

comments on that analysis. No one filed such comments, and we will adopt that analysis as our final regulatory flexibility statement for this proceeding.

Our rule contains no direct reporting, record-keeping, or other compliance requirements that would affect small entities. There are no other federal rules that duplicate, overlap, or conflict with our proposed rules.

I certify under section 605(b) of the Regulatory Flexibility Act (5 U.S.C. *et seq.*) that this regulation will not have a significant economic impact on a substantial number of small entities.

#### *Paperwork Reduction Act*

This rule contains no collection-of-information requirements subject to the Paperwork Reduction Act, Public Law. 96-511, 44 U.S.C. chapter 35.

#### *Federalism Assessment*

We stated that we had reviewed our proposed rule in accordance with the principles and criteria contained in Executive Order 13132, dated August 4, 1999, and determined that it would not have a substantial direct effect on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. This rule will not limit the policymaking discretion of the States. Nothing in this rule will directly preempt any State law or regulation. We are adopting this amendment primarily under the authority granted us by 49 U.S.C. 41712 to prevent unfair methods of competition and unfair and deceptive practices in the sale of air transportation. Our notice of proposed rulemaking stated our belief that the policy set forth in this rule is consistent with the principles, criteria, and requirements of the Federalism Executive Order and the Department's governing statute.

We invited comments on these conclusions. 68 FR 7327. No one commented on our federalism assessment. We will therefore make it final. Because the rule will have no significant effect on State or local governments, as discussed above, no consultations with State and local governments on this rule were necessary.

#### **List of Subjects in 14 CFR Part 255**

Air carriers, Antitrust, Consumer protection, Reporting and recordkeeping requirements, Travel agents.

■ Accordingly, the Department of Transportation amends 14 CFR part 255 as follows:

#### **PART 255—(AMENDED)**

■ 1. The authority citation for part 255 continues to read as follows:

**Authority:** 49 U.S.C. 40101, 40102, 40105, 40113, 41712.

■ 2. Section 255.12 is revised to read as follows:

#### **§ 255.12. Termination.**

The rules in this part terminate on January 31, 2004.

Issued in Washington, DC, on March 25, 2003.

**Norman Y. Mineta,**

*Secretary of Transportation.*

[FR Doc. 03-7636 Filed 3-28-03; 8:45 am]

**BILLING CODE 4910-62-P**

#### **SECURITIES AND EXCHANGE COMMISSION**

#### **17 CFR Parts 228 and 229**

[Release Nos. 33-8177A; 34-47235A; File No. S7-40-02]

**RIN 3235-AI66**

#### **Disclosure Required by Sections 406 and 407 of the Sarbanes-Oxley Act of 2002; Correction**

**AGENCY:** Securities and Exchange Commission.

**ACTION:** Corrections to final regulations.

**SUMMARY:** We are making technical corrections to rules adopted in Release No. 33-8177 (January 23, 2003), which were published in the **Federal Register** on January 31, 2003 (68 FR 5110). The rules implement sections 406 and 407 of the Sarbanes-Oxley Act of 2002 by requiring disclosures regarding audit committee financial experts and codes of ethics. This document amends an instruction to the rule to clarify that disclosures regarding audit committee financial experts are required only in annual reports.

**EFFECTIVE DATE:** March 31, 2003.

**FOR FURTHER INFORMATION CONTACT:** Ray Be, Special Counsel, Office of Rulemaking, Division of Corporation Finance, at (202) 942-2910, U.S. Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549-0312.

#### **SUPPLEMENTARY INFORMATION:**

##### **I. Background**

On January 23, 2003, the Commission adopted,<sup>1</sup> among other things, amendments to item 401 of Regulations

S-K and S-B.<sup>2</sup> These rules require disclosure of whether a company has an audit committee financial expert, as defined in the rule, serving on its audit committee.

