Expedited Relief. The issuance of such an Order does not, however, prohibit the FSLIC as Receiver from making any preparations legally required in advance of its threatened action (*e.g.*, reposting foreclosure). Any such stay will remain in full force and effect for a period of time sufficient to enable the party requesting relief to be provided with the Bank Board's Decision and an opportunity to seek judicial review of that Decision. Such time will be at least five (5) work days from the date of the Decision where delivery of the Bank Board's Decision is by express (overnight) delivery service and eight (8) work days if by certified or regular U.S. mail.

§ 577.5 Requests for extension of time or waiver of other procedural requirements.

Failure to comply with any of the procedural requirements set forth herein may result in denial of the Request for Expedited Relief. However, reasonable requests for extensions of time or waiver of other procedural requirements may be granted upon a showing of good cause.

By the Federal Home Loan Bank Board.

John F. Ghizzoni,

Assistant Secretary.

[FR Doc. 88-25073 Filed 10-28-88; 8:45 am]

BILLING CODE 6720-01-M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 75

[Airspace Docket No. 88-AEA-7]

Alteration of Jet Route; New York

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: The amendment alters the description of Jet Route J-217 located in the vicinity of Hancock, NY. A segment of J-217 west of the Keating, PA, very high frequency omni-directional radio range and tactical air navigational aid (VORTAC) is never used or requested. This amendment revokes that segment between the Keating VORTAC and the Grace, PA, intersection. This action reduces chart clutter.

EFFECTIVE DATE: 0901 u.t.c., December 15, 1988.

FOR FURTHER INFORMATION CONTACT: Lewis W. Still, Airspace Branch (ATO-240), Airspace—Rules and Aeronautical Information Division, Air Traffic Operations Service, Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC 20591; telephone: (202) 267-9250.

SUPPLEMENTARY INFORMATION:

History

On August 17, 1988, the FAA proposed to amend Part 75 of the Federal Aviation Regulations (14 CFR Part 75) to alter the description of J-217 by revoking a route segment between the Keating VORTAC and the Grace intersection (53 FR 31018). Interested parties were invited to participate in this rulemaking proceeding by submitting written comments on the proposal to the FAA/ No comments objecting to the proposal were received. Except for editorial changes, this amendment is the same as that proposed in the notice. Section 75.100 of Part 75 of the Federal Aviation Regulations was republished in Handbook 7400.6D dated January 4, 1988.

The Rule

This amendment to Part 75 of the Federal Aviation Regulations revokes a segment of J-217 between the Keating VORTAC and the Grace intersection. This segment of J-217 is never used or requested. This action reduces chart clutter.

The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore—(1) is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 75

Aviation safety, Jet routes.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me, Part 75 of the Federal Aviation Regulations (14 CFR Part 75) is amended, as follows:

PART 75—ESTABLISHMENT OF JET ROUTES AND AREA HIGH ROUTES

1. The authority citation for Part 75 continues to read as follows:

Authority: 49 U.S.C. 1348(a), 1354(a), 1510; Executive Order 10854; 49 U.S.C. 106(g) (Revised Pub. L. 97-449, January 12, 1983); 14 CFR 11.69.

§ 75.100 [Amended]

2. Section 75.100 is amended as follows:

J-217 [Revised]

From Hancock, NY to Keating, PA.

Issued in Washington, DC, on October 17, 1988.

Shelomo Wugalter,

Acting Manager, Airspace—Rules and Aeronautical Information Division.

[FR Doc. 88-25032 Filed 10-28-88; 8:45 am]

BILLING CODE 4910-13-M

SECURITIES AND EXCHANGE COMMISSION

17 CFR Part 240

[Release No. 34-26217, File No. S7-17-88]

Exemption of Certain Foreign Government Securities Under the Securities Exchange Act of 1934 for Purposes of Future Trading

AGENCY: Securities and Exchange Commission.

ACTION: Final rule.

SUMMARY: The Commission amends Rule 3a12-8 under the Securities Exchange Act of 1934 to designate government debt securities issued by Austria, Denmark, Finland, the Netherlands, Switzerland, and West Germany as "exempted securities" for purposes of the marketing and trading in the United States of futures contracts on those securities. Rule 3a12-8 currently grants such an exemption to British, Canadian, Japanese, Australian, French, and New Zealand government debt securities underlying futures contracts that meet certain conditions set forth in the Rule. The amendment will extend the exemption to government securities issued by Austria, Denmark, Finland, the Netherlands, Switzerland, and West Germany, thereby removing such securities from those on which futures trading is prohibited by the Commodity Exchange Act. Trading the underlying securities, absent compliance with applicable registration and other requirements, will remain prohibited to the same extent as under current federal securities law.

