§ 39.13 [Amended]

2. Section 39.13 is amended by adding a new airworthiness directive (AD), Amendment 39–9177, to read as follows:

AD 95–06–07 Robinson Helicopter Company: Amendment 39–9177. Docket Number 94–SW–22–AD. Supersedes Priority Letter AD 94–11–01, issued May 18, 1994.

Applicability: Model R22 helicopters, with forward flexplate (flexplate), part number (P/N) A947–1 with bonded washers, or P/N A193–1 without bonded washers, installed, certificated in any category. Flexplate, P/N A947–1E and subsequent FAA-approved revisions to P/N A947–1, is exempt from the requirements of this AD.

Compliance: Required as indicated, unless accomplished previously.

To prevent failure of the flexplate, failure of the main rotor drive, and subsequent loss of control of the helicopter, accomplish the following:

(a) Within the next 25 hours time-in-service (TIS) after the effective date of this airworthiness directive (AD), accomplish the following:

(1) With the clutch disengaged, support the forward end of the clutch shaft, P/N A166–1, remove the flexplate, and record the shim locations for use during reinstallation.

(i) Replace any flexplate that does not have eight bonded washers (two per arm) with an airworthy flexplate, P/N A947–1E or a subsequent FAA-approved revision to P/N A947–1.

(ii) For those flexplates that have eight bonded washers (two per arm), comply with the following:

(2) Remove all coating down to bare metal from the outer edges of the flexplate to approximately 0.125 inches inward, but in no case within 0.50 inches of the bonded washers, using Scotch Brite or 600 grit sand paper. Do not use a chemical paint stripper since it may adversely affect the adhesive that bonds the washers to the flexplate.

(3) Inspect the outer edges of the flexplate for cracks, avoiding the bonded washers, using a dye penetrant inspection method in accordance with Appendix I of this AD. If the dye penetrant contacts the bonded washers, remove the solution from the bonded washers within 1 minute since longer exposure may adversely affect the adhesive.

(i) If a crack is found, replace the flexplate with an airworthy flexplate, P/N A947–1E or a subsequent FAA-approved revision to P/N A947–1.

(ii) If no crack is found, paint the bare edge area of the flexplate with an even coat of zinc-chromate or epoxy primer. Do not paint the bare metal surface of the bonded washers.

(4) Reinstall the flexplate and ensure sheave and clutch shaft angle are properly aligned in accordance with the applicable maintenance manual.

(b) For those helicopters with flexplates that have less than 2 years or 450 hours TIS, accomplish the following prior to or upon reaching 2 years or 500 hours TIS, and thereafter at intervals not to exceed 50 hours TIS from the last inspection; for those helicopters with flexplates that have 2 years or more or 450 hours or more TIS, accomplish the following at intervals not to exceed 50 hours TIS from the last inspection. (If the flexplate TIS cannot be determined through a review of the maintenance records, then use the helicopter TIS as the TIS of the flexplate).

(1) Remove the flexplate in accordance with the applicable maintenance manual.

(2) Clean the flexplate using a solvent (e.g., methyl-ethyl ketone or naphtha).

(3) Inspect the flexplate for nicks, cracks, or corrosion using a 10-power or higher magnifying glass, paying close attention to the edges of the flexplate.

(i) If a crack is found, replace the flexplate with an airworthy flexplate, P/N A947–1E or a subsequent FAA-approved revision to P/N A947–1, in accordance with the applicable maintenance manual.

(ii) If a nick or corrosion is found, repair the flexplate in accordance with the applicable maintenance manual.

(iii) Paint any bare edges of the flexplate with an even coat of zinc-chromate or epoxy primer. Do not paint the bare metal surface of the bonded washers.

(iv) If any nick or corrosion cannot be repaired within the rework limits specified in the applicable maintenance manual, replace the flexplate with an airworthy flexplate, P/N A947–1E or a subsequent FAA-approved revision to P/N A947–1, in accordance with the applicable maintenance manual.

(4) Reinstall the flexplate and ensure sheave and clutch shaft are properly aligned in accordance with the applicable maintenance manual.

Note 1: Robinson Helicopter Company R22 Maintenance Manual, Change 14, dated March 14, 1994, pertains to this AD.

(c) If a crack, nick, or corrosion is found on the flexplate as a result of the inspections required by this AD, report a description of the crack, nick, or corrosion, the total TIS, and the operating conditions to the Manager, Propulsion Branch, Los Angeles Aircraft Certification Office, FAA. Reporting requirements have been approved by the Office of Management and Budget and assigned control number 2120–0056.

(d) Installation of a flexplate, P/N A947–1E or a subsequent FAA-approved revision to P/N A947–1, constitutes terminating action for the requirements of this AD.

(e) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be used when approved by the Manager, Los Angeles Aircraft Certification Office, FAA. Operators shall submit their requests through an FAA Principal Maintenance Inspector, who may concur or comment and then send it to the Manager, Los Angeles Aircraft Certification Office.