Subsequent to the adoption of the amendments, questions arose regarding whether the disclosures required by the new disclosure item must be provided in registration statements under the Securities Act of 1933<sup>3</sup> and the Securities Exchange Act of 1934.<sup>4</sup> Although the discussion of these provisions in the adopting release makes clear that such disclosure is required only in a company's annual report, the new disclosure item did not clearly state that such disclosure is required only in annual reports.

Accordingly, the amendments set forth in this document clarify that the rules require disclosure of whether a company has an audit committee financial expert serving on its audit committee only in an annual report. Although this disclosure is not required in any document other than the annual report, a company may, at its discretion, include the audit committee financial expert disclosure in its proxy or information statement and incorporate that disclosure into its annual report if it complies with applicable rules for incorporation by reference. The changes are technical corrections to clarify the rules as described in the original adopting release, and do not alter the forms in which the disclosure is required as described in the original adopting release.

##### **II. Need for Correction**

As published, the final regulations contain errors which are in need of clarification.

##### **III. Correction of Publication**

Accordingly, the publication on January 31, 2003, of the final rules (Release No. 33-8177) relating to the disclosure of whether a company has an audit committee financial expert serving on its audit committee and whether a company has adopted a code of ethics for its principal executive officer, principal financial officer, principal accounting officer and controller, which were the subject of FR Doc. 03-2018, is corrected as follows:

#### **§ 228.401 [Corrected]**

On page 5126, in the first column, paragraph 1 to Instructions to Item

<sup>2</sup> 17 CFR 229.401; 17 CFR 228.401.

<sup>3</sup> 15 U.S.C. 77a *et seq.*

<sup>4</sup> 15 U.S.C. 78a *et seq.*

<sup>1</sup> See Release No. 33-8177 (Jan. 23, 2003) (68 FR 5110).

401(e) of § 228.401 is corrected to read as follows:

\* \* \* \* \*

*Instructions to Item 401(e)*

1. The disclosure under Item 401(e) is required only in a small business issuer's annual report. The small business issuer need not provide the disclosure required by this Item 401(e) in a proxy or information statement unless that small business issuer is electing to incorporate this information by reference from the proxy or information statement into its annual report pursuant to general instruction E(3) to Form 10-KSB.

\* \* \* \* \*

**§ 229.401 [Corrected]**

On page 5127, in the third column, paragraph 1 to Instructions to Item 401(h) of § 229.401 is corrected to read as follows:

\* \* \* \* \*

*Instructions to Item 401(h)*

1. The disclosure under Item 401(h) is required only in a registrant's annual report. The registrant need not provide the disclosure required by this Item 401(h) in a proxy or information statement unless that registrant is electing to incorporate this information by reference from the proxy or information statement into its annual report pursuant to general instruction G(3) to Form 10-K.

\* \* \* \* \*

Dated: March 26, 2003.

**Jill M. Peterson,**

*Assistant Secretary.*

[FR Doc. 03-7680 Filed 3-28-03; 8:45 am]

BILLING CODE 8010-01-P

**SECURITIES AND EXCHANGE COMMISSION**

**17 CFR Part 240**

[Release No. 34-44992A; File No. S7-26-98]

RIN 3235-AH04

**Books and Records Requirements for Brokers and Dealers Under the Securities Exchange Act of 1934**

**AGENCY:** Securities and Exchange Commission.

**ACTION:** Final rule; correction.

**SUMMARY:** This document contains corrections to the amendments to the books and records requirements for brokers and dealers under the Securities Exchange Act of 1934 that were published on November 2, 2001. The

corrections contained herein redesignate two paragraphs that were incorrectly numbered and amend references to those two paragraphs to reflect that change.

**EFFECTIVE DATE:** May 2, 2003.

**FOR FURTHER INFORMATION CONTACT:** Bonnie L. Gauch, Attorney, at (202) 942-0765, in the Division of Market Regulation, Securities and Exchange Commission, 450 5th Street, NW., Washington, DC 20549-1001.

