions of the Commission should state the reasons for the action taken and contain a clear showing that no serious argument of counsel has been disregarded or overlooked. In such manner, a member shows a full understanding of the matter before him, avoids the suspicion of arbitrary conclusion, promotes confidence in his intellectual integrity and may contribute some useful precedent to the growth of the law. A member should be guided in his decisions by a deep regard for the integrity of the system of law which he administers. He should recall that he is not a repository of arbitrary power, but is acting on behalf of the public under the sanction of the law.

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§ 200.64 Judicial review.

The Congress has provided for review by the courts of the decisions and orders by this Commission. Members should recognize that their obligation to preserve the sanctity of the laws administered by them requires that they pursue and prosecute, vigorously and diligently but at the same time fairly and impartially and with dignity, all matters which they or others take to the courts for judicial review.

§ 200.65 Legislative proposals.

Members must recognize that the changing conditions in a volatile economy may require that they bring to the attention of the Congress proposals to amend, modify or repeal the laws administered by them. They should urge the Congress, whenever necessary, to effect such amendment, modification or repeal of particular parts of the statutes which they administer. In any action a member's motivation should be the common weal and not the particular interests of any particular group.

§ 200.66 Investigations.

The power to investigate carries with it the power to defame and destroy. In determining to exercise their investigatory power, members should concern themselves only with the facts known to them and the reasonable inferences from those facts. A member should never suggest, vote for, or participate in an investigation aimed at a particular individual for reasons of animus, prejudice or vindictiveness. The requirements of the particular case alone should induce the exercise of the investigatory power, and no public pronouncement of the pendency of such an investigation should be made in the absence of reasonable evidence that the law has been violated and that the public welfare demand it.

§ 200.67 Power to adopt rules.

In exercising its rule-making power, this Commission performs a legislative function. The delegation of this power by the Congress imposes the obligation upon the members to adopt rules necessary to effectuate the stated policies of the statute in the interest of all of

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the people. Care should be taken to avoid the adoption of rules which seek to extend the power of the Commission beyond proper statutory limits. Its rules should never tend to stifle or discourage legitimate business enterprises or activities, nor should they be interpreted so as unduly and unnecessarily to burden those regulated with onerous obligations. On the other hand, the very statutory enactments evidence the need for regulation, and the necessary rules should be adopted or modifications made or rules should be repealed as changing requirements demand without fear or favor.

§ 200.68 Promptness.

Each member should promptly perform the duties with which he is charged by the statutes. The Commission should evaluate continuously its practices and procedures to assure that it promptly disposes of all matters affecting the rights of those regulated. This is particularly desirable in quasi-judicial proceedings. While avoiding arbitrary action in unreasonably or unjustly forcing matters to trial, members should endeavor to hold counsel to a proper appreciation of their duties to the public, their clients and others who are interested. Requests for continuances of matters should be determined in a manner consistent with this policy.

§ 200.69 Conduct toward parties and their counsel.

Members should be temperate, attentive, patient and impartial when hearing the arguments of parties or their counsel. Members should not condone unprofessional conduct by attorneys in their representation of parties. The Commission should continuously assure that its staff follows the same principles in their relationships with parties and counsel.

§ 200.70 Business promotions.

A member must not engage in any other business, employment or vocation while in office, nor may he ever use the power of his office or the influence of his name to promote the business interests of others.

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§ 200.71 Fiduciary relationships.

A member should avoid service as a fiduciary if it would interfere or seem to interfere with the proper performance of his duties, or if the interests of those represented require investments in enterprises which are involved in questions to be determined by him. Such relationships would include trustees, executors, corporate directors, and the like.

§ 200.72 Supervision of internal organization.

Members and particularly the Chairman of the Commission should scrutinize continuously its internal organization in order to assure that such organization handles all matters before it efficiently and expeditiously, while recognizing that changing times bring changing emphasis in the administration of the laws.

Subpart D—Information and Requests

§ 200.80 Securities and Exchange Commission records and information.

(a) *General provisions.* (1) This section contains the rules that the U.S. Securities and Exchange Commission follows in processing requests for records under the Freedom of Information Act ("FOIA"), 5 U.S.C. 552, as amended. These rules should be read in conjunction with the text of the FOIA and the Uniform Freedom of Information Fee Schedule and Guidelines published by the Office of Management and Budget ("OMB Guidelines"). Requests made by individuals for records about themselves under the Privacy Act of 1974, 5 U.S.C. 552a, are processed in accordance with the Commission's Privacy Act regulations at subpart H, as well as this section.

(2)(i) Records that the FOIA requires to be made available for public inspection in an electronic format (pursuant to 5 U.S.C. 552(a)(2)) are accessible through the Commission's website, <http://www.sec.gov>. Each division and office of the Commission is responsible for determining which of its records are required to be made publicly available in an electronic format, as well as identifying additional records of inter-

est to the public that are appropriate for public disclosure, and for posting and indexing such records. Each division and office shall ensure that its posted records and indexes are reviewed and updated on an ongoing basis.

(ii) Persons who do not have access to the internet may obtain these records by contacting the Commission's Office of FOIA Services by telephone at 202-551-7900 or by email at foiapa@sec.gov.

(b) *Requirements for making requests for records—(1) How made and addressed.* The Commission has a centralized system for responding to FOIA requests, with all requests processed by the Office of FOIA Services. Requests for agency records must be in writing and include the requester's full name and a legible return address. Requesters may also include other contact information, such as an email address and a telephone number. Requests may be submitted by U.S. mail or delivery service and addressed to the Freedom of Information Act Officer, SEC, 100 F Street NE, Washington, DC 20549. Requests may also be made by facsimile (202-772-9337), email (foiapa@sec.gov), or online at the Commission's website (<http://www.sec.gov>). The request (and envelope, if the request is mailed or hand-delivered) should be marked "Freedom of Information Act Request."

(2) *Requests for records about oneself or another individual.* (i) A requester who is making a request for records about himself or herself must comply with the verification of identity provisions set forth in subpart H of this part to obtain any documents that would not be available to the public under the FOIA.

(ii) For requests for records about another individual, a requester may receive greater access by submitting either a notarized authorization signed by the individual permitting disclosure of his or her records or proof that the individual is deceased (e.g., a copy of a death certificate or an obituary). The Office of FOIA Services can require a requester to supply additional information if necessary to verify that a particular individual has consented to disclosure.

(3) *Description of records sought.* A FOIA request must reasonably describe the agency records sought with sufficient specificity with respect to names, dates, and subject matter to enable personnel within the divisions and offices of the Commission to locate them with a reasonable effort. Before submitting a request, a requester may contact the Office of FOIA Services' FOIA Public Liaisons to discuss the records they are seeking and to receive assistance in describing the records (contact information for these individuals is on the Commission's website, <http://www.sec.gov>). If the Office of FOIA Services determines that a request does not reasonably describe the records sought, it shall inform the requester what additional information is needed or how the request is insufficient. A requester who is attempting to reformulate or modify such a request may discuss the request with the Office of FOIA Services' designated FOIA contact, its FOIA Public Liaisons, or a representative of the Office of FOIA Services, each of whom is available to assist the requester in reasonably describing the records sought. When a requester fails to provide sufficient information within 30 calendar days after having been asked to reasonably describe the records sought, the Office of FOIA Services shall notify the requester in writing that the request has not been properly made, that no further action will be taken, and that the FOIA request is closed. Such a notice constitutes an adverse determination under paragraph (e)(2) of this section for which the Office of FOIA Services shall follow the procedures for a denial letter under paragraph (e)(2) of this section. In cases where a requester has modified his or her request so that it reasonably describes the requested records, the date of receipt for purposes of the 20-day time limit of paragraph (d) of this section shall be the date of receipt of the modified request.

(c) *Processing requests*—(1) *In general.*

(i) A request for records may be denied to the extent the exemptions in 5 U.S.C. 552(b) apply to the requested records and:

(A) Commission staff reasonably foresees that disclosure would harm an

interest protected by the applicable exemption; or

(B) The disclosure of the requested records is prohibited by law or is exempt from disclosure under 5 U.S.C. 552(b)(3).

(ii) In determining which records are responsive to a request, the Office of FOIA Services ordinarily will include only records in the agency's possession as of the date that it begins its search.

(2) *Re-routing of misdirected requests.* Any division or office within the Commission that receives a written request for records should promptly forward the request to the Office of FOIA Services for processing.

(3) *Consultation, referral, and coordination.* When reviewing records located in response to a request, the Office of FOIA Services will determine whether another Federal agency is better able to determine if the record is exempt from disclosure under the FOIA. As to any such record, the Office of FOIA Services will proceed in one of the following ways:

(i) *Consultation.* In instances where a record is requested that originated within a division or office within the Commission and another Federal agency has a significant interest in the record (or a portion thereof), the Office of FOIA Services will consult with that Federal agency before responding to a requester. When the Office of FOIA Services receives a request for a record (or a portion thereof) in its possession that originated with another entity within the Federal Government that is not subject to the FOIA, the Office of FOIA Services will typically consult with that entity prior to making a release determination.

(ii) *Referral.* When the Office of FOIA Services receives a request for a record (or a portion thereof) in its possession that originated with another Federal agency subject to the FOIA, the Office of FOIA Services will typically refer the record to that agency for direct response to the requester. Ordinarily, the agency that originated the record will be presumed to be best able to make the disclosure determination. However, if the Office of FOIA Services and the originating agency jointly agree that the Office of FOIA Services is in the

best position to make a disclosure determination regarding the record, then the record may be handled as a consultation and processed by the Office of FOIA Services. Whenever the Office of FOIA Services refers a record to another Federal agency for direct response to the requester, the Office of FOIA Services shall notify the requester in writing of the referral and inform the requester of the name of the agency to which the record was referred.

(iii) *Coordination.* If disclosure of the identity of the agency to which the referral would be made could harm an interest protected by an exemption, the Office of FOIA Services generally will coordinate with the originating agency to seek its views as to disclosure of the record and then advise the requester of the release determination for the record that is the subject of the coordination.

(iv) *Classified information.* On receipt of any request involving classified information, the Commission staff in possession of the information shall determine whether the information is currently and properly classified and take appropriate action to ensure compliance with subpart J of this part. Whenever a request involves a record containing information that has been classified or may be appropriate for classification by another Federal agency under an executive order concerning the classification of records, the Office of FOIA Services shall refer the responsibility for responding to the request regarding that information to the agency that classified the information, or that should consider the information for classification. Whenever agency records contain information that has been classified by another Federal agency, the Office of FOIA Services shall refer the responsibility for responding to that portion of the request to the agency that classified the underlying information except in circumstances that come within paragraph (c)(3)(iii) of this section.

(d) *Time limits and expedited processing*—(1) *In general.* The Office of FOIA Services will seek to respond to requests according to their order of receipt within each track of the Office of FOIA Services' multitrack

processing system as described in paragraph (d)(4) of this section.

(2) *Initial response.* A determination whether to comply with a FOIA request shall be made within 20 days (excepting Saturdays, Sundays, and legal public holidays) from the date the Office of FOIA Services receives a request for a record under this part, except when the circumstances described in paragraph (d)(3), (5), or (7) of this section are applicable. In instances where a FOIA requester has misdirected a request that is re-routed pursuant to paragraph (c)(2) of this section, the response time shall commence on the date that the request is first received by the Office of FOIA Services, but in any event not later than 10 working days after the request is first received by any division or office of the Commission.

(3) *Clarification of request.* The Office of FOIA Services may seek clarification of a request (or a portion of a request) for records. The request for clarification generally should be in writing. The first time the Office of FOIA Services seeks clarification, the time for responding to the entire request (set forth in paragraph (d)(2) of this section) is tolled until the requester responds to the clarification request. The tolled period will end when the Office of FOIA Services receives a response from the requester that reasonably describes the requested records. If the Office of FOIA Services asks for clarification and does not receive a written response from the requester within 30 calendar days from the date of the clarification request, the Office of FOIA Services will presume that the requester is no longer interested in the record(s) sought and notify the requester that any portion of the request as to which clarification was sought has been closed.

(4) *Multitrack processing.* The Office of FOIA Services shall use a multitrack system for processing FOIA requests. The Office of FOIA Services shall designate one track for requests that are granted expedited processing, in accordance with the standards set forth in paragraph (d)(7) of this section. The Office of FOIA Services shall use two or more additional processing tracks that distinguish between simple and

more complex requests based on the estimated amount of work and/or time needed to process the request. Among the factors the Office of FOIA Services may consider are the time to perform a search, the number of pages that must be reviewed in processing the request, and the need for consultations or referrals. The Office of FOIA Services shall advise requesters of the track into which their request falls and, when appropriate, shall offer the requesters an opportunity to narrow the scope of their request so that it can be placed in a different processing track.

(5) *Unusual circumstances.* The Office of FOIA Services may extend the time period for processing a FOIA request in “unusual circumstances.” To extend the time, the Office of FOIA Services shall notify the requester in writing of the unusual circumstances involved and of the date by which processing of the request is expected to be completed. If the extension exceeds 10 working days, the Office of FOIA Services shall provide the requester, in writing, with an opportunity to modify the request or arrange an alternative time frame for processing the request or a modified request. The Office of FOIA Services shall also make available its FOIA Public Liaisons to assist in the resolution of any disputes and notify the requester of the right to seek dispute resolution services from the Office of Government Information Services. For purposes of this section, “unusual circumstances” include:

(i) The need to search for and collect the requested records from field facilities or other establishments that are separate from the office processing the request.

(ii) The need to search for, collect, and appropriately examine a voluminous amount of separate and distinct records that are the subject of a single request.

(iii) The need to consult with another Federal agency having a substantial interest in the determination of the FOIA request or among two or more divisions or offices within the Commission having substantial subject-matter interest therein.

(6) *Aggregating requests.* The Office of FOIA Services may aggregate requests in cases where it reasonably believes

that multiple requests, submitted either by a requester or by a group of requesters acting in concert, together constitute a single request that would involve unusual circumstances, as defined in paragraph (d)(5) of this section. Multiple requests involving unrelated matters shall not be aggregated. The Office of FOIA Services shall advise requesters, in writing, when it determines to aggregate multiple requests and comply with paragraph (d)(5) of this section. Aggregation of requests for this purpose will be conducted independent of aggregation requests for fee purposes under paragraph (g)(8) of this section.

(7) *Expedited processing.* The Office of FOIA Services shall grant a request for expedited processing if the requester demonstrates a “compelling need” for the records. “Compelling need” means that a failure to obtain the requested records on an expedited basis could reasonably be expected to pose an imminent threat to an individual’s life or physical safety or, if the requester is primarily engaged in disseminating information, an urgency to inform the public about an actual or alleged Federal Government activity.

(i) A request for expedited processing may be made at the time of the initial request for records or at any later time.

(ii) A requester who seeks expedited processing must submit a statement, certified to be true and correct to the best of that person’s knowledge and belief, explaining why there is a “compelling need” for the records.

(iii) The Office of FOIA Services shall determine whether to grant or deny a request for expedited processing and provide notice of that determination within 10 calendar days of receipt of the request by the Office of FOIA Services. A request for records that has been granted expedited processing shall be processed as soon as practicable. If a request for expedited processing is denied, any appeal of that determination shall be decided expeditiously.

(8) *Appeals.* An administrative appeal shall be decided within 20 days (excepting Saturdays, Sundays, and legal public holidays) from the date the Office of FOIA Services receives such appeal except in the unusual circumstances

specified in paragraph (d)(5) of this section. In those unusual circumstances, the 20-day time limit may be extended by written notice to the person making the appeal setting forth the unusual circumstances for such extension and the date on which a determination is expected to be dispatched. No such notice shall specify a date that would result in an extension of more than 10 working days.

(e) *Responses to requests for records*—(1) *Acknowledgment of requests.* Upon receipt of a request for records, the Office of FOIA Services ordinarily will send the requester an acknowledgment letter that provides an assigned request number for further reference and, if necessary, confirms whether the requester is willing to pay fees.

(2) *Responses to requests.* (i) Any letter determining whether to comply with a request will inform the requester of the right to seek assistance from the Office of FOIA Services' FOIA Public Liaisons.

(ii) If the Office of FOIA Services makes a determination to grant a request in whole or in part, it shall notify the requester in writing of such determination, disclose records to the requester, and collect any applicable fees.

(iii) If the Office of FOIA Services makes an adverse determination regarding a request, it shall notify the requester of that determination in writing. Adverse determinations, or denials of requests, include decisions that: the requested record is exempt, in whole or in part; the request does not reasonably describe the records sought; the requested record does not exist (or is not subject to the FOIA), cannot be located, or has previously been destroyed; or the requested record is not readily producible in the form or format sought by the requester. Adverse determinations also include designations of requesters' fee category, denials of fee waiver requests, or denials of requests for expedited processing.

(iv) An adverse determination letter shall be signed and include:

(A) The names and titles or positions of each person responsible for the adverse determination;

(B) A brief statement of the reasons for the adverse determination, includ-

ing any FOIA exemption applied by the official denying the request;

(C) For records disclosed in part, markings or annotations to show the applicable FOIA exemption(s) and the amount of information deleted, unless doing so would harm an interest protected by an applicable exemption. The location of the information deleted shall also be indicated on the record, if feasible;

(D) An estimate of the volume of any records or information withheld by providing the number of pages withheld in their entirety or some other reasonable form of estimation. This estimate is not required if the volume is otherwise indicated by deletions marked on the records that are disclosed in part or if providing an estimate would harm an interest protected by an applicable FOIA exemption;

(E) A statement that the adverse determination may be appealed under paragraph (f) of this section, and a description of the requirements for filing an administrative appeal set forth in that paragraph; and

(F) A statement of the right of the requester to seek dispute resolution services from the Office of FOIA Services' FOIA Public Liaisons or the Office of Government Information Services ("OGIS").

(3) *Mediation services.* OGIS offers mediation services to resolve disputes between requesters and the Office of FOIA Services as a non-exclusive alternative to litigation. Requesters with concerns about the handling of their requests may contact OGIS.

(f) *Administrative appeals*—(1) *Administrative review.* If a requester receives an adverse determination as described in paragraph (e)(2)(iii) of this section, or the request has not been timely determined within the time period prescribed in paragraph (d)(2) of this section or within an extended period permitted under paragraph (d)(5) of this section, the requester may file an appeal to the Office of the General Counsel consistent with the procedures described in paragraphs (f)(2) through (4) of this section. A requester must generally submit a timely administrative appeal before seeking review by a court of an adverse determination.

(2) *Time limits.* Appeals can be submitted in writing or electronically, as described in paragraph (f)(3) of this section. The appeal must be received within 90 calendar days of the date of the written denial of the adverse determination and must be received no later than 11:59 p.m., Eastern Time, on the 90th day. If the Office of FOIA Services has not issued a determination on a request, an appeal may be submitted any time after the statutory time period for responding to a request ends.

(3) *Contents of appeal.* Appeals should be clearly and prominently identified at the top of the first page as “Freedom of Information Act Appeal” and should provide the assigned FOIA request number. The appeal should include a copy of the original request and adverse determination. Appeals should include a statement of the requester’s arguments as to why the records requested should be made available and the reason(s) the FOIA requester contends the adverse determination was in error. If only a portion of the adverse determination is appealed, the requester must specify which part is being appealed.

(4) *How to file and address an appeal.* If submitted by U.S. mail or delivery service, the appeal must be sent to the Office of FOIA Services at 100 F Street NE, Washington, DC 20549. Appeals may also be made by facsimile at 202-772-9337, email (foiapa@sec.gov), or online at the Commission’s website (<http://www.sec.gov>). A legible return address must be included with the FOIA appeal. The requester may also include other contact information, such as a telephone number and/or email address.

(5) *Adjudication of appeals.* The Office of the General Counsel has the authority to grant or deny all appeals, in whole or in part. In appropriate cases the Office of the General Counsel may refer appeals to the Commission for determination. No opportunity for personal appearance, oral argument, or hearing on appeal is provided. Upon receipt of an appeal, the Office of FOIA Services ordinarily will send the requester an acknowledgment letter that confirms receipt of the requester’s appeal.

(6) *Determinations on appeals.* A determination on an appeal must be made in

writing. A determination that denies an appeal, in whole or in part, shall include a brief explanation of the basis for the denial, identify the applicable FOIA exemptions asserted, and describe why the exemptions apply. As applicable, the determination will provide the requester with notification of the statutory right to file a lawsuit in accordance with 5 U.S.C. 552(a)(4), and will inform the requester of the mediation services offered by the Office of Government Information Services as a non-exclusive alternative to litigation. If the Office of FOIA Services’ determination is remanded or modified on appeal, the Office of the General Counsel will notify the requester of that determination in writing.

(g) *Fees*—(1) *In general.* The Office of FOIA Services shall charge fees for processing requests under the FOIA in accordance with the provisions of this section and with the OMB Guidelines, except where fees are limited under paragraph (g)(4) of this section or when a waiver or reduction is granted under paragraph (g)(12) of this section. To resolve any fee issues that arise under this section, the Office of FOIA Services may contact a requester for additional information. The Office of FOIA Services shall ensure that searches, review, and duplication are conducted in an efficient manner. The Office of FOIA Services ordinarily will collect all applicable fees before sending copies of records to a requester. Requesters must pay fees by check, certified check, or money order, or where possible, by electronic payment.

(2) *Definitions.* For purposes of this section:

(i) *Commercial use request* is a request from or on behalf of a person who seeks information for a use or purpose that furthers his or her commercial, trade, or profit interests, which can include furthering those interests through litigation. The Office of FOIA Services will determine whether to place a requester in the commercial use category on a case-by-case basis based on the requester’s intended use of the information.

(ii) *Direct costs* are those expenses the Office of FOIA Services and any staff within the divisions and offices of the Commission incur in searching for and

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duplicating (and, in the case of commercial use requests, reviewing) records to respond to a FOIA request. Direct costs include the salary of the employee(s) performing the work (*i.e.*, the basic rate of pay for the employee(s), plus 16% of that rate to cover benefits), the cost of materials, and the cost of operating computers and other electronic equipment, such as photocopiers and scanners. Direct costs do not include overhead expenses such as the costs of space and of heating or lighting a facility in which the service is performed.

(iii) *Duplication* is reproducing a record, or the information contained in it, to respond to a FOIA request. Copies can take the form of paper, audiovisual materials, or electronic records, among others. The Office of FOIA Services shall honor a requester's specified preference of form or format of disclosure if the record is readily reproducible with reasonable efforts in the requested form or format.

(iv) *Educational institution* is any school that operates a program of scholarly research. A requester in this fee category must show that the request is made in connection with the requester's role at the educational institution and that the records are not sought for commercial or personal use.

(v) *Noncommercial scientific institution* is an institution that is not operated to further a commercial, trade, or profit interest and that is operated solely for the purpose of conducting scientific research, the results of which are not intended to promote any particular product or industry. A requester in this category must show that the request is authorized by and is made under the auspices of a qualifying institution and that the records are sought to further scientific research and are not for a commercial use.

(vi) *Representative of the news media* or *news media requester* is any person or entity that gathers information of potential interest to a segment of the public, uses its editorial skills to turn the raw materials into a distinct work, and distributes that work to an audience. The term "news" means information that is about current events or that would be of current interest to the public.

(vii) *Review* is the examination of a record located in response to a request to determine whether any portion of it is exempt from disclosure. Review time includes doing all that is necessary to prepare the record for disclosure, such as redacting the record and marking any applicable exemptions. Review time also includes time spent obtaining and considering formal objections to disclosure made by a submitter under §200.83, but it does not include time spent resolving legal or policy issues regarding the application of exemptions.