Note 2: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the Los Angeles Aircraft Certification Office.

(f) Special flight permits may be issued in accordance with sections 21.197 and 21.199 of the Federal Aviation Regulations (14 CFR 21.197 and 21.199) to operate the helicopter to a location where the requirements of this AD can be accomplished.

(g) This amendment becomes effective on April 4, 1995.

Appendix I—Dye Penetrants

Several dye penetrant type inspection kits are now available that will reveal the presence of surface cracks or defects and subsurface flaws that extend to the surface of the part being inspected. These penetrant type inspection methods are considered acceptable, provided the part being inspected has been thoroughly cleaned, all areas are readily accessible for viewing, and the manufacturer's recommendations as to the method of application are closely followed.

a. Cleaning. An inspection is initiated by first cleaning the surface to be inspected of dirt, loose scale, oil, and grease. Precleaning may usually be accomplished by vapor degreasing or with volatile cleaners. Use a volatile cleaner as it will evaporate from the defects before applying the penetrant dye. Sand blasting is not as desirable a cleaning method, since surface indications may be obscured. It is not necessary to remove anodic films from parts to be inspected, since the dye readily penetrates such films. Special procedures for removing the excess dye should be followed.

b. Application of Penetrant. The penetrant is applied by brushing, spraying, or by dipping and allowing to stand for a minimum of 2 minutes. Dwell time may be extended up to 15 minutes, depending upon the temperature of the part and fineness of the defect or surface condition. Parts being inspected should be dry and heated to at least 70° F, but not over 130° F. Very small indications require increased penetration periods.

c. Removal of Dye Penetrant. Surplus penetrant is usually removed by application of a special cleaner or remover, or by washing with plain water and allowing the part to dry. Water rinse may also be used in conjunction with the remover, subject to the manufacturer's recommendations.

d. Application of Developer. A light and even coat of developer is applied by spraying, brushing, or dipping. When dipping, avoid excess accumulation. Penetrant that has penetrated into cracks or other openings in the surface of the material will be drawn out by the developer resulting in a bright red indication. Some idea of the size of the defect may be obtained after experience by watching the size and rate of growth of the indication.

Issued in Fort Worth, Texas, on March 10, 1995.

Eric Bries,

Acting Manager, Rotorcraft Directorate, Aircraft Certification Service.

[FR Doc. 95–6684 Filed 3–17–95; 8:45 am]

BILLING CODE 4910–13–P

SECURITIES AND EXCHANGE COMMISSION

17 CFR Parts 200 and 270

[Release No. 34–35483]

Organization and Program Management

AGENCY: Securities and Exchange Commission.

ACTION: Final rule.

SUMMARY: The Securities and Exchange Commission is amending its rules on organization and program management. This action is necessary to reflect changes that have occurred over the years. It is intended to update the rules.

EFFECTIVE DATE: March 20, 1995.

FOR FURTHER INFORMATION CONTACT: Diane A. Campbell, Office of the Executive Director, (202) 942–4300; Elizabeth T. Tsai, Office of Freedom of Information and Privacy Act Operations, (202) 942–4326.

SUPPLEMENTARY INFORMATION: The Commission has undertaken a comprehensive review of the rules governing its organization and program management. The present amendments and additions to its rules result from that review.

Specifically, the Commission is amending § 200.2 (b) and (d) to clarify the description of the Securities Exchange Act of 1934 [1] and the Trust Indenture Act of 1939.[2] It is amending paragraphs (c) and (e) of § 200.2 to describe adequately the Commission's current functions under the Public Utility Holding Company Act of 1935 [3] and the Investment Company Act of 1940.[4] The Commission is revising § 200.13 to designate the Executive Director as the Chief Operating Officer of the Commission, to clarify the description of the responsibilities of the Executive Director, and to update the list of statutes, regulations, and Executive Orders to be implemented by the Executive Director. It is revising § 200.14(a) to describe the work of the Office of Administrative Law Judges specifically and accurately. The revised section refers to the Administrative Procedure Act,[5] under which hearings are conducted, and lists the tasks of administrative law judges in administrative proceedings. The Commission makes only minor editorial changes in §§ 200.14(b) and 200.30–9.

The Commission is revising § 200.16a to reflect the establishment of the Office of the Inspector General (OIG) in March 1989 and the transfer of the Office of Internal Audit to it in accordance with the 1988 amendments to the Inspector General Act of 1978.[6] The Commission established the OIG as an independent and objective unit to conduct audits and investigations, to keep Congress and the Chairman informed about problems and deficiencies in the Commission's programs and operations, and to further the other purposes of the Inspector General Act. Under this Act, the Inspector General shall report to the Commission Chairman, who ''shall not prevent or prohibit the Inspector General from initiating, carrying out, or completing any audit or investigation, or from issuing any subpoena during the course of any audit or investigation.'' Under § 200.16a(e), any such subpoena shall be served by any method prescribed for service of subpoenas under § 201.232 of this chapter.

