

[6315-01-M]

Title 45—Public Welfare

CHAPTER X—COMMUNITY SERVICES ADMINISTRATION

PART 1015—STANDARDS OF CONDUCT FOR EMPLOYEES

Subpart C—Reports; Distribution; Supplemental Regulations

AGENCY: Community Services Administration.

ACTION: Final rule.

SUMMARY: This action amends the CSA regulations as they pertain to the reporting requirements of certain employees of their non-CSA financial and employment interests. These amendments are being made to reflect changes in the names of organizational units and titles of officials which result from the reorganization of CSA. These amendments will have no substantive impact on the existing standards of conduct regulations, but must be made prior to the annual reporting date.

EFFECTIVE DATE: November 6, 1978.

FOR FURTHER INFORMATION CONTACT:

Beatrice Valdez, Office of Legal Affairs and General Counsel, Community Services Administration, Washington, D.C. 20506, telephone 202-254-5423.

SUPPLEMENTARY INFORMATION: Since these amendments are administrative in nature, it is determined that notice of proposed rulemaking is unnecessary to the public interest. These amendments have been approved by the Civil Service Commission and become effective November 6, 1978.

(Sec. 602, 78 Stat. 428; 42 U.S.C. 2942, 18 U.S.C. 208; and E.O. 11222 of May 8, 1965, 3 CFR, 1965, Supp.; 5 CFR 735.104.)

WILLIAM W. ALLISON,
Acting Director.

45 CFR 1015 is amended by revising 1015.735-31 (j)(2) as follows:

§ 1015.735-31 Reports of non-OEO interests.

(j) * * *

(2) Occupants of the following positions if classified at GS-13 or above:

(i) In the Office of Community Action: Director, Program Development Office; Director, Regional Operations Office; Chief, Policy Development and Review Staff.

(ii) In the Office of Policy, Planning and Evaluation: Chief, Evaluation Re-

search Division; Chief, Policy Analysis Division.

(iii) In the Office of Management: Chief, Administrative Services Division; Chief, Procurement and Property Management Branch; Controller; Deputy Controller; Contracting Officers.

(iv) In the Office of Legal Affairs and General Counsel: Deputy General Counsel; Chief, General Law Division; Associate Director for Human Rights; Chief, External Audit Division; Auditors; Attorney-Advisors in the General Law Division authorized to sign procurement requests.

(v) In the Office of Economic Development: Associate Director for Economic Development; Deputy Associate Director for Economic Development; Chief, Administrative Services Division; Chief, Program Development and Demonstration Division; Chief, Program Monitoring and Review Division; Chief, Program Assistance and Support Division.

(vi) In the Office of Interagency and External Affairs: Associate Director for Interagency and External Affairs; Deputy Associate Director for Interagency and External Affairs.

(vii) In each CSA Regional Office: Regional Director; Deputy Regional Director; Regional Counsel; Chief, Administrative Management Division; Chief, Field Operations Division; Contracting Officers.

[FR Doc. 78-31074 Filed 11-3-78; 8:45 am]

[3510-03-M]

Title 46—Shipping

CHAPTER II—MARITIME ADMINISTRATION, DEPARTMENT OF COMMERCE

SUBCHAPTER K—REGULATIONS UNDER PUBLIC LAW 91-469

PART 390—CAPITAL CONSTRUCTION FUND

Permissible Investments and Repurchase Agreements

AGENCY: Maritime Administration, Department of Commerce.

ACTION: Final rule.

SUMMARY: This final rule amends a regulation relating to the Capital Construction Fund (CCF), 46 CFR Part 390, to add repurchase agreements to the list of permissible investments in which a fundholder may invest CCF assets. This amendment broadens the scope of permissible investments and the addition of repurchase agreements allows fundholders to make invest-

ments on a short-term basis with cash that would otherwise lay idle.

EFFECTIVE DATE: November 6, 1978.

FOR FURTHER INFORMATION CONTACT:

John P. Johnson, Maritime Administration, Division of Capital Construction Funds, Washington, D.C. 20230, 202-377-4400.