(viii) *Search* is the review, manually or by automated means, of agency records for the purpose of locating those records that are responsive to a request. Search time includes page-by-page or line-by-line identification of information within records and the reasonable efforts expended to locate and retrieve information from electronic records.

(3) *Charging fees.* In responding to FOIA requests, the Office of FOIA Services shall charge fees for the services summarized in chart form in paragraph (g)(3)(i) of this section and explained in paragraphs (g)(3)(ii) through (v) of this section, unless fees are limited under paragraph (g)(4) of this section or a waiver or reduction of fees has been granted under paragraph (g)(12) of this section.

(i) The four categories of requesters and the chargeable fees for each are:

| Requester category | Search fees | Review fees | Duplication fees |
|--|---------------------------|-------------|--|
| (A) Commercial use requesters | Yes | Yes | Yes. |
| (B) Educational and noncommercial scientific institutions. | No | No | Yes (first 100 pages, or equivalent volume, free). |
| (C) Representatives of the news media .. | No | No | Yes (first 100 pages, or equivalent volume, free). |
| (D) All other requesters | Yes (first 2 hours free). | No | Yes (first 100 pages, or equivalent volume, free). |

(ii) *Search fees.* (A) Search fees shall be charged for all requests—other than requests made by educational institutions, noncommercial scientific institutions, or representatives of the news media—subject to the limitations of paragraph (g)(4) of this section. The Office of FOIA Services may charge for time spent searching even if no responsive records are located or it is determined that the records are entirely exempt from disclosure. Search fees shall be the direct costs of conducting the search by agency employees.

(B) Requesters shall be charged the direct costs associated with conducting any search that requires the creation of a new computer program to locate or identify responsive records. Requesters shall be notified of the costs associated with creating and implementing such a program and must agree to pay the associated costs before the costs may be incurred.

(C) For requests that require the retrieval of agency records stored at a Federal records center operated by the National Archives and Records Administration (“NARA”), additional costs shall be charged in accordance with the Transactional Billing Rate Schedule established by NARA.

(iii) *Review fees.* Review fees shall be charged to requesters who make commercial use requests. Review fees shall be assessed in connection with the initial review of the record, *i.e.*, the review agency employees conduct to determine whether an exemption applies to a particular record or portion of a record. Also, if an exemption asserted to withhold a record (or a portion thereof) is deemed to no longer apply, any costs associated with the re-review of the records to consider the use of other exemptions may be assessed as review fees. Review fees shall be the direct costs of conducting the review by the involved employees. Review fees can be charged even if the records reviewed ultimately are not disclosed.

(iv) *Search and review services (review applies to commercial-use requesters only).* (A) The Office of FOIA Services will establish and charge average rates for the groups of employees’ salary grades typically involved in the search and review of records. Those groups will consist of employees at:

- (1) Grades SK-8 or below;
- (2) Grades SK-9 to SK-13; and
- (3) Grades SK-14 or above.

(B) The average rates will be based on the hourly salary (*i.e.*, basic salary plus locality payment), plus 16 percent for benefits, of employees who routinely perform search and review services. The average hourly rates are listed on the FOIA web page of the Commission’s website at <http://www.sec.gov> and will be updated as salaries change. Fees will be charged in quarter-hour increments. No search fee or review fee will be charged for a quarter-hour period unless more than half of that period is required for search or review.

(v) *Duplication fees.* Duplication fees shall be charged to all requesters, subject to the limitations of paragraph (g)(4) of this section. Fees for either a photocopy or printout of a record (no more than one copy of which need be supplied) are identified on the FOIA web page of the Commission’s website at www.sec.gov. For copies of records produced on tapes, disks, or other media, the Office of FOIA Services shall charge the direct costs of producing the copy, including operator time. Where paper documents must be scanned to comply with a requester’s preference to receive the records in an electronic format, the requester shall pay the direct costs associated with scanning those materials. For all other forms of duplication, the Office of FOIA Services shall also charge the direct costs.

(4) *Limitations on charging fees.* (i) No search or review fees will be charged for requests by educational institutions (unless the requests are sought for a commercial use), noncommercial scientific institutions, or representatives of the news media.

(ii) Except for requesters seeking records for a commercial use, the Office of FOIA Services shall provide without charge the first 100 pages of duplication (or the cost equivalent for other media) and the first two hours of search.

(iii) Fees will not be charged where the costs of collecting and processing the fee are likely to equal or exceed the amount of the fee.

(iv) The Office of FOIA Services will not assess search fees (or, in the case of

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requests from representatives of the news media or educational or non-commercial scientific institutions, duplication fees) when 5 U.S.C. 552(a)(4)(A)(viii) prohibits the assessment of those fees.

(5) *Notice of anticipated fees.* (i) When the Office of FOIA Services determines or estimates that the fees to be assessed in accordance with this section will exceed the amount it would cost the Office of FOIA Services to collect and process the fees, the Office of FOIA Services shall notify the requester of the actual or estimated amount of fees, unless the requester has indicated a willingness to pay fees as high as the estimated fees. If only a portion of the fee can be estimated readily, the Office of FOIA Services shall advise the requester accordingly. If the requester is not a commercial use requester, the notice shall specify that the requester is entitled to the statutory entitlements of 100 pages of duplication at no charge and, if the requester is charged search fees, two hours of search time at no charge.

(ii) In cases in which a requester has been notified that the actual or estimated fees will amount to more than it would cost the Office of FOIA Services to collect and process the fees, or amount to more than the amount the requester indicated a willingness to pay, the Office of FOIA Services will do no further work on the request until the requester commits in writing to pay the actual or estimated total fee, or designates some amount of fees the requester is willing to pay, or in the case of a requester who is not a commercial use requester, designates that the requester seeks only that which can be provided by the statutory entitlements. The Office of FOIA Services will toll the response period while it notifies the requester of the actual or estimated amount of fees and this time will be excluded from the 20 working day time limit (as specified in paragraph (d)(2) of this section). The requester's agreement to pay fees must be made in writing, must designate an exact dollar amount the requester is willing to pay, and must be received within 30 calendar days from the date of the notification of the fee estimate. If the requester fails to submit an

agreement to pay the anticipated fees within 30 calendar days from the date of the Office of FOIA Services' fee notice, the Office of FOIA Services will presume that the requester is no longer interested in the records and notify the requester that the request has been closed.

(iii) The Office of FOIA Services shall make available their FOIA Public Liaisons or other FOIA professionals to assist any requester in reformulating a request to meet the requester's needs at a lower cost.

(6) *Charges for other services.* Although not required to provide special services, if the Office of FOIA Services chooses to do so as a matter of administrative discretion, the direct costs of providing the service shall be charged. Examples of such special services include certifying that records are true copies, providing multiple copies of the same document, or sending records by means other than first class mail. The cost for the attestation of records with the Commission seal (*i.e.*, certifying records as true copies) is \$4.00 per record, which may be waived for records certified electronically. Requests for certified copies of records or documents shall ordinarily be serviced within 20 working days. Requests will be processed in the order in which they are received.

(7) *Charging interest.* The Office of FOIA Services may begin to charge interest on any unpaid bill starting on the 31st calendar day following the date of billing the requester. Interest charges shall be assessed at the rate provided in 31 U.S.C. 3717 and accrue from the date of the billing until the payment is received. The Office of FOIA Services shall take all steps authorized by the Debt Collection Act of 1982, as amended, and the Commission's Rules Relating to Debt Collection to effect payment, including offset, disclosure to consumer reporting agencies, and use of collection agencies.

(8) *Aggregating requests.* If the Office of FOIA Services reasonably believes that a requester or a group of requesters acting in concert is attempting to divide a request into a series of requests for the purpose of avoiding fees,

the Office of FOIA Services may aggregate those requests and charge accordingly. Among the factors the Office of FOIA Services shall consider in deciding whether to aggregate are whether the requests were submitted close in time and whether the requests seek documents about related matters. The Office of FOIA Services may presume that multiple requests that involve related matters made by the same requester or a group of requesters within a 30 calendar day period have been made to avoid fees. For requests separated by a longer period, the Office of FOIA Services will aggregate them only where it determines that aggregation is warranted in view of all the circumstances involved.

(9) *Advance payments.* (i) For requests other than those described in paragraphs (g)(9)(ii) and (iii) of this section, the Office of FOIA Services shall not require a requester to make advance payment (*i.e.*, payment made before the Office of FOIA Services begins to process or continues to work on a request). Payment owed for work already completed (*i.e.*, payment before copies are sent to a requester) is not an advance payment.

(ii) When the Office of FOIA Services determines or estimates that a total fee to be charged under this section will exceed \$250.00, it shall notify the requester of the actual or estimated fee and may require the requester to make an advance payment of the entire anticipated fee before beginning to process the request. A notice under this paragraph shall offer the requester an opportunity to discuss the matter with the Office of FOIA Services' FOIA Public Liaisons or other FOIA professionals to modify the request in an effort to meet the requester's needs at a lower cost.

(iii) When a requester has previously failed to pay a properly charged FOIA fee to the Office of FOIA Services or other Federal agency within 30 calendar days of the date of billing, the Office of FOIA Services shall notify the requester that he or she is required to pay the full amount due, plus any applicable interest, and to make an advance payment of the full amount of any anticipated fee, before the Office of FOIA Services begins to process a new

request or continues processing a pending request from that requester. Where the Office of FOIA Services has a reasonable basis to believe that a requester has misrepresented the requester's identity to avoid paying outstanding fees, it may require that the requester provide proof of identity and pay in advance.

(iv) When the Office of FOIA Services requires advance payment or payment due under paragraphs (g)(9)(ii) and (iii) of this section, the Office of FOIA Services will not further process the request until the required payment is made. The Office of FOIA Services will toll the processing of the request while it notifies the requester of the advanced payment due and this time will be excluded from the 20 working day time limit (as specified in paragraph (d)(2) of this section). If the requester does not pay the advance payment within 30 calendar days from the date of the Office of FOIA Services' fee notice, the Office of FOIA Services will presume that the requester is no longer interested in the records and notify the requester that the request has been closed.

(10) *Tolling.* When necessary for the Office of FOIA Services to clarify issues regarding fee assessment with the requester, the time limit for responding to a FOIA request is tolled until the Office of FOIA Services resolves such issues with the requester.

(11) *Other statutes specifically providing for fees.* The fee schedule of this section does not apply to fees charged under any statute (except the FOIA) that specifically requires an agency to set and collect fees for particular types of records. In instances where records responsive to a request are subject to a statutorily-based fee schedule program, the Office of FOIA Services shall inform the requester how to obtain records from that program. Provision of such records is not handled under the FOIA.

(12) *Requirements for waiver or reduction of fees.* (i) Records responsive to a request will be furnished without charge, or at a charge reduced below that established under paragraph (g)(3) of this section, if the requester asks for such a waiver in writing and the Office

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of FOIA Services determines, after consideration of information provided by the requester, that the requester has demonstrated that:

(A) Disclosure of the requested information is in the public interest because it is likely to contribute significantly to public understanding of the operations or activities of the government; and

(B) Disclosure of the information is not primarily in the commercial interest of the requester.

(ii) In deciding whether disclosure of the requested information is likely to contribute significantly to public understanding of the operations or activities of the government, the Office of FOIA Services shall consider each of the following four factors:

(A) *The subject of the request:* whether the subject of the requested records concerns the operations or activities of the government. The subject of the requested records must concern identifiable operations or activities of the Federal Government, with a connection that is direct and clear, not remote or attenuated.

(B) *The informative value of the information to be disclosed:* whether the disclosure is likely to contribute to an understanding of government operations or activities. The disclosable portions of the requested records must be meaningfully informative about government operations or activities to be likely to contribute to an increased public understanding of those operations or activities. The disclosure of information that already is in the public domain, in either a duplicative or a substantially identical form, would not be likely to contribute to such understanding.

(C) *The contribution to an understanding of the subject by the public likely to result from disclosure:* whether disclosure of the requested information will contribute to the understanding of a reasonably broad audience of persons interested in the subject, as opposed to the individual understanding of the requester. A requester's expertise in the subject area and ability and intention to effectively convey information to the public shall be considered. It shall be presumed that a representative of the news media satisfies this consideration.

(D) *The significance of the contribution to public understanding:* whether the disclosure is likely to contribute significantly to public understanding of government operations or activities. The public's understanding of the subject in question prior to the disclosure must be significantly enhanced by the disclosure.

(iii) In deciding whether disclosure of the requested information is primarily in the commercial interest of the requester, the Office of FOIA Services shall consider the following factors:

(A) *The existence and magnitude of a commercial interest:* whether the requester has a commercial interest that would be furthered by the requested disclosure. The Office of FOIA Services shall consider any commercial interest of the requester (with reference to the definition of "commercial use requester" in paragraph (g)(2)(i) of this section), or of any person on whose behalf the requester may be acting, that would be furthered by the requested disclosure. Requesters shall be given an opportunity to provide explanatory information regarding this consideration.

(B) *The primary interest in disclosure:* whether the public interest is greater than any identified commercial interest in disclosure. The Office of FOIA Services ordinarily shall presume that where a news media requester has satisfied the public interest standard, the public interest will be the interest primarily served by disclosure to that requester. Disclosure to data brokers or others who merely compile and market government information for direct economic return shall not be presumed to primarily serve the public interest.

(iv) If only a portion of the requested records satisfies both the requirements for a waiver or reduction of fees, a waiver or reduction of fees will be granted for only that portion.

(v) Requests for a waiver or reduction of fees should address all the factors identified in paragraphs (g)(12)(ii) and (iii) of this section.

(vi) Denials of requests for a waiver or reduction of fees are adverse determinations (as defined in paragraph (e)(2)(iii) of this section) and may be

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appealed to the General Counsel in accordance with the procedures set forth in paragraph (f) of this section.

83 FR 30327, June 27, 2018, as amended at 86 FR 47562, Aug. 26, 2021]

§ 200.81 Publication of interpretative, no-action and certain exemption letters and other written communications.

(a) Except as provided in paragraphs (b) and (c) of this section, every letter or other written communication requesting the staff of the Commission to provide interpretative legal advice with respect to any statute administered by the Commission or any rule or regulation adopted thereunder; or requesting a statement that, on the basis of the facts stated in such letter or other communication, the staff would not recommend that the Commission take any enforcement action; or requesting an exemption, on the basis of the facts stated in such letter, from the provisions of the Securities Exchange Act of 1934 (15 U.S.C. 78a *et seq.*) or any rule or regulation thereunder, where the issuance of an order granting such exemption does not require public notice and an opportunity for hearing; together with any written response thereto, shall be made available for inspection and copying by any person as soon as practicable after the response has been sent or given to the person requesting it.

(b) Any person submitting such letter or other written communication may also submit therewith a request that it be accorded confidential treatment for a specified period of time, not exceeding 120 days from the date the response, together with a statement setting forth the considerations upon which the request for such treatment is based. If the staff determines that the request is reasonable and appropriate it will be granted and the letter or other communication will not be made available for public inspection or copying until the expiration of the specified period. If it appears to the staff that the request for confidential treatment should be denied, the staff shall so advise the person making the request and such person may withdraw the letter or other communication within 30 days thereafter. In such case, no response

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will be sent or given and the letter or other communication shall remain in the Commission's files but will not be made public. If such letter or other communication is not so withdrawn, it shall be deemed to be available for public inspection and copying together with any written response thereto.

NOTE: All letters or other written communications requesting interpretative advice, a no-action position, or an exemption shall indicate prominently, in a separate caption at the beginning of the request, each section of the Act and each rule to which the request relates. If more than one section or rule is involved, a separate copy of the request shall be submitted for each section or rule involved and an additional copy for the use of the staff of the Commission.

(c) This section shall not apply, however, to letters of comment or other communications relating to the accuracy or adequacy of any registration statement, report, proxy, or information statement or other document filed with the Commission, or relating to the extent to which such statement, report, or document complies with any applicable requirement. Further, this section shall not apply to applications or other written communications filed pursuant to § 240.24b–2 that relate to objections to public disclosure of information filed with the Commission or any exchange.

[35 FR 17779, Nov. 19, 1970, as amended at 53 FR 12413, Apr. 14, 1988; 53 FR 32605, Aug. 26, 1988]

§ 200.82 Public availability of materials filed pursuant to § 240.14a–8(d) and related materials.

Materials filed with the Commission pursuant to Rule 14a–8(d) under the Securities Exchange Act of 1934 (17 CFR 240.14a–8(d)), written communications related thereto received from any person, and each related no-action letter or other written communication issued by the staff of the Commission, shall be made available to any person upon request for inspection or copying.

[37 FR 20558, Sept. 30, 1972]

§ 200.83 Confidential treatment procedures under the Freedom of Information Act.

(a) *Purpose.* This section provides a procedure by which persons submitting

information in any form to the Commission can request that the information not be disclosed pursuant to a request under the Freedom of Information Act, 5 U.S.C. 552. This section does not affect the Commission's right, authority, or obligation to disclose information in any other context. This section is procedural only and does not provide rights to any person or alter the rights of any person under the Freedom of Information Act or any other applicable statute or regulation.

(b) *Scope.* The provisions of this section shall apply only where no other statute or Commission rule provides procedures for requesting confidential treatment respecting particular categories of information (*see, e.g.,* 17 CFR 240.24b-2) or where the Commission has not specified that an alternative procedure be utilized in connection with a particular study, report, investigation, or other matter. The provisions of this section shall not apply to any record which is contained in or is part of a personnel, medical or similar file relating to a Commission member or employee which would normally be exempt from disclosure pursuant to section 552(b)(6) of title 5, U.S. Code.

(c) *Written request for confidential treatment to be submitted with information.* (1) Any person who, either voluntarily or pursuant to any requirement of law, submits any information or causes or permits any information to be submitted to the Commission, which information is entitled to confidential treatment and for which no other specific procedure exists for according confidential treatment, may request that the Commission afford confidential treatment under the Freedom of Information Act to such information for reasons of personal privacy or business confidentiality, or for any other reason permitted by Federal law, and should take all steps reasonably necessary to ensure, as nearly as practicable, that at the time the information is first received by the Commission (i) it is supplied segregated from information for which confidential treatment is not being requested, (ii) it is appropriately marked as confidential, and (iii) it is accompanied by a written request for confidential treatment which specifies the information

as to which confidential treatment is requested.

(2) A person who submits a record to the Commission for which he or she seeks confidential treatment must clearly mark each page or segregable portion of each page with the words "Confidential Treatment Requested by [name]" and an identifying number and code, such as a Bates-stamped number. In his or her written confidential treatment request, the person must refer to the record by identifying number and code.

(3) In addition to giving a copy of any written request for confidential treatment to the Commission employee receiving the record in question, the person requesting confidential treatment must send a copy of the request (but not the record) by mail to the Office of Freedom of Information and Privacy Act Operations, SEC, 100 F Street, NE., Washington, DC 20549. The legend "FOIA Confidential Treatment Request" must clearly and prominently appear on the top of the first page of the written request, and the written request must contain the name, address, and telephone number of the person requesting confidential treatment. The person requesting confidential treatment is responsible for informing the Office of Freedom of Information and Privacy Act Operations promptly of any changes in address, telephone number, or representation.

(4) In some circumstances, such as when a person is testifying in the course of a Commission investigation or providing a record requested in the course of a Commission examination or inspection, it may be impracticable to submit a written request for confidential treatment at the time the record is first given to the Commission. In no circumstances can the need to comply with the requirements of this section justify or excuse any delay in submitting any record to the Commission. The person testifying or otherwise submitting the record must inform the Commission employee receiving it, at the time the record is submitted or as soon thereafter as possible, that he or she is requesting confidential treatment. The person must then submit a written confidential treatment request

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within 30 days from the date of the testimony or the submission of the record. Any confidential treatment request submitted under this paragraph must also comply with paragraph (c)(3) of this section.

(5) Where confidential treatment is requested by the submitter on behalf of another person, the request must identify that person and provide the telephone number and address of that person or the person's responsible representative if the submitter would be unable to provide prompt substantiation of the request at the appropriate time.

(6) No determination on a request for confidential treatment will be made until the Office of Freedom of Information and Privacy Act Operations receives a request for disclosure of the record.

(7) A confidential treatment request will expire ten years from the date the Office of Freedom of Information and Privacy Act Operations receives it, unless that Office receives a renewal request before the confidential treatment request expires. The renewal request must be sent by mail to the Office of Freedom of Information and Privacy Act Operations, SEC, 100 F Street, NE., Washington, DC 20549, and must clearly identify the record for which confidential treatment is sought. A renewal request will likewise expire ten years from the date that Office receives it, unless that Office receives another timely renewal request which complies with the requirements of this paragraph.

(8) A confidential treatment request shall be nonpublic. If an action is filed in a Federal court, however, by either the Freedom of Information Act requester (under 5 U.S.C. 552(a)(4) and § 200.80(f)) or by the confidential treatment requester (under paragraph (e)(5) of this section), the confidential treatment request may become part of the court record.

(d) *Substantiation of request for confidential treatment.* (1) If it is determined that records which are the subject of a request for access under the Freedom of Information Act are also the subject of a request for confidential treatment under this rule and no other grounds appear to exist which would

justify the withholding of the records [e.g., Freedom of Information Act Exemption 7(A), 5 U.S.C. 552(b)(7)(A)], the Commission's Freedom of Information Act Officer promptly shall so inform the person requesting confidential treatment or, in the case of a request made on behalf of a person other than the submitter, the person identified as able to provide substantiation, by telephone, facsimile or certified mail and require that substantiation of the request for confidential treatment be submitted in ten calendar days. Failure to submit a written substantiation within ten calendar days from the time of notification, or any extension thereof, may be deemed a waiver of the confidential treatment request and the confidential treatment requester's right to appeal an initial decision denying confidential treatment to the Commission's General Counsel as permitted by paragraph (e) of this section.

(2) Substantiation of a request for confidential treatment shall consist of a statement setting forth, to the extent appropriate or necessary for the determination of the request for confidential treatment, the following information regarding the request:

(i) The reasons, concisely stated and referring to specific exemptive provisions of the Freedom of Information Act, why the information should be withheld from access under the Freedom of Information Act;

(ii) The applicability of any specific statutory or regulatory provisions which govern or may govern the treatment of the information;

(iii) The existence and applicability of any prior determinations by the Commission, other Federal agencies, or a court, concerning confidential treatment of the information;

(iv) The adverse consequences to a business enterprise, financial or otherwise, that would result from disclosure of confidential commercial or financial information, including any adverse effect on the business' competitive position;

(v) The measures taken by the business to protect the confidentiality of the commercial or financial information in question and of similar information, prior to, and after, its submission to the Commission;

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(vi) The ease or difficulty of a competitor's obtaining or compiling the commercial or financial information;

(vii) Whether the commercial or financial information was voluntarily submitted to the Commission and, if so, whether and how disclosure of the information would tend to impede the availability of similar information to the Commission;

(viii) The extent, if any, to which portions of the substantiation of the request for confidential treatment should be afforded confidential treatment; and

(ix) Such additional facts and such legal and other authorities as the requesting person may consider appropriate.

(e) *Appeal from initial determination that confidential treatment is not warranted.* (1) In a preliminary decision, which shall be sent by mail or facsimile, or both, the Office of Freedom of Information and Privacy Act Operations will inform the confidential treatment requester whether it intends to grant confidentiality in whole or in part and give the requester ten calendar days from the date of the preliminary decision to submit supplemental arguments if the requester disagrees with the preliminary decision. A final decision, which shall also be sent by mail or facsimile, or both, no sooner than ten calendar days from the date of the preliminary decision, shall inform the Freedom of Information Act requester and the confidential treatment requester of his or her right to appeal an adverse decision to the Commission's General Counsel within ten calendar days from the date of the final decision. Records, which the Freedom of Information and Privacy Act Officer determines to be releasable, may be released to the Freedom of Information Act requester ten calendar days after the date of the final decision. However, if within those ten calendar days, the Freedom of Information and Privacy Act Officer receives an appeal from the confidential treatment requester, he or she shall inform the Freedom of Information Act requester that an appeal is pending and that the records will not be released until the appeal is resolved.