EFFECTIVE DATE: October 31, 1988.

FOR FURTHER INFORMATION CONTACT: David L. Underhill, Esq., 202/272-2375, Division of Market Regulation, Securities and Exchange Commission, Room 5186 (Mail Stop 5-1), 450 Fifth Street NW., Washington, DC 20549.

SUPPLEMENTARY INFORMATION:

I. Introduction

Under the Commodity Exchange Act ("CEA"), futures trading on an individual security is prohibited unless the underlying security is an exempted security under the Securities Act of 1933 ("Securities Act") or the Securities Exchange Act of 1934 ("Exchange Act"). The Securities and Exchange Commission ("SEC" or "Commission") adopted and later amended Rule 3a12–8 ("Rule") under the Exchange Act to designate debt securities of Great Britain, Canada, Japan, Australia, France, and New Zealand (the "six designated sovereign issuers") as "exempted securities" under the Exchange Act solely for purposes of marketing and trading futures on those securities in the United States. In effect, the designation of those securities as exempted securities removes the CEA's prohibition against marketing and trading futures on those securities in the United States, so long as the other terms of the Rule are satisfied. The Commission today adopts an amendment to the Rule. The amendment adds the debt securities of Austria, Denmark, Finland, the Netherlands, Switzerland, and West Germany (the "seven newly designated sovereign issuers") to the list of designated foreign government securities exempted by the Rule. To qualify for the exemption, futures contracts on securities of the newly designated sovereign issuers will have to meet all the other existing requirements of the Rule.

II. Background

The CEA, as amended by the Futures Trading Act of 1982,[1] prohibits the trading of futures contracts on individual securities unless those securities qualify as exempted securities under section 3 of the Securities Act or section 3(a)(12) of the Exchange Act.[2] Because foreign government securities are not exempted securities under either of these sections, the CEA prohibition against trading futures on individual securities prevents the marketing and trading of futures on such foreign government securities in this country. Section 3(a)(12) of the Exchange Act, however, provides that the term "exempted security" includes

> such other securities * * * as the Commission may, by such rules and regulations as it deems consistent with the public interest and the protection of investors, either unconditionally or upon specified terms and conditions or for stated periods, exempt from the operation of any one or more provisions of this title which by their terms do not apply to an "exempted security" or to "exempted securities."

In March 1984, pursuant to section 3(a)(12) under the Exchange Act, the Commission promulgated Rule 3a12–8.[3] The Rule, as amended,[4] designates British, Canadian, Japanese, Australian, French, and New Zealand government securities that meet certain conditions as "exempted securities" under the Exchange Act. The purpose of the Rule is to permit certain exchange-traded futures contracts on the designated foreign government securities to be marketed and traded in the United States [5] Under the Rule, government debt securities of the six designated sovereign issuers are considered exempted securities under the Exchange Act only with respect to futures trading on those securities and provided that: (1) The securities are not registered in the United States; (2) the futures contracts require delivery outside the United States; and (3) the futures contracts are traded on a board of trade.[6]

Rule 3a12–8 was promulgated in response to Congress' understanding, in approving the 1982 amendments to the CEA, that neither the SEC nor the Commodity Futures Trading Commission ("CFTC") had intended to bar British government bond futures [7] and that administrative action would be taken to allow the sale of these futures contracts in the U.S.[8] In promulgating the Rule, the Commission implemented Congress' intent without abandoning its longstanding policy of subjecting foreign government securities, for most purposes, to the requirements of the federal securities laws. Accordingly, the conditions set forth in the Rule are designed to ensure that a domestic market in unregistered foreign government securities does not develop and that futures markets in these instruments are not used to avoid the registration and other provisions of the federal securities laws.

At the time the Commission originally proposed Rule 3a12–8, it recognized that, should the securities of additional governments become subject to futures trading, it could become necessary to amend the Rule to include those securities.[9] Subsequently, the Commission amended the Rule to include Japanese, Australian, French, and New Zealand government debt.

