

# **SECURITIES AND EXCHANGE COMMISSION**

## **17 CFR Part 200**

**[Release No. IA-6934]**

### **Delegation of Authority to the Director of the Division of Investment Management**

**AGENCY:** Securities and Exchange Commission.

**ACTION:** Final rule.

**SUMMARY:** The Securities and Exchange Commission (“Commission”) is amending its Rules of Organization and Program Management to provide delegated authority to the Director of the Division of Investment Management (“Director”) to authorize the issuance of orders to grant, deny, and revoke confidential treatment for information in any registration application, report, or amendment thereto filed with the Commission pursuant to any provision of the Investment Advisers Act of 1940 (“Advisers Act”).

**DATES:** This rule is effective [INSERT DATE OF PUBLICATION IN THE *FEDERAL REGISTER*].

**FOR FURTHER INFORMATION CONTACT:** Alexis Palascak, Senior Counsel; Ted Uliassi, Branch Chief; Robert Holowka, Acting Assistant Director, Investment Adviser Regulation Office; Erin Loomis Moore, Senior Counsel; Kay M. Vobis, Senior Special Counsel; Marc Mehrespand, Acting Assistant Chief Counsel, Chief Counsel’s Office at (202) 551-6787 and IMCCO@sec.gov, Division of Investment Management, U.S. Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549-8549.

**SUPPLEMENTARY INFORMATION:** The Commission is adopting amendments to 17 CFR 200.30-5 of its Rules of Organization and Program Management (“rule 30-5”).

## I. DISCUSSION

The Commission is amending rule 30-5 to provide delegated authority to the Director to authorize the issuance of orders, upon application, under section 210(a) of the Advisers Act to grant, deny, and revoke confidential treatment for information in any registration application or report or amendment thereto filed with the Commission pursuant to any provision of the Advisers Act.<sup>1</sup> The amendment is designed to conserve the Commission's resources and facilitate efficient consideration of applications for confidential treatment for information included in such filings.

Section 4A of the Securities Exchange Act of 1934 ("Exchange Act") provides the Commission the authority to delegate, by published order or rule, any of its functions to a division director, subject to certain limitations.<sup>2</sup> The Director currently has delegated authority to grant, deny, and revoke confidential treatment for other information provided to the Commission, including granting confidential treatment for disclosures in certain registration statements or reports filed under the Investment Company Act of 1940, and granting and denying applications for, and revoking previous grants of, confidential treatment for information in certain filings made under the Exchange Act.<sup>3</sup> The Director of the Division of Corporation Finance, the Director of the Division of Trading and Markets, the Director of the Office of Municipal

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<sup>1</sup> This delegation only covers authorization to issue orders granting or denying applications for confidential treatment filed pursuant to section 210(a) of the Advisers Act (and revoking previously issued orders granting such confidential treatment) and does not cover other kinds of confidential treatment requests, such as those under the Freedom of Information Act, the procedures for which are set forth in 17 CFR 200.83.

<sup>2</sup> 15 U.S.C. 78d-1.

<sup>3</sup> 17 CFR 200.30-5(a)(6) (for issuing orders granting confidential treatment pursuant to section 45(a) of the Investment Company Act of 1940 for certain applications) and 17 CFR 200.30-5(e) (for granting, denying, and revoking confidential treatment pursuant to section 24(b) of the Exchange Act and Exchange Act rule 24b-2 for filings made pursuant to 15 U.S.C. 78m(f) (section 13(f) of the Exchange Act) and 17 CFR 240.13f-1 (Exchange Act rule 13f-1) and the instructions to 17 CFR 249.326 (Form N-PX)).

Securities, and the Director of the Office of Credit Ratings also have delegated authority to grant, deny, and revoke confidential treatment for any information contained in any application, statement, report, contract, correspondence, notice, or other document filed with or otherwise obtained by the Commission pursuant to section 24(b) of the Exchange Act and Exchange Act rule 24b-2.<sup>4</sup>

Section 210(a) of the Advisers Act provides that information contained in any registration application or report or amendment thereto filed with the Commission pursuant to any provision of the Advisers Act shall be made available to the public, unless and except insofar as the Commission by rules and regulations upon its own motion, or by order upon application, finds that public disclosure is neither necessary nor appropriate in the public interest or for the protection of investors.<sup>5</sup> The Commission is adding new paragraph (8) in rule 30-5(g) to authorize the Director to authorize the issuance of orders granting and denying such applications filed pursuant to section 210(a) of the Advisers Act, and to authorize the issuance of orders revoking such grants of confidential treatment.