SUPPLEMENTARY INFORMATION: This final rule broadens the scope of permissible investments allowed fundholders under 46 CFR 390.8(b)(2)(ii), which specifies certain high-quality, short-term securities which are consistent with the investment philosophy of the CCF program. In general, assets on deposit in a CCF should be invested in such a manner that would provide for a diversified portfolio of readily marketable securities that earn the highest yield for the approved class of securities. The addition of repurchase agreements to the list of permissible investments allows the fundholder to make investments on a short-term basis with cash that would otherwise lay idle. The duration of a repurchase agreement is usually overnight, but not more than a few days. Repurchase agreements are transactions between the issuing bank and the purchaser wherein a stated face amount of U.S. Treasury obligations of a specific description (or other securities) are "purchased". In a simultaneous transaction, the purchaser agrees to "resell" these obligations back to the bank on the agreed upon date at the purchase price plus interest. Since this transaction is for such a short duration, the "purchase" and "resale" usually consists of a set of simultaneously issued confirmation tickets. None of the underlying securities are transferred and no formal written agreement of sale and purchase is executed. As a result of the investment the purchaser receives its principal back plus the agreed upon amount of interest. The purchaser neither receives a benefit from any appreciation in the market value of the underlying securities nor incurs any loss if the market value of the underlying securities drops. This amendment has been determined not to be a significant regulation within the scope of EO 12044, "Improving Government Regulations" (43 FR 12661, March 24, 1978), as implemented by criteria in Appendix F of a Notice in the FEDERAL REGISTER of May 30, 1978, (43 FR 23184), as amended. Accordingly, 46 CFR Part 390 is amended by revising § 390.8(b)(2)(ii) to read as follows:

§ 390.8 Investments of the fund.

(b) *Permissible investments.* (1) * * *

(2) *Interest bearing securities* * * *
 (ii) Bankers' acceptances, certificates of deposit, repurchase agreements, and short-term commercial obligations, provided that the latter must be readily marketable and rated in the highest grade by Moody's Commercial Paper Service or in one of the two highest grades by Standard & Poor's Corp.

(Sec. 204(b), and 607(c), Merchant Marine Act, 1936, as amended (46 USC 1114(b) and 1177(b)); Reorganization Plans No. 21 of 1950 (64 Stat. 1273) and No. 7 of 1961 (75 Stat. 840), as amended by Pub. L. 91-469 (84 Stat. 1036), and Department of Commerce Organization Order 10-8, (36 FR 19707, July 23, 1973)).

Dated: October 27, 1978.

By Order of the Assistant Secretary for Maritime Affairs.

JAMES S. DAWSON, Jr.,
Secretary, Maritime Administration.

[FR Doc. 78-31203 Filed 11-3-78; 8:45 am]

[3510-22-M]

Title 50—Wildlife and Fisheries

CHAPTER II—NATIONAL MARINE FISHERIES SERVICE, NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION, DEPARTMENT OF COMMERCE

PART 611—FOREIGN FISHING

Incremental Apportionment of Total Allowable Level of Foreign Fishing

AGENCY: National Oceanic and Atmospheric Administration/Commerce.

ACTION: Amendment to regulations.

SUMMARY: This document amends the Trawl Fishery of the Gulf of Alaska preliminary fishery management plan (PMP) by releasing to foreign fishermen a portion of the reserves of certain species. Accordingly,

the foreign fishing regulations are amended to increase the total allowable level of foreign fishing (TALFF) for those species.

EFFECTIVE DATE: November 1, 1978.

FOR FURTHER INFORMATION CONTACT:

Mr. Harry L. Rietze, Regional Director, Alaska Region, National Marine Fisheries Service, P.O. Box 1668, Juneau, Alaska 99801, Telephone: 907-586-7221.

SUPPLEMENTARY INFORMATION: The Trawl Fishery of the Gulf of Alaska PMP (42 FR 8782), as amended by the supplement to the final environmental impact statement/preliminary fishery management plan, noticed in the FEDERAL REGISTER (42 FR 60945) on November 30, 1977, provided for a distribution of the optimum yield (OY) of groundfish species among three categories. The first category was a provision for domestic fishermen based on the best available estimate of the probable U.S. harvest (U.S. capacity). The second category was a reserve established to provide for increased U.S. harvest. The third category was an allocation to foreign fishermen of the surplus remaining after the U.S. capacity and the reserve were subtracted from the OY for the species. The reserves were to be released to foreign fishermen if the National Marine Fisheries Service (NMFS) determined that domestic fishermen would not harvest those amounts of the species.

