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DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 920

[Docket No. FV94–920–2FR]

Kiwifruit Grown in California; Revision of Pack and Reporting Requirements

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This final rule revises pack and reporting requirements established under the Federal marketing order for kiwifruit grown in California. The first change standardizes packaging for certain volume filled containers packed by weight. For the 1994/95 season only, volume filled containers packed by weight will be required to be 22- or 23-pounds net weight if more than 10 pounds and less than 35 pounds. Thereafter, a 22-pound volume filled standard will be effective. The second change streamlines information collection requirements under the program by deleting a requirement that handlers file a Beginning Inventory Data form and adding reporting requirements for a Kiwifruit Inventory Shipment System (KISS) form. Since the KISS form is already in use by handlers, this requirement merely formalizes existing industry use of the KISS form.

EFFECTIVE DATE: This final rule becomes effective October 25, 1994.

FOR FURTHER INFORMATION CONTACT: Rose Aguayo, California Marketing Field Office, Marketing Order Administration Branch, Fruit and Vegetable Division, AMS, USDA, 2202 Monterey Street, Suite 102B, Fresno, California 93721; telephone (209) 487–5901; or Mark Hessel, Marketing Order Administration Branch, Fruit and Vegetable Division, AMS, USDA, P.O. Box 96456, Room 2526–S, Washington, DC 20090–6456, telephone (202) 720–5127.

SUPPLEMENTARY INFORMATION: This final rule is issued under Marketing Order No. 920 [7 CFR Part 920], as amended, regulating the handling of kiwifruit grown in California, hereinafter referred to as the "order." The order is effective under the Agricultural Marketing Agreement Act of 1937, as amended [7 U.S.C. 601–674], hereinafter referred to as the "Act."

The Department of Agriculture (Department) is issuing this rule in conformance with Executive Order 12866.

This final rule has been reviewed under Executive Order 12778, Civil Justice Reform. This rule is not intended to have retroactive effect. This final rule will not preempt any State or local laws, regulations, or policies, unless they present an irreconcilable conflict with this rule.

The Act provides that administrative proceedings must be exhausted before parties may file suit in court. Under section 608c(15)(A) of the Act, any handler subject to an order may file with the Secretary a petition stating that the order, any provision of the order, or any obligation imposed in connection with the order is not in accordance with law and request a modification of the order or to be exempted therefrom. A handler is afforded the opportunity for a hearing on the petition. After the hearing the Secretary would rule on the petition. The Act provides that the district court of the United States in any district in which the handler is an inhabitant, or has his or her principle place of business, has jurisdiction in equity to review the Secretary's ruling on the petition, provided a bill in equity is filed not later than 20 days after the date of the entry of the ruling.

Pursuant to requirements set forth in the Regulatory Flexibility Act (RFA), the Administrator of the Agricultural Marketing Service (AMS) has considered the economic impact of this rule on small entities.

The purpose of the RFA is to fit regulatory actions to the scale of business subject to such actions in order that small businesses will not be unduly or disproportionately burdened. Marketing orders issued pursuant to the Act, and rules issued thereunder, are unique in that they are brought about through group action of essentially small entities acting on their own behalf. Thus, both statutes have small entity orientation and compatibility.

There are approximately 65 handlers of California kiwifruit subject to regulation under the order and approximately 600 kiwifruit producers in the production area. Small agricultural service firms are defined by the Small Business Administration [13 CFR 121.601] as those whose annual receipts are less than $5,000,000, and small agricultural producers have been defined as those having annual receipts of less than $500,000. A majority of handlers and producers of California kiwifruit may be classified as small entities.

Under the terms of the order, fresh market shipments of California kiwifruit are required to be inspected and are subject to grade, size, maturity, pack, and container requirements.

The Kiwifruit Administrative Committee (committee), the agency responsible for local administration of the order, met on February 10, 1994, and unanimously recommended the following changes:

Pack Requirements

The committee recommended standardizing the weight of certain volume filled containers by requiring such containers to be marked by weight at either 22-pounds or 23-pounds net weight through July 31, 1995. For subsequent seasons, volume filled containers will be standardized at 22 pounds. Paragraph (a)(3) of § 920.52 specifies that the Secretary may fix the weight of containers used in the handling of kiwifruit.