Rule 30-5(g)(8) will enable the Director to authorize the issuance of orders under section 210(a) of the Advisers Act to grant, deny, and revoke confidential treatment of information in Form ADV, among other filings under the Advisers Act.<sup>6</sup> Form ADV is the uniform application for investment adviser registration and the reporting form for exempt reporting advisers.<sup>7</sup> Form

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<sup>4</sup> See 17 CFR 200.30-1(f)(3) (Director of the Division of Corporation Finance); 17 CFR 200.30-3(a)(19) (Director of the Division of Trading and Markets); 17 CFR 200.30-3a(a)(4) (Director of the Office of Municipal Securities); 17 CFR 200.30-3b(a) (Director of the Office of Credit Ratings).

<sup>5</sup> 15 U.S.C. 80b-10(a).

<sup>6</sup> See 17 CFR 279.0-1 through 279.9 (enumerating the forms currently prescribed under the Advisers Act, including: Form ADV, Form ADV-W, Form ADV-H, Form ADV-NR, and Form ADV-E).

<sup>7</sup> An exempt reporting adviser is an investment adviser that qualifies for the exemption from registration under section 203(l) of the Advisers Act because it is an adviser solely to one or more venture capital funds,

ADV provides industry-wide, uniform disclosures that create publicly accessible resources of basic information. In general, public availability of the specific information currently collected in response to questions on Form ADV is important for several reasons, including: (1) to inform clients, prospective clients, and the public; (2) to serve as a check on advisers, thereby helping to deter fraud and other misconduct;<sup>8</sup> and (3) to aid advisers' clients, prospective clients, and the public in conducting due diligence. The disclosures allow clients, prospective clients, and the public to review an adviser's public and private disclosures and make informed decisions about whether to hire or retain an adviser.

The Commission, however, recognizes that there may be instances where public disclosure of certain information in Form ADV or other filings made pursuant to the Advisers Act is neither necessary nor appropriate in the public interest or for the protection of investors. In such circumstances, investment advisers may seek confidential treatment of certain information. The Commission has received such applications in the past but has not taken action on them.

Under current requirements, only the Commission itself has authority to grant, deny or revoke confidential treatment requests. Applications for confidential treatment of information contained in any registration application or report or amendment thereto filed with the Commission under section 210(a) of the Advisers Act must be filed pursuant to rule 190 under the Commission's Rules of Practice.<sup>9</sup> Such application shall include a sealed copy of the

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or under rule 203(m)-1 of the Advisers Act because it is an adviser solely to private funds and has assets under management in the United States of less than \$150 million. *See* Form ADV Glossary of Terms.

<sup>8</sup> *See, e.g.*, Rules Implementing Amendments to the Investment Advisers Act of 1940, Investment Advisers Act Release No. 3221 (June 22, 2011), [76 FR 42950 (July 19, 2011)] at n.270, and accompanying discussion.

<sup>9</sup> Separately, confidential treatment procedures under the Freedom of Information Act are set forth in 17 CFR 200.83.

materials as to which confidential treatment is sought, and the applicant may be required to provide additional information regarding the grounds for objection to public disclosure.<sup>10</sup> Rule 190 further provides that materials regarding the application shall be confidential pending a final decision and that any final order of the Commission denying or sustaining the application shall be made public.<sup>11</sup>

The Commission finds it is appropriate to delegate authority to the Director to authorize the issuance of orders granting and denying applications for confidential treatment filed pursuant to section 210(a) of the Advisers Act and revoking previously issued orders granting confidential treatment. Delegating this authority will conserve the Commission's resources and facilitate efficient consideration of applications for confidential treatment for such filings.

Section 211(c) of the Advisers Act requires that orders of the Commission under the Advisers Act shall be issued only after appropriate notice and opportunity for hearing.<sup>12</sup> New rule 30-5(g)(8) grants the Director delegated authority to authorize the issuance of orders granting and denying applications for confidential treatment filed pursuant to section 210(a) of the Advisers Act and revoking previously issued orders granting confidential treatment. Such orders would be orders of the Commission issued under delegated authority. Therefore, consistent with the requirements of section 211(c) of the Advisers Act, appropriate notice and opportunity for a hearing will be given to a party that has applied for, or been granted,

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<sup>10</sup> See 17 CFR 201.190(a) and (b). Past applications have indicated on the public version of the registration application or report or amendment thereto that confidential treatment has been sought and have identified the specific item with respect to which the request has been made, which can help facilitate the staff's processing of such registration application or report or amendment thereto.

<sup>11</sup> See 17 CFR 201.190(c) and (d).

<sup>12</sup> 15 U.S.C. 80b-11(c).

confidential treatment under section 210(a) of the Advisers Act of the Director’s intent to deny confidential treatment or revoke a grant of confidential treatment.