There has been less U.S. fishing effort for groundfish in the Gulf of Alaska in 1978 than had been expected. The NMFS has reestimated U.S. harvest to November 1, 1978, and has concluded that part of the reserve can be released. Consequently, Table II of the Trawl Fishery of the Gulf of Alaska PMP which was originally published February 11, 1977 (42 FR 8800), and was amended on November 30, 1977 (42 FR 60945) by creating reserves for groundfish species is further amended. This amendment releases certain of those reserves to increase TALFF's as follows:

Species	Reserve release (metric tons)
Pollock	33,760
Pacific ocean perch	5,000
Other rockfish	1,520
Other species	2,740

The Assistant Administrator for Fisheries finds and determines that the Administrative Procedure Act requirements may be waived since advance public notice and opportunity to comment upon this release of reserves is unnecessary, impractical, and contrary to the public interest. This action is not a major Federal action significantly affecting the quality of the human environment.

Signed at Washington, D.C., this the 1st day of November 1978.

WINFRED H. MEIBOHM,
Acting Executive Director,
National Marine Fisheries Service.

(16 U.S.C. 1801 et seq.)

Amend 50 CFR 611.20(c) by revising Table 1 as follows:

§ 611.20 [Amended]

- In line 18, under Code 011, "Perch, Pacific ocean," strike "318,900," substitute "23,900."
- In line 19, under Code 005, "Pollock," strike "3117,340," substitute "151,100."
- In line 20, under Code 012, "Rockfishes, other than Pacific ocean perch," strike "34,080," substitute "5,600."
- In line 23, under "Other species," strike "312,960," substitute "15,700."

Amend 50 CFR 611.92(b) by revising Table 1 as follows:

§ 611.92 [Amended]

- In species column one, under "Pollock," strike "117,340," substitute "151,100."
- In species column two, under "Pacific Ocean Perch," strike "18,900," substitute "23,900."
- In species column three, under "Other Rockfishes," strike "4,080," substitute "5,600."
- In species column nine, under "other Species," strike "12,960," substitute "15,700."

[FR Doc. 78-31329 Filed 11-3-78; 8:45 am]

proposed rules

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

[6714-01-M]

FEDERAL DEPOSIT INSURANCE CORPORATION

[12 CFR Part 344]

RECORDKEEPING AND CONFIRMATION REQUIREMENTS FOR SECURITIES TRANSACTIONS

Advance Notice of Proposed Rulemaking

AGENCY: Federal Deposit Insurance Corporation.

ACTION: Republication of proposed rule.

SUMMARY: On February 23, 1978 (43 FR 7441), the Federal Deposit Insurance Corporation ("FDIC") published for comment a proposed new Part 344 (12 CFR) to require that insured State nonmember banks who effect certain securities transactions for customers provide confirmations of and maintain records with respect to such transactions. Commentators were also invited to consider whether and to what extent regulations should be promulgated which would (1) expressly recognize the duty of State nonmember banks to obtain the best execution of securities transactions which they effect for customers, (2) establish competency and testing requirements for bank employees engaged in effecting securities transactions for customers. Similar proposals were published for comment by the Comptroller of the Currency and the Board of Governors of the Federal Reserve System. The comment period, as extended, ended on May 1, 1978.

A substantial number of comments were received by the FDIC expressing several concerns regarding these proposed amendments. As a result, the FDIC has determined to revise the proposed Part 344 incorporating many of the suggestions which were made by the commentators. Information setting forth estimated costs of implementation of the proposed amendment is also being requested. The FDIC has determined to take no further action at this time regarding the promulgation of regulations concerning best execution of securities transactions, and competency and testing requirements of bank employees.

DATE: Comments must be received on or before December 18, 1978.

ADDRESS: Interested persons are invited to submit written data, views, or arguments regarding the proposed regulations to the Office of the Executive Secretary, Federal Deposit Insurance Corporation, 550 17th Street NW., Washington, D.C. 20429. All written comments will be made available for public inspection at this address.