In a volume filled container, fairly uniform size kiwifruit are loosely packed without cell compartments, cardboard fillers or molded trays. Handlers may ship volume filled containers marked by either the appropriate count or net weight of kiwifruit. Handler shipments are based upon the preference of the receiver. Volume filled containers marked by count will not be affected by this change. Also, containers of less than 10-pounds or more than 35-pounds net weight will not be affected by this revised weight standard. Thus the industry will continue to have the flexibility to utilize containers of different weights for a variety of buyer preferences.

Last season the industry standardized the weight of all volume filled containers of kiwifruit designated by weight at 23-pounds net weight of kiwifruit unless such containers hold less than 10-pounds or more than 35-pounds net weight of kiwifruit. The industry has since learned that the recognized world standard for volume filled containers of kiwifruit is 10-kilograms (10-kg) net weight which is equal to approximately 22 pounds. The industry has also become aware that neither foreign nor domestic buyers wish to pay more for a 23-pound box than for a 22-pound (10-kg) box. As a result, California marketers selling 23-pound containers have been disadvantaged in both export and domestic markets compared to marketers from other countries selling 22-pound (10-kg) containers of fruit.

The change to a standard container weight of 22-pounds net weight will enable the industry to mark volume filled containers both in terms of a unit of measure in pounds and with a metric weight. Standardizing the weight of volume filled containers marked by weights recognized in the world market will standardize marketing practices for the kiwifruit industry.

The committee considered immediately standardizing the minimum weight for volume filled containers at only 22 pounds (10 kg) rather than at 22 pounds or 23 pounds. However, all committee members were in favor of allowing handlers to continue to also pack or ship to the 23-pound standard for the 1994/95 season to enable handlers to utilize existing inventories of boxes and labels. Thus the requirement to ship only 22-pound net weight containers will be effective for the 1995–96 and subsequent seasons.

This final rule will impact all handlers in the same manner. The same size container currently used for the 23-pound standard can be used for the 22-pound (10-kg) standard. It is anticipated that only a small number of packages will be shipped in 23-pound containers during the 1994/95 season. This is because handlers shipping 23-pound containers have already expressed the concern that they do not receive a price premium for the extra pound of fruit in each container. This concern will be remedied by deleting the preprinted marking of 23 pounds, relabeling the container to read 22 pounds, and filling the container with 22 pounds of fruit. This change will impose some minimal costs on those handlers who choose to print new labels or convert 23-pound volume filled containers into other types of containers. However, the overall benefits to the California kiwifruit industry by standardizing volume filled containers at 22 pounds (10 kg), with the option of using existing labels and boxes for the 1994/95 season, will more than offset the costs imposed on handlers.

Reporting Requirements

Paragraphs (a) and (b) of § 920.60 authorize reporting requirements for kiwifruit handlers under the marketing order. Pursuant to § 920.160, the marketing order requires a Beginning Inventory Data form to be filed with the committee by each handler no later than five days after all fruit has been packed for the season, or such other later time as the committee may establish. This information includes beginning inventory by container type and by fruit size.

In 1990, the California Kiwifruit Commission, hereinafter referred to as the "State commission," adopted the Kiwifruit Inventory Shipment System (KISS) form. The KISS form is comprised of three sections: (1) The "KISS/Add Inventory" requires all handlers to report their beginning inventories by size and container type. Inventory includes all fruit packed at harvest; (2) The "KISS/Deduct Inventory" requires all handlers to report fruit lost in repack, fruit repacked into another container type, and adjustments to decrease posted inventory; and (3) The "KISS/Shipments" requires all handlers to report shipments by size and container type.

All three sections of the KISS form will be filed with the committee, on or before December 5th, or such other later time as the committee may establish. Subsequent KISS forms, including all three sections, will be filed with the committee by the fifth day and again by the twentieth day of each calendar month, or such other later time as the committee may establish.