As with other delegations of authority, the Commission retains a discretionary right to review any action the Director may take under rule 30-5(g)(8) upon its own initiative or upon petition of a party to or intervenor in such action, which includes applicants for confidential treatment under section 210(a) of the Advisers Act.<sup>13</sup> If the right to exercise such review is declined, or if no such review is sought within the time stated in Commission rules, then the action of the Director shall, for all purposes, including appeal or review thereof, be deemed the action of the Commission.<sup>14</sup>

## **II. ADMINISTRATIVE LAW MATTERS**

The Commission finds, in accordance with section 553(b)(A) of the Administrative Procedure Act (“APA”), that the amendment to rule 30-5 relates solely to agency organization, procedures, or practices.<sup>15</sup> Accordingly, the APA’s provisions regarding notice of rulemaking and opportunity for public comment are not applicable. In accordance with the APA, we find that there is good cause to establish an effective date less than 30 days after publication of this amendment.<sup>16</sup> This amendment does not substantially affect the rights or obligations of non-agency parties and pertains to increasing efficiency of internal Commission operations. This amendment is therefore effective on [INSERT DATE OF PUBLICATION IN THE *FEDERAL REGISTER*]. For the same reasons, the provisions of the Small Business Regulatory Enforcement Fairness Act are not applicable to the amendment. Additionally, the provisions of the Regulatory

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<sup>13</sup> 15 U.S.C. 78d-1(b); 17 CFR 201.430.

<sup>14</sup> 15 U.S.C. 78d-1(c); 17 CFR 201.430.

<sup>15</sup> 5 U.S.C. 553(b)(A).

<sup>16</sup> 5 U.S.C.553(d).

Flexibility Act, which apply only when notice and comment are required by the APA or other law, are not applicable to the amendment. Section 23(a)(2) of the Exchange Act requires the Commission, in adopting rules under that Act, to consider the impact that the rules will have on competition and prohibits the Commission from adopting any rule that would impose a burden on competition not necessary or appropriate in furtherance of the Exchange Act. The amendment will not have any impact on competition because it will not impose any new burdens on private parties. The amendment does not contain any collection of information requirements as defined by the Paperwork Reduction Act of 1995.<sup>17</sup>

## **STATUTORY AUTHORITY**

The Commission is adopting amendments to rule 30-5 of the Commission's Rules of Organization and Program Management under the authority set forth in sections 4A and 4B of the Exchange Act [15 U.S.C. 78d-1 and 78d-2].

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

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

## **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 — ORGANIZATION; CONDUCT AND ETHICS; AND INFORMATION AND REQUESTS**

1. The authority citation for part 200 continues to read as follows:

**Authority:** 5 U.S.C. 552, 552a, 552b, and 557; 11 U.S.C. 901 and 1109(a); 15 U.S.C. 77c, 77e, 77f, 77g, 77h, 77j, 77o, 77q, 77s, 77u, 77z-3, 77ggg(a), 77hhh, 77sss, 77uuu, 78b,

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<sup>17</sup> See 5 U.S.C. 804(3)(C); 5 U.S.C. 603; 15 U.S.C. 78w(a)(2); 44 U.S.C. 3501 *et seq.*

78c(b), 78d, 78d-1, 78d-2, 78e, 78f, 78g, 78h, 78i, 78k, 78k-1, 78l, 78m, 78n, 78o, 78o-4, 78q, 78q-1, 78t-1, 78u, 78w, 78ll(d), 78mm, 78eee, 80a-8, 80a-20, 80a-24, 80a-29, 80a-37, 80a-41, 80a-44(a), 80a-44(b), 80b-3, 80b-4, 80b-5, 80b-9, 80b-10(a), 80b-11, 7202, and 7211 *et seq.*; 29 U.S.C. 794; 44 U.S.C. 3506 and 3507; Reorganization Plan No. 10 of 1950 (15 U.S.C. 78d); sec. 8G, Pub. L. 95-452, 92 Stat. 1101 (5 U.S.C. App.); sec. 913, Pub. L. 111-203, 124 Stat. 1376, 1827; sec. 3(a), Pub. L. 114-185, 130 Stat. 538; E.O. 11222, 30 FR 6469, 3 CFR, 1964-1965 Comp., p. 36; E.O. 12356, 47 FR 14874, 3 CFR, 1982 Comp., p. 166; E.O. 12600, 52 FR 23781, 3 CFR, 1987 Comp., p. 235; Information Security Oversight Office Directive No. 1, 47 FR 27836; and 5 CFR 735.104 and 5 CFR parts 2634 and 2635, unless otherwise noted.

#### **Subpart A — Organization and Program Management**

2. Add paragraph (g)(8) to § 200.30-5 to read as follows:

#### **§ 200.30-5 Delegation of authority to Director of Division of Investment Management.**

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(g) \* \* \*

(8)(i) To authorize the issuance of orders granting and denying applications for confidential treatment filed pursuant to section 210(a) of the Act (15 U.S.C. 80b–10(a)).

(ii) To authorize the issuance of orders revoking previously issued orders granting confidential treatment.

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By the Commission.

Dated: December 29, 2025.

**Sherry R. Haywood,**



*Assistant Secretary.*