FOR FURTHER INFORMATION CONTACT:

Gerald J. Gervino, Attorney, Federal Deposit Insurance Corporation, 550 17th Street NW., Washington, D.C. 20429, 202-389-4422.

SUPPLEMENTARY INFORMATION: The original proposal to adopt a new Part 344 has been substantially revised as a result of the numerous comments which were received. The most significant revision of the amendment as originally proposed pertains to the notification requirements. However, substantial revisions to the recordkeeping portion of the proposed part have also been made. The following is a summary of the significant revisions which are proposed.

With respect to the proposed recordkeeping requirements, the FDIC has taken into consideration the many comments which have been received expressing the concern that these requirements, as proposed, would be burdensome and costly due to (1) the length of time for which the required records would be kept; and (2) the variety of records which would be required to be maintained. In order to reduce the volume of records which an insured State nonmember bank would be required to maintain, the FDIC has proposed to decrease the number of years required for retention. Although the original proposal was silent with respect to the number of years for which copies of confirmations must be maintained, it is now proposed that the number of years for which all required records, including copies of confirmations, must be maintained be reduced from 6 years to 3 years. It appears that a longer retention period is unnecessary in the absence of some evidenced need for such longer period of time.

In further response to these concerns, and in consideration of those comments expressing the view that the recordkeeping requirements should be less onerous for smaller banks, the FDIC has proposed to exempt from certain of the record-

keeping requirements those banks which effect fewer than fifty (50) securities transactions per year. Thus, such banks that effect a nominal number of securities transactions would be required, pursuant to these proposed regulations, to maintain significantly fewer records.

In addition to these somewhat major revisions to the recordkeeping requirements, several other significant changes have been proposed with respect to recordkeeping. The revised proposal would delete the requirement for maintaining a chronological record of all receipts and deliveries of securities and of receipts and disbursements of cash. However, this information would still be required to be maintained in account records of customers. The part, as revised, would also change the requirement for including on the order ticket the time the order was executed to the time the order was placed with the broker/dealer, where a broker/dealer has been utilized. Where a broker/dealer is not used, the time of execution would remain the required information. A further proposed revision would permit banks to maintain records of only those broker/dealers for whom the bank has exercised discretion in selecting the broker/dealer to effect securities transactions for its customers, rather than to require that a record be kept of all broker/dealers used by the bank to effect such transactions. In addition, and in connection with this revision, a newly proposed provision would also require that a record be kept of the amount of commissions paid or allocated to each such broker during the calendar year.

With respect to the proposed confirmation requirements there have been two major revisions. The first pertains to the length of time within which an insured State nonmember bank must provide a customer with a confirmation of a securities transaction which has been effected for that customer. As revised, the proposal would require that where a broker/dealer is utilized, the confirmation would be furnished within 5 business days from the date the bank receives the broker/dealer confirmation, rather than 5 business days from the date of the transaction. However, where there is no broker/dealer utilized, the confirmation would be furnished to the customer within 5 business days from the date of the transaction. The second major revision

to the confirmation requirements substantially diminishes the number of confirmations which insured State nonmember banks would be required to furnish. The revised proposal reflects the concern, as expressed by many of the commentators, that the customer should have the right to request not to receive the confirmation. Thus, in those cases where the bank exercises investment discretion, in other than an agency capacity, no confirmation would be required except upon request. The confirmation requirements have been similarly liberalized for other types of accounts. It should also be noted that as an alternative to furnishing a separate bank confirmation containing the information as originally proposed, the bank may furnish the customer with a copy of the broker/dealer confirmation supplemented by the additional information as required by the revised proposal.

In addition to the changes which have been made with respect to the recordkeeping and confirmation requirements, a new section has been added to the part which contains the exceptions from requirements of this proposal. Two of the exceptions contained in this section are newly proposed by this revised proposal. These new exceptions represent a further significant revision to the original proposal. The exception for banks having an average of fewer than 50 securities transactions per year has previously been discussed. It should be noted that although such banks would be exempt from certain of the recordkeeping requirements, these banks would nevertheless be subject to the confirmation requirements and other provisions of the regulation, wherever applicable. In addition, activities of foreign branches of insured State nonmember banks would be exempt from the requirements of this part.

