



Federal Register

**Tuesday,
January 19, 2010**

Part V

Securities and Exchange Commission

17 CFR Parts 200 and 202

**Delegations of Authority to the Director
of Its Division of Enforcement and Policy
Statement Concerning Cooperation by
Individuals in Its Investigations and
Related Enforcement Actions; Final Rules**

SECURITIES AND EXCHANGE COMMISSION

17 CFR Part 200

[Release No. 34-61339]

Delegations of Authority to the Director of Its Division of Enforcement

AGENCY: Securities and Exchange Commission.

ACTION: Final rule.

SUMMARY: The Securities and Exchange Commission (“Commission”) is amending its rules to delegate authority to the Director of the Division of Enforcement (“Division”) to submit witness immunity order requests to the Department of Justice for witnesses who have provided or have the potential to provide substantial assistance in the Commission’s investigations and related enforcement actions. This delegation is intended to conserve Commission resources, enhance the Division’s ability to detect violations of the federal securities laws, increase the effectiveness and efficiency of the Division’s investigations, and improve the success of the Commission’s enforcement actions.

DATES: *Effective Date:* January 19, 2010.

FOR FURTHER INFORMATION CONTACT: Joan McKown, Chief Counsel, (202) 551-4933; or Jordan A. Thomas, Assistant Chief Litigation Counsel, (202) 551-4475.

SUPPLEMENTARY INFORMATION: The Commission today is amending its rules governing delegations of authority to the Director of the Division of Enforcement. The amendment to Rule 30-4 (17 CFR 200.30-4) authorizes the Director of the Division of Enforcement (“Director”) to submit witness immunity order requests to the Department of Justice for witnesses who have provided or have the potential to provide substantial assistance in the Commission’s investigations and related enforcement actions. This delegation is intended to conserve Commission resources, enhance the Division’s ability to detect violations of the federal securities laws, increase the effectiveness and efficiency of the Division’s investigations, and improve the success of the Commission’s enforcement actions.

Nevertheless, the Division may submit matters to the Commission for consideration, as it deems appropriate.

The Commission finds, in accordance with the Administrative Procedure Act (“APA”) (5 U.S.C. 553(b)(3)(A)), that this revision relates solely to agency organization, procedures, or practices. It is therefore not subject to the provisions

of the APA requiring notice and opportunity for comment. Accordingly, it is effective January 19, 2010.

List of Subjects in 17 CFR Part 200

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

Text of Amendment

■ 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, 77d, 78d-1, 78d-2, 78w, 78ll(d), 78mm, 80a-37, 80b-11, and 7202, unless otherwise noted.

* * * * *

■ 2. Section 200.30-4 is amended by adding paragraph (a)(14) to read as follows:

§ 200.30-4 Delegation of authority to Director of Division of Enforcement.

* * * * *

(a) * * *

(14) To submit witness immunity requests to the U.S. Attorney General for approval to seek an order compelling an individual to give testimony or provide other information pursuant to a subpoena that may be necessary to the public interest in connection with investigations and related enforcement actions pursuant to section 22(b) of the Securities Act of 1933 (15 U.S.C. 77v(b)), section 21(c) of the Securities Exchange Act of 1934 (15 U.S.C. 78u(c)), section 42(c) of the Investment Company Act of 1940 (15 U.S.C. 80a-41(c)) and section 209(c) of the Investment Advisers Act of 1940 (15 U.S.C. 80b-9(c)).

* * * * *

By the Commission.

Dated: January 13, 2010.

Elizabeth M. Murphy,

Secretary.

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SECURITIES AND EXCHANGE COMMISSION

17 CFR Part 202

[Release No. 34-61340]

Policy Statement Concerning Cooperation by Individuals in Its Investigations and Related Enforcement Actions

AGENCY: Securities and Exchange Commission.

ACTION: Policy statement.

SUMMARY: The Securities and Exchange Commission is issuing a policy statement announcing the analytical framework it uses to evaluate cooperation by individuals.

DATES: *Effective Date:* January 19, 2010.

FOR FURTHER INFORMATION CONTACT: Joan McKown, Chief Counsel, (202) 551-4933; or Jordan A. Thomas, Assistant Chief Litigation Counsel, (202) 551-4475.

SUPPLEMENTARY INFORMATION: The Securities and Exchange Commission is issuing a policy statement announcing the analytical framework it uses to evaluate cooperation by individuals. This framework serves two important purposes: it promotes the fair and effective exercise of discretion by the Commission, and it enhances confidence on the part of the public and cooperating individuals that decisions regarding cooperation in the Commission’s investigations and related enforcement actions will be made in an appropriate and consistent manner.

The provisions of the Administrative Procedure Act (“APA”), 5 U.S.C. 553, regarding notice of proposed rulemaking, opportunities for public comment, and prior publication are not applicable to general statements of policy, such as this policy statement. Similarly, the provisions of the Regulatory Flexibility Act, 5 U.S.C. 601-602, apply only when notice and comment are required by the APA or another statute and are therefore not applicable.

List of Subjects in 17 CFR Part 202

Administrative practice and procedure.

Text of Amendment

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