

SECURITIES AND EXCHANGE COMMISSION

17 CFR PART 200

[RELEASE NO. 34-66502]

Rules of Organization; Conduct and Ethics; and Information and Requests

AGENCY: Securities and Exchange Commission.

ACTION: Final rule; technical amendment.

SUMMARY: The Securities and Exchange Commission (“SEC” or “Commission”) is making technical amendments to the rule under which former members and employees of the Commission are required to file with the Commission a statement concerning their practice outside the government. The amendments change the office responsible for processing these statements and provide a means of filing a statement electronically.

DATES: Effective: March 7, 2012

FOR FURTHER INFORMATION CONTACT: Shira Pavis Minton, Ethics Counsel, 202-551-7938, Office of the Ethics Counsel, Securities and Exchange Commission, 100 F Street, NE, Washington, DC 20549-9150.

SUPPLEMENTARY INFORMATION:

I. Background

SEC Conduct Rule 8(b)¹ requires that 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

¹ 17 CFR 200.735-8(b)(1).

the Commission or its employees is first contemplated, file with the Secretary of the Commission 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.

In order to increase efficiency, the Commission is adopting a technical amendment to require that SEC conduct rule 8(b) submissions be sent to the Office of the Ethics Counsel rather than the Secretary of the Commission and provide a means of filing a statement electronically².

II. Administrative Law Matters

Under the Administrative Procedure Act, notice of proposed rulemaking is not required when an agency, for good cause, finds that notice and public comment are impracticable, unnecessary, or contrary to the public interest. The amendments are technical changes, adopted solely to update references to a statutory provision that remains unchanged except for its designation. For this reason, the Commission finds that it is unnecessary to publish notice of these amendments. Similarly, the amendments do not require analysis under the Regulatory Flexibility Act or analysis of major rule status under the Small Business Regulatory Fairness Act. For purposes of Regulatory Flexibility Act analysis, the term "rule" means any rule for which the agency publishes a general notice of proposed rulemaking, and for purposes of Congressional review of agency rulemaking, the term "rule" does not include any rule of agency organization, procedure or practice that does not substantially affect the rights or obligations of non-agency parties.³ Because these rules relate solely to the agency's organization,

² 17 CFR 200.735-8(b)(1).

³ 5 U.S.C. 601(2) and 5 U.S.C. 804(3)(C).

procedure, or practice and do not substantially affect the rights or obligations of non-agency parties, they are not subject to the Small Business Regulatory Enforcement Fairness Act.⁴ Finally, these amendments do not contain any new collection of information requirements as defined by the Paperwork Reduction Act of 1995, as amended.⁵

III. Cost-Benefit Analysis

The Commission is sensitive to the costs and benefits imposed by its rules. The amendments adopted today are technical in nature and will produce the benefit of facilitating the efficient operation of the Commission. The Commission also believes that these rules will not impose any costs on non-agency parties, or that if there are any such costs, they are negligible.

IV. Consideration of Burden on Competition

Section 23(a)(2)⁶ of the Exchange Act requires the Commission, in adopting rules under the Exchange Act, to consider the competitive effects of such rules. Because this amendment merely makes technical changes to an existing requirement, no competitive advantages or disadvantages would be created.

V. Statutory Authority and Text of Amendments

We are adopting these technical amendments under the authority set forth in Section 23(a)⁷ of the Exchange Act.

⁴ 5 U.S.C. 804.

⁵ 44 U.S.C. 3501 - 3520.

⁶ 17 CFR 240.23(a)(2).

⁷ 17 CFR 240.23(a).

List of Subjects 17 CFR Part 200

Administrative practice and procedure, Organization and functions (Government agencies),
Reporting and recordkeeping requirements.

Text of Amendments

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

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

Subpart M—Regulation Concerning Conduct of Members and Employees and Former Members and Employees of the Commission

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

Authority: 15 U.S.C. 77s, 77sss, 78w, 80a–37, 80b–11; E.O. 11222, 3 CFR, 1964–1965 Comp., p. 36; 5 CFR 735.104; 5 CFR 2634; and 5 CFR 2635, unless otherwise noted.

2. Section 200.735-8 is amended as follows:

- a. In paragraph (b)(1) introductory text by removing the phrase “Secretary of the Commission” and adding in its place “Office of the Ethics Counsel”;

- b. Paragraph (b)(2) is redesignated as paragraph (b)(3) and new paragraph (b)(2) is added to read as follows:

§ 200.735-8 Practice by former members and employees of the Commission.

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(b)* * *

- (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.

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Elizabeth M. Murphy
Secretary

Date: March 1, 2012