The Commission is revising § 200.17 to describe clearly the duties of the Chief Management Analyst. It is amending § 200.18(b) (3) and (5) to make technical clarifications.

The Commission is amending § 200.19a to reflect the current responsibilities of the Director of the Division of Market Regulation. As amended, the Director would have oversight of the entities and activities enumerated in the section, such as the national market system, government securities dealers, and the Securities Investor Protection Corporation. The Commission is also amending § 200.30–3, which delegates authority to the Director, to update citations to certain rules mentioned there.

The Commission is amending §§ 200.19b and 200.27 to reflect the reorganization of the Regional Offices under the general supervision of the Director of the Division of Enforcement. A further amendment to § 200.19b reflects the adoption of procedures for handling requests from regulatory and law enforcement agencies for access to nonpublic information in enforcement files.

The Commission is amending § 200.20b to clarify that the duties of the Director of the Division of Investment Management do not include enforcement activities under the jurisdiction of the Division of Enforcement and that the functions of the Director described in paragraphs (f) and (g) of the section relate to the Public Utility Holding Company Act. The Commission added paragraphs (f) and (g) in 1985 when it transferred the duties under this Act to the Division of Investment Management [7] from the Office of Public Utility Regulation, which then ceased to exist. At that time, however, introductory language to paragraphs (f) and (g) was inadvertently omitted.

The Commission is amending § 200.21a to clarify the responsibilities of the Ethics Counsel vis-a-vis those of the Inspector General. Specifically, the amendments reflect (1) Referral by the Ethics Counsel to the Inspector General of matters of alleged staff misconduct, and complaints appearing to involve violations of Federal criminal statutes, (2) the transfer of the Ethics Counsel's investigative responsibilities in those matters to the Inspector General, and (3) the transfer from the Ethics Counsel to the Inspector General of the responsibility to act as liaison with the Department of Justice with respect to such referred matters.

The Commission is revising § 200.24a to reflect reorganizations, which moved the management of the public reference facilities to the Office of Filings and Information Services and the administration of the Freedom of Information Act [8] and the Privacy Act of 1974 [9] to the Office of Freedom of Information and Privacy Act Operations. Both of these offices are now under the executive direction and administrative control of the Executive Director. The former Office of Consumer Affairs and Information Services has been renamed as the Office of Consumer Affairs and the Director of this office reports directly to the Chairman of the Commission.

The Commission is amending § 200.30–1 to reflect previous amendments and revisions in regulations overseen by the Division of Corporation Finance. These amendments are technical in nature, as the amendments primarily update and revise regulatory citations.

The Commission is amending paragraphs (a)(1), (a)(2), (e)(3), and (e)(4) of § 200.30–5 to simplify the review of applications in the Division of Investment Management. These provisions authorize the Director of the Division of Investment Management to approve applications under all sections of the Investment Company Act and the Investment Advisers Act of 1940,[10] except as specifically limited. The amendments give some discretion to the

[1] 15 U.S.C. 78a *et seq.*

[2] 15 U.S.C. 77aaa *et seq.*

[3] 15 U.S.C. 79a *et seq.*

[4] 15 U.S.C. 80a–1 *et seq.*

[5] 5 U.S.C. 551–559.

[6] 5 U.S.C. app.

[7] Investment Company Act Release No. 14341 (Jan. 30, 1985) [50 FR 5064] (Feb. 6, 1985)].

[8] 5 U.S.C. 552.

[9] 5 U.S.C. 552a.

[10] 15 U.S.C. 80b–1 *et seq.*

Director to present applications to the Commission. The Director generally may issue notices and orders if 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 warranting consideration by the Commission. The Commission proposed these § 200.30–5 amendments in March 1993, along with amendments to Rule 0–5 under the Investment Company Act,[11] but has not received any public comments on the former. These § 200.30–5 amendments do not authorize the Director to deny exemptive relief or to order a hearing under the Investment Company Act or the Investment Advisers Act.[12]

The Commission is revising paragraph (b) of § 200.30–5 to clarify that the Director of the Division of Investment Management has the authority referred to in that paragraph with respect to all of the types of entities listed. This amendment does not change the Director's authority, but is intended to clarify that the Director of the Division of Investment Management, rather than the Director of the Division of Corporation Finance, has the authority listed with respect to certain entities, such as business development companies, that are not registered investment companies.

The Commission is changing the cross-reference to the Internal Revenue Code in § 200.30–5(d) to the Internal Revenue Code of 1986.[13] It also is deleting paragraphs (g) and (h) of § 200.30–5 because the duties specified in those paragraphs fall within the jurisdiction of the Division of Enforcement. In new § 200.30–5(g)(1), it updates the cross-reference to § 200.30–6, which it amended in 1992.[14]

The Commission is also amending § 200.30–5(f)(1) to authorize the Director of the Division of Investment Management to issue notices of applications and declarations under Sections 32 and 33 of the Public Utility Holding Company Act. The Energy Policy Act of 1992 [15] has added these two sections. Also, the Commission is removing paragraph (f)(5) of § 200.30–5 because holding companies and their subsidiaries no longer submit the type of applications it describes and are not likely to submit any such applications in the future.