(2) Any appeal of a denial of a request for confidential treatment shall be in

writing, and shall be clearly and prominently identified on the envelope or other cover and at the top of the first page by the legend "FOIA Confidential Treatment Appeal." The appeal must be sent by mail to the Office of Freedom of Information and Privacy Act Operations, SEC, 100 F Street, NE., Washington, DC 20549, or by facsimile (202-772-9337). A copy of the appeal must be mailed to the General Counsel, Securities and Exchange Commission, 100 F Street, NE., Washington, DC 20549. The person requesting confidential treatment may supply additional substantiation of the request for confidential treatment in connection with the appeal to the General Counsel.

(3) The General Counsel shall have the authority to consider all appeals from decisions of the Freedom of Information Act Officer with respect to confidential treatment. All appeals taken under this section will be considered by the General Counsel as expeditiously as circumstances permit. Although other procedures may be employed, to the extent possible, the General Counsel will decide the matter on the basis of the affidavits and other documentary evidence submitted by the interested persons and such other information as is brought to the attention of the General Counsel. The General Counsel shall also have the authority to enter and vacate stays under the circumstances set forth in paragraph (e)(5) of this section. In appropriate cases the General Counsel may, in his or her sole and unfettered discretion, refer appeals and questions concerning stays under paragraph (e)(5) of this section to the Commission for decision.

(4) If it is determined that confidential treatment is not warranted with respect to all or any part of the information in question, the person requesting confidential treatment will be so informed by telephone, if possible, with a facsimile or certified mail letter directed to the person's last known address. Disclosure of the information under the Freedom of Information Act will occur ten calendar days after notice to the person requesting confidential treatment, subject to any stay entered pursuant to paragraph (e) (5) of this section.

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(5) If within that ten calendar day period the General Counsel has been notified that the person requesting confidential treatment has commenced an action in a Federal court concerning the determination to make such information publicly available, the General Counsel will stay making the public disclosure of the information pending final judicial resolution of the matter. The General Counsel may vacate a stay under this section either on his or her own motion or at the request of a person seeking access to the information under the Freedom of Information Act. If the stay is vacated, the information will be released under the Freedom of Information Act ten calendar days after the person requesting confidential treatment is notified of this action by telephone, if possible, with a facsimile or certified mail letter sent to the person's last known address, unless the court orders otherwise.

(f) *Initial determination that confidential treatment is warranted.* If it is determined by the Commission's Freedom of Information Act Officer that confidential treatment is warranted, the person submitting the information and the person requesting access to the information under the Freedom of Information Act will be so informed by mail. The person requesting access, pursuant to the Freedom of Information Act, will also be informed of the right to appeal the determination to the General Counsel. Any such appeal must be taken in accordance with the provisions of the Freedom of Information Act and Commission rules thereunder. See 17 CFR 200.80(f).

(g) *Confidential treatment request and substantiation as nonpublic.* Any confidential treatment request and substantiation of it shall be nonpublic. If an action is filed in a Federal court, however, by the Freedom of Information Act requester (under 5 U.S.C. 552(a)(4) and § 200.80(f)) or by the confidential treatment requester (under paragraph (e)(5) of this section), both the request and substantiation may become part of the public court record.

(h) *Effect of no prior request for confidentiality.* (1) If access is requested under the Freedom of Information Act to information which is submitted to the Commission on or after October 20,

1980 with respect to which no request for confidential treatment has been made pursuant to either paragraph (c)(1) or (c)(5) of this section, it will be presumed that the submitter of the information has waived any interest in asserting an exemption from disclosure under the Freedom of Information Act for reasons of personal privacy or business confidentiality, or for other reasons.

(2) Notwithstanding paragraph (h)(1) of this section, in appropriate circumstances, any person who would be affected by the public disclosure of information under the Freedom of Information Act may be contacted by Commission personnel to determine whether the person desires to make a request for confidential treatment. Any request for confidential treatment that is asserted in response to such inquiry shall be made in accordance with provisions of this section.

(i) *Extensions of time limits.* Any time limit under this section may be extended in the discretion of the Commission, the Commission's General Counsel, or the Commission's Freedom of Information Act Officer for good cause shown.

(j) *Electronic filings.* Confidential treatment requests shall be submitted in paper format only, whether or not the person making the request is an electronic filer.

(k) In their discretion, the Commission, the Commission's General Counsel, and the Freedom of Information Act Officer may use alternative procedures for considering requests for confidential treatment.

[45 FR 62421, Sept. 19, 1980, as amended at 47 FR 20289, May 12, 1982; 58 FR 14659, Mar. 18, 1993; 65 FR 55184, 55185, Sept. 13, 2000; 73 FR 32225, June 5, 2008; 84 FR 50738, Sept. 26, 2019]

Subpart E [Reserved]

Subpart F—Code of Behavior Governing Ex Parte Communications Between Persons Outside the Commission and Decisional Employees

§ 200.110 Purpose.

This code is adopted in conformity with section 4 of the Government in

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the Sunshine Act, Pub. L. 94-409, and is designed to insulate the administrative process from improper influence.

[42 FR 14690, Mar. 16, 1977]

§ 200.111 Prohibitions; application; definitions.

(a) *Prohibited communications.* In any agency proceeding which is subject to this subpart, except to the extent required for the disposition of ex parte matters as authorized by law:

(1) No interested person outside the agency shall make or knowingly cause to be made to any member of the Commission or decisional employee an ex parte communication relevant to the merits of the proceeding; and

(2) No member of the Commission or decisional employee shall make or knowingly cause to be made to any interested person outside the agency an ex parte communication relevant to the merits of the proceeding.

(b) *Proceedings to which prohibitions apply.* This subpart shall apply to all proceedings subject to 5 U.S.C. 557(a), including suspension proceedings instituted pursuant to the provisions of Regulations A, B, E, and F of the Securities Act of 1933 (§ 230.251 *et seq.* of this chapter), all review proceedings instituted pursuant to section 19(g) of the Securities Exchange Act of 1934, and all other proceedings where an evidentiary hearing has been ordered pursuant to a statutory provision or rule of the Commission and where the action of the Commission must be taken on the basis of an evidentiary record. In addition, this subpart shall apply to any other proceeding in which the Commission so orders.

(c) *Period during which prohibitions apply.* (1) The prohibitions in § 200.111 (a) shall begin to apply when the Commission issues an order for hearing; *Provided,*

(i) That in suspension proceedings pursuant to Regulations A, B, E and F of the Securities Act of 1933 (§ 230.251 *et seq.* of this chapter), these prohibitions shall commence when the Commission enters an order temporarily suspending the exemption; and

(ii) That in proceedings under section 19(d) of the Securities Exchange Act of 1934, 15 U.S.C. 78s(d), these prohibitions shall commence at the time that a

copy of an application for review has been filed with the Commission and served on the self-regulatory organization.

(iii) That in proceedings under Title I of the Sarbanes-Oxley Act of 2002, 15 U.S.C. 7211-7219, these prohibitions shall commence at the time that a copy of an application for review has been filed with the Commission and served on the Public Company Accounting Oversight Board; and

(iv) In no case shall the prohibitions in § 200.111(a) begin to apply later than the time at which a proceeding is noticed for hearing unless the person responsible for the communication has knowledge that it will be noticed, in which case the prohibitions shall apply beginning at the time of his or her acquisition of such knowledge.

(2) The prohibitions in § 200.111(a) shall continue until the time to file a petition for rehearing from the final order of the Commission has expired. In the event a petition for rehearing is filed, these prohibitions shall cease if and when the petition for rehearing is denied.

(3) The Commission may, by specific order entered in a particular proceeding, determine that these prohibitions shall commence from some date earlier than the time specified in this paragraph (c) or shall continue until a date subsequent to the time specified herein.

(d) *Definitions.* As used in this subpart:

(1) *Ex parte communication* means an oral or written communication not on the public record with respect to which reasonable prior notice to all participants to the proceeding is not given, but it shall not include requests for status reports on any matter or proceeding. In addition, an ex parte communication shall not include:

(i) Any written communication of which copies are served by the communicator contemporaneously with the transmittal of the communication in accordance with requirements of Rule 150 of the Commission's Rules of Practice, § 201.150 of this chapter, upon all participants to the proceeding (including the interested Division or Office of the Commission); or

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(ii) Any oral communication where 48 hours advance written notice is given to all participants to the proceeding (including the interested division of the Commission).

(2) *Participants to the proceeding* means all parties to the proceeding (including the interested Division or Office of the Commission) and any other persons who have been granted limited participation pursuant to the provisions of Rule 210(c) of the Commission's Rules of Practice, §201.210(c) of this chapter.

(3) *Decisional employee* means: (i) The administrative law judge assigned to the proceeding in question; and

(ii) All members of the staff of the Office of Opinions and Review; and

(iii) The legal and executive assistants to members of the Commission; and

(iv) Any employee of the Commission who has been specifically named by order of the administrative law judge or the Commission in the proceeding to assist thereafter in making or recommending a particular decision; and

(v) Any other employee of the Commission who is, or may reasonably be expected to be, involved in the decisional process of the proceeding.

[42 FR 14690, Mar. 16, 1977, as amended at 60 FR 32795, June 23, 1995; 69 FR 13175, Mar. 19, 2004]

§ 200.112 Duties of recipient; notice to participants.

(a) *Duties of recipient.* A member of the Commission or decisional employee who receives, or who make or knowingly causes to be made, a communication prohibited by this section, or who receives or makes a communication which he or she concludes should, in fairness, be brought to the attention of all participants to the proceeding, shall transmit to the Commission's Secretary, who shall place on the public record of the proceeding:

(1) All such written communications; and

(2) Memoranda stating the substance of all such oral communications; and

(3) All written responses, and memoranda stating the substance of all oral responses, to the materials described in paragraphs (a) (1) and (2) of this section.

(b) *Notice to participants.* The Secretary shall send copies of the communication to all participants to the proceeding with respect to which it was made, and shall notify the communicator of the provisions of this code prohibiting ex parte communications. If the communications are from persons other than participants to the proceedings or their agents, and the Secretary determines that it would be too burdensome to send copies of the communications to all participants because: (1) The communications are so voluminous, or (2) the communications are of such borderline relevance to the issues of the proceedings, or (3) the participants to the proceeding are so numerous, the Secretary may, instead, notify the participants that the communications have been received, placed in the file, and are available for examination.

(c) *Post decisional communications.* Any Commission member or decisional employee who receives a communication which would be prohibited by this Code, but for the fact that it was received subsequent to the date when the prohibitions imposed hereby have ceased to apply, shall comply with the provisions of §200.112(a) with respect to such communication in the event that he or she is to act in a decisional capacity in the same proceeding pursuant to remand where he or she concludes, in fairness, that such communication should be brought to the attention of all participants to the proceeding.

[42 FR 14691 Mar. 16, 1977]

§ 200.113 Opportunity to respond; interception.

(a) *Opportunity to respond.* All participants to a proceeding may respond to any allegations or contentions contained in a prohibited ex parte communication placed in the public record in accordance with §200.112. Such responses shall be included in the public record.

(b) *Interception of communications.* All written communications addressed to the Commission respecting a proceeding will be deemed to be communications to the staff of the interested division and will be directed to that division by the Commission's mail room. A Commission member or decisional

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employee may instruct any of his assistants who are nondecisional employees to intercept any communication directed to him which might appear to violate this Code and authorize them either to transmit any such written communication to the staff of the interested division of the Commission, if it appears from the contents of the communication that the intent of the sender is consistent with such action, or to return the communication to the sender.

[28 FR 4447, May 3, 1963, as amended at 42 FR 14691, Mar. 16, 1977]

§ 200.114 Sanctions.

(a) *Discipline of persons practicing before the Commission.* The Commission may, to the extent not prohibited by law, censure, suspend, or revoke the privilege to practice before it of any person who makes, or solicits the making of, an unauthorized ex parte communication.

(b) *Adverse action on claim.* Upon receipt of a communication knowingly made or knowingly caused to be made by a party in violation of this subpart, the Commission, administrative law judge, or other employee presiding at the hearing may, to the extent consistent with the interests of justice and the policy of the underlying statutes, require the party to show cause why his claim or interest in the proceeding should not be dismissed, denied, disregarded, or otherwise adversely affected on account of such violation.

(c) *Discipline of Commission employees.* The Commission may censure, suspend, or dismiss any Commission employee who violates the prohibitions or requirements of this Code.

[28 FR 4447, May 3, 1963, as amended at 42 FR 14691, Mar. 16, 1977]

Subpart G—Plan of Organization and Operation Effective During Emergency Conditions

SOURCE: 28 FR 6970, July 9, 1963, unless otherwise noted.

§ 200.200 Purpose.

This subpart describes the plan of organization and operation which will be observed by the Securities and Ex-

change Commission in discharging its duties and responsibilities in the event of emergency conditions as defined in the following section.

[28 FR 6970, July 9, 1963, as amended at 71 FR 33386, June 9, 2006; 71 FR 35730, June 21, 2006]

§ 200.201 General provisions.

(a) For purpose of this subpart, a person shall be considered unavailable or incapacitated in any situation and from any cause that prevents the person from assuming or performing on a timely basis his or her authorized duties, roles, or responsibilities of office, whether from a primary or alternate facility, or any other location.

(b) For purpose of this subpart, emergency conditions shall be deemed to commence upon the occurrence, or the imminent threat of the occurrence, of a natural or man-made disturbance, including, but not limited to, an armed attack against the United States, its territories or possessions, terrorist attack, civil disturbance, fire, pandemic, hurricane, or flood, that results in, or threatens imminently to result in, a substantial disruption of the organization or operations of the Commission. Such conditions shall be deemed to continue until the Commission shall, by notice or order, resume its normal organization and operations, whether at its headquarters in Washington, DC or elsewhere.

[71 FR 33386, June 9, 2006]

§ 200.202 Offices, and information and submittals.

(a) During emergency conditions, the location or headquarters of the Commission shall be as designated by the Chairman or his successor. The location of each Regional Office of the Commission, if different from the normal location, shall be as designated by the Chairman of the Commission or his successor, or in the absence of communications with him, by the Regional Director for the area or his acting successor.

(b) During emergency conditions, all formal or informal requests, filings, reports, or other submittals shall be submitted to the Commission as permitted in non-emergency conditions, unless the Chairman or his or her successor

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acting pursuant to § 200.203(c)(1) of this subpart specifies another means or location for submission of such requests, filings, reports, or other submittals, by a notice that is disseminated through a method (or combination of methods) that is reasonably designed to provide broad distribution of the information to the public.

[28 FR 6970, July 9, 1963, as amended at 59 FR 5944, Feb. 9, 1994; 71 FR 33387, June 9, 2006; 73 FR 32225, June 5, 2008]

§ 200.203 Organization, and delegations of authority.

(a) During emergency conditions, the respective functions and responsibilities of the Commissioners, the Chairman of the Commission, and the staff members shall be, to the extent possible, as set forth in Subpart A of this part (§ 200.1 *et seq.*).

(b) Action for and in the name of the Commission taken pursuant to this subpart by one or more Commissioners or by a successor as designated in this section shall mean and include the delegated authority to act for the unavailable or incapacitated Commissioners.

(c) Pursuant to the statutes governing the Commission, to Reorganization Plan No. 10 of 1950, and to Pub. L. 100–181, section 308(b), 101 Stat. 1249 (1987), the following automatic delegation of authority is made to provide continuity in the event of an emergency:

(1) In the event of the unavailability or incapacity of the Chairman of the Commission during emergency conditions, the authority of the Chairman to govern the affairs of the Commission and to act for the Commission, as provided for by law and by delegation from the Commission, will pass to the available person highest on the following list, until such time as the Chairman is no longer unavailable or incapacitated, or a successor Chairman has assumed office pursuant to Section 4 of the Securities Exchange Act of 1934 (15 U.S.C. 78d) and Reorganization Plan No. 10 of 1950 (15 FR 3175, 64 Stat. 1265):

(i) The Commissioners in order of seniority.

(ii) The General Counsel.

(iii) The Division Directors in the order designated by the Chairman in the most recent designation prior to

the commencement of emergency conditions, or if no such designation has occurred, in order of seniority.

(iv) The Regional Directors in the order designated by the Chairman in the most recent designation prior to the commencement of emergency conditions, or if no such designation has occurred, in order of seniority.

(2) If and when a commissioner previously incapacitated or otherwise unavailable, again becomes available, he shall thereupon have all the powers and functions he would have had if he had not been incapacitated or otherwise unavailable.

(d) Actions taken for and in the name of the Commission as described above shall be effective immediately or as specified by the successor acting, but shall be subject to reconsideration by the Commissioners when the Commission has been reconstituted and is functioning.

(e) Except as may be determined otherwise by the Chairman or his successor, the duties of each head of a division or office of the Commission shall be discharged, in the event of the unavailability or incapacity of such person during emergency conditions, by the available staff member next in line of succession. The head of each division or office shall designate the line of succession within his division or office. If no such designation has been made or the designatee is unavailable, such duties shall be assumed by the available subordinate officer or employee in the particular division or office who is highest in grade and in the event that there is more than one such person, in length of service with the Commission. A person who discharges or assumes the duties of the head of a division or office pursuant to this subsection is hereby delegated, throughout the period of the unavailability or incapacity of the head of the division or office during the emergency conditions, all of the functions that the Commission has delegated to the head of the division or office.

[28 FR 6970, July 9, 1963, as amended at 28 FR 7672, July 27, 1963; 28 FR 14493, Dec. 31, 1963; 54 FR 40862, Oct. 4, 1989; 59 FR 5945, Feb. 9, 1994; 71 FR 33387, June 9, 2006; 73 FR 32225, June 5, 2008]

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§ 200.204 Personnel, fiscal, and service functions.

In the event of the unavailability or incapacity of the appropriate staff officer or his or her successor during emergency conditions, authority to effect temporary appointments of such additional officers and employees, to classify and allocate positions to their proper grades, to issue travel orders, and to effect emergency purchases of supplies, equipment and services shall be exercised by the respective Regional Directors, their deputies, or staff in line of succession, as may be required for the discharge of the lawful duties of the respective offices.

[28 FR 6970, July 9, 1963, as amended at 59 FR 5945, Feb. 9, 1994; 71 FR 33387, June 9, 2006; 73 FR 32225, June 5, 2008]

§ 200.205 Effect upon existing Commission organization, delegations, and rules.

Except as otherwise provided herein, all outstanding Commission organizational statements, delegations of authority, orders, rules and regulations shall remain in force and effect during emergency conditions, subject to all lawful requirements and such changes as may be authorized by or in the name of the Chairman or the Commission.

[28 FR 6970, July 9, 1963, as amended at 71 FR 33387, June 9, 2006]

Subpart H—Regulations Pertaining to the Privacy of Individuals and Systems of Records Maintained by the Commission

SOURCE: 88 FR 65811, Sept. 26, 2023, unless otherwise noted.

§ 200.301 Purpose and scope.

(a) This subpart contains the rules of the Securities and Exchange Commission implementing the Privacy Act of 1974, as amended (Pub. L. 93-579, 5 U.S.C. 552a). These rules are applicable to all records in systems of records maintained by the Commission. They set forth the procedures by which individuals may make an inquiry regarding or request access to records about themselves, request an amendment or correction of those records, and request

an accounting of disclosures of those records by the Commission.

(b) This subpart also lists the Commission systems of records that are exempt from some of the provisions of the Privacy Act of 1974. These exemptions are authorized under the Privacy Act, 5 U.S.C. 552a(j) and (k).

§ 200.302 Definitions.

In addition to the definitions contained in 5 U.S.C. 552a(a), the following definitions apply in this subpart:

Commission means the Securities and Exchange Commission.

Inquiry means a request described in Privacy Act section (f)(1).

Privacy Act means the Privacy Act of 1974, as amended (5 U.S.C. 552a).

Request for access to a record means a request made under Privacy Act section (d)(1).

Request for amendment or correction of a record means a request made under Privacy Act section (d)(2).

Request for an accounting means a request made under Privacy Act section (c)(3).

Requester means an individual who makes an inquiry, a request for access, a request for amendment or correction, or a request for an accounting.

§ 200.303 Procedures for making inquiries and requests for access.

Requesters seeking to know if a specific system of records maintained by the Commission contains a record pertaining to them may submit an inquiry to the Commission. Requesters may also request access to records pertaining to them in a system of records maintained by the Commission.

(a) *How to make an inquiry or request for access.* An inquiry or request for access must be in writing and may be submitted by email (foiapa@sec.gov) or online at the Commission's website at https://www.sec.gov/forms/request_public_docs. A requester may alternatively submit an inquiry or request for access by mail to the Securities and Exchange Commission, Office of FOIA Services, 100 F Street NE, Washington, DC 20549 or other mailing address or facsimile number published on the Commission's website at <https://www.sec.gov/oso/help/foia-contact.html>. Inquiries and requests for access that

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are submitted by mail should include the words “PRIVACY ACT REQUEST” in capital letters at the top of the letter and on the face of the envelope.

(b) *Information to be included in an inquiry or request for access.* Each inquiry or request for access must include information that will assist the Commission in identifying those records the requester is seeking information about or access to. The following information, as relevant, should be submitted with the request: name of the individual whose record is sought; identifying data that will help locate the record (e.g., maiden name and period or place of employment); and the requester’s name, address, telephone number, and email address. Where practicable, the requester should identify the system of records that is the subject of the inquiry or request for access by reference to the Commission’s systems of records notices, which are published in the FEDERAL REGISTER. The Commission’s systems of records notices can also be found on the Commission’s website at <https://www.sec.gov/oit/system-records-notices>. If additional information is required before a request can be processed, the requester will be so advised.

(c) *Verification of identity.* A requester making an inquiry or requesting access to a record must verify his or her identity before information is given or access is granted unless the information is required to be disclosed under the Freedom of Information Act (FOIA), 5 U.S.C. 552.

(1) *In-person verification.* A requester may appear at any of the Commission offices, which are listed on the Commission’s website at <https://www.sec.gov/divisions.shtml>, and furnish documentation to establish his or her identity. Such documentation might include a valid driver’s license, passport, birth certificate, employee or military identification card, or Medicare card. Sufficiency of the documentation in verifying identity will be determined by the Commission staff member reviewing such documentation.

(2) *Not in-person verification.* A requester who does not appear in person must verify his or her identity using one of the following methods:

(i) A requester may use electronic identity proofing and authentication

processes as made available through the Commission’s website; or

(ii) A requester may submit a copy of documentation to establish the requester’s identity (examples of such documentation are noted in paragraph (c)(1) of this section).

(3) *Submission of signed statement.* For all verification methods, a requester must also submit a statement attesting to the requester’s identity and a statement that the requester understands that a knowing and willful request for or acquisition of a record pertaining to an individual under false pretenses is a criminal offense subject to a \$5,000 fine. Sample statements and the requirements for completing them are available through the Commission’s website.

(4) *Additional procedures for verifying identity.* When it appears appropriate, the Commission’s Office of FOIA Services may make such other arrangements for the verification of identity as are reasonable under the circumstances and appear to be effective to prevent unauthorized disclosure of, or access to, individual records.

§ 200.304 Responses to inquiries and requests for access.

(a) *Initial review.* Inquiries and requests for access will be referred to the Commission’s Office of FOIA Services which will make the initial determination as to whether the inquiry or request for access will be granted.