On September 29, 1988, the London International Financial Futures Exchange, Ltd. ("LIFFE") began trading a Deutschmark-denominated German government bond futures contract (or "Bund" contract). The Commission staff has been informed that U.S. citizens, particularly institutional investors, are interested in trading this new product and has received a request that Rule 3a12–8 be amended accordingly.[10] As the world's securities markets become increasingly internationalized, the Commission expects to receive additional petitions for exemptive relief. As an alternative to continuing to amend the Rule on a country-by-country basis, the Commission, on August 16, 1988, issued a release ("1988 Proposal Release") proposing to amend the Rule by adding debt securities issued by Austria, Denmark, Finland, the Netherlands, Norway, Sweden, Switzerland, and West Germany to the Rule's list of designated foreign government securities.[11]

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[1] Pub. L. No. 97–444, 96 Stat. 2294, 7 U.S.C. 1 *et seq.*

[2] Section 2(a)(1)(B)(v) of the CEA, 7 U.S.C. 2a(v) (1982), provides that "[n]o person shall offer to enter into, enter into, or confirm the execution of any contract of sale (or option on such contract) for future delivery of any security, or interest therein or based on the value thereof, except an exempted security under section 3 of the Securities Act * * * or section 3(a)(12) of the * * * Exchange Act * * *."

[3] *See* Securities Exchange Act Release No. 20708, March 2, 1984, 49 FR 8595 ("Adopting Release"), and 19811, May 25, 1983, 48 FR 24725 ("1983 Proposal Release").

[4] As originally adopted, the Rule applied only to British and Canadian government securities. *See* Adopting Release, *supra* note 3. The Rule was amended in 1986 to include Japanese government securities. *See* Securities Exchange Act Release No. 23423, July 11, 1986, 51 FR 25996. In 1987, the Rule was amended to include debt securities issued by Australia, France, and New Zealand. *See* Securities Exchange Act Release No. 25072, October 29, 1987, 52 FR 42277.

[5] As discussed above, without this designation the trading of futures on these securities in the United States would be prohibited by section 2(a)(1)(B)(v) of the CEA.

[6] A requirement that the board of trade be located in the country that issued the underlying debt securities has been eliminated. *See* Securities Exchange Act Release No. 24209, March 12, 1987, 52 FR 8875.

[7] *See* 1983 Proposal Release, *supra* note 3, 48 FR at 24725 [citing 128 Cong. Rec. H7492 (daily ed. September 23, 1982) (statements of Representatives Daschle and Wirth)].

[8] In extending the exemption to futures on Canadian, Japanese, Australian, French, and New Zealand government debt securities, the Commission noted that there did not appear to be any legal or regulatory reason for treating them differently from British sovereign debt futures.

[9] *See* 1983 Proposal Release, *supra* note 3, 48 FR at 24726–27.

[10] *See* letter from Brooksley Born, Arnold & Porter, to Howard L. Kramer, Assistant Director, Division of Market Regulation, SEC, dated June 3, 1988.

[11] *See* Securities Exchange Act Release No. 25998, August 16, 1988, 53 FR 31709. The countries proposed to be added to Rule 3a12–8 in the 1988

Continued

III. Discussion

The Commission received seven comment letters in response to the 1988 Proposal Release, including two from the same commentator.[12] Four of the six commentators endorsed or expressed no objection to adding the eight countries included in the 1988 Proposal Release to the list of countries covered by the Rule.[13] Norway and Sweden, however, objected to the exemption of their sovereign debt securities for purposes of futures trading thereon, citing their respective currency restrictions.[14]

The Commission also solicited comment in its 1988 Proposal Release on whether under the proposal the information available in English regarding newly-eligible futures contracts and underlying sovereign debt would be adequate to permit U.S. investors to make informed investment decisions.[15] The two commentators that addressed this issue argued that U.S. investors should have sufficient access to information in English concerning the relevant futures markets and underlying debt instruments.[16]

In addition, the Commission solicited comment on whether there are any legal or policy reasons for determining that debt securities issued by Austria, Denmark, Finland, the Netherlands, Norway, Sweden, Switzerland, or West Germany should not be accorded the same treatment for purposes of futures trading in the U.S. as are debt securities issued by the six designated sovereign issuers. The one commentator that addressed this issue stated that there did not appear to be any valid legal or policy reasons for denying U.S. investors the ability to trade futures on debt issued by Austria, Denmark, Finland, the Netherlands, Norway, Sweden, Switzerland, or West Germany.[17]

Based on the comment letters received and for the additional reasons discussed below, the Commission has determined that Rule 3a12–8 should be amended to include the debt obligations of Austria, Denmark, Finland, the Netherlands, Switzerland, and West Germany. The Commission agrees that there are no valid legal or policy reasons for denying U.S. investors the ability to trade futures on debt securities issued by the six newly-designated sovereign issuers and that the availability of these new hedging vehicles will allow investors to take advantage of the growing globalization of the securities markets. Due in large part to this trend toward internationalization, U.S. investors should have ready access to information in English concerning the markets and government securities of the six newly-designated sovereign issuers. It also is important to note that the existing conditions set forth in the Rule (*i.e.*, that the underlying securities not be registered in the United States, that the futures contracts require delivery outside the United States,[18] and that the contracts be traded on a board of trade) will apply to futures contracts on debt securities issued by the six newly-designated sovereign issuers. This should ensure that the federal securities laws will not be subverted by the marketing and trading of futures on additional government securities in this country.[19]