**SUPPLEMENTARY INFORMATION:**

**I. Background**

Rules 17a-3 and 17a-4<sup>1</sup> under the Securities Exchange Act of 1934<sup>2</sup> (the "Exchange Act") (hereinafter the "Books and Records rules"), specify minimum requirements with respect to the records that broker-dealers must make, and how long those records and other documents relating to a broker-dealer's business must be kept. The Securities and Exchange Commission (the "Commission") amended the Books and Records rules on October 26, 2001.<sup>3</sup>

**II. Need for Correction**

As published, the amendments to the Books and Records rules contain a rule designation which was designated by another final rule. In the final rules regarding the applicability of CFTC and SEC customer protection, recordkeeping, reporting, and bankruptcy rules and the Securities Investor Protection Act of 1970 to Accounts Holding Security Futures Products, published on Friday, September 13, 2002, new paragraph (f) to rule 17a-3 was adopted and became effective immediately upon publication. The amendments to the Books and Records rules erroneously also designated a new paragraph (f) of rule 17a-3.<sup>4</sup> This correction redesignates the paragraph 17a-3(f) contained in the amendments to the Books and Records rules as paragraphs 17a-3(g) and makes other necessary changes throughout the release text and final rules to facilitate this change.

**III. Correction of Publication**

Accordingly, the final rule FR Doc. 01-27439 published on November 2, 2001 (66 FR 55818), is corrected as follows:

1. On page 55838, column 1, amendatory instruction 3.e., second line, revise the reference "(f) and (g)" to read "(g) and (h)";

2. On page 55838, column 2, paragraph (12)(i), fourth line, revise the reference "paragraph (g)(4)" to read "paragraph (h)(4)";

3. On page 55839, column 3, paragraphs (f) and (g) are redesignated as paragraphs (g) and (h).

4. On page 55841, column 1, paragraph (k), third line, revise the reference "§ 240.17a-3(f)" to read "§ 240.17a-3(g)";

5. On page 55841, column 1, paragraph (l)(1), second line, revise the reference "§ 240.17a-3(g)(1)" to read "§ 240.17a-3(h)(1)";

6. On page 55841, column 1, paragraph (l)(2), second line, revise the reference "§ 240.17a-3(g)(2)" to read "§ 240.17a-3(h)(2)";

7. On page 55841, column 1, paragraph (l)(3), third line, revise the reference "§ 240.17a-3(g)(3)" to read "§ 240.17a-3(h)(3)"; and

8. On page 55841, column 2, paragraph (l)(4), beginning on line two, revise the reference "§ 240-17a-3(g)(4)" to read "§ 240.17a-3(h)(4)".

Dated: March 26, 2003.

**Jill M. Peterson,**

*Assistant Secretary.*

[FR Doc. 03-7614 Filed 3-28-03; 8:45 am]

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**SECURITIES AND EXCHANGE COMMISSION**

**17 CFR Part 249**

[Release No. 33-8183A; 34-47265A; 35-27642A; IC-25915A; IA-2103A, FR-68, File No. S7-49-02]

RIN 3235-AI73

**Strengthening the Commission's Requirements Regarding Auditor Independence**

**AGENCY:** Securities and Exchange Commission.

**ACTION:** Corrections to final regulations.

**SUMMARY:** We are making technical corrections to rules adopted in Release No. 33-8183 (January 28, 2003), which were published in the **Federal Register** on February 5, 2003 (68 FR 6005). The rules relate to requirements regarding auditor independence and enhanced disclosure of fees paid to auditors. This document corrects the numbering scheme for items within Forms 10-K and 10-KSB.

**EFFECTIVE DATE:** March 31, 2003.

**FOR FURTHER INFORMATION CONTACT:** Ray Be, Special Counsel, Office of Rulemaking, Division of Corporation Finance, at (202) 942-2910, U.S. Securities and Exchange Commission,

<sup>1</sup> 17 CFR 240.17a-3 and 240.17a-4.

<sup>2</sup> 17 U.S.C. 78, *et al.*

<sup>3</sup> Securities Exchange Act Release No. 44992, 66 FR 55818 (Nov. 2, 2001) (the "Adopting Release").

<sup>4</sup> 67 FR 58284 (Sept. 13, 2002).