(b) *Grant of inquiry or request for access.* If it is determined that an inquiry or request for access will be granted, the requester will be advised in writing. When a request for access is granted, in full or in part, a requester may elect to receive a copy of the requested record electronically, by mail, or in person, and the Office of FOIA Services will comply with that election to the extent practicable.

(c) *Denial of an inquiry or request for access.* If it is determined that no response will be given to an inquiry or that a request for access will not be granted, the requester will be notified of that fact in writing and given the reasons for the denial. The requester also will be advised of his or her right to seek review by the Office of the General Counsel of the initial decision in

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accordance with the procedures set forth in § 200.308.

(d) *Time for acting on inquiries and requests for access*—(1) *Responses to inquiries.* The Office of FOIA Services will endeavor to inform a requester making an inquiry as to whether the named system of records contains a record pertaining to him or her within 10 days (excluding Saturdays, Sundays, and Federal holidays) of receipt of such a request. Whenever a response to an inquiry cannot be made within the 10 days, the Office of FOIA Services will inform the requester of the reasons for the delay and the date by which a response may be anticipated.

(2) *Acknowledgement of and responses to requests for access.* (i) Except where the requester appears in person, the Office of FOIA Services will endeavor to acknowledge, in writing, receipt of a request for access within 10 days (excluding Saturdays, Sundays, and Federal holidays) of receipt of such a request.

(ii) The Office of FOIA Services will endeavor to respond to a request for access to a record pertaining to a requester within 30 days (excluding Saturdays, Sundays, and Federal holidays) after the receipt of the request. If, for good cause shown, a longer period of time is required, the Office of FOIA Services will inform the requester in writing of the reasons for the delay, and indicate when access is expected to be granted or denied.

(3) *Appearance in person.* When a requester appears in person at the Commission to make a request for access and the requester provides the required information and verification of identity, the Office of FOIA Services' staff, if practicable, will indicate whether it is likely that the requester will be given access to the records and, if so, when and under what circumstances such access will be given.

(e) *Exclusion for certain records.* Nothing contained in these rules allows a requester to obtain access to any records or information compiled in reasonable anticipation of a civil action or proceeding.

§ 200.305 Requests for amendment or correction of records.

(a) *How to make a request for amendment or correction.* A written request for amendment or correction of records may be submitted by email (foiapa@sec.gov) or online at the Commission's website at https://www.sec.gov/forms/request_public_docs. A requester may alternatively submit a request for amendment or correction by mail to the Securities and Exchange Commission, Office of FOIA Services, 100 F Street NE, Washington, DC 20549 or other mailing address or facsimile number published on the Commission's website at <https://www.sec.gov/oso/help/foia-contact.html>. Requests that are submitted by mail should include the words "PRIVACY ACT REQUEST" in capital letters at the top of the letter and on the face of the envelope.

(1) *Information to be included in requests for amendment or correction.* Each request for amendment or correction must reasonably describe the record sought to be amended or corrected. Such description should include, for example, relevant names, dates, and subject matter to permit the record to be located among the records maintained by the Commission. The requester will be advised promptly if the record cannot be located on the basis of the description given and if further identifying information is necessary before the request can be processed. Verification of the requester's identity as set forth in § 200.303(c) will also be required before an amendment or correction is undertaken.

(2) *Basis for amendment or correction.* A requester seeking an amendment or correction to a record must specify the substance of the amendment or correction and set forth facts and provide such materials that would support the contention that the record as maintained by the Commission is not accurate, timely, or complete or, where a request seeks deletion of information, that the record is not necessary and relevant to accomplish a statutory purpose of the Commission as authorized by law or by Executive Order of the President.

(b) *Acknowledgement of requests for amendment or correction.* Receipt of a request for amendment or correction will

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be acknowledged in writing within 10 days (excluding Saturdays, Sundays, and Federal holidays) after such request has been received. When a request for amendment or correction is made in person, the requester will be given a written acknowledgement when the request is presented. The acknowledgement will describe the request received and indicate when it is anticipated that action will be taken on the request.

§ 200.306 Review of requests for amendment or correction.

(a) *Initial review.* Requests for amendment or correction to records pertaining to that individual will be referred to the Commission's Office of FOIA Services for an initial determination.

(b) *Time for acting on requests.* Initial review of a request for amendment or correction will be completed promptly and the Office of FOIA Services will endeavor to respond to a request within 30 days (excluding Saturdays, Sundays, and Federal holidays) from the date the request was received, unless circumstances preclude completion of review within that time. If the anticipated completion date indicated in the acknowledgement cannot be met, the requester will be advised in writing of the delay and the reasons for the delay, and also advised when action is expected to be completed.

(c) *Grant of requests for amendment or correction.* If a request for amendment or correction is granted in whole or in part, the Office of FOIA Services will:

(1) Advise the requester in writing of the extent to which it has been granted;

(2) Amend or correct the record accordingly; and

(3) Where an accounting of disclosures of the record has been kept pursuant to 5 U.S.C. 552a(c), advise all previous recipients of the record of the fact that the record has been amended or corrected and the substance of the amendment or correction.

(d) *Denial of requests for amendment or correction.* If the request for amendment or correction is denied in whole or in part, the Office of FOIA Services will:

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(1) Promptly advise the requester in writing of the extent to which the request has been denied;

(2) State the reasons for the denial of the request;

(3) Describe the procedures to appeal the denial of the request for amendment or correction, including the name and address of the person to whom the appeal is to be addressed; and

(4) Inform the requester that the Office of FOIA Services will provide information and assistance to the individual in perfecting an appeal of the initial decision.

§ 200.307 Requests for an accounting of record disclosures.

(a) *How made and addressed.* Except where accountings of disclosures are not required to be kept or provided (as stated in paragraph (e) of this section), requesters may ask the Commission to provide an accounting of a disclosure of a record about the requester that the Commission has made to another person, organization, or agency. The request for an accounting should identify each particular record in question and must be made in writing. The request may be submitted by email (foiapa@sec.gov) or online at the Commission's website at https://www.sec.gov/forms/request_public_docs. A requester may alternatively submit a request for an accounting by mail to the Securities and Exchange Commission, Office of FOIA Services, 100 F Street NE, Washington, DC 20549 or other mailing address or facsimile number published on the Commission's website at <https://www.sec.gov/oso/help/foia-contact.html>. Requests for accounting that are submitted by mail should include the words "PRIVACY ACT REQUEST" in capital letters at the top of the letter and on the face of the envelope.

(b) *Verification of identity.* Verification of the requester's identity as set forth in section 202.303(c) will be required before an accounting is given.

(c) *Acknowledgement of requests for an accounting of record disclosures.* The Office of FOIA Services will endeavor to acknowledge, in writing, receipt of a request for an accounting of record disclosures within 10 days of receipt of such a request (excluding Saturdays, Sundays, and Federal holidays). When

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a request for an accounting of record disclosures is made in person, the requester will be given a written acknowledgement when the request is presented. The acknowledgement will describe the request received and indicate when it is anticipated that action will be taken on the request.

(d) *Time for acting on requests.* The Office of FOIA Services will endeavor to respond to a request for an accounting of record disclosures within 30 days (excluding Saturdays, Sundays, and Federal holidays) from the date the request was received, unless the requester is notified in writing within the 30-day period that, for good cause shown, a longer period of time is required. In such cases, the requester will be informed in writing of the reasons for the delay and an indication will be given as to when it is anticipated that an accounting may be granted or denied.

(e) *Grant of request of accounting.* If it is determined that a request for an accounting will be granted, the requester will be advised in writing. When a request for access is granted, in full or in part, the information will be provided electronically, by mail, or in person at the requester's election.

(f) *Denial of a request for accounting.* If it is determined that the request will not be granted, the requester will be notified of that fact in writing and given the reasons for the denial. The requester also will be advised of his or her right to seek review by the Office of the General Counsel of the initial decision in accordance with the procedures set forth in § 200.308.

(g) *Where accountings of record disclosures are not required.* The Commission is not required to provide accountings of disclosures to requesters where they relate to:

(1) Disclosures made to officers and employees within the Commission and disclosures made under the FOIA, 5 U.S.C. 552;

(2) Disclosures made to law enforcement agencies for authorized law enforcement activities in response to written requests from those law enforcement agencies specifying the law enforcement activities for which disclosures are sought; or

(3) Disclosures made from law enforcement systems of records that have been exempted from accounting requirements.

§ 200.308 Administrative appeals.

(a) *Administrative review.* A requester who has been notified pursuant to § 200.304(c), § 200.306(d), or § 200.307(d) that his or her inquiry or request has been denied in whole or in part, or who has received no response to a request for access or to amend within 30 days (excluding Saturdays, Sundays, and Federal holidays) after his or her request was received by the Office of the FOIA Services, may appeal to the Office of the General Counsel the adverse determination.

(1) Appeals must be received within 90 calendar days of the date of the written denial of an inquiry or request and must be received no later than 11:59 p.m., eastern time, on the 90th day.

(2) The appeal should be in writing and should provide the assigned request number, a copy of the original request, and the adverse determination. The appeal should also explain why the requester contends any adverse determination was in error. The requester may state such facts and cite such legal or other authorities as the requester may consider appropriate in support of the appeal. If only a portion of the adverse determination is appealed, the requester should specify which part is being appealed.

(3) The appeal may be submitted by email (foiapa@sec.gov) or online at the Commission's website at https://www.sec.gov/forms/request_public_docs. A requester may alternatively submit an appeal by mail to the Securities and Exchange Commission, Office of FOIA Services, 100 F Street NE, Washington, DC 20549 or other mailing address or facsimile number published on the Commission's website at <https://www.sec.gov/oso/help/foia-contact.html>.

(4) The Office of the General Counsel will endeavor to make a determination with respect to an appeal within 30 days after the receipt of such appeal (excluding Saturdays, Sundays, and Federal holidays) unless, for good cause shown, the Office of the General Counsel extends that period. If such an extension is made, the individual who

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is appealing will be advised in writing of the extension, the reasons therefor, and the anticipated date when the appeal will be decided.

(5) If the Office of the General Counsel concludes that an inquiry or request for access, amendment or correction, or an accounting should be granted, it will issue a decision granting the inquiry or request and instructing the Office of FOIA Services to comply with § 200.304(b), § 200.306(c), or § 200.307(c), as applicable.

(6) If the Office of the General Counsel affirms the initial decision denying an inquiry or request for access or an accounting, it will issue a decision denying the inquiry or request and advising the requester of:

(i) The reasons for the denial; and

(ii) The requester's right to obtain judicial review of the decision pursuant to 5 U.S.C. 552a(g)(1)(B) or (g)(1)(D), as applicable.

(7) If the Office of the General Counsel determines that the decision of the Office of FOIA Services denying a request for amendment or correction should be upheld, it will issue a decision denying the request and the individual will be advised of:

(i) The decision refusing to amend or correct the record and the reasons therefor;

(ii) The requester's right to file a concise statement setting forth his or her disagreement with the decision not to amend or correct the record;

(iii) The procedures for filing such a statement of disagreement;

(iv) The fact that any such statement of disagreement will be made available to anyone to whom the record is disclosed, together with, if the Office of the General Counsel deems it appropriate, a brief statement setting forth the Office of the General Counsel's reasons for refusing to amend or correct;

(v) The fact that prior recipients of the record in issue will be provided with the statement of disagreement and the Office of the General Counsel's statement, if any, to the extent that an accounting of such disclosures has been maintained pursuant to 5 U.S.C. 552a(c); and

(vi) The requester's right to seek judicial review of the Office of the Gen-

eral Counsel's refusal to amend or correct, pursuant to 5 U.S.C. 552a(g)(1)(A).

(8) In appropriate cases the Office of the General Counsel may, in its sole discretion, refer matters requiring administrative review of initial decisions to the Commission for determination and the issuance, where indicated, of decisions.

(b) *Statements of disagreement.* As noted in paragraph (a)(6)(ii) of this section, a requester may file a statement setting forth his or her disagreement with the Office of the General Counsel's denial of the request for amendment or correction.

(1) Such statement of disagreement may be submitted by email (foiapa@sec.gov) or online at the Commission's website at https://www.sec.gov/forms/request_public_docs. A requester who is not able to submit a statement of disagreement by email or online may submit a request by mail to the Securities and Exchange Commission, Office of FOIA Services, 100 F Street NE, Washington, DC 20549 or other mailing address or facsimile number published on the Commission's website at <https://www.sec.gov/oso/help/foia-contact.html>. A requester must submit a statement of disagreement within 30 days after receipt of the Office of the General Counsel's decision denying the request for amendment or correction. For good cause shown this period can be extended for a reasonable time.

(2) Statements of disagreement should be concise and must clearly identify each part of any record that is disputed and state the basis for the requester's disagreement. The Office of the General Counsel will return unduly lengthy or irrelevant materials to the individual for appropriate revisions before they become a permanent part of the requester's record. Statements of disagreement will be placed in the system of records in which the disputed record is maintained. The disputed record will be marked to indicate that a statement of disagreement has been filed and where in the system of records it may be found.

(3) If a requester has filed a statement of disagreement, the Office of FOIA Services will append a copy of it to the disputed record whenever the record is disclosed and may also append

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a concise statement of its reason(s) for denying the request for amendment or correction.

(4) In appropriate cases, the Office of the General Counsel may, in its sole discretion, refer matters concerning statements of disagreement to the Commission for disposition.

§ 200.309 Fees.

(a) The only fee to be charged to a requester under this part is for the duplication of records to be disclosed to the requester. No fee will be charged or collected for: search, retrieval, or review of records; or duplication at the initiative of the Commission without a request from the requester. Fees for duplication will be charged at rates set forth on the FOIA web page of the Commission's website at *www.sec.gov*. Fees for duplication include any costs incurred in making records available on electronic storage devices.

(b) With regard to requests for amendment or correction, the Commission will provide the requester one copy of each record corrected or amended pursuant to his or her request without charge as evidence of the correction or amendment.

(c) Whenever the Office of FOIA Services determines that good cause exists to grant a request for reduction or waiver of fees for duplication costs, it may reduce or waive any such fees.

§ 200.310 Specific exemptions.

(a) Pursuant to, and limited by 5 U.S.C. 552a(k)(2), the following systems of records maintained by the Commission are exempt from 5 U.S.C. 552a(c)(3), (d), (e)(1), (e)(4)(G), (e)(4)(H), and (e)(4)(I), and (f), and §§ 200.303, 200.305, and 200.307, insofar as they contain investigatory materials compiled for law enforcement purposes:

- (1) Enforcement Files;
 - (2) Office of the General Counsel Working Files;
 - (3) Office of the Chief Accountant Working Files;
 - (4) Correspondence Response System;
 - (5) Tips, Complaints, and Referrals (TCR) Records; and
 - (6) SEC Security in the Workplace Incident Records.
- (b) Pursuant to 5 U.S.C. 552a(k)(5), the systems of records containing the

Commission's Disciplinary and Adverse Actions, Employee Conduct, and Labor Relations Files are exempt from 5 U.S.C. 552a(c)(3), (d), (e)(1), (e)(4)(G), (e)(4)(H), (e)(4)(I), and (f), and §§ 200.303 through 200.309, insofar as they contain investigatory material compiled to determine an individual's suitability, eligibility, and qualifications for Federal civilian employment or access to classified information, but only to the extent that the disclosure of such material would reveal the identity of a source who furnished information to the Government under an express promise that the identity of the source would be held in confidence, or, prior to September 27, 1975, under an implied promise that the identity of the source would be held in confidence.

§ 200.311 Inspector General exemptions.

(a) Pursuant to, and limited by 5 U.S.C. 552a(j)(2), the system of records maintained by the Office of Inspector General of the Commission that contains investigative files is exempt from the provisions of 5 U.S.C. 552a, except sections (b), (c)(1) and (2), (e)(4)(A) through (F), (e)(6), (e)(7), (e)(9), (e)(10), and (e)(11), and (i), and §§ 200.303 through 200.309, insofar as the system contains information pertaining to criminal law enforcement investigations.

(b) Pursuant to, and limited by 5 U.S.C. 552a(k)(2), the system of records maintained by the Office of Inspector General of the Commission that contains investigative files is exempt from 5 U.S.C. 552a(c)(3), (d), (e)(1), (e)(4)(G), (e)(4)(H), (e)(4)(I), and (f) and §§ 200.303 through 200.309, insofar as it contains investigatory materials compiled for law enforcement purposes.

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Subpart I—Regulations Pertaining to Public Observation of Commission Meetings

SOURCE: 42 FR 14693, Mar. 16, 1977, unless otherwise noted.

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§ 200.400 Open meetings.

Except as otherwise provided in this subpart, meetings of the Commission shall be open to public observation.

§ 200.401 Definitions.

As used in this subpart:

(a) *Meeting* means the joint deliberations of at least the number of individual members of the Securities and Exchange Commission required to take action on behalf of the Commission where such deliberations determine or result in the joint conduct or disposition of official Commission business, but does not include deliberations required or permitted by § 200.42 or § 200.43 (respecting seriatim and duty officer disposition of Commission business, respectively), or by §§ 200.403, 200.404, or 200.405 (respecting whether particular Commission deliberations shall be open or closed and related matters).

(b) *Portion of a meeting* means the consideration during a meeting of a particular topic or item separately identified in the notice of Commission meetings described in § 200.403.

(c) *Open*, when used in the context of a Commission meeting or a portion thereof, means that the public may attend and observe the deliberations of the Commission during such meeting or portion of a meeting, consistent with the provisions of § 200.410 (respecting decorum at meetings and other related matters).

(d) *Closed*, when used in the context of a Commission meeting or a portion thereof, means that the public may not attend or observe the deliberations of the Commission during such meeting or portion of a meeting.

(e) *Announce*, and *make publicly available*, when used in the context of the dissemination of information, mean, in addition to any specific method of publication described in this subpart, that a document containing the information in question will be posted for public inspection in, or adjacent to, the lobby of the Commission's headquarters offices, and will be available to the public through the Commission's Public Reference Section and the Commission's Office of Public Affairs, all in Washington, DC

(f) The term *likely to*, as used in § 200.402, illustrating the circumstances

under which Commission meetings may be closed, and the circumstances in which information may be deleted from the notice of Commission meetings, means that it is more probable than not that the discussion of Commission business, or publication of information, reasonably could encompass matters which the Commission is authorized, by the Government in the Sunshine Act, Pub. L. 94-409, as implemented by this subpart, to consider or discuss at a closed meeting (or a closed portion of a meeting).

(g) The term *financial institution*, as used in § 200.402(a), authorizing the closure of certain Commission meetings, includes, but is not limited to, banks, savings and loan associations, credit unions, brokers and dealers in securities or commodities, exchanges dealing in securities or commodities, national securities associations, investment companies, investment advisers, securities industry self-regulatory organizations subject to 15 U.S.C. 78s, and institutional managers as defined in 15 U.S.C. 78m(f).

(h) The term *person* includes, but is not limited to, any corporation, partnership, company, association, joint stock corporation, business trust, unincorporated organization, government, political subdivision, agency, or instrumentality of a government.

[42 FR 14693, Mar. 16, 1977, as amended at 60 FR 17202, Apr. 5, 1995]

§ 200.402 Closed meetings.

(a) *Nonpublic matters*. Pursuant to the general or special procedures for closing Commission meetings, as set forth in § 200.404 or § 200.405, respectively, a meeting, or any portion thereof, shall be closed to public observation where the Commission determines that such meeting, or a portion thereof, is likely to:

(1) Disclose matters specifically authorized under criteria established by an executive order to be kept secret in the interests of national defense or foreign policy, and in fact properly classified pursuant to such executive order.

(2) Relate solely to the internal personnel rules and practices of the Commission or any other agency, including, but not limited to, discussion concerning:

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(i) Operation rules, guidelines, and manuals of procedure for investigators, attorneys, accountants, and other employees, other than those rules, guidelines, and manuals which establish legal requirements to which members of the public are expected to conform; or

(ii) Hiring, termination, promotion, discipline, compensation, or reward of any Commission employee or member, the existence, investigation, or disposition of a complaint against any Commission employee or member, the physical or mental condition of any Commission employee or member, the handling of strictly internal matters, which would tend to infringe on the privacy of the staff or members of the Commission, or similar subjects.

(3) Disclose matters specifically exempted from disclosure by statute (other than 5 U.S.C. 552): *Provided*, That such statute requires that the matters be withheld from the public in such a manner as to leave no discretion on the issue, or establishes particular criteria for withholding or refers to particular types of matters to be withheld.

(4) Disclose trade secrets and commercial or financial information obtained from a person and privileged or confidential, including, but not limited to:

(i) Information contained in letters of comment in connection with registration statements, applications for registration or other material filed with the Commission, replies thereto, and related material which is deemed to have been submitted to the Commission in confidence or to be confidential at the instance of the registrant or person who has filed such material unless the contrary clearly appears; and

(ii) Information contained in any document submitted to or required to be filed with the Commission where the Commission has undertaken formally or informally to receive such submission or filing for its use or the use of specified persons only, such as preliminary proxy material filed pursuant to Rule 14a-6 under the Securities Exchange Act (17 CFR 240.14a-6), reports filed pursuant to Rule 316(a) under the Securities Act (17 CFR 230.316(a)), agreements filed pursuant to Rule 15c3-1 under the Securities Exchange Act, 17

CFR 240.15c3-1, schedules filed pursuant to Part I of Form X-17A-5 (17 CFR 249.617) in accordance with Rule 17a-5(b)(3) under the Securities Exchange Act (17 CFR 240.17a-5(b)(3)), statements filed pursuant to Rule 17a-5(k)(1) under the Securities Exchange Act (17 CFR 240.17a-5(k)(1)), confidential reports filed pursuant to Rules 17a-9, 17a-10, 17a-12 and 17a-16 under the Securities Exchange Act (17 CFR 240.17a-9, 240.17a-10, 240.17a-12, and 240.17a-16), and any information filed with the Commission and confidential pursuant to section 45 of the Investment Company Act of 1940, 15 U.S.C. 80a-44, or Rule 45a-1 thereunder (17 CFR 270.45a-1); and

(iii) Information contained in reports, summaries, analyses, letters, of memoranda arising out of, in anticipation of, or in connection with, an examination or inspection of the books and records of any person or any other investigation.

(5) Involve accusing any person of a crime, or formally censuring any person, including, but not limited to, consideration of whether to:

(i) Institute, continue, or conclude administrative proceedings or any formal or informal investigation or inquiry, whether public or nonpublic, against or involving any person, alleging a violation of any provision of the federal securities laws, or the rules and regulations thereunder, or any other statute or rule a violation of which is punishable as a crime; or

(ii) Commence, participate in, or terminate judicial proceedings alleging a violation of any provision of the federal securities laws, or the rules and regulations thereunder, or any other statute or rule a violation of which is punishable as a crime; or

(iii) Issue a report or statement discussing the conduct of any person and the relationship of that conduct to possible violations of any provision of the federal securities laws, or the rules and regulations thereunder, or any other statute or rule a violation of which is punishable as a crime; or

(iv) Transmit, or disclose, with or without recommendation, any Commission memorandum, file, document, or record to the Department of Justice, a United States Attorney, any federal,

state, local, or foreign governmental authority or foreign securities authority, any professional association, or any securities industry self-regulatory organization, in order that the recipient may consider the institution of proceedings against any person or the taking of any action that might involve accusing any person of a crime or formally censuring any person; or

(v) Seek from, act upon, or act jointly with respect to, any information, file, document, or record where such action could lead to accusing any person of a crime or formally censuring any person by any entity described in paragraph (a)(5)(iv) of this section.

(6) Disclose information of a personal nature, where disclosure would constitute a clearly unwarranted invasion of personal privacy.