The Commission has determined not to add Norway and Sweden to the Rule's list of eligible sovereign issuers. As noted above, Norway and Sweden

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Proposal Release are those countries not covered currently by the Rule but which would have qualified pursuant to a generic rating standard amendment proposed by the Commission last year. *See* Securities Exchange Act Release No. 24428, May 5, 1987, 52 FR 18237. The rating standard amendment would have added to the Rule's list of exempted securities all debt instruments issued by a country with outstanding long-term sovereign debt rated in one of the two highest rating categories by at least two nationally recognized statistical rating organizations.

[12] Letters were received from the following: Jorgen Holmquist, Financial Counselor, Embassy of Sweden, dated September 9, 1988 ("Sweden Letter") and October 18, 1988; Brooksley Born, Arnold & Porter, dated September 13, 1988 (on behalf of LIFFE) ("Arnold & Porter Letter"); Laurids Mikaelson, Minister (Economic Affairs), Embassy of Denmark, dated September 19, 1988; Robert H. Weiss, Vice President and Associate General Counsel, Shearson Lehman Hutton, dated September 19, 1988 ("Shearson Letter"); Arve Thorvik, Counselor of Economic Affairs, Embassy of Norway, dated September 20, 1988 ("Norway Letter"); and Ian M. de Jong, Counselor (Economic), Embassy of the Netherlands, dated September 21, 1988 ("Netherlands Letter"). The second letter from Sweden was submitted in response to a Commission staff request for clarification of the first letter.

[13] Denmark and the Netherlands stated that they have no objections to the amendment contained in the 1988 Proposal Release. Indeed, the Netherlands applauded such an amendment as contributing to a "further integration of financial markets." Netherlands Letter, *supra* note 12, at 1. Arnold & Porter commented in support of U.S. trading of LIFFE's German Bund contract by noting that the German debt market is very active in Europe and that there is a large U.S. interest in futures contracts on West German sovereign debt securities. Arnold & Porter also argued that amending the Rule to include sovereign debt securities of additional countries other than West Germany would reduce delays and Commission administrative burdens that could arise if new sovereign debt futures contracts were developed. Arnold & Porter Letter, *supra* note 12, at 3–7. Finally, Shearson supported the proposed amendment to the Rule, but argued that all sovereign debt should be exempted from purposes of futures trading thereon.

[14] In particular, Norway cited its policy of limiting "the role of the Norwegian kroner as an international transaction and investment currency * * *." Norway Letter, *supra* note 12, at 1. Sweden noted that its currency controls prohibiting non-residents from holding Swedish kroner-denominated securities would preclude development of a market for physically-settled futures on such securities and that "[i]n any case it is not in the interest of the Swedish government that such a market develops." Sweden Letter, *supra* note 12, at 1.

[15] In adopting Rule 3a12–8 the Commission decided not to require, as a condition to the exemption, that such information be available. *See* Adopting Release, *supra* note 3, 49 FR 8597–98. At the time Rule 3a12–8 was adopted, both the United Kingdom and Canada had government debt issues registered in the U.S. As a result, although those particular issues were not the subject of U.S. futures trading, U.S. investors had relevant disclosure materials concerning the issuers, *i.e.*, the governments of Canada and the United Kingdom. In addition, Australia and New Zealand had government debt issues registered in the U.S. when they were added to the Rule's list of eligible issuers. The Japanese and French governments, however, had not registered any securities in the U.S. when they were added to the Rule. Of the new countries that will become eligible under the current amendment, only Austria and Denmark currently have government debt securities registered in the U.S.

[16] Arnold & Porter Letter, *supra* note 12, at 5–6; Shearson Letter, *supra* note 12, at 1. Arnold & Porter stressed the availability of information regarding West German Bund futures contracts traded on LIFFE, the underlying German sovereign debt securities, and the "general creditworthiness of the German government so as to allow U.S. investors knowledgeably to trade futures on Bunds." Arnold & Porter Letter, *supra* note 12, at 5–6.

[17] *See* Shearson Letter, *supra* note 12, at 1. The Commission also solicited comments on possible procedures or standards pursuant to which it could exempt the debt securities of additional countries without having to do so on a country-by-country basis, including the generic rating standard approach proposed originally in May 1987 (*see* note 11, *supra*) and a standard based on volume and depth of trading in a sovereign issuer's debt. In response, one commentator, Shearson Lehman Hutton, argued that all sovereign debt securities should qualify for the exemption provided by Rule 3a12–8. *See* Shearson Letter, *supra* note 12, at 2–3.