To aid in consideration of this proposal by the FDIC, interested persons are invited to submit relevant data, views, comments or arguments. The FDIC is specifically requesting information concerning the projected costs of implementing the proposed amendments. Information should be separately furnished as to projected start-up costs and continuing costs and, to the extent feasible, these estimates should be allocated between the recordkeeping and confirmation requirements. Unit transaction costs should be furnished if possible, indicating, if known, variances in such costs, depending on volume of transactions.

The FDIC proposes to add a new Part 344 to its regulations as set forth below:

PART 344—RECORDKEEPING AND CONFIRMATION REQUIREMENTS FOR SECURITIES TRANSACTIONS

- Sec.
 344.1 Scope of Part.
 344.2 Definitions.
 344.3 Recordkeeping.
 344.4 Form of notification.
 344.5 Time of notification.
 344.6 Securities trading policies and procedures.
 344.7 Exceptions.

Authority: U.S.C. 1817, 1818, 1819.

§ 344.1 Scope of part.

This part is issued by the Federal Deposit Insurance Corporation ("FDIC") and applies to banks which are organized under State law, are insured by the FDIC and are not members of the Federal Reserve System ("bank").

§ 344.2 Definitions.

For purposes of this part:

(a) "Customer" shall mean any person or account, including any agency, trust, estate, guardianship, committee, or other fiduciary account, for which a bank effects or participates in effecting the purchase or sale of securities, but shall not include a broker, dealer, dealer bank, or issuer of the securities which are the subject of the transactions;

(b) "Periodic plan" means any written authorization for a bank acting as agent to purchase or sell for a customer a specific security or securities, in specific amounts (calculated in security units or dollars) or to the extent of dividends and funds available, at specific time intervals and setting forth the commission or charges to be paid by the customer in connection therewith, or the manner of calculating them;

(c) "Collective investment fund" means funds held by a bank as fiduciary and, consistent with local law, invested collectively (1) in a common trust fund maintained by such bank exclusively for the collective investment and reinvestment of monies contributed thereto by the bank in its capacity as trustee, executor, administrator, guardian, or custodian under the Uniform Gifts to Minors Act, or (2) in a fund consisting solely of assets of retirement, pension, profit sharing, stock bonus, or similar trusts which are exempt from Federal income taxation under the Internal Revenue Code;

(d) "Security" means any interest or instrument commonly known as a "security," whether in the nature of debt or equity, including any stock, bond, note, debenture, evidence of indebtedness, or any participation in or right to subscribe to or purchase any of the foregoing. The term "security" does not include (1) a deposit or share ac-

count in a federally insured depository institution, (2) a loan participation, (3) a letter of credit or other form of bank indebtedness incurred in the ordinary course of business, (4) currency, (5) any note, draft, bill of exchange, or bankers acceptance which has a maturity at the time of issuance of not exceeding 9 months, exclusive of days of grace, or any renewal thereof the maturity of which is likewise limited, (6) units of a collective investment fund, or (7) interests in a variable amount (master) note of a borrower of prime credit;

(e) A bank shall be deemed to exercise "investment discretion" with respect to an account if, directly or indirectly, the bank (1) is authorized to determine what securities or other property shall be purchased or sold by or for the account, or (2) makes recommendations as to what securities or other property shall be purchased or sold by or for the account even though some other person may have responsibility for such investment decisions.

§ 344.3 Recordkeeping.

Every bank effecting securities transactions for customers shall maintain the following records of those transactions for at least 3 years:

(a) Chronological records of original entry containing an itemized daily record of all purchases and sales of securities which shall include the account for which each such transaction was effected, the description of the securities, the unit and aggregate purchase or sale price (if any), the trade date, and the name or other designation of the broker/dealer or other person from whom purchased or to whom sold;

(b) Account records for each customer, which shall reflect all purchases and sales of securities, all receipts and deliveries of securities, and all other debits and credits pertaining to each account, including all receipts and disbursements of cash;

(c) A separate memorandum (order ticket) of each order to purchase or sell securities (whether executed or cancelled), which shall include:

(1) The account for which the transaction was effected;

(2) Whether the transaction was a market order, limit order, or subject to special instructions;

(3) The time the order was received by the trader or other bank employee responsible for effecting the transaction;

(4) The time the order was placed with the broker/dealer, or if there was no broker/dealer, the time the order was executed or cancelled;

(5) The price at which the order was executed; and

(6) The broker/dealer utilized;

(d) A record of all broker/dealers selected by the bank to effect securities transactions and the amount of commissions paid or allocated to each broker during the calendar year.

