

SECURITIES AND EXCHANGE COMMISSION

17 CFR Part 200

[Release No. 34-58938]

DELEGATION OF AUTHORITY TO THE DIRECTOR OF THE OFFICE OF COMPLIANCE INSPECTIONS AND EXAMINATIONS AND THE SECRETARY OF THE COMMISSION

AGENCY: Securities and Exchange Commission.

ACTION: Final Rule.

SUMMARY: The Securities and Exchange Commission (“Commission”) is amending Rules 30-18¹ and 30-7² to delegate to the Director of the Office of Compliance Inspections and Examinations (“OCIE”) and the Secretary of the Commission, respectively, functions currently delegated to the Associate Executive Director of the Office of Filings and Information Services (“OFIS”). This re-delegation reflects the transfer to OCIE and the Office of the Secretary of functions previously performed by OFIS, which was fully dissolved in May 2007. The Commission is delegating to the Director of OCIE functions relating to, among other things, the granting and cancellation of the registrations of brokers, dealers, municipal securities dealers, government securities brokers or government securities dealers for which the Commission is the appropriate regulatory agency, transfer agents, and investment advisers. The Commission is delegating to the Secretary of the Commission the function of authenticating all Commission documents produced for administrative and judicial proceedings.

EFFECTIVE DATE: November 19, 2008.

FOR FURTHER INFORMATION CONTACT: For information regarding the delegation of authority to the Director of OCIE, contact John Walsh, Associate Director - Chief Counsel, at

¹ 17 C.F.R. § 200.30-18: Delegation of Authority to Director of the Office of Compliance Inspections and Examinations.

² 17 C.F.R § 200.30-7: Delegation of Authority to Secretary of the Commission.

(202) 551-6460, or Nancy Hansbrough, Assistant Chief Counsel, at (202) 551-6475. For information regarding the delegation of authority to the Secretary of the Commission, contact Florence Harmon, Acting Secretary, at (202) 551-5604.

SUPPLEMENTARY INFORMATION:

I. Discussion

The advent of the Commission's Electronic Data Gathering and Retrieval ("EDGAR") system in the 1980s diminished the need for the processing of paper filings (formerly the primary function of OFIS and its predecessor offices) and, as a result, the number of staff to handle the filings. In recognition of this diminished need, OFIS was dissolved fully in May 2007, with its functions allocated among other divisions and offices within the Commission in order to achieve greater efficiencies. Certain of these functions are now performed by OCIE and the Office of the Secretary of the Commission.³

The Commission today is amending Rule 30-18⁴ and Rule 30-7,⁵ which specify the functions delegated to the Director of OCIE and the Secretary of the Commission, respectively, to include functions currently delegated to the Associate Executive Director of OFIS in Rule 30-11.⁶ The functions that are being delegated to the Director of OCIE include, among other things, the granting and cancellation of the registrations of brokers, dealers, municipal securities dealers, transfer agents, investment advisers, and government securities brokers or government securities

³ See 17 C.F.R. § 200.30-11: Delegation of Authority to Associate Executive Director of the Office of Filings and Information Services.

⁴ 17 C.F.R. § 200.30-18.

⁵ 17 C.F.R. § 200.30-7.

⁶ 17 C.F.R. § 200.30-11: Delegation of authority to Associate Executive Director of the Office of Filings and Information Services.

dealers for which the Commission is the appropriate regulatory agency.⁷ They also include the functions of notifying a broker or dealer that has failed to comply with certain requirements of the Securities Investor Protection Act of 1970 that it is unlawful to engage in business as a broker or dealer, and of authorizing a broker or dealer to resume business upon compliance.⁸ The function that is being delegated to the Secretary of the Commission is to authenticate all Commission documents produced for administrative and judicial proceedings.⁹ As a result of these re-delegations, Rule 30-11 is being removed and reserved.

II. Administrative Procedures 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. Therefore, the provisions of the Administrative Procedures Act ("APA") regarding notice of proposed rulemaking and opportunities for public participation are not applicable.¹⁰ For the same reason, and because these amendments do not substantially affect the rights or obligations of non-agency parties, the provisions of the Small Business Regulatory Enforcement Fairness Act are not applicable.¹¹ In addition, the provisions of the Regulatory Flexibility Act, which apply only when notice and comment are required by the APA or other law, are not applicable.¹² Finally, these amendments do not contain any

⁷ See 17 C.F.R. § 200.30-11(a)-(b).

⁸ See 17 C.F.R. § 200.30-11(c).

⁹ See 17 C.F.R. § 200.30-11(e).

¹⁰ 5 U.S.C. 533.

¹¹ 5 U.S.C. 804.

¹² 5 U.S.C. 601-12.

collection of information requirements as defined by the Paperwork Reduction Act of 1995, as amended.¹³

III. Cost Benefit Analysis

The Commission is sensitive to the costs and benefits imposed by its rules. The rule amendments the Commission is adopting today re-delegate functions from the Associate Executive Director of OFIS to the Director of OCIE and the Secretary of the Commission to reflect the transfer of OFIS's responsibilities to OCIE and the Office of the Secretary. The re-delegation will update the Commission's rules to accurately reflect that OCIE and the Office of the Secretary are performing functions previously performed by OFIS. The Commission does not believe that the rule amendments will impose any costs on non-agency parties, or that if there are costs, they are negligible.

IV. Consideration of Burden on Competition

Section 23(a)(2) of the Securities Exchange Act of 1934 ("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.

V. Statutory Basis

The amendments to the Commission's delegations are being adopted pursuant to statutory authority granted to the Commission, including Section 4A of the Exchange Act.

VI. Text of Final Amendments

List of Subjects in 17 CFR Part 200

¹³ 44 U.S.C. 3501-20.

Administrative practices and procedures, Authority delegations (Government agencies).

For the reasons set out in the preamble, Title 17, Chapter II of the Code of Federal Regulations is amended 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. 77o, 77s, 77sss, 78d, 78d–1, 78d–2, 78w, 78ll(d), 78mm, 80a–37, 80b–11, and 7202, unless otherwise noted.

* * * * *

2. Amend § 200.30-7 by redesignating paragraph (c) as paragraph (d).
3. Section 200.30-11(e) is redesignated as § 200.30-7(c).
4. Amend § 200.30-18 by redesignating paragraph (j) as paragraph (m).
5. Section 200.30-11 paragraphs (a), (b), and (c) are redesignated as § 200.30-18 paragraphs (j), (k), and (l).
6. Remove and reserve § 200.30-11.

By the Commission.

Florence E. Harmon
Acting Secretary

Date: November 13, 2008