[18] Although the only futures contract likely to be eligible immediately for sale in the United States once the amendment is adopted is the physically-settled West German bond futures contract traded on LIFFE, the Commission in the past has stated that cash-settlement would be consistent with the Rules' requirement that delivery occur outside the United States *See* Securities Exchange Act Release No. 25072, October 29, 1987, 52 FR 42277, at 42279 n.19.

[19] The marketing and trading of foreign futures contracts also is subject to regulation by the CFTC. In particular, section 4(b) of the CEA authorizes the CFTC to regulate the offer and sale of foreign futures contracts to U.S. residents, while Rule 30.02 (18 CFR 30.02), promulgated under section 2(a)(1)(A) of the CEA, is intended to a prohibit fraud in connection with the domestic offer and sale of futures contracts executed on foreign exchanges. In addition, the CFTC recently adopted a series of regulations governing the domestic offer and sale of futures and options contracts traded on foreign boards of trade. The rules, which became effective on January 4, 1988, but which have not been fully implemented pending CFTC review of petitions for exemption, require, among other things, that the domestic offer and sale of foreign futures be effected through CFTC registrants or through entities subject to a foreign regulatory framework comparable to that governing domestic futures trading. *See* 52 FR 28980 (August 5, 1987).

objected to the exemption of their sovereign debt securities for purposes of futures trading thereon. Although the Commission believes that trading of Norwegian and Swedish sovereign debt securities could become active enough to support development of a futures market on such securities, as a matter of international comity the Commission will not add Norwegian and Swedish sovereign debt securities to those exempted by the Rule.[20]

IV. Cost/Benefit Analysis

In connection with the 1988 Proposal Release, the Commission noted that there do not appear to be any costs associated with the amendment adopted today. While the rule is being expanded to exempt the debt of additional countries, the Rule continues to include safeguards designed to protect U.S. investors by preventing unregistered bonds issued by the six newly-designated sovereign issuers from entering the country and by requiring that futures on those bonds be traded on boards of trade. In addition, the amendment imposes no recordkeeping or compliance burden in itself and merely provides an exemption under the federal securities laws. The principal benefit associated with the amendment is that it will allow U.S. investors to trade a greater range of futures contracts on foreign government debt. The Commission received no comments on the costs and benefits of the amendment to Rule 3a12–8.

V. Regulatory Flexibility Act Certification

Pursuant to section 605(b) of the Regulatory Flexibility Act,[21] the Chairman of the Commission certified in connection with the 1988 Proposal Release that the amendment to Rule 3a12–8, if adopted, would not have a significant economic impact on a substantial number of small entities. The Commission received no comments on this certification.

VI. Effects on Competition and Other Findings

Section 23(a)(2) of the Exchange Act[22] requires the Commission, in adopting rules under the Exchange Act, to consider the competitive effects of such rules, if any, and to balance any impact against the regulatory benefits gained in terms of furthering the purposes of the Exchange Act. The Commission has considered the amendment to Rule 3a12–8 in light of the standards cited in section 23(a)(2) and believes that adopting of the amendment will not impose any burden on competition not necessary or appropriate in furtherance of the Exchange Act. As stated above, the amendment is designed to assure the lawful availability in this country of futures on the sovereign debt securities of the six newly-designated countries that otherwise would not be permitted to be marketed under the terms of the CEA. The amendment thus serves to expand the range of financial products available in the U.S. and enhances competition in financial markets. Insofar as the Rule contains limitations, they are designed to promote the purposes of the exchange Act by ensuring that futures trading on government securities of the six newly-designated sovereign issuers is consistant with the goals and purposes of the federal securities laws by minimizing the impact of the Rule on securities trading and distribution in the U.S.

The Commission finds, in accordance with the Administrative Procedure Act,[23] that the amendment to Rule 3a12–8 is exemptive in nature. Accordingly, the Commission has determined to make the foregoing action effective immediately upon publication in the **Federal Register**.

List of Subjects in 17 CFR Part 240

Reporting and recordkeeping requirements, Securities.

VII. Text of the Adopted Amendment

The Commission is amending Part 240 of Chapter II, Title 17 of the Code of Federal Regulations as follows:

PART 240—GENERAL RULES AND REGULATIONS, SECURITIES EXCHANGE ACT OF 1934

1. The authority citation for Part 240 continues to read as follows:

Authority: Sec. 23, 48 Stat. 901, as amended; 15 U.S.C. 78w. * * * § 240.3a12–8 also issued under 15 U.S.C. 78a *et seq.*, particularly Sections 3(a)(12), 15 U.S.C. 78c(a)(12) and 23(a), 15 U.S.C. 78w(a).

