

## **SECURITIES AND EXCHANGE COMMISSION**

### **17 CFR Parts 200, 201 and 204**

**[Release No. 34-65385]**

### **Consolidation of the Office of the Executive Director with the Office of the Chief Operating Officer**

**AGENCY:** Securities and Exchange Commission.

**ACTION:** Final rule.

**SUMMARY:** The Securities and Exchange Commission (“Commission”) is amending its rules to reflect the consolidation of the Office of the Executive Director with the Office of the Chief Operating Officer, including amendments to replace references to the Executive Director with references to the Chief Operating Officer.

**EFFECTIVE DATE:** September 29, 2011

**FOR FURTHER INFORMATION CONTACT:** Jeffery Heslop, Chief Operating Officer, at (202) 551-2105, Securities and Exchange Commission, 100 F Street, NE, Washington, DC 20549.

### **SUPPLEMENTARY INFORMATION**

#### **I. Discussion**

Until recently, the support functions of the Commission were allocated primarily to the Office of the Executive Director (“OED”). In 2010, however, the Commission established the Office of the Chief Operating Officer (“OCOO”) and allocated some support and administrative functions to OCOO. Then, on April 19, 2011, the Commission approved the consolidation of the OED with the OCOO in an effort to

streamline the organizational structure of the agency and add clarity and efficiency to the functions of the Chief Operating Officer.

These amendments harmonize the Commission's rules with the consolidation already approved by replacing references to the Executive Director with references to the Chief Operating Officer. These include references to the Executive Director in rules describing the responsibilities of the Executive Director and officers serving under the Executive Director; rules delegating authority to the Executive Director and officers serving under the Executive Director; and rules relating to the classification and declassification of national security information and material. As a result of these amendments, these rules now will apply to the Chief Operating Officer and officers serving under the Chief Operating Officer, as applicable.

The amendments also make conforming changes to Commission rules relating to the offices that report to the OCOO. They amend provisions relating to the Office of the Comptroller to reflect that this office is now known as the Office of Financial Management and headed by the Chief Financial Officer. They amend provisions relating to the Office of Administrative and Personnel Management to reflect that the functions of this office are now performed by the Office of Human Resources and the Office of Administrative Services. They amend provisions relating to the former Office of Freedom of Information and Privacy Act Operations to reflect that this Office is now known as the Office of FOIA, Records Management, and Security. And, they remove a reference to the Office of Filings and Information Services, to reflect that this Office no longer exists.

Finally, the amendments would remove from the description of the functions of the COO (previously the description of the functions of the Executive Director) the functions of prescribing procurement regulations, entering into contracts, designating contracting officers, and making procurement determinations. We believe it is appropriate to retain for the Chairman the flexibility to designate the person or persons who shall perform these functions, rather than to specify by rule that these functions are allocated to the COO.

## **II. Related Matters**

### **A. Administrative Procedure Act and Other Administrative Laws**

The Commission has determined that these amendments to its rules relate solely to the agency's organization, procedure, or practice. Accordingly, the provisions of the Administrative Procedure Act regarding notice of proposed rulemaking and opportunity for public participation are not applicable.<sup>1</sup> The Regulatory Flexibility Act, therefore, does not apply.<sup>2</sup> Because these rules relate solely to the agency's organization, 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.<sup>3</sup> Finally, these amendments do not contain any collection of information requirements as defined by the Paperwork Reduction Act of 1995, as amended.<sup>4</sup>

### **B. Cost-Benefit Analysis**

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<sup>1</sup> 5 U.S.C. 553(b).

<sup>2</sup> 5 U.S.C. 601 - 612.

<sup>3</sup> 5 U.S.C. 804.

<sup>4</sup> 44 U.S.C. 3501 - 3520.

The Commission is sensitive to the costs and benefits imposed by its rules. The amendments adopted today are procedural 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.

**C. Consideration of Burden on Competition**

Section 23(a)(2) of the Exchange Act requires the Commission, in making rules pursuant to any provision of the Exchange Act, to consider among other matters the impact any such rule would have on competition. The Commission does not believe that the amendments that the Commission is adopting today will have any impact on competition because they impose no new burden upon market participants and are intended to facilitate the efficient operation of the Commission.

**STATUTORY AUTHORITY**

The amendments to the Commission's rules are adopted pursuant to 15 U.S.C. 77o, 77s, 77sss, 77d, 78d-1, 78d-2, 78w, 78ll(d), 78mm, 80a-37, 80b-11, and 7202.