The adoption of the KISS form by the State commission resulted in redundant reporting requirements in the kiwifruit industry. The KISS form collects the same information as the Beginning Inventory Data form. This information is used to verify the total amount of fruit available for shipping, to calculate statistics, and to determine if assessments billed match reported shipments. In an effort to eliminate the redundant reporting requirements, the committee recommended that the Beginning Inventory Data form reporting requirement be deleted from paragraph (b) of § 920.160 and the KISS form reporting requirements be added. This rule is intended to enable kiwifruit handlers to efficiently file one form to meet the requirements of both the State commission and the Federal marketing order. Deleting the requirement for the Beginning Inventory Data form in paragraph (b) of § 920.160 and utilizing the KISS form will eliminate the submission of duplicate information.

In accordance with the Paperwork Reduction Act of 1980 [44 U.S.C. Chapter 35], the information collection requirements contained in this rule have been approved by the Office of Management and Budget (OMB) and have been assigned OMB No. 0581–0149. Eliminating the Beginning Inventory Data form will decrease the information collection burden for the industry by 65 hours. It has been estimated that it will take an average of .5 hours for each of the approximately 65 handlers of kiwifruit to complete the KISS form. Thus the finalized change will increase the overall burden by 325 hours because the KISS form is filed with the committee more frequently.

A proposed rule concerning this action was published in the **Federal Register** on August 14, 1994 [59 FR 41717], with a 30-day comment period ending September 14, 1994. No comments were received.

Based on the above, the Administrator of the AMS has determined that this action will not have a significant economic impact on a substantial number of small entities.

After consideration of all relevant matter presented, including the information and recommendations submitted by the committee and other available information, it is hereby found that this rule, as hereinafter set forth, will tend to effectuate the declared policy of the Act.

It is further found that good cause exists for not postponing the effective date of this rule until 30 days after publication in the **Federal Register** [5 U.S.C. 553] because: (1) Handlers have begun labeling boxes in preparation of shipping kiwifruit for the 1994/1995 season which began in mid-September; (2) Handlers are aware of this rule, which was unanimously recommended by the committee at a public meeting; and (3) a 30-day comment period was provided for in the proposed rule.

List of Subjects in 7 CFR Part 920

Kiwifruit, Marketing agreements, Reporting and recordkeeping requirements.

For the reasons set forth in the preamble, 7 CFR Part 920 is amended as follows:

PART 920—KIWIFRUIT GROWN IN CALIFORNIA

1. The authority citation for 7 CFR Part 920 continues to read as follows:

Authority: 7 U.S.C. 601–674.

2. In § 920.160, paragraph (b) is revised to read as follows:

§ 920.160 Reports.

* * * * *

(b) *Kiwifruit Inventory Shipping System (KISS) form.*

Each handler shall file with the committee the initial Kiwifruit Inventory Shipment System (KISS) form, which consists of three sections "KISS/Add Inventory," "KISS/Deduct Inventory," and "KISS/Shipment," on or before December 5th, or such other later time as the committee may establish. Subsequent KISS forms, including all three sections, shall be filed with the committee by the fifth day and again by the twentieth day of each calendar month, or such other later time as the committee may establish, and will contain the following information:

(1) The beginning inventory of the handler by size and container type;

(2) The quantity of fruit the handler lost in repack and repacked into other container types;

(3) The total domestic and export shipments of the handler by size and container type; and

3. In § 920.302, paragraph (a)(4)(iv) is revised to read as follows:

§ 920.302 Grade, size, pack and container regulations.

* * * * *

(4) * * *

(iv) All volume filled containers of kiwifruit designated by weight shall hold 22-pounds (10-kilograms) net weight of kiwifruit unless such containers hold less than 10-pounds or more than 35-pounds net weight of kiwifruit. *Provided,* That for the season ending July 31, 1995, such containers may also hold 23-pounds net weight of kiwifruit.

* * * * *

(4) Any other adjustments which increase or decrease posted handler inventory.

* * * * *

Dated: October 19, 1994.

Eric M. Forman,

Deputy Director, Fruit and Vegetable Division.