2. Section 240.3a12–8 is amended by removing the word "or" from (a)(1)(v), replacing the period with a semi-colon at (a)(1)(vi), and adding paragraphs (a)(1) (vii) through (xii) as follows:

§ 240.3a12–8 Exemption for designated foreign government securities for purposes of futures trading.

(a) * * *

(1) * * *

(vii) Austria;

(viii) Denmark;

(ix) Finland;

(x) The Netherlands;

(xi) Switzerland; or

(xii) West Germany.

* * * * *

By the Commission.

Jonathan G. Katz,

Secretary.

Dated: October 26, 1988.

[FR Doc. 88–25120 Filed 10–28–88; 8:45 am]

BILLING CODE 8010-01-M

UNITED STATES INFORMATION AGENCY

22 CFR Part 514

Exchange-Visitor Programs

AGENCY: United States Information Agency.

ACTION: Policy statement.

SUMMARY: The regulation found at 22 CFR 514.31 regarding requests for waivers of the home-country physical presence requirements of the Immigration and Nationality Act, as amended, does not provide for an appeal, reconsideration or reopening of an Agency decision not to recommend a waiver of the two-year home residency requirement to the Attorney General. Accordingly, the Agency will no longer accept appeals or requests for reopening, review, or reconsideration from aliens seeking hardship waivers or interested Government agency waivers.

EFFECTIVE DATE: October 31, 1988.

ADDRESS: Merry Lymn, Assistant General Counsel, Room 700, United States Information Agency.

FOR FURTHER INFORMATION CONTACT: Merry Lymn, Assistant General Counsel, United States Information Agency, Office of the General Counsel, 301 4th Street, SW., Room 700, Washington, DC 20547; (202) 485–8829.

SUPPLEMENTARY INFORMATION: Under the Immigration and Nationality Act, section 212(e), a person who was admitted to the United States under section 101(a)(15)(j) or who acquired such status after admission, must reside in and be physically present in the country of his or her nationality or last legal permanent residence for an aggregate of two years following departure from the United States in

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[20] The Commission specifically reserves the right to consider exempting such debt securities under the Rule in the future. In addition, although the amendment approved today should obviate the need to amend Rule 3a12–8 in the near future, the Commission will continue to consider possible procedures or standards pursuant to which it could exempt the debt securities of additional countries other than on a country-by-country basis.

[21] 5 U.S.C. 605(b) (1982).

[22] 15 U.S.C. 78w(a)(2) (1982).

[23] 5 U.S.C. 553 (1982).

order to be eligible to apply for an immigrant visa, for permanent residence, or for a nonimmigrant visa under section 101(a)(15)(H) or section 101(a)(15)(L) if (1) the person's participation in the program for which he came to the United States was financed in whole or in part, directly or indirectly by the Government of the United States or the Government of his or her nationality or last legal residence, (2) who at the time of admission is engaged in a skill on the skills list for the country of nationality or last legal residence, or (3) who came to the United States or acquired such status in order to receive a graduate medical education. The section also provides that the Attorney General may waive the two-year home residency requirement if the United States Information Agency recommends such waiver "pursuant to the request of an interested United States Government Agency, or of the Commissioner of Immigration and Naturalization, after he has determined that departure from the United States would impose exceptional hardship upon the alien's spouse or child (if such spouse or child is a citizen of the United States or a lawfully resident alien), or that alien cannot return to the country * * * because he would be subject to persecution on account of race, religion, or political opinion * * *" The law also provides that a waiver may be granted to all except those who came to the United States for graduate medical education or training if the alien's country furnishes a statement of no objection.

Under the statute the request for a recommendation from the United States Information Agency comes from either an interested United States Government agency or the Commissioner of the Immigration and Naturalization Service. Requests are not to come directly to the United States Information Agency.

