

SECURITIES AND EXCHANGE COMMISSION

17 CFR Part 200

Release No. 34-71238

Responsibilities of the General Counsel

AGENCY: Securities and Exchange Commission.

ACTION: Final rule.

SUMMARY: The Securities and Exchange Commission (“Commission”) is amending its rules to reflect that the Commission’s General Counsel is responsible for providing advice to Commission attorneys on professional responsibility issues relating to their official duties and investigating allegations of professional misconduct by Commission staff and, where appropriate, making referrals to state professional boards or societies.

EFFECTIVE DATE: January 10, 2014.

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SUPPLEMENTARY INFORMATION

I. Discussion

These amendments conform the Commission’s regulations, in part 200 of Title 17 of the Code of Federal Regulations, to the current responsibilities of the General Counsel. They do so by adding language that describes the General Counsel’s responsibility for providing advice to Commission attorneys on professional responsibility issues relating to their official duties, investigating allegations of professional misconduct by

Commission staff and, where appropriate, making referrals to state professional boards or societies. In addition, the amendments clarify that the Ethics Counsel is not responsible for investigating and potentially referring allegations of professional misconduct by Commission staff. Finally, the amendments include several minor corrections to provisions that relate to the responsibilities of the Ethics Counsel.

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.¹ The Regulatory Flexibility Act, therefore, does not apply.² 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.³ Finally, these amendments do not contain any collection of information requirements as defined by the Paperwork Reduction Act of 1995, as amended.⁴

B. 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

¹ 5 U.S.C. 553(b).

² 5 U.S.C. 601 - 612.

³ 5 U.S.C. 804.

⁴ 44 U.S.C. 3501 - 3520.

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.

STATUTORY AUTHORITY

The amendments to the Commission’s rules are adopted pursuant to 15 U.S.C. 77o, 77s, 77sss, 78d, 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).

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, 78d, 78d-1, 78d-2, 78w, 78ll(d), 78mm, 80a-37, 80b-11, 7202, and 7211 et seq., unless otherwise noted.

* * * * *

2. In § 200.21 paragraph (a), after the fourth sentence, that begins with “In addition, he or she is responsible”, add the sentences “The General Counsel is responsible for providing advice to Commission attorneys on professional responsibility issues relating to their official duties. The General Counsel is further responsible for

investigating allegations of professional misconduct by Commission staff and, where appropriate, making referrals to state professional boards or societies.”

3. In § 200.21a:

a. In paragraph (a), remove the phrase “Office of Administrative and Personnel Management,” and add in its place, “Office of Human Resources, the Office of Government Ethics,”;

b. In paragraph (b)(1), at the end of the paragraph, add the phrase “that relate to the Commission’s Ethics Program”;

c. In paragraph (b)(2), at the end of the paragraph, add the phrase “, which the Ethics Counsel shall refer to the General Counsel”;

d. Remove paragraph (b)(7);

e. Redesignate paragraph (b)(8) as (b)(7).

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

4. The authority citation for Part 200, Subpart M, continues to read 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 and 5 CFR 2634; and 5 CFR 2635, unless otherwise noted.

5. In § 200.735-15:

a. Remove paragraph (b).

b. Redesignate paragraphs (c), (d) (e) and (f) as paragraphs (b), (c), (d) and (e),

respectively.

c. In the first sentence of newly redesignated paragraph (b), remove the words “any Deputy Counselor or.”

d. In newly redesignated paragraph (c), remove the words “and Deputy Counselors.” Also in newly redesignated paragraph (c), remove the words “they receive” and add in their place “he or she receives” wherever they appear.

By the Commission.

Elizabeth M. Murphy
Secretary

Dated: January 6, 2014