(7)(i) Disclose investigatory records compiled for law enforcement purposes, or information which, if written, would be contained in such records, to the extent that the production of such records would:

(A) Interfere with enforcement activities undertaken, or likely to be undertaken, by the Commission or the Department of Justice, or any United States Attorney, or any Federal, State, local, or foreign governmental authority or foreign securities authority, any professional association, or any securities industry self-regulatory organization;

(B) Deprive a person of a right to a fair trial or an impartial adjudication;

(C) Constitute an unwarranted invasion of personal privacy;

(D) Disclose the identity of a confidential source and, in the case of a record compiled by a criminal law enforcement authority in the course of a criminal investigation, or by an agency conducting a lawful national security intelligence investigation, confidential information furnished only by the confidential source;

(E) Disclose investigative techniques and procedures; or

(F) Endanger the life or physical safety of law enforcement personnel.

(ii) The term *investigatory records* includes, but is not limited to, all documents, records, transcripts, evidentiary materials of any nature, correspondence, related memoranda, or

work product concerning any examination, any investigation (whether formal or informal), or any related litigation, which pertains to, or may disclose, the possible violation by any person of any provision of any statute, rule, or regulation administered by the Commission, by any other Federal, State, local, or foreign governmental authority or foreign securities authority, by any professional association, or by any securities industry self-regulatory organization. The term *investigatory records* also includes all written communications from, or to, any person complaining or otherwise furnishing information respecting such possible violations, as well as all correspondence or memoranda in connection with such complaints or information.

(8) Disclose information contained in, or related to, any examination, operating, or condition report prepared by, on behalf of, or for the use of, the Commission, any other federal, state, local, or foreign governmental authority or foreign securities authority, or any securities industry self-regulatory organization, responsible for the regulation or supervision of financial institutions.

(9) Disclose information the premature disclosure of which would be likely to

(i)(A) Lead to significant financial speculation in currencies, securities, or commodities, including, but not limited to, discussions concerning the proposed or continued suspension of trading in any security, or the possible investigation of, or institution of activity concerning, any person with respect to conduct involving or affecting publicly-traded securities, or

(B) Significantly endanger the stability of any financial institution; or

(ii) Significantly frustrate the implementation, or the proposed implementation, of any action by the Commission, any other federal, state, local or foreign governmental authority, any foreign securities authority, or any securities industry self-regulatory organization: *Provided, however*, That this paragraph (a)(9)(ii) shall not apply in any instance where the Commission has already disclosed to the public the precise content or nature of its proposed action, or where the Commission

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is expressly required by law to make such disclosure on its own initiative prior to taking final agency action on such proposal.

(10) Specifically concern the Commission's consideration of, or its actual: Issuance of a subpoena (whether by the Commission directly or by any Commission employee or member); participation in a civil action or proceeding, an action in a foreign court or international tribunal, or an arbitration; or initiation, conduct, or disposition of a particular case of formal adjudication pursuant to the procedures in 5 U.S.C. 554, or otherwise involving a determination on the record after opportunity for a hearing; including, but not limited to, matters involving

(i) The institution, prosecution, adjudication, dismissal, settlement, or amendment of any administrative proceeding, whether public or nonpublic; or

(ii) The commencement, settlement, defense, or prosecution of any judicial proceeding to which the Commission, or any one or more of its members or employees, is or may become a party; or

(iii) The commencement, conduct, termination, status, or disposition of any inquiry, investigation, or proceedings to which the power to issue subpoenas is, or may become, attendant; or

(iv) The discharge of the Commission's responsibilities involving litigation under any statute concerning the subject of bankruptcy; or

(v) The participation by the Commission (or any employee or member thereof) in, or involvement with, any civil judicial proceeding or any administrative proceeding, whether as a party, as *amicus curiae*, or otherwise; or

(vi) The disposition of any application for a Commission order of any nature where the issuance of such an order would involve a determination on the record after opportunity for a hearing.

(b) *Interpretation of exemptions.* The examples set forth §200.402(a)(1) through (10) of particular matters which may be the subject of closed Commission deliberations are to be construed as illustrative, but not as ex-

haustive, of the scope of those exemptions.

(c) *Public interest determination.* Notwithstanding the provisions of §200.402(a) (concerning the closing of Commission meetings), but subject to the provisions of §200.409(a) (respecting the right of certain persons to petition for the closing of a Commission meeting), the Commission may conduct any meeting or portion of a meeting in public where the Commission determines, in its discretion, that the public interest renders it appropriate to open such a meeting.

(d) *Nonpublic matter in announcements.* The Commission may delete from the notice of Commission meetings described in §200.403, from the announcements concerning closed meetings described in §§200.404(b) and 200.405(c), and from the General Counsel's certification described in §200.406, any information or description the publication of which would be likely to disclose matters of the nature described in §200.402(a) (concerning the closing of Commission meetings).

(Pub. L. 94-409, 90 Stat. 1241)

[42 FR 14693, Mar. 16, 1977; 47 FR 37077, Aug. 25, 1982, as amended at 54 FR 24332, June 7, 1989]

§ 200.403 Notice of Commission meetings.

(a) *Content of notice.* (1) In the case of open meetings, or meetings closed pursuant to the procedures specified in §200.404, the Commission shall announce the items to be considered. For each such item, the announcement shall include:

(i) A brief description of the generic or precise subject matter to be discussed;

(ii) The date, place, and approximate time at which the Commission will consider the matter;

(iii) Whether the meeting, or the various portions thereof, shall be open or closed; and

(iv) The name and telephone number of the Commission official designated to respond to requests for information concerning the meeting at which the matter is to be considered.

(2) Every announcement of a Commission meeting described in this subsection, or any amended announcement

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described in paragraph (c), shall be transmitted to the FEDERAL REGISTER for publication.

(b) *Time of notice.* The announcement of Commission meetings referred to in paragraph (a) shall be made publicly available (and submitted immediately thereafter to the FEDERAL REGISTER for publication) at least one week prior to the consideration of any item listed therein, except where a majority of the members of the Commission determine, by a recorded vote, that Commission business requires earlier consideration of the matter. In the event of such a determination, the announcement shall be made publicly available (and submitted to the FEDERAL REGISTER) at the earliest practicable time.

(c) *Amendments to notice.* (1)(i) The time or place of a meeting may be changed following any public announcement that may be required by paragraph (a). In the event of such action, the Commission shall announce the change at the earliest practicable time.

(ii) The subject matter of a meeting, or the determination of the Commission to open or close a meeting (or a portion of a meeting), may be changed following any public announcement that may be required by paragraph (a), if (A) a majority of the entire membership of the Commission determines, by a recorded vote, that Commission business so requires and that no earlier announcement of the change was possible; and (B) the Commission publicly announces such change and the vote of each member upon such change at the earliest practicable time.

(2) Notwithstanding the provisions of this paragraph (c), matters which have been announced for Commission consideration may be deleted, or continued in whole or in part to the next scheduled Commission meeting, without notice.

(d) *Notice of meetings closed pursuant to special procedure.* In the case of meetings closed pursuant to the special procedures set forth in § 200.405, the Commission shall make publicly available, in whole or in summary form,

(1) A brief description of the general subject matter considered or to be considered, and

(2) The date, place, and approximate time at which the Commission will, or did, consider the matter. The announcement described in this subsection shall be made publicly available at the earliest practicable time, and may be combined, in whole or in part, with the announcement described in paragraph (a).

NOTE: The Commission intends, to the extent convenient, to adhere to the following schedule in organizing its weekly agenda: Closed meetings to consider matters concerning the enforcement of the federal securities laws and the conduct of related investigations will generally be held on Tuesdays and on Thursday afternoons. An open meeting will generally be held each Thursday morning to consider matters of any appropriate nature. On Wednesdays, either open or closed meetings, or both, will generally be held according to the requirements of the Commission's agenda for the week in question. Normally, no meetings will be scheduled on Mondays, Fridays, Saturdays, Sundays, or legal holidays.

The foregoing tentative general schedule is set forth for the guidance of the public, but is not, in any event, binding upon the Commission. In every case, the scheduling of Commission meetings shall be determined by the demands of Commission business, consistent with the requirements of this subpart I. When feasible, the Commission will endeavor to announce the subject matter of all then-contemplated open meetings during a particular month at least one week prior to the commencement of that month.

When and if convenient after the conclusion of a closed Commission meeting, the Commission will endeavor to make publicly available a notice describing (subject to the provision in § 200.402(d) regarding nonpublic matter in announcements) the items considered at that meeting and any action taken thereon.

§ 200.404 General procedure for determination to close meeting.

(a) *Action to close meeting.* Action to close a meeting pursuant to § 200.402(a) or (c) shall be taken only upon a vote of a majority of the entire membership of the Commission. A separate vote of the Commission members shall be taken with respect to each Commission meeting a portion or portions of which are proposed to be closed to the public pursuant to § 200.402(a), or with respect to any information which is proposed to be withheld under § 200.402(d); *Provided, however,* That a single vote may be taken with respect to a series of

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meetings, a portion or portions of which are proposed to be closed, or with respect to any information concerning such series of meetings, so long as each meeting in such series relates to the same matters and is scheduled to be held no more than thirty days after the initial meeting in such series. The vote of each Commission member participating in such vote shall be recorded and no proxies shall be allowed.

(b) *Announcement of action to close meeting.* Within one day of any vote pursuant to paragraph (a) of this section or § 200.409(a) (relating to review of Commission determinations to open a meeting), the Commission shall make publicly available:

(1) A written record reflecting the vote of each participating member of the Commission on the question; and

(2) In the case of a meeting or portion thereof to be closed to the public, a written explanation of the Commission's action closing the meeting or a portion thereof, together with a list describing generically or specifically the persons expected to attend the meeting and their affiliation; and

(3) For every closed meeting, the certification executed by the Commission's General Counsel as described in § 200.406.

§ 200.405 Special procedure for determination to close meeting.

(a) *Finding.* Based, in part, on a review of several months of its meetings, as well as the legislative history of the Sunshine Act, the Commission finds that a majority of its meetings may properly be closed to the public pursuant to § 200.402(a) (4), (8), (9)(i), or (10), or any combination thereof.

(b) *Action to close meeting.* The Commission may, by recorded vote of a majority of its members at the commencement of any meeting or portion thereof, determine to close any meeting or a portion thereof properly subject to being closed pursuant to § 200.402(a) (4), (8), (9)(i), or (10), or any combination thereof. The procedure described in this rule may be utilized notwithstanding the fact that a meeting or portion thereof properly subject to being closed pursuant to § 200.402(a) (4), (8), (9)(i), or (10), or any combination thereof, could also be closed pursuant

to § 200.402(a) (1), (2), (3), (5), (6), (7), or (9)(ii), or any combination thereof.

(c) *Announcement of action to close meeting.* In the case of a meeting or a portion of a meeting closed pursuant to this rule, as soon as practicable the Commission shall make publicly available:

(1) A written record reflecting the vote of each participating member of the Commission to close the meeting; and

(2) The certification described in § 200.406, executed by the Commission's General Counsel.

§ 200.406 Certification by the General Counsel.

For every Commission meeting closed pursuant to § 200.402(a) (1) through (10), the General Counsel of the Commission (or, in his or her absence, the attorney designated by General Counsel pursuant to § 200.21) shall publicly certify that, in his or her opinion, the meeting may be closed to the public and shall state each relevant exemptive provision.

§ 200.407 Transcripts, minutes, and other documents concerning closed Commission meetings.

(a) *Record of closed meetings.* Except as provided in § 200.407(b), the Commission's Secretary shall prepare a complete transcript or electronic recording adequate to record fully the proceedings of each closed meeting, or closed portion of a meeting.

(b) *Minutes of closed meetings.* In the case of a meeting, or portion of a meeting, closed to the public pursuant to § 200.402(a) (8), (9)(i), or (10), the Secretary may, in his or her discretion or at the direction of the Commission, prepare either the transcript or recording described in § 200.407(a), or a set of minutes. Such minutes shall fully and clearly describe all matters discussed and shall provide a full and accurate summary of any actions taken, and the reasons therefor, including a description of each of the views expressed on any item and the record of any rollcall vote (reflecting the vote of each participating Commission member on the question). All documents specifically

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considered by the Commission in connection with any action shall be identified in such minutes are maintained.

(c) *Retention of certificate and statement.* The Secretary shall retain a copy of every certification executed by the General Counsel pursuant to § 200.406, together with a statement from the presiding officer of the meeting, or portion of a meeting to which the certification applies, setting forth the time and place of the meeting, and the persons present.

(d) *Minute Record.* Nothing herein shall affect the provisions of §§ 200.13a and 200.40 requiring the Secretary to prepare and maintain a Minute Record reflecting the official actions of the Commission.

§ 200.408 Public access to transcripts and minutes of closed Commission meetings; record retention.

(a) *Public access to record.* Within 20 days (excluding Saturdays, Sundays, and legal holidays) of the receipt by the Commission's Freedom of Information Act ("FOIA") Officer of a written request, or within such extended period as may be agreeable to the person making the request, the Secretary shall make available for inspection by any person in the Commission's Public Reference Room, the transcript, electronic recording, or minutes (as required by § 200.407(a) or (b)) of the discussion of any item on the agenda, except for such item or items as the Freedom of Information Act Officer determines to involve matters which may be withheld under § 200.402 or otherwise. Copies of such transcript, or minutes, or a transcription of such recording disclosing the identity of each speaker, shall be furnished to any person at the actual cost of duplication, as identified on the FOIA web page of the Commission's website at <http://www.sec.gov>, and, if a transcript is prepared, the actual cost of such transcription.

(b) *Review of deletion from record.* Any person who has been notified that the Freedom of Information Act Officer has determined to withhold any transcript, recording, or minute, or portion thereof, which was the subject of a request for access pursuant to § 200.402(a), or any person who has not received a response to his or her own request

within the 20 days specified in § 200.408(a), may appeal the adverse determination or failure to respond by applying for an order of the Commission determining and directing that the transcript, recording or minute, or deleted portion thereof, be made available. Such application shall be in writing and should be directed to the Secretary, Securities and Exchange Commission, Washington, DC 20549. The applicant shall state such facts and cite such legal or other authorities as the applicant may consider appropriate. The Commission shall make a determination with respect to any appeal pursuant to this subsection within 20 days (excepting Saturdays, Sundays and legal public holidays) after the receipt of such appeal, or within such extended period as may be agreeable to the person making the request. The Commission may determine to withhold any record that is exempt from disclosure pursuant to § 200.402(a), although it may disclose a record, even if exempt, if, in its discretion, it determines it to be appropriate to do so.

(c) *Retention of record.* The Commission, by its Secretary, shall retain a complete verbatim copy of the transcript, or a complete copy of the minutes, or a complete electronic recording of each meeting, or portion of a meeting, closed to the public, for a period of at least two years after such meeting, or until one year after the conclusion of any Commission proceeding with respect to which the meeting or portion was held, whichever occurs later.

[42 FR 14693, Mar. 16, 1977, as amended at 84 FR 50738, Sept. 26, 2019]

§ 200.409 Administrative appeals.

(a) *Review of determination to open meeting.* Following any announcement stating that the Commission intends to open a meeting or a portion thereof, any person whose interests may be directly and substantially affected by the disposition of the matter to be discussed at such meeting may make a request, directed to the Commission's Secretary, that the meeting, or relevant portion thereof, be closed pursuant to § 200.402(a) (5), (6), or (7). The

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Secretary shall circulate such a request to the members of the Commission, along with a supporting statement provided by the requestor setting forth the requestor's interest in the matter and the reasons why the requestor believes that the meeting (or portion thereof) should be closed, and the Commission, upon the request of any one of its members, shall vote by recorded vote on whether to close such meeting or portion.

(b) *Review of determination to close meeting.* Following any announcement that the Commission intends to close a meeting or a portion thereof, any person may make written or telegraphic request, directed to the Commission's Secretary, that the meeting or a portion thereof be open. Such a request shall set forth the requestor's interest in the matter and the reasons why the requestor believes that the meeting (or a portion thereof) should be open to the public. The Secretary shall circulate such a request and supporting statement to the members of the Commission, and the Commission, upon the request of any one of its members, shall vote whether to open such a meeting or a portion thereof.

§ 200.410 Miscellaneous.

(a) *Unauthorized activities; maintenance of decorum.* Nothing in this subpart shall authorize any member of the public to be heard at, or otherwise participate in, any Commission meeting, or to photograph or record by videotape or similar device any Commission meeting or portion thereof. The Commission may exclude any person from attendance at any meeting whenever necessary to preserve decorum, or where appropriate or necessary for health or safety reasons, or where necessary to terminate behavior unauthorized by this paragraph (a). Any person desiring to sound-record an open Commission meeting shall notify the Commission's Secretary of his intention to do so at least 48 hours in advance of the meeting in question. Any person desiring to photograph or videotape the Commission's proceedings may apply to the Secretary for permission to do so at least 48 hours in advance of the meeting in question. The Commission's determination to permit photography

or videotaping at any meeting is confined to its exclusive discretion, and will be granted only if such activities will not result in undue disruption of Commission proceedings.

(b) *Suspension of open meeting.* Subject to the satisfaction of any procedural requirements which may be required by this subpart, nothing in this subpart shall preclude the Commission from directing that the room be cleared of spectators, temporarily or permanently, whenever it appears that the discussion during an open Commission meeting is likely to involve any matter described in § 200.402(a) (respecting closed meetings).

(c) *Access to Commission documents.* Except as expressly provided, nothing in this subpart shall authorize any person to obtain access to any document not otherwise available to the public or not required to be disclosed pursuant to subpart D. Access to documents considered or mentioned at Commission meetings may only be obtained subject to the procedures set forth in, and the provisions of, subpart D.

(d) *Access to public meetings.* Any member of the public who plans to attend a public meeting of the Commission, and who requires an auxiliary aid such as a sign language interpreter, should contact the Commission's Selective Placement Coordinator, Office of Personnel at (202) 272-7065 or TDD number (202) 272-2552, prior to the meeting to make the necessary arrangements. The Selective Placement Coordinator will take all reasonable steps to accommodate requests made in advance of the scheduled meeting date.

[42 FR 14693, Mar. 16, 1977, as amended at 44 FR 32366, June 6, 1979; 55 FR 10235, Mar. 20, 1990]

Subpart J—Classification and De-classification of National Security Information and Material

SOURCE: 44 FR 65737, Nov. 15, 1979, unless otherwise noted.

§ 200.500 Purpose.

This part establishes general policies and procedures for the classification,

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declassification and safeguarding of national security information which is generated, processed and/or stored by the Commission, and supplements Executive Order 12356, April 6, 1982 (47 FR 14874), and Information Security Oversight Office Directive No. 1, June 25, 1982 (47 FR 27836).

[47 FR 47236, Oct. 25, 1982]

§ 200.501 Applicability.

This part applies to the handling of, and public access to, national security information and classified documents in the Commission's possession. Such documents no longer in the Commission's possession will be handled by the agency having possession, or in accordance with guidelines developed in consultation with the Archivist.

§ 200.502 Definition.

As used in this part: *Foreign government information* means either (a) information provided to the United States by a foreign government or governments, an international organization of governments, or any element thereof with the expectation, express or implied, that the information, the source of the information, or both, are to be held in confidence, or (b) information produced by the United States pursuant to or as a result of a joint arrangement with a foreign government or governments or an international organization of governments or any element thereof, requiring that the information, the arrangement, or both, are to be held in confidence.

[47 FR 47236, Oct. 25, 1982]

§ 200.503 Senior agency official.

The Chief Operating Officer of the Commission is designated the senior agency official responsible for conducting an oversight program to ensure effective implementation of Executive Order 12356. Any complaints or suggestions regarding the Commission's information security program should be directed to the Office of the Chief Operating Officer, Securities and Exchange Commission, Attn: Information Security Program, 100 F Street, NE., Washington, DC 20549.

(a) The Deputy Chief Operating Officer is the Senior Agency Official for

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purposes of the Paperwork Reduction Act of 1980. In this capacity, the Deputy Chief Operating Officer will carry out all responsibilities required by the Act (Pub. L. 96-511, 3506(b)), as well as serving as *Agency Clearance Officer* for purposes of the publication of notices in the FEDERAL REGISTER.

(b) [Reserved]

[47 FR 47236, Oct. 25, 1982, as amended at 49 FR 12686, Mar. 30, 1984; 51 FR 5315, Feb. 13, 1986; 73 FR 32226, June 5, 2008; 76 FR 60371, 60372, Sept. 29, 2011]

§ 200.504 Oversight Committee.

An Oversight Committee is established, under the chairmanship of the Chief Operating Officer, with the following responsibilities:

(a) Establish a security education program to familiarize Commission and other personnel who have access to classified information with the provisions of Executive Order 12065, and encourage Commission personnel to challenge those classification decisions they believe to be improper.

(b) Establish controls to insure that classified information is used, processed, stored, reproduced, and transitted only under conditions that will provide adequate protection and prevent access by unauthorized persons.

(c) Establish procedures which require that a demonstrable need, under section 4-1 of Executive Order 12065, for access to classified information be established before administrative clearance procedures are initiated, as well as other appropriate procedures to prevent unnecessary access to classified information.

(d) Act on all suggestions and complaints concerning Commission administration of its information security program.

(e) Establish procedures within the Commission to insure the orderly and effective referral of requests for declassification of documents in the Commission's possession.

(f) Review on an annual basis all practices for safeguarding information and to eliminate those practices which are duplicative or unnecessary.

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(g) Recommend to the Chairman of the Commission appropriate administrative action to correct abuse or violation of any provision of Executive Order 12356.

(h) Consider and decide other questions concerning classification and declassification that may be brought before it.

(i) Develop special contingency plans for the protection of classified information used in or near hostile or potentially hostile areas.

(j) Promptly notify the Director of the Information Security Oversight Office whenever an officer or employee of the United States Government or its contractors, licensees or grantees knowingly, willfully or negligently (1) discloses to unauthorized persons information properly classified under Executive Order 12356 or predecessor orders or (2) classifies or continues the classification of information in violation of Executive Order 12356 or predecessor orders.

[44 FR 65737, Nov. 15, 1979, as amended at 47 FR 47236, Oct. 25, 1982; 51 FR 5315, Feb. 13, 1986]

§ 200.505 Original classification.

(a) No Commission Member or employee has the authority to classify any information on an original basis.

(b) If a Commission employee originates information that appears to require classification, the employee shall immediately notify the Secretary and protect the information accordingly.

(c) If the Chief Operating Officer believes the information warrants classification, it shall be sent to an agency with original classification authority over the subject matter, or to the Information Security Oversight Office, for determination.

[44 FR 65737, Nov. 15, 1979, as amended at 51 FR 5315, Feb. 13, 1986]

§ 200.506 Derivative classification.

Any document that includes paraphrases, restatements, or summaries of, or incorporates in new form, information that is already classified shall be assigned the same level of classification as the source; if, however, the basic information appears to have been so changed that no classification, or a

lower classification than originally assigned, should be used, the appropriate official of the originating agency or office of origin who has the authority to upgrade, downgrade or declassify the information must be consulted prior to assigning a different classification to the information.

[47 FR 47236, Oct. 25, 1982]

§ 200.507 Declassification dates on derivative documents.

(a) A document that derives its classification from information classified under Executive Order 12356 of predecessor orders shall be marked with the date or event assigned to that source information for its automatic declassification or for review of its continued need for classification.

(b) A derivative document that derives its classification from the approved use of the classification guide of another agency shall bear the declassification date required by the provisions of that classification guide.

[47 FR 47236, Oct. 25, 1982]

§ 200.508 Requests for mandatory review for declassification.