**List of Subjects in 17 CFR Part 200**

Administrative practice and procedure, Authority delegations (Government agencies), Organization and functions (Government agencies).

**List of Subjects in 17 CFR Part 201**

Administrative practice and procedure, Brokers, Claims, Confidential business information, Equal access to justice, lawyers, Penalties, Securities.

**List of Subjects in 17 CFR Part 204**

Claims, Government employees, Income taxes, Reporting and recordkeeping

requirements, Wages.

## **TEXT OF AMENDMENTS**

In accordance with the preamble, the Commission hereby amends Title 17, Chapter II of the Code of Federal Regulations as follows:

### **PART 200 – ORGANIZATION; CONDUCT AND ETHICS; AND INFORMATION AND REQUESTS**

#### **SUBPART A – ORGANIZATION AND PROGRAM MANAGEMENT**

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

**Authority:** 15 U.S.C. 77o, 77s, 77sss, 77d, 78d-1, 78d-2, 78w, 78ll(d), 78mm, 80a-37, 80b-11, and 7202, unless otherwise noted.

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2. The authority citation for Part 200, Subpart J, is revised to read as follows:

**Authority:** 15 U.S.C. 77s; 11 U.S.C. 901, 1109(a); E.O. 12356, 47 FR 14874, Apr. 6, 1982; Information Security Oversight Office Directive No. 1 (47 FR 27836, June 25, 1982).

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3. In 17 CFR Part 200, remove the words "Executive Director" and add, in their place, the words "Chief Operating Officer" in the following places:

- a. Section 200.13, heading and paragraphs (a) introductory text, (b), and (c);
- b. Section 200.17, introductory text;
- c. Section 200.21(a);
- d. Section 200.30-3(a)(80);
- e. Section 200.30-15, heading and text;

- f. Section 200.503, introductory text and paragraph (a);
  - g. Section 200.504, introductory text;
  - h. Section 200.505(c);
  - i. Section 200.508(a);
  - j. Section 200.510(a); and
  - k. Section 200.511(a).
4. In Section 200.13:
- a. In paragraph (a), remove the phrase “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 add, in its place, the phrase “the Office of Human Resources, the Office of Administrative Services, the Office of Financial Management, the Office of FOIA, Records Management, and Security”;
  - b. In paragraph (c), remove the phrase “, prescribes procurement regulations, enters into contracts, designates contracting officers, and makes procurement determinations” and add a period after the word “payments”.
  - c. In paragraph (d), remove the phrase “As the Chief Operating Officer of the Commission, the Executive Director” and add, in its place, the phrase “The Chief Operating Officer”;
5. Remove Section 200.20c.
6. In Section 200.21(a), remove the words “Office of Administrative and Personnel Management” and add, in their place, the words “Office of Human Resources”.
7. In Section 200.24:

a. remove the words “Office of the Comptroller” in the heading and add, in their place, the words “Office of Financial Management”;

b. remove the words “Associate Executive Director of the Office of the Comptroller” and add, in their place, the words “Chief Financial Officer”; and

c. remove the words “Executive Director” and add, in their place, the words “Chief Operating Officer”;

8. Remove and reserve Section 200.25.

9. In Section 200.30-13 remove the words “Associate Executive Director of the Office of Financial Management” in the heading and introductory text and add, in their place, the words “Chief Financial Officer”; and

10. In Section 200.503, remove the authority citation following Section 503(b).

#### **PART 201 – RULES OF PRACTICE**

11. The authority citation for Part 201 is revised to read as follows:

**Authority:** 15 U.S.C. 77s, 77sss, 78w, 78x, 80a–37, and 80b–11; 5 U.S.C. 504(c)(1).

Sections 201.700 and 201.701 are also issued under sec. 916, Pub. L. 111–203, 124 Stat. 1376.

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12. In Section 201.59, remove the word “Comptroller” and add, in its place, the words “Chief Financial Officer”.

#### **PART 204 – RULES RELATING TO DEBT COLLECTION**

13. The authority citation for Part 204, Subpart B, continues to read as follows:

**Authority:** 5 U.S.C. 5514, 5 CFR 550.1104.

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14. In Section 204.32, in the definition of Program Official, remove the word “Comptroller” and add, in its place, the words “Chief Financial Officer”.

15. In Section 204.34(d), remove the words “Comptroller’s office” and add, in their place, the words “Office of Financial Management”.

By the Commission.

Elizabeth M. Murphy  
Secretary

Dated: September 23, 2011