The Commission is amending § 200.30–6(a) to clarify that the delegated authority for the Regional Directors concerning Forms SB–1 and SB–2 is limited to filings made in their region. The Commission is amending § 200.20c and revising § 200.30–11 to reflect recent reorganizations and to clarify certain delegated authority to the Associate Executive Director of the Office of Filings and Information Services. The Commission is adopting new § 200.23, which describes the functions of the Office of Economic Analysis. It created this Office in 1988 when it merged the Office of the Chief Economist and the Directorate of Economic and Policy Analysis.

The Commission is removing § 200.30–12, which delegated authority to waive or reduce fees under the Freedom of Information Act and the Privacy Act of 1974 to the director of an office that no longer exists. The initial authority to waive or reduce such fees now lies with the Freedom of Information Act/Privacy Act Officer, whose decision is appealable to the General Counsel under § 200.30–14(c) and (d).

The Commission is revising § 200.30–15 to update the delegation of authority to the Executive Director in two ways. First, it removes the delegation of authority to publish quarterly compilations of reimbursements for Commission attendees of non-Federal conferences relating to the work of the Commission, since these reimbursements are now required to be reported semi-annually to the Office of Government Ethics. Second, it delegates the authority to the Executive Director, as the Chief Operating Officer of the Commission, to perform certain functions described in President Clinton's memorandum, dated October 1, 1993, on ''Implementing Management Reform in the Executive Branch.''

Other changes reflect the current titles of certain offices and office heads.

The Commission finds, in accordance with the Administrative Procedure Act (''APA''),[16] that these rule amendments relate solely to agency organization, procedures, or practice. Hence, the public notice and comment requirements of that Act are inapplicable. Similarly, the provisions of the Regulatory Flexibility Act,[17] which apply only when notice and comment are required by the APA or other law, are not applicable. The Commission further finds that, since these rule amendments relate solely to agency organization, procedures, or practice, the provisions of the APA, which require publication for not less than 30 days before the effective date of a substantive rule, are inapplicable. Accordingly, the amendments adopted today are effective March 20, 1995.

Effects on Competition

Section 23(a)(2) of the Securities Exchange Act[18] requires the Commission, in adopting rules under the Act, to consider their anti-competitive effects, if any. It also requires the Commission to balance any adverse impact against the regulatory benefits that will flow by advancing the purposes of the Act. The Commission has considered the amendments and additions to its rules announced in this release in light of the standards set forth in section 23(a)(2). It believes that their adoption would not impose any burden on competition unnecessary or inappropriate in furtherance of the Act.

List of Subjects

17 CFR Part 200

Administrative practice and procedure, Authority delegations (Government agencies), Freedom of information, Government employees, Organization and functions (Government agencies), Reporting and recordkeeping requirements.

17 CFR Part 270

Investment companies.

Text of Amendments

For the reasons set out in the preamble, Title 17, Chapter II of the Code of Federal Regulations is amended to read as follows:

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

1. The authority citation for Part 200, Subpart A, continues to read, in part, as follows:

Authority: 15 U.S.C. 77s, 78d–1, 78d–2, 78w, 78*ll*(d), 79t, 77sss, 80a–37, 80b–11, unless otherwise noted.

* * * * *

2. In § 200.1(a), the word ''trade'' is revised to read ''traded''.

3. Section 200.2 is amended by revising paragraphs (b), (c), (d), (e), and (g) to read as follows:

[11] Investment Company Act Release No. 19362 (Mar. 26, 1993) (58 FR 16799 (Mar. 31, 1993)).

[12] In reviewing applications, the Division occasionally determines that it will not recommend that the Commission order the relief requested by an applicant, and notifies the applicant accordingly. The applicant then may request that the Division submit the application to the Commission with the Division's recommendation that the application be set down for a hearing.

[13] 26 U.S.C. 1 *et seq.*

[14] Securities Act Release No. 6949 (July 30, 1992) (57 FR 36442 (Aug. 13, 1992)).

[15] Pub. L. No. 102–486, 106 Stat. 2776.

[16] 5 U.S.C. 553(b)(3)(A).

[17] 5 U.S.C. 601 *et seq.*

[18] 15 U.S.C. 78w(a)(2).

§ 200.2 Statutory functions.