§ 344.4 Form of notification.

Every bank effecting a securities transaction for a customer shall maintain for at least 3 years and, except as provided in § 344.5, furnish to such customer either of the following types of notifications:

(a)(1) A copy of the confirmation of a broker/dealer relating to the securities transaction; and (2) if the bank is to receive remuneration from the customer or any other source in connection with the transaction, and the remuneration is not determined pursuant to a prior written agreement between the bank and the customer, a statement of the source and the amount of any remuneration to be received; or

(b) A written notification disclosing—

(1) The name of the bank;

(2) The name of the customer;

(3) Whether the bank is acting as agent for the customer, as agent for both the customer and some other person, as principal for its own account, or in any other capacity;

(4) The date and time of execution (or the fact that the time of execution will be furnished, within a reasonable time, upon written request of the customer), and the identify, price, and number of shares or units (or principal amount in the case of debt securities) of the security purchased or sold by the customer;

(5) The amount of any remuneration received or to be received, directly or indirectly, by any broker/dealer from the customer in connection with the transaction;

(6) The source and amount of any remuneration received or to be received by the bank from the customer or any other source in connection with the transaction, unless remuneration is determined pursuant to a written agreement between the bank and the customer; and

(7)(i) The name of the broker/dealer utilized; or (ii) where no broker/dealer is utilized, the name of the person from whom the security was purchased or to whom it was sold, or the fact that such information will be furnished within a reasonable time upon written request.

Provided, however, That the requirements of this § 344.4 shall not apply to transactions in (i) securities issued or guaranteed as to principal or interest by the United States; (ii) Federal agency obligations; or (iii) municipal securities as defined in section 3(a)(29) of the Securities Exchange Act of 1934.

§ 344.5 Time of notification.

Except as provided in §§ 344.5(a)-(e), every bank effecting securities transactions for a customer shall furnish to the customer the written notification described in § 344.4 within 5 business days from the date of the transaction or, if a broker/dealer is utilized, within 5 business days from the date of receipt by the bank of the broker/dealer's confirmation.

(a) With respect to those accounts over which the bank exercises no investment discretion, the bank and the customer may agree in writing to a different arrangement, if the agreement makes clear the customer's right to receive the written notification described in § 344.4 within the time prescribed at no additional cost to the customer. This exception does not apply to periodic plans.

(b) With respect to accounts over which the bank exercises investment discretion other than in an agency capacity, if (1) the person with power to terminate the account, or (2) in the event there is no such person, the person holding a beneficial interest in the account requests the bank shall furnish the written notification described in § 344.4 to the requestor within a reasonable time. The bank may charge a reasonable fee for providing this information. This subdivision does not apply to collective investment funds.

(c) With respect to accounts over which the bank exercises investment discretion in an agency capacity, the bank shall (1) furnish to each customer, not less than once every 3 months, an itemized statement specifying the funds and securities in the bank's custody or possession at the end of the period as well as all debits, credits and transactions applicable to the customer's account during that period, and (2) if requested by the customer, furnish to each customer within a reasonable time the written notification described in § 344.4.

(d) With respect to any collective investment fund, the bank shall at least once in each calendar year furnish to the customer a copy of the financial report of the fund or provide notice that a copy of the report is available and will be furnished upon request to each person to whom a regular periodic accounting would ordinarily be rendered for each participating account. This report shall be based upon an audit.

(e) With respect to any periodic plan, the bank shall: (1) after the end of each quarter of a year in which a transaction was completed, furnish to the customer a written statement showing the funds and securities in the custody or possession of the bank at the end of that period and all debits, credits and transactions appli-

cable to the customer's account during that period; or (2) within a reasonable time following each transaction, furnish on a per transaction basis the information described in § 344.4, except that any information relating to remuneration paid in connection with transactions in securities need not be furnished to the customer when paid by a source other than the customer. The bank may charge a reasonable fee for providing this information. If the bank elects (1) above, it shall, upon written request from the customer, supply the information described in (2) above.