[FR Doc. 94–26459 Filed 10–20–94; 4:30 pm]

BILLING CODE 3410–02–P

FEDERAL RESERVE SYSTEM

12 CFR Part 220

[Regulation T; Docket No. 0840]

Credit by Brokers and Dealers

AGENCY: Board of Governors of the Federal Reserve System.

ACTION: Final rule.

SUMMARY: The Board is adopting amendments to Regulation T. The amendments are part of the Board's review of Regulation T and respond to rulemaking by the Securities and Exchange Commission (SEC) concerning settlement of securities transactions and Congressional action concerning government securities. The proposed amendments were published for public comment in the **Federal Register** on July 1, 1994. The amendments address two general areas: payment periods for securities purchases and transactions in government securities. The amendments concerning payment periods will reduce by two days the amount of time customers have to meet initial margin calls or make full cash payment for securities at the same time the SEC reduces the standard settlement period by two days, require broker-dealers seeking an extension of this time period to obtain the extension from their designated examining authority if the balance due is $1000 or more, and revise regulatory language in the cash account so that the time periods within which extensions must be obtained and when the "90-day freeze" may be lifted are consistent for certain transactions in which settlement exceeds the standard settlement period. The amendments concerning transactions in government securities will exempt from Regulation T those broker-dealers registered with the SEC solely as government securities brokers or dealers and create a new account for customers of general broker-dealers that permits transactions in government securities to be effected without regard to other provisions of the regulation.

EFFECTIVE DATE: November 25, 1994.

FOR FURTHER INFORMATION CONTACT: Scott Holz, Senior Attorney or Angela Desmond, Senior Attorney, Division of Banking Supervision and Regulation (202) 452–2781; for the hearing impaired *only,* Telecommunications Device for the Deaf (TDD), Dorothea Thompson (202) 452–3544.

SUPPLEMENTARY INFORMATION: The proposed amendments are part of the Board's general review of Regulation T (Docket R–0772) and were published for public comment on July 1, 1994 (59 FR 33923). Twenty-two comments have been received. The comments on the proposed amendments concerning transactions in government securities were supported by all commenters, although some asked for additional amendments. The comments concerning the proposed reduction in payment periods were mixed, with some commenters in favor, some opposed, and some requesting a delay in the amendments' effectiveness. The related payment period issues were generally supported by the commenters, with the exception of the requirement that extensions be obtained solely from the broker-dealer's examining authority and the use of language that will automatically reduce the payment periods if the standard settlement cycle is reduced. Comments on these issues were also mixed.

The Board is adopting the proposed amendments substantially as proposed. Technical changes have been made in the regulatory language and structure to respond to comments and clarify the intent of the amendments. The two general areas are discussed below.

I. Payment Periods

A. T+3 and Shortening of Payment Periods

1. Introduction. On October 6, 1993, the SEC adopted Rule 15c6–1,[1] which establishes a standard three business day settlement cycle for most securities transactions in the United States, effective June 1, 1995. Regular settlement is presently effected in five business days. This new standard is often referred to as "T+3," meaning regular settlement will occur three business days after trade date. Regulation T contains a seven day time period within which brokers must obtain cash or margin deposits from their customers. The seven day payment period in Regulation T is based on the current five day settlement period.

The Board proposed shortening the payment period in Regulation T by the same amount of time that SEC Rule 15c6–1 shortens the standard settlement cycle. Instead of changing the phrase "seven business days" to "five business days," the proposal defined a new term, "payment period," to represent the number of days in the standard settlement cycle plus two business days. This formulation allows the regulation to be amended immediately without changing the current payment period. Once SEC Rule 15c6–1 becomes effective next June, the regulation will automatically require payment within five business days. Although the definition of payment period refers to settlement date, Regulation T remains a trade date based regulation. The use of the phrase "payment period" is meant to be an alternate way of requiring payment within seven business days until June 1995 and five business days thereafter, unless the SEC acts to further

[1] 17 CFR 240.15c6–1; 58 FR 52891 (October 13, 1993).

change the standard settlement cycle. Future changes by the SEC would be automatically incorporated in the Board's rule without the necessity of further amendment.