* * * * *

(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. 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) *Public Utility Holding Company Act of 1935.* This Act authorizes the Commission to regulate gas and electric public-utility holding companies under standards prescribed for the protection of the public interest and the interest of investors and consumers. The Act generally limits a public-utility holding company to a single integrated public-utility system, and requires simple corporate and capital structures. If not exempt, a public-utility holding company must register with the Commission. Generally, a registered holding company must obtain Commission approval before it can issue and sell securities, acquire utility securities or assets or any other interest in any business, or enter into transactions with its affiliates. It must also comply with extensive reporting and record-keeping requirements. Although largely free of these requirements, an exempt holding company remains subject to the geographic limitations of the Act. The Act permits the acquisition of interests in ''exempt wholesale generators'' and ''foreign utility companies'' unrelated to a system's utility operations.

(d) *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 proscribing certain relationships that could conflict with proper exercise of duties.

(e) *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.

(f) * * *

(g) *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.''

4. In § 200.12, the word ''judges'' is revised to read ''judges and the Inspector General''.

5. Section 200.13 is revised to read as follows:

§ 200.13 Executive Director.

(a) The Executive Director is responsible for developing and executing the overall management policies of the Commission for all its operating divisions and staff offices. The Executive Director also provides executive direction to, and exercises administrative control over, the Office of Administrative and Personnel Management, the Office of the Comptroller, the Office of Filings and Information Services, the Office of Freedom of Information and Privacy Act Operations, and the Office of Information Technology. In addition, the Executive Director implements the following statutes, regulations, and Executive orders, as well as those that the Chairman may designate:

(1) Paperwork Reduction Act of 1980 (44 U.S.C. 3501 *et seq.*).

(2) Small and Disadvantaged Business Utilization Program (15 U.S.C. 631 *et seq.*).

(3) Government Printing and Binding Regulations, U.S. Congress Joint Committee on Printing (1977).

(4) Occupational Safety and Health Programs for Federal Employees under Executive Order 12196 of February 26, 1980 (29 CFR 1960.1–1960.90).

(5) Federal Managers' Financial Integrity Act of 1982 (31 U.S.C. 3512).

(6) National Security Information under Executive Order 12356 of April 6, 1982.

(7) Government Performance and Results Act of 1993 (31 U.S.C. 1101 *et seq.*).

(8) Recommendations of the Report of the National Performance Review (September 1993).

(b) The Executive Director 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 Executive Director also designates certifying officers for agency payments, prescribes procurement regulations, enters into contracts, designates contracting officers, and makes procurement determinations.

(d) As the Chief Operating Officer of the Commission, the Executive Director shall be responsible for:

(1) Implementing the goals of the President and 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 adopted as a result of the recommendations of the National Performance Review; and

(f) Reforming the Commission's management practices by incorporating the principles of the National Performance Review into day-to-day management.

6. In § 200.13b, the words ''Public Affairs'' are revised to read ''Public Affairs, Policy Evaluation, and Research'' in the section heading and in the text, and the words ''coordination and production of the Annual Report to Congress,'' are removed.

7. Section 200.14 is revised to read as follows:

§ 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:

(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 him or her 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.

8. Section 200.16a is revised to read as follows:

§ 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 Chairman informed about problems and deficiencies in the Commission's programs and operations.

(c) The Inspector General reports to the Chairman, 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 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.

9. Section 200.17 is revised to read as follows:

§ 200.17 Chief Management Analyst.

The Chief Management Analyst is responsible to the Executive Director for overseeing the performance of management analysis tasks which pertain, but are not limited, to:

(a) Agency work methods and procedures;

(b) Effective personnel and resource allocation and utilization;

(c) Organizational structures and delegations of authority;

(d) Management information systems and concepts; and

(e) The preparation of recurring special reports and analyses.

10. In § 200.18(b)(3), the words ''information material'' are revised to read ''information statements''.

11. In § 200.18(b)(5), the words ''Section 16(a) thereof (15 U.S.C. 78p(a))'' are revised to read ''Section 16 thereof (15 U.S.C. 78p)''.

12. The introductory text of § 200.19a is revised to read as follows:

§ 200.19a Director of the Division of Market Regulation.

The Director of the Division of Market Regulation 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. 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:

* * * * *

13. Section 200.19b is revised to read as follows:

§ 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 the information or the files containing it.

14. Section 200.20b is amended by revising the last sentence of the introductory text, revising paragraph (f), and removing paragraph (g) to read as follows:

§ 200.20b Director of Division of Investment Management.

* * * 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.

* * * * *

(f) The administration and execution of the Public Utility Holding Company Act of 1935 in connection with:

(1) The administration and processing of proxy solicitation material subject to §§ 240.14a–1—240.14a–14 of this chapter.

(2) The examination and processing of ownership reports filed under section 17(a) of the Act (15 U.S.C. 79q(a)).

15. In § 200.20c, the words ''Applications and Reports'' are revised to read ''Filings and Information'' in the section heading and in the text, the last sentence is removed, and two new sentences are added in its place to read as follows:

§ 200.20c Office of Filings and Information Services.

* * * The Office provides filer-support services relating to the Commission's EDGAR system and the receipt of fees and filings for all types of filers, regardless of filing media. The Office also manages the Commission's public reference facilities to facilitate public access to electronic filings and ensure that all information contained in public filings with the Commission is timely made available to investors.