(a) Requests for mandatory review of a Commission document for declassification may be made by any United States citizen or permanent resident alien, including Commission employees, or a Federal agency, or a State or local government. The request shall be in writing and shall be sent to the Office of the Chief Operating Officer, Attn: Mandatory Review Request, Securities and Exchange Commission, 100 F Street, NE., Washington, DC 20549.

(b) The request shall describe the material sufficiently to enable the Commission to locate it. Requests with insufficient description of the material will be returned to the requester for further information.

(c) Within 5 days of receiving a request for declassification, the Commission shall acknowledge its receipt. If the document was derivatively classified by the Commission or originally classified by another agency, the request and the document shall be forwarded promptly to the agency with

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original classification authority together with the Commission's recommendation to withhold any of the information where appropriate. The requester shall be notified of the referral.

(d) If the request requires the provision of services by the Commission, fair and equitable fees may be charged under title 5 of the Independent Offices Appropriation Act, 65 Stat. 290, 31 U.S.C. 483a.

[44 FR 65737, Nov. 15, 1979, as amended at 47 FR 47237, Oct. 25, 1982; 51 FR 5315, Feb. 13, 1986; 73 FR 32226, June 5, 2008]

§ 200.509 Challenge to classification by Commission employees.

Commission employees who have reasonable cause to believe that information is classified unnecessarily, improperly, or for an inappropriate period of time, may challenge those classification decisions through mandatory review or other appropriate procedures as established by the Oversight Committee. Commission employees who challenge classification decisions may request that their identity not be disclosed.

§ 200.510 Access by historical researchers.

(a) Persons outside the executive branch performing historical research may have access to information over which the Commission has classification jurisdiction for the period requested (but not longer than 2 years unless renewed for an additional period of less than 2 years) if the Chief Operating Officer determines in writing that access to the information will be consistent with the interests of national security.

(b) The person seeking access to classified information must agree in writing:

(1) To be subject to a national agency check;

(2) To protect the classified information in accordance with the provisions of Executive Order 12356; and

(3) Not to publish or otherwise reveal to unauthorized persons any classified information.

[44 FR 65737, Nov. 15, 1979, as amended at 47 FR 47237, Oct. 25, 1982; 51 FR 5315, Feb. 13, 1986]

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§ 200.511 Access by former Presidential appointees.

(a) Former Commission Members appointed by the President may have access to classified information or documents over which the Commission has jurisdiction that they originated, reviewed, signed, or received while in public office, if the Chief Operating Officer determines in writing that access to the information will be consistent with the interest of nation security.

(b) The person seeking access to classified information must agree in writing:

(1) To be subject to a national agency check;

(2) To protect the classified information in accordance with the provisions of Executive Order 12356; and

(3) Not to publish or otherwise reveal to unauthorized persons any classified information.

[44 FR 65737, Nov. 15, 1979, as amended at 47 FR 47237, Oct. 25, 1982; 51 FR 5315, Feb. 13, 1986]

Subpart K—Regulations Pertaining to the Protection of the Environment

SOURCE: 44 FR 41177, July 16, 1979, unless otherwise noted.

§ 200.550 Purpose.

This subpart sets forth the procedures the Commission will follow to ensure compliance with the goals of the National Environmental Policy Act (NEPA) and with the procedures required by NEPA in the event that the Commission should take action subject to such procedural requirements.

§ 200.551 Applicability.

In the event of extraordinary circumstances in which a Commission action may involve major Federal action significantly affecting the quality of the human environment, the Commission shall follow the procedures set forth in §§ 200.552 through 200.554 of this part, unless doing so would be inconsistent with its statutory authority under the Federal securities laws.

[76 FR 71874, Nov. 21, 2011]

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§ 200.552 NEPA planning.

Where it is reasonably foreseeable by the Commission that it may be required to act on a matter specified in § 200.551 and that matter is likely to involve major Federal action significantly affecting the quality of the human environment, the Commission shall:

(a) Advise the relevant persons as to information respecting the environment, if any, which may later be required to be submitted for Commission consideration should Commission action become necessary;

(b) Consult on any environmental factors involved with individuals, organizations, and state and local authorities interested in the planned action; and

(c) Begin implementing the procedures set forth in §§ 200.553 and 200.554 as soon as possible, *Provided*, That such procedures are not inconsistent with the Commission's authority under the Federal securities laws.

§ 200.553 Draft, final and supplemental impact statements.

If the Commission determines that the requirements of section 102(2)(C) of NEPA for preparation of an environmental impact statement are applicable in connection with a proposed Commission action, it shall prepare such statement generally in accordance with the procedures specified in 40 CFR parts 1500–1508, particularly part 1502 concerning impact statement preparation and content, § 1505.1 concerning decision-making procedures, and § 1501.6 concerning the function of cooperating agencies, to the extent that such procedures do not conflict with the Commission's statutory responsibilities and authority under the Federal securities laws.

§ 200.554 Public availability of information.

(a) Any environmental assessment or impact statement, and Commission responses pertaining to formal rulemaking proceedings or adjudicatory proceedings, shall be made part of the record in any such proceedings. In the case of formal adjudicatory proceedings, this shall be done in accordance with Rule 460 of the Commission's

Rules of Practice, § 201.460 of this chapter. In the case of formal rulemaking proceedings, this shall be done in accordance with the Commission's rules respecting such proceedings.

(b) The location of publicly available environmental impact statements will be 100 F Street, NE., Washington, DC 20549.

(c) Interested persons may obtain information regarding and status reports on specific environmental impact statements and environmental assessments by contacting the division or office within the Commission which has responsibility for the particular proposed action.

[44 FR 41177, July 16, 1979, as amended at 47 FR 26819, June 22, 1982; 60 FR 32795, June 23, 1995; 73 FR 32226, June 5, 2008]

Subpart L—Enforcement of Non-discrimination on the Basis of Handicap in Programs or Activities Conducted by the Securities and Exchange Commission

SOURCE: 53 FR 25885, July 8, 1988, unless otherwise noted.

§ 200.601 Purpose.

The purpose of this regulation is to effectuate section 119 of the Rehabilitation, Comprehensive Services, and Developmental Disabilities Amendments of 1978, which amended section 504 of the Rehabilitation Act of 1973 to prohibit discrimination on the basis of handicap in programs or activities conducted by Executive agencies or the United States Postal Service.

§ 200.602 Application.

This regulation (§§ 200.601–200.670) applies to all programs or activities conducted by the agency, except for programs or activities conducted outside the United States that do not involve individuals with handicaps in the United States.

§ 200.603 Definitions.

For purposes of this regulation, the term—

Assistant Attorney General means the Assistant Attorney General, Civil

Rights Division, United States Department of Justice.

Auxiliary aids means services or devices that enable persons with impaired sensory, manual, or speaking skills to have an equal opportunity to participate in, and enjoy the benefits of, programs or activities conducted by the agency. For example, auxiliary aids useful for persons with impaired vision include readers, Brailled materials, audio recordings, and other similar services and devices. Auxiliary aids useful for persons with impaired hearing include telephone handset amplifiers, telephones compatible with hearing aids, telecommunication devices for deaf persons (TDD's), interpreters, notetakers, written materials, and other similar services and devices.

Complete complaint means a written statement that contains the complainant's name and address and describes the agency's alleged discriminatory action in sufficient detail to inform the agency of the nature and date of the alleged violation of section 504. It shall be signed by the complainant or by someone authorized to do so on his or her behalf. Complaints filed on behalf of classes or third parties shall describe or identify (by name, if possible) the alleged victims of discrimination.

Facility means all or any portion of buildings, structures, equipment, roads, walks, parking lots, rolling stock or other conveyances, or other real or personal property.

Historic preservation programs means programs conducted by the agency that have preservation of historic properties as a primary purpose.

Historic properties means those properties that are listed or eligible for listing in the National Register of Historic Places or properties designated as historic under a statute of the appropriate State or local government body.

Individual with handicaps means any person who has a physical or mental impairment that substantially limits one or more major life activities, has a record of such an impairment, or is regarded as having such an impairment.

As used in this definition, the phrase:

(1) *Physical or mental impairment* includes—

(i) Any physiological disorder or condition, cosmetic disfigurement, or ana-

tomical loss affecting one or more of the following body systems: Neurological; musculoskeletal; special sense organs; respiratory, including speech organs; cardiovascular; reproductive; digestive; genitourinary; hemic and lymphatic; skin; and endocrine; or

(ii) Any mental or psychological disorder, such as mental retardation, organic brain syndrome, emotional or mental illness, and specific learning disabilities. The term *physical or mental impairment* includes, but is not limited to, such diseases and conditions as orthopedic, visual, speech, and hearing impairments, cerebral palsy, epilepsy, muscular dystrophy, multiple sclerosis, cancer, heart disease, diabetes, mental retardation, emotional illness, and drug addiction and alcoholism.

(2) *Major life activities* includes functions such as caring for one's self, performing manual tasks, walking, seeing, hearing, speaking, breathing, learning, and working.

(3) *Has a record of such an impairment* means has a history of, or has been misclassified as having, a mental or physical impairment that substantially limits one or more major life activities.

(4) *Is regarded as having an impairment* means—

(i) Has a physical or mental impairment that does not substantially limit major life activities but is treated by the agency as constituting such a limitation;

(ii) Has a physical or mental impairment that substantially limits major life activities only as a result of the attitudes of others toward such impairment; or

(iii) Has none of the impairments defined in paragraph (1) of this definition but is treated by the agency as having such an impairment.

Qualified individual with handicaps means—

(1) With respect to preschool, elementary, or secondary education services provided by the agency, an individual with handicaps who is a member of a class of persons otherwise entitled by statute, regulation, or agency policy to receive education services from the agency;

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(2) With respect to any other agency program or activity under which a person is required to perform services or to achieve a level of accomplishment, an individual with handicaps who meets the essential eligibility requirements and who can achieve the purpose of the program or activity without modifications in the program or activity that the agency can demonstrate would result in a fundamental alteration in its nature;

(3) With respect to any other program or activity, an individual with handicaps who meets the essential eligibility requirements for participation in, or receipt of benefits from, that program or activity; and

(4) *Qualified handicapped person* as that term is defined for purposes of employment in 29 CFR 1613.702(f), which is made applicable to this regulation by § 200.640.

Section 504 means section 504 of the Rehabilitation Act of 1973 (Pub. L. 93-112, 87 Stat. 394 (29 U.S.C. 794)), as amended by the Rehabilitation Act Amendments of 1974 (Pub. L. 93-516, 88 Stat. 1617); the Rehabilitation, Comprehensive Services, and Developmental Disabilities Amendments of 1978 (Pub. L. 95-602, 92 Stat. 2955); and the Rehabilitation Act Amendments of 1986 (Pub. L. 99-506, 100 Stat. 1810). As used in this regulation, section 504 applies only to programs or activities conducted by Executive agencies and not to federally assisted programs.

Substantial impairment means a significant loss of the integrity of finished materials, design quality, or special character resulting from a permanent alteration.

§§ 200.604–200.609 [Reserved]

§ 200.610 Self-evaluation.

(a) The agency shall, by September 6, 1989, evaluate its current policies and practices, and the effects thereof, that do not or may not meet the requirements of this regulation and, to the extent modification of any such policies and practices is required, the agency shall proceed to make the necessary modifications.

(b) The agency shall provide an opportunity to interested persons, including individuals with handicaps or orga-

nizations representing individuals with handicaps, to participate in the self-evaluation process by submitting comments (both oral and written).

(c) The agency shall, for at least three years following completion of the self-evaluation, maintain on file and make available for public inspection:

(1) A description of areas examined and any problems identified; and

(2) A description of any modifications made.

§ 200.611 Notice.

The agency shall make available to employees, applicants, participants, beneficiaries, and other interested persons such information regarding the provisions of this regulation and its applicability to the programs or activities conducted by the agency, and make such information available to them in such manner as the head of the agency finds necessary to apprise such persons of the protections against discrimination assured them by section 504 and this regulation.

§§ 200.612–200.629 [Reserved]

§ 200.630 General prohibitions against discrimination.

(a) No qualified individual with handicaps shall, on the basis of handicap, be excluded from participation in, be denied the benefits of, or otherwise be subjected to discrimination under any program or activity conducted by the agency.

(b)(1) The agency, in providing any aid, benefit, or service, may not, directly or through contractual, licensing, or other arrangements, on the basis of handicap—

(i) Deny a qualified individual with handicaps the opportunity to participate in or benefit from the aid, benefit, or service;

(ii) Afford a qualified individual with handicaps an opportunity to participate in or benefit from the aid, benefit, or service that is not equal to that afforded others;

(iii) Provide a qualified individual with handicaps with an aid, benefit, or service that is not as effective in affording equal opportunity to obtain the same result, to gain the same benefit,

or to reach the same level of achievement as that provided to others;

(iv) Provide different or separate aid, benefits, or services to individuals with handicaps or to any class of individuals with handicaps than is provided to others unless such action is necessary to provide qualified individuals with handicaps with aid, benefits, or services that are as effective as those provided to others;

(v) Deny a qualified individual with handicaps the opportunity to participate as a member of planning or advisory boards;

(vi) Otherwise limit a qualified individual with handicaps in the enjoyment of any right, privilege, advantage, or opportunity enjoyed by others receiving the aid, benefit, or service.

(2) The agency may not deny a qualified individual with handicaps the opportunity to participate in programs or activities that are not separate or different, despite the existence of permissibly separate or different programs or activities.

(3) The agency may not, directly or through contractual or other arrangements, utilize criteria or methods of administration the purpose or effect of which would—

(i) Subject qualified individuals with handicaps to discrimination on the basis of handicap; or

(ii) Defeat or substantially impair accomplishment of the objectives of a program or activity with respect to individuals with handicaps.

(4) The agency may not, in determining the site or location of a facility, make selections the purpose or effect of which would—

(i) Exclude individuals with handicaps from, deny them the benefits of, or otherwise subject them to discrimination under any program or activity conducted by the agency; or

(ii) Defeat or substantially impair the accomplishment of the objectives of a program or activity with respect to individuals with handicaps.

(5) The agency, in the selection of procurement contractors, may not use criteria that subject qualified individuals with handicaps to discrimination on the basis of handicap.

(6) The agency may not administer a licensing or certification program in a

manner that subjects qualified individuals with handicaps to discrimination on the basis of handicap, nor may the agency establish requirements for the programs or activities of licensees or certified entities that subject qualified individuals with handicaps to discrimination on the basis of handicap. However, the programs or activities of entities that are licensed or certified by the agency are not, themselves, covered by this regulation.

(c) The exclusion of nonhandicapped persons from the benefits of a program limited by Federal statute or Executive order to individuals with handicaps or the exclusion of a specific class of individuals with handicaps from a program limited by Federal statute or Executive order to a different class of individuals with handicaps is not prohibited by this regulation.

(d) The agency shall administer programs and activities in the most integrated setting appropriate to the needs of qualified individuals with handicaps.

§§ 200.631–200.639 [Reserved]

§ 200.640 Employment.

No qualified individual with handicaps shall, on the basis of handicap, be subject to discrimination in employment under any program or activity conducted by the agency. The definitions, requirements, and procedures of section 501 of the Rehabilitation Act of 1973 (29 U.S.C. 791), as established by the Equal Employment Opportunity Commission in 29 CFR part 1613, shall apply to employment in federally conducted programs or activities.

§§ 200.641–200.648 [Reserved]

§ 200.649 Program accessibility: Discrimination prohibited.

Except as otherwise provided in § 200.650, no qualified individual with handicaps shall, because the agency's facilities are inaccessible to or unusable by individuals with handicaps, be denied the benefits of, be excluded from participation in, or otherwise be subjected to discrimination under any program or activity conducted by the agency.

§ 200.650 Program accessibility: Existing facilities.

(a) *General.* The agency shall operate each program or activity so that the program or activity, when viewed in its entirety, is readily accessible to and usable by individuals with handicaps. This paragraph does not—

(1) Necessarily require the agency to make each of its existing facilities accessible to and usable by individuals with handicaps;

(2) In the case of historic preservation programs, require the agency to take any action that would result in a substantial impairment of significant historic features of an historic property; or

(3) Require the agency to take any action that it can demonstrate would result in a fundamental alteration in the nature of a program or activity or in undue financial and administrative burdens. In those circumstances where agency personnel believe that the proposed action would fundamentally alter the program or activity or would result in undue financial and administrative burdens, the agency has the burden of proving that compliance with § 200.650(a) would result in such alteration or burdens. The decision that compliance would result in such alteration or burdens must be made by the agency head or his or her designee after considering all agency resources available for use in the funding and operation of the conducted program or activity, and must be accompanied by a written statement of the reasons for reaching that conclusion. If an action would result in such an alteration or such burdens, the agency shall take any other action that would not result in such an alteration or such burdens but would nevertheless ensure that individuals with handicaps receive the benefits and services of the program or activity.

(b) *Methods*—(1) *General.* The agency may comply with the requirements of this section through such means as redesign of equipment, reassignment of services to accessible buildings, assignment of aides to beneficiaries, home visits, delivery of services at alternate accessible sites, alteration of existing facilities and construction of new facilities, use of accessible rolling stock,

or any other methods that result in making its programs or activities readily accessible to and usable by individuals with handicaps. The agency is not required to make structural changes in existing facilities where other methods are effective in achieving compliance with this section. The agency, in making alterations to existing buildings, shall meet accessibility requirements to the extent compelled by the Architectural Barriers Act of 1968, as amended (42 U.S.C. 4151–4157), and any regulations implementing it. In choosing among available methods for meeting the requirements of this section, the agency shall give priority to those methods that offer programs and activities to qualified individuals with handicaps in the most integrated setting appropriate.

(2) *Historic preservation programs.* In meeting the requirements of § 200.650(a) in historic preservation programs, the agency shall give priority to methods that provide physical access to individuals with handicaps. In cases where a physical alteration to an historic property is not required because of § 200.650(a) (2) or (3), alternative methods of achieving program accessibility include—

(i) Using audio-visual materials and devices to depict those portions of an historic property that cannot otherwise be made accessible;

(ii) Assigning persons to guide individuals with handicaps into or through portions of historic properties that cannot otherwise be made accessible; or

(iii) Adopting other innovative methods.

(c) *Time period for compliance.* The agency shall comply with the obligations established under this section by November 7, 1988, except that where structural changes in facilities are undertaken, such changes shall be made by September 6, 1991, but in any event as expeditiously as possible.

(d) *Transition plan.* In the event that structural changes to facilities will be undertaken to achieve program accessibility, the agency shall develop, by March 6, 1989, a transition plan setting forth the steps necessary to complete such changes. The agency shall provide an opportunity to interested persons,

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including individuals with handicaps or organizations representing individuals with handicaps, to participate in the development of the transition plan by submitting comments (both oral and written). A copy of the transition plan shall be made available for public inspection. The plan shall, at a minimum—

(1) Identify physical obstacles in the agency's facilities that limit the accessibility of its programs or activities to individuals with handicaps;

(2) Describe in detail the methods that will be used to make the facilities accessible;

(3) Specify the schedule for taking the steps necessary to achieve compliance with this section and, if the time period of the transition plan is longer than one year, identify steps that will be taken during each year of the transition period; and

(4) Indicate the official responsible for implementation of the plan.

§ 200.651 Program accessibility: New construction and alterations.

Each building or part of a building that is constructed or altered by, on behalf of, or for the use of the agency shall be designed, constructed, or altered so as to be readily accessible to and usable by individuals with handicaps. The definitions, requirements, and standards of the Architectural Barriers Act (42 U.S.C. 4151–4157), as established in 41 CFR 101–19.600 to 101–19.607, apply to buildings covered by this section.

§§ 200.652–200.659 [Reserved]

§ 200.660 Communications.

(a) The agency shall take appropriate steps to ensure effective communication with applicants, participants, personnel of other Federal entities, and members of the public.

(1) The agency shall furnish appropriate auxiliary aids where necessary to afford an individual with handicaps an equal opportunity to participate in, and enjoy the benefits of, a program or activity conducted by the agency.

(i) In determining what type of auxiliary aid is necessary, the agency shall give primary consideration to the re-

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quests of the individual with handicaps.

(ii) The agency need not provide individually prescribed devices, readers for personal use or study, or other devices of a personal nature.

(2) Where the agency communicates with applicants and beneficiaries by telephone, telecommunication devices for deaf persons (TDD's) or equally effective telecommunication systems shall be used to communicate with persons with impaired hearing.

(b) The agency shall ensure that interested persons, including persons with impaired vision or hearing, can obtain information as to the existence and location of accessible services, activities, and facilities.

(c) The agency shall provide signage at a primary entrance to each of its inaccessible facilities, directing users to a location at which they can obtain information about accessible facilities. The international symbol for accessibility shall be used at each primary entrance of an accessible facility.

(d) This section does not require the agency to take any action that it can demonstrate would result in a fundamental alteration in the nature of a program or activity or in undue financial and administrative burdens. In those circumstances where agency personnel believe that the proposed action would fundamentally alter the program or activity or would result in undue financial and administrative burdens, the agency has the burden of proving that compliance with § 200.660 would result in such alteration or burdens. The decision that compliance would result in such alteration or burdens must be made by the agency head or his or her designee after considering all agency resources available for use in the funding and operation of the conducted program or activity and must be accompanied by a written statement of the reasons for reaching that conclusion. If an action required to comply with this section would result in such an alteration or such burdens, the agency shall take any other action that would not result in such an alteration or such burdens but would nevertheless ensure that, to the maximum extent possible, individuals with handicaps receive the

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benefits and services of the program or activity.

§§ 200.661-200.669 [Reserved]

§ 200.670 Compliance procedures.

(a) Except as provided in paragraph (b) of this section, this section applies to all allegations of discrimination on the basis of handicap in programs and activities conducted by the agency.

(b) The agency shall process complaints alleging violations of section 504 with respect to employment according to the procedures established by the Equal Employment Opportunity Commission in 29 CFR part 1613 pursuant to section 501 of the Rehabilitation Act of 1973 (29 U.S.C. 791).

(c) The Equal Employment Opportunity Manager shall be responsible for coordinating implementation of this section. Complaints may be sent to the EEO Manager, 100 F Street, NE., Washington, DC 20549.

(d) The agency shall accept and investigate all complete complaints for which it has jurisdiction. All complete complaints must be filed within 180 days of the alleged act of discrimination. The agency may extend this time period for good cause.

(e) If the agency receives a complaint over which it does not have jurisdiction, it shall promptly notify the complainant and shall make reasonable efforts to refer the complaint to the appropriate Government entity.

(f) The agency shall notify the Architectural and Transportation Barriers Compliance Board upon receipt of any complaint alleging that a building or facility that is subject to the Architectural Barriers Act of 1968, as amended (42 U.S.C. 4151-4157), is not readily accessible to and usable by individuals with handicaps.

(g) Within 180 days of the receipt of a complete complaint for which it has jurisdiction, the agency shall notify the complainant of the results of the investigation in a letter containing—

(1) Findings of fact and conclusions of law;

(2) A description of a remedy for each violation found; and

(3) A notice of the right to appeal.

(h) Appeals of the findings of fact and conclusions of law or remedies must be

filed by the complainant within 90 days of receipt from the agency of the letter required by § 200.670(g). The agency may extend this time for good cause.

(i) Timely appeals shall be accepted and processed by the head of the agency.

(j) The head of the agency shall notify the complainant of the results of the appeal within 60 days of the receipt of the request. If the head of the agency determines that additional information is needed from the complainant, he or she shall have 60 days from the date of receipt of the additional information to make his or her determination on the appeal.

(k) The time limits cited in paragraphs (g) and (j) of this section may be extended with the permission of the Assistant Attorney General.

(l) The agency may delegate its authority for conducting complaint investigations to other Federal agencies, except that the authority for making the final determination may not be delegated to another agency.