§ 344.6 Securities trading policies and procedures.

Every bank effecting securities transactions for customers shall establish written policies and procedures providing:

(a) Assignment of responsibility for supervision of all officers or employees who (1) transmit orders to or place orders with broker/dealers or (2) execute transactions in securities for customers;

(b) For the fair and equitable allocation of securities and prices to accounts when orders for the same security are received at approximately the same time and are placed for execution either individually or in combination;

(c) Where applicable, for the crossing of buy and sell orders on a fair and equitable basis to the parties to the transaction; and

(d) That bank officers or employees whose duties include account management or effecting securities transactions for customers, or who are directly engaged in the management, direction or supervision of such officers or employees, must report to the bank, all securities transactions made by them or on their behalf, either at the bank or elsewhere, in which they have a beneficial interest, except (1) transaction effected in any account over which the bank officer or employee has no direct or indirect influence or control, and (2) transactions in U.S. Government or agency obligations. These reports shall be filed with the bank within 10 days after the end of each quarterly period in which any such security transaction was effected and shall be retained by the bank for 3 years.

§ 344.7 Exceptions.

(a) The requirements of §§ 344.3(b) through 344.3(d) shall not apply to banks having an average of less than 50 securities transactions per calendar year for customers over the prior 3-calendar-year period;

(b) Activities of a bank that are subject to regulations promulgated by the Municipal Securities Rulemaking

Board shall not be subject to the requirements of this Part; and

(c) Activities of foreign branches of a bank shall not be subject to the requirements of this Part.

By order of the Board of Directors, October 30, 1978.

FEDERAL DEPOSIT INSURANCE
CORPORATION,
ALAN R. MILLER,
Executive Secretary.

[FR Doc. 78-31266 Filed 11-3-78; 8:45 am]

[6320-01-M]

CIVIL AERONAUTICS BOARD

[14 CFR Parts 221, 302, and 399]

[EDR-366; PDR-58; PSDR-52; Docket 33836, Dated: October 26, 1978]

U.S. MAINLAND-PUERTO RICO/VIRGIN ISLANDS RATEMAKING ENTITY

Change In Tariff Justification; Revision of Complaint Procedures; Statements of General Policy

AGENCY: Civil Aeronautics Board.

ACTION: Proposed rule.

SUMMARY: The Board is proposing to extend the policies developed for the Domestic Passenger Fare Rulemaking to the U.S. mainland-Puerto Rico/Virgin Islands ratemaking entity. The policies allow carriers to experiment with price/quality of service options tailored to their individual costs and the requirements of individual markets. Under the new policies, ceiling fares are established as a base from which carriers are permitted to set fares upward and downward within specified zones. Fares within the zones ordinarily would not be suspended on grounds that they might be unreasonable. The zones would permit fare competition, while the maximums would protect against unwarranted fares where competition is an insufficient check.

DATES: Comments due by: December 18, 1978. Reply comments due by: January 2, 1979.

Comments and other relevant information received after these dates will be considered by the Board only to the extent practicable. All filed comments must include a full presentation of all evidence and arguments upon which the commenter wishes to rely in support of his position, or in rebuttal of facts relied upon by the Board.¹

¹We have decided that all relevant issues can be determined on the basis of written comments, and that oral evidentiary procedures will not be required. We will not entertain arguments to the contrary in the absence of a detailed specification of the disputed facts which the commenter considers cannot be resolved by written submissions, detailed evidence supporting his position

ADDRESSES: Twenty copies of comments should be sent to Docket 33836, Docket Section, Civil Aeronautics Board, 1825 Connecticut Avenue NW., Washington, D.C. 20428. Individuals may submit their views as consumers without filing multiple copies. Comments may be examined in Room 711, Universal Building, 1825 Connecticut Avenue NW., Washington, D.C., as soon as they are received.

FOR FURTHER INFORMATION CONTACT:

Steven McKinney, Trial Attorney, Bureau of Pricing and Domestic Aviation, Civil Aeronautics Board, 1825 Connecticut Avenue NW., Washington, D.C. 20428, 202-673-5273.