16. Paragraph (a) of § 200.21 is amended by:

(a) Adding in the second sentence after the words ''District Courts,'' the words ''except for law enforcement actions filed on behalf of the Commission,'';

(b) Revising in the fourth sentence the words ''officer'' to read ''office'' and ''professional persons'' to read ''lawyers'';

(c) Removing at the end of the fifth sentence the words ''and is responsible for investigating any claims of staff improprieties'';

(d) Revising the sixth sentence to read ''He or she is responsible (with the Associate Executive Director of the Office of Administrative and Personnel Management) for administering the Commission's Ethics Program, and (with the Ethics Counsel) for interpreting subpart M of this part and 5 CFR part 2635.''; and

(e) Revising in the seventh sentence the words ''Personnel Management'' to read ''Administrative and Personnel Management, the Office of the Inspector General''.

17. Paragraph (b)(2) of § 200.21 is amended by adding after the words ''administrative proceedings'' the words ''against lawyers''.

18. Section 200.21a is revised to read as follows:

§ 200.21a The Ethics Counsel.

(a) The Ethics Counsel within the Office of the General Counsel of the Commission shall oversee compliance with subpart M of this part and 5 CFR part 2635. 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) Subject to the oversight of the General Counsel or his or her delegate, the Ethics Counsel shall:

(1) Receive and review allegations of misconduct by a Commission employee.

(2) Refer matters involving management questions to Division Directors, Office Heads, District Administrators, 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.

(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 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) Oversee investigations and refer findings of professional misconduct to state professional boards or societies.

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

19. Section 200.22 is revised to read as follows:

§ 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.

20. Section 200.23a is revised to read as follows:

§ 200.23 Office of Economic Analysis.

The Office of Economic Analysis is responsible for providing an objective economic perspective to understand and evaluate the economic dimension of the Commission's regulatory oversight. It performs economic analyses of proposed rule changes, current or proposed policies, and capital market developments and offers advice on the basis of these analyses. The Office also assists the Commission's enforcement effort by applying economic analysis and statistical tools to issues raised in enforcement cases. It reviews certifications and initial and final regulatory flexibility analyses prepared by the operating divisions under the Regulatory Flexibility Act.

21. Section 200.23b is removed and reserved.

22. In the text only of § 200.24, the word ''Comptroller'' is revised to read ''Associate Executive Director of the Office of the Comptroller'' each time it appears, the word ''his'' is revised to read ''his or her'' and the word ''serves'' is revised to read ''serve''.

23. Section 200.24a is revised to read as follows:

§ 200.24a Director of the Office of Consumer Affairs.

The Director of the Office of Consumer Affairs is responsible to the Chairman for the Commission's investor education and consumer protection program. The program includes, but is not limited to:

(a) Presenting seminars and instructional programs to educate investors about the securities markets and their rights as investors; preparing and distributing to the public materials describing the operations of the securities markets, prudent investor behavior, and the rights of investors in disputes they may have with individuals and entities regulated by the Commission; and increasing public knowledge of the functions of the Commission.

(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 assuring that regulated individual and entities process and respond to such complaints.

(c) Providing information to investors 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 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 consumer input in Commission rulemaking proceedings.

24. Section 200.25 is revised to read as follows:

§ 200.25 Office of Administrative and Personnel Management.

(a) The Office of Administrative and Personnel Management (OAPM) is responsible for providing a wide variety of programs for human resources, office services, and other administrative and management services for the Commission. The Associate Executive Director of the Office of Administrative and Personnel Management is responsible to the Executive Director and the Chairman of the Commission for developing and executing these programs.

(b) OAPM develops, implements, and evaluates the Commission's programs for human resources and personnel management, such as position management and pay administration; recruitment, placement, and staffing; performance management and employee recognition; employee training and career development; employee and labor relations; personnel management evaluation; employee benefits and counseling; and the processing and maintenance of employee records. OAPM administers the Ethics Program, and helps the Office of the Executive Director manage the Senior Executive Service Program. It reviews requests, recommendations, and justifications for certain awards, recruitment and relocation bonuses, retention allowances, special salary rates, and other personnel compensation or benefit determinations for sufficiency and compliance with law, regulations, and Commission policy. OAPM develops and executes programs for office services, such as telecommunications; procurement and contracting; property management; contract and lease administration; space acquisition and management; management of official vehicles; safety programs; emergency preparedness plans; physical security; mail receipt and distribution; and publications, printing, and desktop publishing.

(c) With respect to human resources management, the Associate Executive Director of the Office of Administrative and Personnel Management is the Commission's liaison with the Office of Personnel Management, other agencies, professional organizations, educational institutions, and private industry. He or she is also the Printing Liaison with the Joint Committee on Printing, and the Contract Officer.

25. Section 200.26 is removed and reserved.

26. In § 200.26a, the words ''Systems Management'' are revised to read ''Technology'' in the section heading and in the text.