The regulations promulgated by the Immigration and Naturalization Service found at 8 CFR 212.7(c) provide that waiver applications based upon hardship be made directly to the Immigration and Naturalization Service. Upon meeting the standards imposed by those regulations and a finding of hardship being made, the Immigration and Naturalization Service requests a recommendation from United States Information Agency as to whether to grant or deny the waiver. The Immigration and Naturalization Service is the only party before the United States Information Agency. The communication comes from the Immigration and Naturalization Service. The United States Information Agency responds to the Immigration and Naturalization Service. In this regard, the Immigration and Naturalization Service Operations Instructions at 212.8 provide:

The recommendation of the Director, United States Information Agency, made in any section 212(e) case will be sent directly to the district director having jurisdiction over the exchange alien's place of temporary residence in the United States, or over his last place of residence in the United States if the alien is abroad. The district director shall inform the exchange alien of the decision and furnish a copy of it to the General Counsel, United States Information Agency, Washington, DC 20547 and the interested United States agency. When the waiver application is approved and the applicant intends to apply for a visa, the alien shall be instructed to present the district director's decision to the consul as a part of the visa application. When the waiver application is denied, notwithstanding a favorable recommendation from the Director, USIA, the alien, any interested agency, and the General Counsel, United States Information Agency, shall be notified of the denial of the application, of the reasons and of the right of appeal when appropriate. (See 8 CFR 212.7(e)).

Additionally, 8 CFR 212.7(c)(10) precludes appeal from cases denied a favorable recommendation by this Agency. The proper forum for review of a waiver denial based upon a negative USIA opinion is to request that the Immigration and Naturalization Service reconsider the waiver pursuant to 8 CFR 103.5. The INS will, if new facts are presented warranting review, send a new I-613 to USIA for a second opinion. Thus, any appeal is to be made to the Immigration and Naturalization Service, not to the United States Information Agency.

When an interested United States Government agency requests a waiver, the head of such agency submits a request to the United States Information Agency. The interests of the United States Government are at issue. The interests of the subject alien are not before the United States Information Agency, and the alien is not a party to the proceeding. Should the United States Information Agency recommend denial of the waiver request, the interested government agency is the appropriate party to appeal, not the alien.

The only situation in which the alien is a party before the United States Information Agency, is a case in which there is no objection to the waiver by the home country.

The United States Information Agency regulations do not provide for appeal in any case. Rather, the agency has established a Waiver Review Board to which certain types of cases are referred as a part of the internal administrative decision-making process. These cases include:

* * * Cases involving requests of interested United States Government agencies, in which the recommendation of the Supervisory Attorney is unfavorable; cases in which another federal agency has provided the Agency with a written opposition to a waiver in which the recommendation to the Supervisor Attorney is favorable; cases in which a "no objection" letter from the Government of the exchange visitor's country or nationality or last legal residence appears in the file and whose participation in any program is financed by the United States Government in an amount under $2000, and as to which the recommendation of the Supervisory Attorney is unfavorable, except for an exchange visitor who received graduate medical education; cases involving claims of probable persecution on the ground of race, religion, political opinion, nationality, or membership in a particular social group, in which the Department of State has provided the Agency with a written opinion that there is no genuine basis for a claim of probable persecution on the ground alleged, and in which the recommendation of the Supervisory Attorney is favorable; and cases in which for any reason the Supervisory Attorney requests Exchange Visitor Waiver Board review of his or her recommendation. The Agency's complete file in any such case shall be referred to the Exchange Visitor Waiver Board. The Exchange Visitor Waiver Board shall review the program, policy and foreign relations aspects of the case, and shall prepare and transmit to the Attorney General or his or her designee a recommendation which, whether favorable or unfavorable, shall constitute the final recommendation of the Agency.

Consequently, cases which should go to the Waiver Review Board go automatically to the Board for review, without a request from the alien.

Nonetheless, the Agency is inundated with requests for reconsideration, review, re-reconsideration, re-review, ad infinitum. Some parties request review of their file several times. While there is no provision for these reviews, the agency has tried to accommodate as many people as possible and has reviewed files over and over. This accommodation has resulted in a six month backlog of applications. In other words, an alien applying for a waiver must wait six months to learn if his or her file needs supplementation before it is even considered. In an attempt to reduce the backlog, additional staff has been hired. However, aliens continue to press for reviews and re-reviews of their files. The reviews are undertaken even though no new evidence has been placed in the file warranting review. Consequently, few files are ever closed (unless the waiver is granted) and the backlog continues to grow. Additionally this practice has caused administrative problems at the Immigration and Naturalization Service.

Upon review of the entire situation, the Agency has determined that it is not in anyone's interest to keep case files open indefinitely.

The Agency has also determined that there is no provision in the Agency regulations for such a review. On the other hand, there is adequate provision for review if undertaken in accordance with specified procedures. When a difficult case of the type specified in the regulation is before the Agency, a review is automatically referred to the Board, without a request. In the case of hardship, the Immigration and Naturalization Service has adequate provision for appeal. See 8 CFR 103.5 wherein procedures for reopening or reconsidering applications are set forth. Should the Immigration and Naturalization Service determine that reopening or reconsideration is warranted under its procedures, the Immigration and Naturalization Service will forward the case to the United States Information Agency. The United States Information Agency will no longer consider appeals by individuals who have not followed the procedures set forth in lawfully promulgated regulations.