SUPPLEMENTARY INFORMATION:

I. BACKGROUND

The Board has adopted new policies that provide a framework for competitive fare flexibility in the domestic 48-State ratemaking entity and a foundation for reevaluation of our policies for other ratemaking entities. By Final Rule adopted August 25, 1978, Regulation PS-80,² (Domestic Passenger-Fare Rulemaking), we published our findings and conclusions concerning the modification of policies previously developed in the Domestic Passenger-Fare Investigation, Docket 21866. The new policies reflect our conclusion that a different regulatory climate is needed to provide an environment within which carriers can engage in greater price competition, particularly in normal fares, in keeping with our statutory mandate to encourage more efficient carrier operations, lower fares, and economical service. The changes in policy (1) permit carriers to set fares within broad zones of reasonableness with a limited risk of suspension;³ (2) replace uniform normal fares for all carriers and markets of equal distance with ceilings; (3) provide downward fare filing flexibility of 50 percent⁴ from the ceiling and upward flexibility of 5 and 10 percent, depending upon the

with respect to such facts, a detailed specification of the manner in which he believes his version of these facts differs from the facts that may be relied upon by the Board, and a detailed explanation of why he believes the dispute cannot be resolved by written submission.

²Amends Part 399—Statements of General Policy on Domestic Passenger-Fare Level, Structure, and Discount Fares, 43 FR 39522, September 5, 1978.

³Fares within a zone would not be subject to suspension on grounds of reasonableness unless a complainant could demonstrate that the injury to competition was greater than the injury to the traveling public from being deprived of lower fares during the period of suspension.

⁴Carriers have a downward fare filing flexibility of up to 70 percent on 40 percent of their weekly available seat miles.

number of carriers authorized to serve a market;⁵ and (4) eliminate the prescribed relationship between first-class and coach fares.⁶ In conjunction with these policies, we have also modified the method by which the fare ceiling will be adjusted for changes in costs.

The public benefits from price competition recognized in these policies are not limited to the 48 States, and we intend to extend the principle of fare flexibility to other so-called ratemaking entities. As a first step, we intend to extend the policies to the U.S. mainland-Puerto Rico/Virgin Islands entity. The current fare policies and standards for that entity were established in the Board's investigation of Mainland U.S.-Puerto Rico/Virgin Islands Fares, Docket 24353, Orders 74-10-78 and 76-8-100 (Mainland-PR/VI Fares). In contrast to our preexisting standards for domestic passenger fares, we have not prescribed uniform normal fares for equidistant markets in the Mainland-Puerto Rico/Virgin Islands entity. The standard fares in that entity resulting from our decision in the Mainland-PR/VI Fares case are only maxima, derived from a factoring of specified peak/off-peak fare differentials. We have thus already recognized the advantages of ceiling fares and peak/off-peak differentials for that entity by incorporating day-of-week and seasonal differentials into the fare structure,⁶ although the differentials are prescribed rather than permitted.⁷

With maximum rather than prescribed fares already in place and with

⁵Specifically:

(1) in markets where four or more interstate and intrastate carriers are authorized to provide nonstop service either on an unrestricted or restricted basis, each carrier should have the opportunity to set fares in a zone ranging up to 10 percent above the fare ceiling;

(2) in markets where two or three interstate or intrastate carriers are authorized to provide nonstop service either on an unrestricted or restricted basis, each carrier should have the opportunity to establish fares in a zone ranging up to 5 percent above the ceiling on 110 days throughout the year; and

(3) in monopoly markets, the carriers should have the opportunity to establish fares in a zone ranging up to five percent above the ceiling on 58 days throughout the year.

⁶In addition to these policy changes, the Board modified its policies on the level and division of joint fares.

⁷A coach weekend surcharge of \$6 for day services and \$5 for night services applies in Boston/Hartford/New York/Philadelphia/Baltimore/Washington/Miami-San Juan and the New York-Virgin Islands markets. A coach seasonal surcharge of \$6 for day services and \$5 for night services applies during the peak seasons in all markets.

⁸The Commonwealth of Puerto Rico has stated its support for extending fare flexibility to Mainland-Puerto Rico markets. See Comments in the Domestic Passenger-Fare Rulemaking, PS-80.