[53 FR 25882, 25885, July 8, 1988, as amended at 53 FR 25882, July 8, 1988; 73 FR 32226, June 5, 2008]

§§ 200.671-200.699 [Reserved]

Subpart M—Regulation Concerning Conduct of Members and Employees and Former Members and Employees of the Commission

SOURCE: 45 FR 36064, May 29, 1980, unless otherwise noted.

§ 200.735-1 Purpose.

This subpart sets forth the standards of ethical conduct required of members, employees and special Government employees, and former members and employees of the Securities and Exchange Commission.

[75 FR 42276, July 20, 2010]

§ 200.735-2 Policy.

(a) The Securities and Exchange Commission has been entrusted by Congress with the protection of the public interest in a highly significant area of our national economy. In view of the effect which Commission action

frequently has on the general public, it is important that members, employees and special Government employees maintain unusually high standards of honesty, integrity, impartiality and conduct. They must be constantly aware of the need to avoid situations which might result either in actual or apparent misconduct or conflicts of interest and to conduct themselves in their official relationships in a manner which commands the respect and confidence of their fellow citizens.

(b) For these reasons, members, employees, and special Government employees should at all times abide by the standards of ethical conduct for employees of the executive branch (codified in 5 CFR part 2635); the supplemental standards of ethical conduct for members and employees of the Securities and Exchange Commission (codified in 5 CFR part 4401); the standards of conduct set forth in this subpart; the Canons of ethics for members of the Securities and Exchange Commission (codified in subpart C of this part 200); and, in the case of a person practicing a profession as defined in 5 CFR 2636.305(b)(1), the applicable professional ethical standards.

[45 FR 36064, May 29, 1980, as amended at 75 FR 42276, July 20, 2010]

§ 200.735-3 General provisions.

(a) A member or employee shall comply with the requirements of 5 CFR part 2635, subpart A (General provisions) and in particular with the provisions of 5 CFR 2635.101 (Basic obligations of public service); 2635.103 (Applicability to members of the uniformed services); and 2635.104 (Applicability to employees on detail).

(b) A member or employee of the Commission shall not:

(1) Engage, directly or indirectly, in any personal business transaction or private arrangement for personal profit the opportunity for which arises because of his or her official position or authority, or that is based upon confidential or nonpublic information which he or she gains by reason of such position or authority.

(2)(i) Divulge to any unauthorized person or release in advance of authorization for its release any nonpublic Commission document, or any informa-

tion contained in any such document or any confidential information: (A) In contravention of the rules and regulations of the Commission promulgated under 5 U.S.C. 552, 552a and 552b; or (B) in circumstances where the Commission has determined to accord such information confidential treatment.

(ii) Except where the Commission or the General Counsel, pursuant to delegated authority, has previously granted approval or in relation to a Commission administrative proceeding or a judicial proceeding in which the Commission, or a present or former Commissioner, or present or former member of the staff, represented by Commission counsel, is a party, any officer, employee or former officer or employee who is served with a subpoena requiring the disclosure of confidential or non-public information or documents shall, unless the Commission or the General Counsel, pursuant to delegated authority, authorizes the disclosure of such information or documents, respectfully decline to disclose the information or produce the documents called for, basing his or her refusal on this paragraph.

(iii) Any member, employee or former member or employee who is served with such a subpoena not covered by the exceptions in paragraph (b)(7)(ii) of this section shall promptly advise the General Counsel of the service of such subpoena, the nature of the information or documents sought, and any circumstances which may bear upon the desirability in the public interest of making available such information or documents.¹ The Commission or the General Counsel, pursuant to delegated authority, shall authorize the disclosure of non-expert, non-privileged, factual staff testimony and the production of non-privileged documents when validly subpoenaed.

¹Detailed prohibitions regarding disclosure or use of confidential or nonpublic information are set forth in Rule 122 (17 CFR 230.122) under the Securities Act of 1933; section 24(b) of the Securities Exchange Act of 1934 (15 U.S.C. 78x) and Rule 0-4 (17 CFR 240.0-4); and Rule 24(b)(2) (17 CFR 240.24b-2), thereunder; section 45(a)(1) of the Investment Company Act, and section 210(b) of the Investment Advisers Act of 1940 (15 U.S.C. 80b-10).

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(c) A member or employee shall comply with the requirements of 5 CFR part 2635, subpart B (Gifts from outside sources).

(d) A member or employee shall comply with the requirements of 5 CFR part 2635, subpart C (Gifts between employees).

(e) A member or employee shall comply with the requirements of 5 CFR part 2635, subpart D (Conflicting financial requirements);

(f) A member or employee shall comply with the requirements of 5 CFR part 2635, subpart E (Impartiality).

(g) A member or employee shall comply with the requirements of 5 CFR part 2635, subpart G (Misuse of position).

(h) No member or employee shall accept host-paid travel or reimbursement except as in accordance with the requirements of the Supplemental standards of ethical conduct for members and employees of the Securities and Exchange Commission (codified at 5 CFR 4401.103 (Outside Employment and Activities)); 5 CFR part 2635, subpart H (Outside Activities); and 31 U.S.C. 353 and 41 CFR 304-1.1 (Acceptance of payment from a non-Federal source for travel expenses).

[45 FR 36064, May 29, 1980; 45 FR 40975, June 17, 1980, as amended at 50 FR 23287, June 3, 1985; 53 FR 17458, May 17, 1988; 54 FR 33500, Aug. 15, 1989; 73 FR 32226, June 5, 2008; 75 FR 42276, July 20, 2010]

§ 200.735-4 Outside employment and activities.

(a) Members and employees shall comply with the requirements of the Supplemental standards of ethical conduct for members and employees of the Securities and Exchange Commission (codified at 5 CFR 4401.103 (Outside employment and activities) and 5 CFR part 2635, subpart H (Outside activities)).

(b) The Commission encourages employees to engage in teaching, lecturing, and writing activities with or without compensation.² In partici-

²As to employees, while the receipt of honoraria is discouraged, that rule is not applicable to the receipt of compensation for teaching.

pating in such activities, employees should be guided by the following:

(1) No teaching, lecturing, or writing should be engaged in if prohibited by law, Executive order, Office of Personnel Management regulations, or the rules in this subpart.

(2) No teaching, lecturing, or writing should be engaged in (including for the purpose of the special preparation of a person or class of persons for an examination of the Office of Personnel Management or Board of Examiners for the Foreign Service) that depends on information filed with the Commission, or obtained by the Commission in an investigation or otherwise, or generated within the Commission which is nonpublic, unless the Commission gives formal approval for the use of such nonpublic information on the basis that the use thereof is in the public interest.³

(c) If otherwise permitted by 18 U.S.C. 203 and 205, the provisions of these rules or of 5 CFR 4401.103 do not preclude an employee from acting as agent or attorney:

(1) For any Commission employee who is sued or under investigation in connection with his or her official duties;

(2) For any Commission employee who is the subject of disciplinary, loyalty, or other personnel administrative proceedings in connection with those proceedings; or

(3) For any Commission employee who raises claims or against whom allegations of wrongdoing are made pursuant to the Commission's Equal Opportunity regulations, if such representation is not inconsistent with the faithful performance of the employee's duties.

(d)(1) As paragraph (b) of this section indicates, the Commission encourages

³Since members of the Commission are covered by section 401(a) of Executive Order 11222, they are prohibited by Civil Service Regulations (5 CFR 735.203(c)) from receiving compensation or anything of monetary value for any consultation, lecture, discussion, writing, or appearance the subject matter of which is devoted substantially to the responsibilities, programs, or operations of their agencies, or which draws substantially on official data or ideas which have not become part of the body of public information.

employees to engage in teaching, lecturing and writing activities.⁴ It is understood, however, that Commission employees in their teaching, writing and lecturing shall not

(i) Use confidential or nonpublic information;

(ii) Make comments on pending litigation in which the Commission is participating as a party or *amicus curiae*; or

(iii) Make comments on rulemaking proceedings pending before the Commission which would adversely affect the operations of the Commission.

(2) To assist employees in conforming to these requirements the following procedure for reviewing writings prior to publication, or prepared speeches prior to delivery, has been established:

(i) Employees must submit proposed publications or prepared speeches relating to the Commission, or the statutes or rules it administers, to the General Counsel for review. Employees will be notified as promptly as possible, with due regard to publication deadlines, but in any event within 30 days of receipt of the written document, whether such document conforms to the requirements of this Rule.

(ii)(A) A determination by the General Counsel that a proposed publication conforms to the requirements of the rule will not involve adoption of, or concurrence in, the views expressed. Therefore, such publication or speech shall include at an appropriate place or in a footnote or otherwise, the following disclaimer of responsibility:

The Securities and Exchange Commission disclaims responsibility for any private publication or statement of any SEC employee or Commissioner.

This [article, outline, speech, chapter] expresses the author's views and does not necessarily reflect those of the Commission, the [other] Commissioners, or [other] members of the staff.

(B) In appropriate cases, the above disclaimer may be modified by the General Counsel or the Commission to reflect the circumstances of an individual case. In addition, any publication or speech that reflects positions

taken by the Commission shall set forth those positions accurately and, if it contains differences with Commission positions, it shall clearly state that such positions are those of the employee.

(e) With respect to host-paid travel, members and employees shall comply with the requirements of the Supplemental standards of ethical conduct for members and employees of the Securities and Exchange Commission (codified at 5 CFR 4401.103 (Outside employment and activities)); 5 CFR part 2635, subpart H (Outside Activities); and 31 U.S.C. 1353 and 41 CFR 304-1.1 (Acceptance of payment from a non-Federal source for travel expenses).

(f)(1) With respect to seeking or negotiating outside employment, members and employees shall comply with the requirements of the Supplemental standards of ethical conduct for members and employees of the Securities and Exchange Commission (codified at 5 CFR 4401.103 (Outside employment and activities)); 5 CFR part 2635, subpart F (Seeking other employment); 5 CFR part 2635, subpart H (Outside activities).

(2) Members and employees should be aware that 18 U.S.C. 208 (Acts affecting a personal interest) provides, among other things, that a member or employee is prohibited from participating personally and substantially in any particular matter in which, to his or her knowledge, the member or employee, his or her spouse, minor child, general partner, organization of which the employee is an officer, director, trustee, general partner or employee, or any person or organization with whom he or she is negotiating or has any arrangement concerning prospective employment, has a financial interest. This provision does not apply if the employee has received a written determination by an authorized official that the financial interest is not so substantial as to be deemed likely to affect the integrity of the employee's government service.

(3) Members may follow the procedural provision contained in Part V, Section 503 of the Executive Order 11222.

(g) An employee who intends to accept or perform any outside or private

⁴This paragraph (d), requiring review of prepared speeches or writings relating to the Commission does not apply to teaching activities.

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employment or professional work shall obtain necessary authorization in advance of such acceptance or performance. A request for such authorization shall be submitted to the Division Director, Office Head or Regional Director concerned, together with all pertinent facts regarding the proposed employment, such as the name of the employer, the nature of the work to be performed, its estimated duration, and the fee or compensation to be received. Division Directors, Office Heads and Regional Directors have been delegated the authority to approve routine requests for outside employment. The approving official shall forward to the Director of Personnel a copy of each request showing the date of approval. Requests of a non-routine nature should be forwarded to the Director of Personnel.

(h) The Director of Personnel, or his designee, is authorized to approve or disapprove requests for outside or private employment under this rule, except as to those cases which, in his judgment, should be considered and decided by the Commission. An employee may appeal a disapproved request to the Commission. The written appeal, submitted through the Director of Personnel, shall give reasons why the proposed outside or private employment is consistent with this rule. The Director of Personnel may not approve proposed outside or private employment which is absolutely prohibited by these rules. The Commission may, in a particular case, approve such employment.

[45 FR 36064, May 29, 1980; 45 FR 40975, June 17, 1980; 48 FR 39216, Aug. 30, 1983; 50 FR 45603, Nov. 1, 1985; 73 FR 32226, June 5, 2008; 75 FR 42276, July 20, 2010]

§ 200.735-5 Securities transactions.

Securities transactions by members and employees must comply with the provisions of 5 CFR 4401.102 (Prohibited and restricted financial interests and transactions).

[75 FR 42277, July 20, 2010]

§ 200.735-6 Action in case of personal interest.

Members and employees shall comply with the requirements of 5 CFR part 2640 (Interpretation, exemptions, and waiver guidance concerning 18 U.S.C.

208 (Acts affecting a personal interest)).

[75 FR 42277, July 20, 2010]

§ 200.735-7 Negotiation for employment.

Members and employees shall comply with the requirements of 18 U.S.C. 208 (Acts affecting a personal interest) and 5 CFR part 2635, subpart F (Seeking other employment). *See* § 200.735-4(f)(2) of this subpart.

[75 FR 42277, July 20, 2010]

§ 200.735-8 Practice by former members and employees of the Commission.

(a) Members and employees and former members and employees shall comply with the requirements of 18 U.S.C. 207 and 5 CFR part 2641 (Post employment conflict of interest restrictions). Members and employees and former members and employees should be aware that, among other restrictions, 18 U.S.C. 207 generally prohibits a former member or employee from knowingly communicating to or appearing before a Federal agency with the intent to influence a particular matter involving specific parties in which that person personally and substantially participated while at the Commission.

(b)(1) Any former member or employee of the Commission who, within 2 years after ceasing to be such, is employed or retained as the representative of any person outside the Government in any matter in which it is contemplated that he or she will appear before the Commission, or communicate with the Commission or its employees, shall, within ten days of such retainer or employment, or of the time when appearance before, or communication with the Commission or its employees is first contemplated, file with the Office of the Ethics Counsel a statement which includes:

(i) A description of the contemplated representation;

(ii) An affirmative representation that the former employee while on the Commission's staff had neither personal and substantial responsibility

nor official responsibility for the matter which is the subject of the representation; and

(iii) The name of the Commission Division or Office in which the person had been employed.

(2) The statement required by paragraph (b)(1) of this section may be filed electronically based on instructions provided by the Office of the Ethics Counsel at *www.sec.gov*, or filed in paper by mailing to the U.S. Securities & Exchange Commission, Office of the Ethics Counsel, 100 F Street NE., Washington, DC 20549-9150.

(3) Employment of a recurrent character may be covered by a single comprehensive statement. Each such statement should include an appropriate caption indicating that it is filed pursuant to this section. The reporting requirements of this paragraph do not apply to

(i) Communications incidental to court appearances in litigation involving the Commission; and

(ii) Oral communications concerning ministerial or informational matters or requests for oral advice not otherwise prohibited by paragraph (a) of this section.

(c) As used in this section, the term *appear before the commission* means physical presence before the Commission or its employees in either a formal or informal setting or the conveyance of material in connection with a formal appearance or application to the Commission. As used in this section the term *communication with intent to influence* does not encompass communications which are not for the purpose of influencing the Commission or any of its employees or which, at the time of the filings, are reasonably believed not to involve any potential controversy. As used in this section, the term *representative* or *representative capacity* shall include not only the usual type of representation by an attorney, etc., but also representation of a corporation in the capacity of an officer, director or controlling stockholder thereof.

(d)(1) Partners or associates of any person disqualified from appearing or practicing before the Commission in a particular matter are also disqualified. Such partners or associates (the *firm*)

may request a waiver of this prohibition from the Commission by writing a letter to the General Counsel of the commission setting forth the facts of the proposed representation and the individual's disqualification. In appropriate situations, a firm may request a generic waiver with respect to a number of different matters. Upon the advice of the Office of the General Counsel, the Commission, or the General Counsel exercising delegated authority, will advise the requestor of the Commission's response.

(2) Waivers ordinarily will be granted where the firm makes a satisfactory representation that it has adopted screening measures which will effectively isolate the individual lawyer disqualified from participating in the particular matter or matters and from sharing in any fees attributable to it. It will be considered significant for purposes of this determination that:

(i) The firm had a pre-existing securities law practice prior to the arrival of the disqualified attorney;

(ii) The matter was previously the subject of consideration by the firm or the client was already advised by the firm;

(iii) In cases where the matter or client became the subject of consideration by the firm subsequent to the firm's employment of the lawyer individually disqualified, that the matter was not brought to the firm because of the disqualified attorney.

(3) Notwithstanding the existence or non-existence of any of these factors, no waiver will be issued if the proposed representation would create a significant appearance of impropriety or would otherwise adversely affect the interests of the government.⁵ All proceedings with respect to waivers shall be a matter of public record except to the extent that such public disclosure

⁵For example, no waiver will be granted if, during the course of representing a client who has an interest with respect to a matter before the Commission, a firm employs, or accepts as a partner, a member of the staff or of the Commission who at any time during the course of that representation had direct and substantial responsibility for the same matter, and whose departure would result in a significant adverse impact upon that matter at the Commission.

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might violate attorney-client privilege or breach the attorney's obligation to preserve the confidences and secrets of this or her clients, reveal the existence of ongoing private investigations, interfere with law enforcement proceedings, or otherwise be inconsistent with the public interest.

(e) Persons in doubt as to the applicability of any portion of this section may apply for an advisory ruling of the Commission.⁶

[45 FR 36064, May 29, 1980, as amended at 50 FR 23669, June 5, 1985; 75 FR 42277, July 20, 2010; 77 FR 13491, Mar. 7, 2012]

§ 200.735-9 Indebtedness.

Members and employees shall comply with the requirements of 5 CFR 2635.809 (Just financial obligations).

[75 FR 42277, July 20, 2010]

§ 200.735-10 Miscellaneous statutory provisions.

Each member and employee is responsible for acquainting himself or herself with the statutory provisions listed in 5 CFR 2635.902 (Related statutes). A violation of any of these provisions is deemed a violation of this subpart M.

[75 FR 42277, July 20, 2010]

§ 200.735-11 Statement of employment and financial interests.

(a) Members and employees shall file financial disclosure reports in accordance with the requirements of 5 CFR part 2634 (Executive branch financial disclosure).

(b) Prior to the time of entry on duty, or upon designation to a position set forth in paragraph (c) of this section, such employee shall submit to the Director of Personnel a statement, on the official form made available for this purpose through the Office of Personnel, setting forth the following information:

(1) A list of the names of all corporations, companies, firms, or other business enterprises, partnerships, non-

profit organizations, and educational or other institutions with or in which the employee, his or her spouse, unemancipated minor child or other member of his or her immediate household has—

(i) Any connection as an employee, officer, owner, director, member, trustee, partner, adviser or consultant; or

(ii) Any continuing financial interest, through a pension or retirement plan, shared income, or other arrangement as a result of any current or prior employment or business or professional association.

(iii) Any financial interest through the ownership of stock, stock options, bonds, securities, or other arrangements including trusts.

(2) A list of the names of the employee's creditors and the creditors of his or her spouse, unemancipated minor child or other member of his or her immediate household, other than those creditors to whom any such person may be indebted by reason of a mortgage on property which he or she occupies as a personal residence, or to whom such person may be indebted for current and ordinary household and living expenses such as those incurred for household furnishings, vacations, an automobile, education, or the like.

(3) A list of the employee's interests and those of his or her spouse, unemancipated minor child, or other member of his or her immediate household in real property or rights in lands, other than property which he or she occupies as a personal residence.

(4) For the purpose of this section, *member of his or her immediate household* means a resident of the employee's household who is related to the employee by blood or marriage.

(5) In the instance where a spouse is not a *member of the employee's immediate household*, and the employee certifies he or she neither derives nor expects to derive any economic benefit from the holdings of the spouse, the Director of Personnel may waive the requirement of reporting the interests of such spouse.

(c) Statements of employment and financial interests filed pursuant to paragraph (a) of this section shall be

⁶ Attention of former members and employees is directed to Formal Opinion 342 of the Committee on Ethics of the American Bar Association, 62 A.B.A.J. 517 (1975) and to 18 U.S.C. 207.

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sent to the Ethics Office in a sealed envelope marked "Confidential Employment and Financial Interests." They shall be maintained in a confidential file. Only those officials of the Commission whose participation is necessary for the carrying out of the purpose of this Conduct Regulation may have access to such statements and no information may be disclosed from them except as the Commission or the Office of Personnel Management may determine for good cause shown.

(d) In accordance with the requirements of the Ethics in Government Act of 1978, Pub. L. 95-521, the Ethics Office shall review the financial disclosure reports filed pursuant to that Act.

(e) The Ethics Office shall examine the statements of employment and financial interests filed pursuant to paragraph (a) of this section to determine whether conflicts of interest or apparent conflicts of interest on the part of employees exist. An employee shall be afforded the opportunity to explain any conflict or appearance of conflict. When the Director or Assistant Director of Personnel, in consultation with appropriate superiors of the employee involved, is unable to resolve a conflict or appearance of conflict, he or she shall report the matter to the Commission through the Counselor for the Commission designated under § 200.735-15(a).

(f) Except as otherwise provided in paragraph (a) of this section the statement of employment and financial interests and supplementary statements required of employees are in addition to, and not in substitution for, or in derogation of, any similar requirement imposed by law, order or regulation. The submission of a statement by an employee does not permit him or her or any other person to participate in a matter in which his or her or the other person's participation is prohibited by law, order or regulation.

(g) An employee has the right to ask for a review through the Commission's grievance procedure outlined in section 771, Part II, Manual of Administrative Regulations, of a complaint that his or her position has been improperly included under the provisions of this section as one requiring the submission of

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a statement of employment and financial interests.

[45 FR 36064, May 29, 1980; 45 FR 40975, June 17, 1980, as amended at 73 FR 32226, June 5, 2008; 75 FR 42278, July 20, 2010; 76 FR 71450, Nov. 18, 2011]

§ 200.735-12 Special Government employees.

(a) Special Government employee means a person defined in section 18 U.S.C. 202 as a *special Government employee*. All of the provisions of this Conduct Regulation are applicable to special Government employees, except that in specific appropriate cases the Commission may exempt such employees from, or modify the applicability of, any portion of any provision of the Conduct Regulation.

(b) In no event will the Commission waive a provision of the Conduct Regulation which would permit a special Government employee to:

(1) Use his or her Government employment for a purpose that is, or gives the appearance of being, motivated by the desire for private gain for himself or another person, particularly one with whom he or she has family, business, or financial ties.

(2) Use inside information obtained as a result of his or her Government employment for private gain for himself or herself or another person either by direct action on his or her part or by counsel, recommendation, or suggestion to another person, particularly one with whom he or she has family, business, or financial ties. For purposes of this paragraph, *inside information* means information obtained under Government authority which has not become part of the body of public information.

(3) Use his or her Government employment to coerce, or give the appearance of coercing, a person to provide financial benefit to himself or herself or another person, particularly one with whom he or she has family, business, or financial ties.

(4) Receive or solicit from a person having business with the Commission anything of value as a gift, gratuity, loan, entertainment, or favor for himself or herself or another person, particularly one with whom he or she has family, business or financial ties.

(c) Prior to entrance on duty, each special Government employee shall submit to the Director of Personnel a statement of employment and financial interests which contains such information as the Director of Personnel determines is relevant in the light of the duties the special Government employee is to perform and, if appropriate, the financial disclosure report as provided by title II of the Ethics in Government Act of 1978, Pub. L. 95-521. It shall be kept current throughout the period of employment by the filing of supplementary statements in accordance with the requirements of § 200.735-11(d). Statements shall be on the official form made available for this purpose through the Office of Personnel.

(d) The Commission may waive the requirement of paragraph (c) of this section in the case of a special Government employee who is not a *consultant* or an *expert*, as those terms are defined in chapter 304 of the Federal Personnel Manual (5 CFR 735.304), if the duties of the position are determined to be at a level of responsibility which does not require the submission of such statement to protect the integrity of the Commission.

§ 200.735-13 Disciplinary and other remedial action.