27. In § 200.27, the phrase ''subject to policy direction and review by the Division Directors'' is revised to read ''subject to review by the Director of the Division of Enforcement and policy direction and review by the other Division Directors''.

28. Section 200.30–1 is amended by revising paragraphs (e)(2), (e)(6), (f)(4), (f)(8), (f)(12), and (g)(2) to read as follows:

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

* * * * *

(e) * * *

(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.

* * * * *

(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.

* * * * *

(f) * * *

(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, 240.14a–8(d), and 240.14a–11 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.

* * * * *

(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.

* * * * *

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

* * * * *

(g) * * *

(2) The Director of the Division of Corporation Finance shall have the same authority as that delegated to each Regional Director in § 200.30–6(a) and (c).

29. Section 200.30–3 is amended by revising paragraphs (a)(21), (a)(22), and (a)(32), adding an introductory text to paragraph (a)(35), and revising paragraph (a)(35)(i), the introductory text to paragraph (a)(39), and paragraphs (a)(39)(ii) and (a)(42) to read as follows:

§ 200.30–3 Delegation of authority to Director of Division of Market Regulation.

(a) * * *

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

* * * * *

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

* * * * *

(35) Under § 240.13e–4(h)(8) of this chapter:

(i) To grant exemptions from § 240.13e–4 of this chapter; and

* * * * *

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

(i) * * *

(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.

* * * * *

(42) Under § 240.11Aa3–2(f) of this chapter, to grant or deny exemptions from § 240.11Aa3–2 of this chapter.

* * * * *

30. Section 200.30–4(a)(2) is revised to read as follows:

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

* * * * *

(a) * * *

(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.

* * * * *

31. Section 200.30–5 is amended by revising paragraphs (a)(1), (a)(2), (b), (d), (e)(3), and (e)(4), adding paragraphs (f)(1)(xxiv) and (f)(1)(xxv), removing paragraphs (g) and (h), redesignating present paragraphs (i), (j), (k), (l), (m), and (n) as paragraphs (g), (h), (i), (j), (k), and (l), respectively, and revising newly designated paragraph (g)(1) to read as follows:

§ 200.30–5 Delegation of Authority to Director of Division of Investment Management.

* * * * *

(a) * * *

(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.

(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.

* * * * *

(d) 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.

(e) * * *

(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.

* * * * *

(f) * * *

(1) * * *

(xxiv) Section 32, 15 U.S.C. 79ff.

(xxv) Section 33, 15 U.S.C. 79gg.

(g) * * *

(1) The Director of the Division of Investment Management shall have the same authority with respect to the Securities Act of 1933 (15 U.S.C. 77a, *et seq.*), §§ 230.251–230.263, and §§ 230.651–230.703(T) of this chapter as that delegated to each Regional Director in § 200.30–6 (b) and (c).

32. Section 200.30–6 is amended by revising the introductory text of paragraph (a) to read as follows:

§ 200.30–6 Delegation of authority to Regional Directors.

* * * * *

(a) With respect to the registration of securities on Forms SB–1 and SB–2 (§§ 239.9 and 239.10 of this chapter) filed in the regional office under the Securities Act of 1933 (15 U.S.C. 77a *et*

seq.) and §§ 230.400 *et seq.* of this chapter:

* * * * *

33. Section 200.30–7(a)(4) is revised to read as follows:

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

* * * * *

(a) * * *

(4) To grant or deny extensions of time within which to file papers with the Commission under § 201.13 of this chapter.

34. Section 200.30–9 is revised to read as follows:

§ 200.30–9 Delegation of authority to Administrative Law Judges.

Under Pub. L. 87–592, 76 Stat. 394 (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 to make the 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 an initial decision is waived by all parties that 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 an initial decision.

35. Section 200.30–11 is amended by revising the section heading, the introductory text, and paragraphs (a), (b), and (d) to read as follows:

§ 200.30–11 Delegation of authority to Associate Executive Director of the Office of Filings and Information Services.

Under Pub. L. 87–592, 76 Stat. 394 (15 U.S.C. 78d–1, 78d–2), the Securities and Exchange Commission hereby delegates the following functions to the Associate Executive Director of the Office of Filings and Information Services to be performed by him or her or under his or her direction by such person or persons as the Chairman of the Commission may designate from time to time:

(a) 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 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.

(b) 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) Under section 203(h) of the Act (15 U.S.C. 80b–3(h)):

(i) To authorize the issuance of orders canceling registrations of investment advisers, or pending 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

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

(c) * * *

(d) Notwithstanding anything in the foregoing, in any case in which the Associate Executive Director of the

Office of Filings and Information Services believes it appropriate, he or she may submit the matter to the Commission.

* * * * *

36. Section 200.30–12 is removed and reserved.

37. In § 200.30–13, the word ''Comptroller'' in the heading and the words ''Comptroller of the Commission'' in the text are revised to read ''Associate Executive Director of the Office of the Comptroller''.