Accordingly, all requests to reopen, reconsider, appeal, or otherwise review any decision in a waiver case by the United States Information Agency, made directly to United States Information Agency by anyone other than an appropriate United States Government Agency (except aliens in "no objection" cases) will automatically be returned to sender. The file will not be reviewed.

List of Subject in 22 CFR Part 514

Cultural exchange programs.

Dated: October 13, 1988.

R. Wallace Stuart,

Acting General Counsel.

[FR Doc. 88-25140 Filed 10-28-88; 8:45 am]

BILLING CODE 8230-01-M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of the Assistant Secretary for Community Planning and Development

24 CFR Part 510

[Docket No. R-88-1414; FR-2553]

Section 312 Rehabilitation Loan Program; Removal of Risk Premium and Application Fee Provisions

AGENCY: Office of the Assistant Secretary for Community Planning and Development, HUD.

ACTION: Final rule.

SUMMARY: The rule removes 24 CFR 510.34 and 510.36, which are the Department's regulations on the policies and procedures governing premiums to be charged to offset loan default risks and fees charged for applications approved under the Section 312 Rehabilitation Loan Program. Section 518(b) of the Housing and Community Development Act of 1987 prohibits the Federal government from imposing risk premiums or loan fees on loans made under section 312 of the Housing Act of 1964.

EFFECTIVE DATE: Under section 7(o)(3) of the Department of Housing and Urban Development Act (42 U.S.C. 3535(o)(3)), this final rule cannot become effective until after the first period of 30 calendar days of continuous session of Congress which occurs after the date of the rule's publication. HUD will publish a notice of the effective date of this rule following expiration of the 30-session-day waiting period. Whether or not the statutory waiting period has expired, this rule will *not* become effective until HUD's separate notice is published announcing a specific effective date.

FOR FURTHER INFORMATION CONTACT: Richard Burke, Office of Urban Rehabilitation, Department of Housing and Urban Development, Room 7168, 451 Seventh Street, SW., Washington, DC 20410; telephone (202) 755-5327. (This is not a toll-free number.)

SUPPLEMENTARY INFORMATION: Section 518(b) of the Housing and Community Development Act of 1987 amended section 312(g) of the Housing Act of 1964 to prohibit the Department or any other Federal agency from imposing a risk premium or loan fee on loans made under section 312 after February 5, 1988. In 1985, HUD established a loan risk premium of one percent to offset losses from loan defaults (24 CFR 510.34) and an application fee of $200 for single-family loans and $300 for all other loans to offset administrative costs incurred by HUD under the program (24 CFR 510.36). (See 50 FR 38791 (Sept. 25, 1985)). With the enactment of section 518(b), these regulations are now obsolete. The purpose of this rule is to remove 24 CFR 510.34 and 510.36 from the Code of Federal Regulations.

The subject matter of this rulemaking action relates to implementing a statutory provision that renders HUD regulations obsolete and unenforceable and is therefore exempt from the notice and public comment requirements of section 533 of the Administrative Procedure Act (5 U.S.C. 553). The rule merely removes the obsolete and unenforceable regulations from the Code of Federal Regulations.

Other Matters

This rule does not constitute a "major rule" as that term is defined in section 1(b) of Executive Order 12291. The rule does not: (1) Have an annual effect on the economy of $100 million or more; (2) cause a major increase in costs or prices for consumers, individual industries, Federal, State, or local agencies or geographic regions; or (3) have a significant adverse effect on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

Consistent with the provisions of section 605(b) of the Regulatory Flexibility Act (5 U.S.C. 601), the Undersigned certifies that this rule does not have a significant economic impact on a substantial number of small entities.

This rule was listed in the Department's Semiannual Agenda of Regulations published on October 24, 1988 (53 FR 41974, 42000), pursuant to Executive Order 12291 and the Regulatory Flexibility Act.

The Section 312 Rehabilitation Loan Program is listed in the Catalog of Federal Domestic Assistance as program number 14.220.

List of Subjects in 24 CFR Part 510

Loan programs—housing and community development, Relocation assistance, Urban renewal.

Accordingly, the Department amends 24 CFR Part 510 as follows:

PART 510—SECTION 312 REHABILITATION LOAN PROGRAM

1. The authority citation for 24 CFR Part 510 continues to read as follows:

Authority: Sec. 312, United States Housing Act of 1964 (42 U.S.C. 1452b); sec. 7(d), Department of Housing and Urban Development Act (42 U.S.C. 3535(d)).