(a) Knowing participation in a violation of this subpart by persons not within the scope of the foregoing rules in this subpart shall likewise be deemed improper conduct and in contravention of Commission rules. Departure from any of the rules in this subpart by employees or special Government employees without specific approval may be cause for appropriate remedial and/or disciplinary action or, in the case of former members, employees, and special Government employees, for disqualification from appearing and practicing before the Commission, which may be in addition to any penalty prescribed by law.

(b) When there has been a departure from any of the rules of this subpart without specific approval or when a conflict of interest on the part of an employee or special Government employee arises, the Director of Personnel may order immediate action to end

such conflict or appearance of conflict of interest. Remedial action may include, but is not limited to (1) changes in assigned duties; (2) divestment by the employee or special Government employee of his conflicting interest; (3) disciplinary action; or (4) disqualification for a particular assignment. Remedial action, whether disciplinary or otherwise, shall be effected in accordance with any applicable laws, Executive Orders, and regulations. The Director of Personnel may refer any recommended action to the Commission. The employee may obtain review by the Commission of any action ordered to be taken by the Director of Personnel. During the period of review, unless otherwise directed by the Commission, the action ordered by the Director of Personnel is stayed.

(c) Former members or employees who violate the post-employment restriction provisions of 18 U.S.C. 207(a), (b) or (c), which parallel the provisions of Rule 8(a), *supra*, will be subject to an administrative enforcement proceeding as set forth in Rule 102(e) of the Commission's Rules of Practice, § 201.102(e) of this chapter, except that, when proceedings are brought to determine if violations of post-employment restrictions have occurred, denial of the privilege of appearing and practicing before the Commission will be based on a finding of violation of the provisions of Rule 8(a) and 18 U.S.C. 207 (a), (b) and (c). Procedures applicable to such administrative proceedings are to be found in the Commission's Rules of Practice, 17 CFR 201.100 *et seq.*

[45 FR 36064, May 29, 1980, as amended at 60 FR 32795, June 23, 1995]

§ 200.735-14 Employees on leave of absence.

The provisions of the rules in this subpart relative to employees of the Commission are applicable to employees on a leave with pay or a leave without pay status other than extended military service.

§ 200.735-15 Interpretive and advisory service.

(a) The Ethics Counsel shall be designated *Counselor for the Commission* and shall serve as the Commission's delegate to the Office of Personnel

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Management on matters covered by the rules in this subpart. The Ethics Counsel shall be responsible for coordinating the Commission's counseling services provided under this section and for assuring that counseling and interpretations on questions of conflicts of interest and other matters covered by the rules in this subpart are available to all members and employees.

(b) A member, employee, or former member or employee may obtain advice or guidance on the application of the rules in this subpart from the Ethics Counsel. In addition, any former member or employee seeking advice or an interpretation relating to the Ethics in Government Act shall submit his or her request to the Ethics Counsel.

(c) The Ethics Counsel will treat information he or she receives pursuant to requests for advice or guidance under this Rule on a confidential basis, except that information he or she receives indicating a possible past violation of any provision of this Conduct Regulation or of the law will be brought to the attention of appropriate persons.

(d) The Ethics Office shall furnish a copy of this Conduct Regulation (subpart M) to each member, employee and special Government employee immediately upon his or her entrance on duty and shall thereafter, annually, and at such other times as circumstances warrant, bring to the attention of each member, employee and special Government employee this Conduct Regulation (subpart M) and all revisions thereof.

(e) The Ethics Office shall notify each member, employee and special Government employee at the time of entrance on duty, and from time to time thereafter, of the availability of counseling services and of how and where these services are available.

[45 FR 36064, May 29, 1980, as amended at 73 FR 32227, June 5, 2008; 75 FR 42278, July 20, 2010; 76 FR 71450, Nov. 18, 2011; 79 FR 1735, Jan. 10, 2014]

§ 200.735-16 Delegation.

Any official responsibility assigned to a person in a particular position pursuant to this subpart may be dele-

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gated by such person to any other person.

§ 200.735-17 Administration of the conduct regulation.

The Designated Agency Ethics Official is responsible for the day-to-day administration of this conduct regulation except where otherwise provided.

[45 FR 36064, May 29, 1980, as amended at 75 FR 42278, July 20, 2010; 76 FR 71450, Nov. 18, 2011]

§ 200.735-18 Requests for waivers.

Unless a different procedure is specifically prescribed in a rule of this part, an employee may submit a request for a waiver, modification or postponement of a requirement included in this part to the Chairman. Such waiver, modification or postponement may be granted if it is determined by the Chairman that such waiver, modification of postponement would not adversely affect the interest of the Commission or the United States. Any such waiver, modification or postponement granted by the Chairman shall be made available to the public. The Chairman may submit any request made pursuant to this rule to the Commission for its consideration. Any Commission action on such request shall be made public only in the discretion of the Commission. Requirements included in this part which implement any provision of Federal law, regulation or Executive Order generally applicable to the Executive Branch shall not be waived under this provision.

Subpart N—Commission Information Collection Requirements Under the Paperwork Reduction Act: OMB Control Numbers

SOURCE: 67 FR 14634, Mar. 27, 2002, unless otherwise noted.

§ 200.800 OMB control numbers assigned pursuant to the Paperwork Reduction Act.

(a) *Purpose.* This subpart collects and displays the control numbers assigned to information collection requirements of the Commission by the Office of

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Management and Budget pursuant to the Paperwork Reduction Act of 1980, 44 U.S.C. 3500 *et seq.* This subpart displays current OMB control numbers for those information collection requirements of the Commission that are rules

and regulations and codified in this title either in full text or incorporated by reference with the approval of the Director of the Office of the Federal Register.
(b) *Display.*

| Information collection requirement | 17 CFR part or section where identified and described | Current OMB control No. |
|------------------------------------|---|-------------------------|
| Rule 139b | 230.139b | 3235-0769 |
| Rule 147(f)(1)(iii) | 230.147(f)(1)(iii) | 3235-0756 |
| Rule 147A(f)(1)(iii) | 230.147A(f)(1)(iii) | 3235-0757 |
| Rule 154 | 230.154 | 3235-0495 |
| Rule 163 | 230.163 | 3235-0619 |
| Rule 173 | 230.173 | 3235-0618 |
| Rule 192 | 230.192 | 3235-0807 |
| Rule 236 | 230.236 | 3235-0095 |
| Rule 237 | 230.237 | 3235-0528 |
| Rule 239 | 230.239 | 3235-0687 |
| Regulation A | 230.251 through 230.263 | 3235-0286 |
| Rule 425 | 230.425 | 3235-0521 |
| Rule 433 | 230.433 | 3235-0617 |
| Rule 477 | 230.477 | 3235-0550 |
| Rule 482 | 230.482 | 3235-0565 |
| Rule 489 | 230.489 | 3235-0411 |
| Rule 498 | 230.498 | 3235-0648 |
| Rule 498A | 230.498A | 3235-0765 |
| Regulation D | 230.500 through 230.508 | 3235-0076 |
| Regulation E | 230.601 through 230.610a | 3235-0232 |
| Rule 604 | 230.604 | 3235-0232 |
| Rule 605 | 230.605 | 3235-0232 |
| Rule 607 | 230.607 | 3235-0747 |
| Rule 609 | 230.609 | 3235-0233 |
| Rule 701 | 230.701 | 3235-0522 |
| Regulation S | 230.901 through 230.905 | 3235-0357 |
| Rule 405 | 232.405 | 3235-0645 |
| Form S-1 | 239.11 | 3235-0065 |
| Form S-2 | 239.12 | 3235-0072 |
| Form S-3 | 239.13 | 3235-0073 |
| Form N-2 | 239.14 | 3235-0026 |
| Form N-1A | 239.15A | 3235-0307 |
| Form S-6 | 239.16 | 3235-0184 |
| Form S-8 | 239.16b | 3235-0066 |
| Form N-3 | 239.17a | 3235-0316 |
| Form N-4 | 239.17b | 3235-0318 |
| Form S-11 | 239.18 | 3235-0067 |
| Form N-14 | 239.23 | 3235-0336 |
| Form N-5 | 239.24 | 3235-0169 |
| Form S-4 | 239.25 | 3235-0324 |
| Form F-1 | 239.31 | 3235-0258 |
| Form F-3 | 239.33 | 3235-0256 |
| Form F-4 | 239.34 | 3235-0325 |
| Form F-6 | 239.36 | 3235-0292 |
| Form F-7 | 239.37 | 3235-0383 |
| Form F-8 | 239.38 | 3235-0378 |
| Form F-10 | 239.40 | 3235-0380 |
| Form F-80 | 239.41 | 3235-0404 |
| Form F-X | 239.42 | 3235-0379 |
| Form F-N | 239.43 | 3235-0411 |
| Form SF-1 | 239.44 | 3235-0707 |
| Form SF-3 | 239.45 | 3235-0690 |
| Form ID | 239.63 | 3235-0328 |
| Form SE | 239.64 | 3235-0327 |
| Form TH | 239.65 | 3235-0425 |
| Form 1-A | 239.90 | 3235-0286 |
| Form 1-K | 239.91 | 3235-0720 |
| Form 1-SA | 239.92 | 3235-0721 |
| Form 1-U | 239.93 | 3235-0722 |
| Form 1-Z | 239.94 | 3235-0723 |
| Form 144 | 239.144 | 3235-0101 |
| Form 1-E | 239.200 | 3235-0232 |
| Form CB | 239.800 | 3235-0518 |
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| Rule 6a-1 | 240.6a-1 | 3235-0017 |

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| Rule 6a-3 | 240.6a-3 | 3235-0021 |
| Rule 6a-4 | 240.6a-4 | 3235-0554 |
| Rule 6h-1 | 240.6h-1 | 3235-0555 |
| Rule 8c-1 | 240.8c-1 | 3235-0514 |
| Rule 9b-1 | 240.9b-1 | 3235-0480 |
| Rule 10a-1 | 240.10a-1 | 3235-0475 |
| Rule 10b5-1 | 240.10b5-1 | 3235-0801 |
| Rule 10b-10 | 240.10b-10 | 3235-0444 |
| Rule 10b-17 | 240.10b-17 | 3235-0476 |
| Rule 10b-18 | 240.10b-18 | 3235-0474 |
| Rule 10A-1 | 240.10A-1 | 3235-0468 |
| Rule 11a1-1(T) | 240.11a1-1(T) | 3235-0478 |
| Rule 12a-5 | 240.12a-5 | 3235-0079 |
| Rule 12d1-3 | 240.12d1-3 | 3235-0109 |
| Rule 12d2-1 | 240.12d2-1 | 3235-0081 |
| Rule 12d2-2 | 240.12d2-2 | 3235-0080 |
| Rule 12f-1 | 240.12f-1 | 3235-0128 |
| Rule 12g3-2 | 240.12g3-2 | 3235-0119 |
| Rule 12h-1(f) | 240.12h-1(f) | 3235-0632 |
| Rule 13a-16 | 240.13a-16 | 3235-0116 |
| Regulation 13D/G | 240.13d-1 through 240.13d-7 | 3235-0145 |
| Schedule 13D | 240.13d-101 | 3235-0145 |
| Schedule 13G | 240.13d-102 | 3235-0145 |
| Rule 13e-1 | 240.13e-1 | 3235-0305 |
| Rule 13e-3 | 240.13e-3 | 3235-0007 |
| Schedule 13E-3 | 240.13e-100 | 3235-0007 |
| Schedule 13e-4F | 240.13e-101 | 3235-0375 |
| Regulation 14A | 240.14a-1 through 240.14a-12 | 3235-0059 |
| Schedule 14A | 240.14a-101 | 3235-0059 |
| Rule 14a-103 | 240.14a-103 | 3235-0452 |
| Rule 14a-104 | 240.14a-104 | 3235-0452 |
| Regulation 14C | 240.14c-1 | 3235-0057 |
| Schedule 14C | 240.14c-101 | 3235-0057 |
| Regulation 14D | 240.14d-1 through 240.14d-9 | 3235-0102 |
| Schedule TO | 240.14d-100 | 3235-0515 |
| Schedule 14D-1 | 240.14d-101 | 3235-0102 |
| Schedule 14D-9 | 240.14d-101 | 3235-0102 |
| Schedule 14D-1F | 240.14d-102 | 3235-0376 |
| Schedule 14D-9F | 240.14d-103 | 3235-0382 |
| Regulation 14E | 240.14e-1 through 240.14e-2 | 3235-0102 |
| Rule 14f-1 | 240.14f-1 | 3235-0108 |
| Regulation 14N | 240.14n-1 through 240.14n-101 | 3235-0655 |
| Schedule 14N | 240.14n-101 | 3235-0655 |
| Rule 15a-4 | 240.15a-4 | 3235-0010 |
| Rule 15a-6 | 240.15a-6 | 3235-0371 |
| Rule 15b1-1 | 240.15b1-1 | 3235-0012 |
| Rule 15b6-1(a) | 240.15b6-1(a) | 3235-0018 |
| Rule 15c1-5 | 240.15c1-5 | 3235-0471 |
| Rule 15c1-6 | 240.15c1-6 | 3235-0472 |
| Rule 15c1-7 | 240.15c1-7 | 3235-0134 |
| Rule 15c2-1 | 240.15c2-1 | 3235-0485 |
| Rule 15c2-5 | 240.15c2-5 | 3235-0198 |
| Rule 15c2-7 | 240.15c2-7 | 3235-0479 |
| Rule 15c2-8 | 240.15c2-8 | 3235-0481 |
| Rule 15c2-11 | 240.15c2-11 | 3235-0202 |
| Rule 15c2-12 | 240.15c2-12 | 3235-0372 |
| Rule 15c3-1 | 240.15c3-1 | 3235-0200 |
| Rule 15c3-1(c)(13) | 240.15c3-1(c)(13) | 3235-0499 |
| Appendix F to Rule 15c3-1 | 240.15c-1f | 3235-0496 |
| Rule 15c3-3 | 240.15c3-3 | 3235-0078 |
| Rule 15c3-4 | 240.15c3-4 | 3235-0497 |
| Rule 15d-16 | 240.15d-16 | 3235-0116 |
| Rule 15g-2 | 240.15g-2 | 3235-0434 |
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| Rule 15g-4 | 240.15g-4 | 3235-0393 |
| Rule 15g-5 | 240.15g-5 | 3235-0394 |
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| Rule 15g-9 | 240.15g-9 | 3235-0385 |
| Rule 15Aj-1 | 240.15Aj-1 | 3235-0044 |
| Rule 15Ba2-1 | 240.15Ba2-1 | 3235-0083 |
| Rule 15Ba2-5 | 240.15Ba2-5 | 3235-0088 |
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| Rule 17a-2 | 240.17a-2 | 3235-0201 |
| Rule 17a-3 | 240.17a-3 | 3235-0033 |
| Rule 17a-3(a)(16) | 240.17a-3(a)(16) | 3235-0508 |
| Rule 17a-4 | 240.17a-4 | 3235-0279 |
| Rule 17a-4(b)(10) | 240.17a-4(b)(10) | 3235-0506 |
| Rule 17a-5 | 240.17a-5 | 3235-0123 |
| Rule 17a-5(c) | 240.17a-5(c) | 3235-0199 |
| Rule 17a-6 | 240.17a-6 | 3235-0489 |
| Rule 17a-7 | 240.17a-7 | 3235-0131 |
| Rule 17a-8 | 240.17a-8 | 3235-0092 |
| Rule 17a-9T | 240.17a-9T | 3235-0524 |
| Rule 17a-10 | 240.17a-10 | 3235-0122 |
| Rule 17a-11 | 240.17a-11 | 32350085 |
| Rule 17a-12 | 240.17a-12 | 3235-0498 |
| Rule 17a-13 | 240.17a-13 | 3235-035 |
| Rule 17a-19 | 240.17a-19 | 3235-0133 |
| Rule 17a-22 | 240.17a-22 | 3235-0196 |
| Rule 17a-25 | 240.17a-25 | 3235-0540 |
| Rule 17f-1(b) | 240.17f-1(b) | 3235-0032 |
| Rule 17f-1(c) | 240.17f-1(c) | 3235-0037 |
| Rule 17f-1(g) | 240.17f-1(g) | 3235-0290 |
| Rule 17f-2(a) | 240.17f-2(a) | 3235-0034 |
| Rule 17f-2(c) | 240.17f-2(c) | 3235-0029 |
| Rule 17f-2(d) | 240.17f-2(d) | 3235-0028 |
| Rule 17f-2(e) | 240.17f-2(e) | 3235-0031 |
| Rule 17f-5 | 240.17f-5 | 3235-0269 |
| Rule 17h-1T | 240.17h-1T | 3235-0410 |
| Rule 17h-2T | 240.17h-2T | 3235-0410 |
| Rule 17Ab2-1 | 240.17Ab2-1 | 3235-0195 |
| Rule 17Ac2-1 | 240.17Ac2-1 | 3235-0084 |
| Rule 17Ad-2(c), (d), and (h) | 240.17Ad-2(c), (d), and (h) | 3235-0130 |
| Rule 17Ad-3(b) | 240.17Ad-3(b) | 3235-0473 |
| Rule 17Ad-4(b) and (c) | 240.17Ad-4(b) and (c) | 3235-0341 |
| Rule 17Ad-6 | 240.17Ad-6 | 3235-0291 |
| Rule 17Ad-7 | 240.17Ad-7 | 3235-0291 |
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| Rule 19b-4 | 240.19b-4 | 3235-0045 |
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| Rule 19b-5 | 240.19b-5 | 3235-0507 |
| Rule 19b-7 | 240.19b-7 | 3235-0553 |
| Rule 19d-1 | 240.19d-1 | 3235-0206 |
| Rule 19d-2 | 240.19d-2 | 3235-0205 |
| Rule 19d-3 | 240.19d-3 | 3235-0204 |
| Rule 19h-1 | 240.19h-1 | 3235-0259 |
| Rule 24b-1 | 240.24b-1 | 3235-0194 |
| Rule 101 | 242.101 | 3235-0464 |
| Rule 102 | 242.102 | 3235-0467 |
| Rule 103 | 242.103 | 3235-0466 |
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| Rule 302 | 242.302 | 3235-0510 |
| Rule 303 | 242.303 | 3235-0505 |
| Rule 604 | 242.604 | 3235-0462 |
| Rule 605 | 242.605 | 3235-0542 |
| Rule 606 | 242.606 | 3235-0541 |
| Rule 607 | 242.607 | 3235-0435 |
| Rule 608 | 242.608 | 3235-0500 |
| Rule 609 | 242.609 | 3235-0043 |
| Rule 611 | 242.611 | 3235-0600 |
| Regulation FD | 243.100 through 243.103 | 3235-0536 |
| Regulation RR | 244.1 through 244.22 | 3235-0712 |
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| Form 3 | 249.103 | 3235–0104 |
| Form 4 | 249.104 | 3235–0287 |
| Form 5 | 249.105 | 3235–0362 |
| Form 8–A | 249.208a | 3235–0056 |
| Form 10 | 249.210 | 3235–0064 |
| Form 18 | 249.218 | 3235–0121 |
| Form 20–F | 249.220f | 3235–0288 |
| Form 40–F | 249.240f | 3235–0381 |
| Form 6–K | 249.306 | 3235–0116 |
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| Form 10–Q | 249.308a | 3235–0070 |
| Form 10–K | 249.310 | 3235–0063 |
| Form 11–K | 249.311 | 3235–0082 |
| Form 10–D | 249.312 | 3235–0604 |
| Form 18–K | 249.318 | 3235–0120 |
| Form 12B–25 | 249.322 | 3235–0058 |
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| Form X–17A–5 | 249.617 | 3235–0123 |
| Form X–17A–19 | 249.635 | 3235–0133 |
| Form ATS | 249.637 | 3235–0509 |
| Form ATS–R | 249.638 | 3235–0509 |
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| Form X–15AJ–1 | 249.802 | 3235–0044 |
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| Form ABS–15G | 249.1400 | 3235–0675 |
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| Rule 2a–5 | 270.2a–5 | 3235–0779 |
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| Rule 2a19–1 | 270.2a19–1 | 3235–0332 |
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| Rule 6c–7 | 270.6c–7 | 3235–0276 |
| Rule 6e–2 | 270.6e–2 | 3235–0177 |
| Rule 6c–11 | 270.6c–11 | 3235–0764 |
| Rule 7d–1 | 270.7d–1 | 3235–0311 |
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| Rule 11a-3 | 270.11a-3 | 3235-0358 |
| Rule 12b-1 | 270.12b-1 | 3235-0212 |
| Rule 12d1-1 | 270.12d1-1 | 3235-0584 |
| Rule 12d1-4 | 270.12d1-4 | 3235-0639 |
| Rule 12d3-1 | 270.12d3-1 | 3235-0561 |
| Rule 17a-6 | 270.17a-6 | 3235-0564 |
| Rule 17a-7 | 270.17a-7 | 3235-0214 |
| Rule 17a-8 | 270.17a-8 | 3235-0235 |
| Rule 17a-10 | 270.17a-10 | 3235-0563 |
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| Rule 17f-6 | 270.17f-6 | 3235-0447 |
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| Rule 17j-1 | 270.17j-1 | 3235-0224 |
| Rule 18f-1 | 270.18f-1 | 3235-0211 |
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| Rule 22e-4 | 270.22e-4 | 3235-0737 |
| Rule 23c-1 | 270.23c-1 | 3235-0260 |
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| Rule 27e-1 | 270.27e-1 | 3235-0545 |
| Rule 30b2-1 | 270.30b2-1 | 3235-0220 |
| Rule 30e-2 | 270.30e-2 | 3235-0494 |
| Rule 30e-1 | 270.30e-1 | 3235-0025 |
| Rule 30e-3 | 270.30e-3 | 3235-0758 |
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| Rule 31a-2 | 270.31a-2 | 3235-0179 |
| Rule 31a-4 | 270.31a-4 | 3235-0783 |
| Rule 32a-4 | 270.32a-4 | 3235-0530 |
| Rule 34b-1 | 270.34b-1 | 3235-0346 |
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| Rule 38a-1 | 270.38a-1 | 3235-0586 |
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| Form N-6 | 274.11d | 3235-0503 |
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| Form N-PX | 274.129 | 3235-0582 |
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| Form N-17F-1 | 274.219 | 3235-0359 |
| Form N-17F-2 | 274.220 | 3235-0360 |
| Form N-23c-3 | 274.221 | 3235-0422 |
| Form N-CR | 274.222 | 3235-0705 |
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| Form SE | 274.403 | 3235–0327 |
| Rule 0–2 | 275.0–2 | 3235–0240 |
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| Form ADV–E | 279.8 | 3235–0361 |
| Form PF | 279.9 | 3235–0679 |

[67 FR 14634, Mar. 27, 2002, as amended at 70 FR 37611, June 29, 2005; 76 FR 46616, Aug. 3, 2011; 77 FR 18684, Mar. 28, 2012; 80 FR 6902, Feb. 9, 2015; 81 FR 82009, Nov. 18, 2016; 83 FR 29203, June 22, 2018; 84 FR 33629, July 12, 2019; 85 FR 26092, May 1, 2020; 89 FR 90590, Nov. 18, 2024; 90 FR 9685, Feb. 18, 2025]

PART 201—RULES OF PRACTICE

Subpart D—Rules of Practice

Subpart A [Reserved]

GENERAL RULES

Subpart B—Regulations Pertaining to the Equal Access to Justice Act

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- 201.31 Purpose of these rules.
- 201.32 When the Act applies.
- 201.33 Proceedings covered.
- 201.34 Eligibility of applicants.
- 201.35 Standards for awards.
- 201.36 Allowable fees and expenses.
- 201.37 Delegations of authority.
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Subpart C [Reserved]