38. In § 200.30–14, remove the semicolon at the end of paragraph (a) and ''; and'' at the end of paragraph (b) and add in both their places a period.

39. Section 200.30–15 is revised to read as follows:

§ 200.30–15 Delegation of authority to Executive Director.

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 Executive Director to be performed by him or her or under his or her 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.

PART 270—RULES AND REGULATIONS, INVESTMENT COMPANY ACT OF 1940

40. The authority citation for part 270 continues to read in part as follows:

Authority: 15 U.S.C. 80a–1 *et seq.*, 80a–37, 80a–39, unless otherwise noted;

* * * * *

41. In the last sentence of § 270.8b–25(b), the words ''(j) and (k)'' are revised to read ''(h) and (i)''.

By the Commission.

Dated: March 14, 1995.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 95–6696 Filed 3–17–95; 8:45 am]

BILLING CODE 8010–01–P

DEPARTMENT OF THE TREASURY

Customs Service

19 CFR Part 10

[T.D. 95–22]

RIN 1515–AB65

Temporary Importation Bonds; Anticipatory Breach, Assessment Amounts, Petitions for Relief

AGENCY: Customs Service, Department of the Treasury.

ACTION: Final rule.

SUMMARY: This document amends the Customs Regulations to permit anticipatory breach and provide for early payment of liquidated damages in Temporary Importation Bond (TIB) cases. It also amends the regulations to permit assessment of liquidated damages in excess of double the duties in those cases where the district director requires extra bonding in order to protect the revenue and to state that the term ''duties'' for TIB assessment shall also include any applicable merchandise processing fees that otherwise would be charged on an entry for consumption. Finally, the document amends the regulations to eliminate forwarding of petitions for relief in TIB cases to Customs Headquarters when the bond principal or surety is dissatisfied with the decision on the petition afforded by the district director.

EFFECTIVE DATE: April 19, 1995.

FOR FURTHER INFORMATION CONTACT: Jeremy Baskin, Penalties Branch, Office of Regulations and Rulings, 202–482–6950.

SUPPLEMENTARY INFORMATION:

Background

Under the provisions of Chapter 98, Subchapter XIII, Harmonized Tariff Schedule of the United States (HTSUS), merchandise may be entered under the terms of a Temporary Importation Bond (TIB) without the payment of duties if the merchandise is entered for a specific purpose enumerated in Subchapter XIII, HTSUS. Per U.S. Note 1 to Subchapter XIII, the merchandise is permitted to remain in the United States for a one-year period subsequent to the date of importation (with a maximum of two one-year extensions allowed). Prior to the expiration of the bond period or any properly approved extension thereof, the merchandise must be exported or destroyed under Customs supervision. Failure to export or destroy in a timely manner results in the imposition of liquidated damages against the importer.

Instances arise where, after initiation of a TIB entry, the importer decides that the merchandise will remain in the United States in violation of the terms of the bond. Rather than wait for the one-year period to end and for liquidated damages to be assessed, importers inquired as to the possibility of early payment of liquidated damages. The Customs Regulations currently do not provide for an anticipatory breach of a TIB.

In a Notice of Proposed Rulemaking (NPRM) published in the **Federal Register** of September 29, 1992 (57 FR 44714), it was proposed to amend the regulations to permit anticipatory breach of a TIB and allow the importer to pay the full measure of liquidated damages and thereby close the bond. Through payment of the liquidated damages, the importer would waive his right to receipt of notice of a claim for liquidated damages pursuant to § 172.1(a), Customs Regulations (19 CFR 172.1(a)).

For TIB entries, the provisions of § 10.31(f) of the Customs Regulations (19 CFR 10.31(f)) require that a bond shall be given containing the conditions set forth in § 113.62 of the Customs Regulations (19 CFR 113.62) in an amount equal to double the duties which it is estimated would have accrued (or such larger amount as the district director shall state in writing to the entrant is necessary to protect the revenue) had all the articles covered by the entry been entered under an ordinary consumption entry. By contrast, under the provisions of § 10.39(d), if any article entered under Chapter 98, Subchapter XIII, HTSUS, has not been exported or destroyed in accordance with the regulations within the period of time during which the articles may remain in the Customs territory of the United States under bond (including any lawful extension), the district director shall make a demand in writing under the bond for the payment of liquidated damages equal to double the estimated duties applicable to such entry, unless a lower amount is prescribed by § 10.31(f).

On the one hand, § 10.31(f) empowers the district director to require a bond in excess of double the duties, but the provisions of § 10.39(d) only permit him to assess liquidated damages at double the estimated duties or such *lower* amount (emphasis added) as prescribed by § 10.31(f). These regulations can provide anomalous results and inefficient protection of the revenue. Accordingly, the NPRM proposed an amendment to the regulations to permit, in the case of breach of a TIB, assessment of liquidated damages in an