2. Issues raised by commenters. Comments on the proposal to shorten the payment periods in conjunction with the SEC's shortening of the standard settlement cycle were focused on three issues: whether the payment periods should be shortened, whether the proposed language clearly accomplishes this goal, and whether future reductions in the standard settlement period should be automatically accommodated or reviewed by the Board.

a. Shortening the payment period by two days. The Board is adopting the proposed amendments, subject to the clarification discussed in section b below. Many of the commenters who oppose shortening the payment periods had written to the SEC last year to oppose its T+3 proposal. The Board and the SEC both have responsibilities in the area of settlement and clearance. Shortening the Regulation T payment periods is consistent with (if not required by) the SEC's adoption of a three day settlement cycle. A failure to adjust the payment periods would lessen the overall benefits to be realized from the transition to T+3 and increase risk to the broker-dealer community since they will have to settle trades amongst themselves in the shortened time frame while allowing their customers' behavior and payment patterns to remain unchanged. Increased risk to broker-dealers also affects customers with cash and securities at those firms. Adoption of the proposed amendments by the Board does not reduce the two-day period currently provided to resolve payment problems, but merely clarifies that two days beyond the usual settlement date should be sufficient to resolve any mistakes in the payment process.

Some of the commenters opposed to shortening the payment periods in conjunction with the shortening of the standard settlement cycle believe that the mail system does not permit funds to be delivered within this time frame. However, the increased use of fax machines and money market mutual funds provide alternate ways for customers to make prompt payment for their securities purchases. Although the Board shares the concerns expressed about investors who rely on the mail to pay for securities, it believes that most investors will be able to adjust to the shortened periods. Indeed, the Bachmann Task Force on Clearance and Settlement Reform in U.S. Securities Markets, which recommended to the SEC that the standard settlement cycle be reduced to T+3, stated that it "believes that current customer behavior practices should not be an obstacle to shortened settlement provided there is strong leadership from within the industry and educational efforts to address customer and account executive concerns."[2] Many of the commenters stressed the fact that the brokerage industry is already educating customers about the approach of T+3 settlement and the changes this will entail. The Board is of the view that the successful implementation of T+3 includes a reduction in the Regulation T payment periods. It is expected that broker-dealers will be working with customers who may have difficulty making prompt payment. A delay in the effectiveness of shortening the payment periods would not necessarily improve the educational process, which is already well underway at most firms, and might serve as an excuse for others to delay their educational efforts.

b. Uniform payment period. The proposed term "payment period" was defined as the two business days beyond "the standard securities settlement cycle in the United States." This phrase was meant to refer to the current five day settlement cycle for most securities transactions until SEC Rule 15c6–1 becomes effective next June, at which time the Board's regulation would be referring to the three day period established in the SEC rule. Additional language has been added to the definition of payment period to clarify this point. Some commenters believed the reference to a "standard settlement cycle" depends on the type of security being purchased, so that trades involving standardized options or government securities, both of which settle the day after trade date, would have to be paid for by the third business day after trade date. Although broker-dealers can require payment for transactions by settlement date of the particular trade, Regulation T establishes a standard period within which customers must make payment even though certain securities settle in less than the current five day period. It was not the intent of the Board to change this general policy.

c. Impact of further reductions in settlement periods. As noted in the request for public comment, one of the reasons for using the phrase "payment period" instead of a fixed number of days was to ensure that future reductions in the settlement cycle would be automatically reflected in Regulation T, without the need for further amendments. Commenters were evenly split on whether the Board should be forced to review the Regulation T payment periods whenever the standard settlement cycle is altered. The proposed language has been retained. In light of the fact that investors are expected to pay for securities on settlement date, tying the payment period to the standard settlement cycle merely codifies the Board's current position that two business days should be sufficient to insure that a failure to receive the customer's payment is not due to an error or other exceptional circumstance.

B. Granting of Extensions of Time by a Broker-dealer's Examining Authority

If a customer has not made full cash payment or met an initial margin call within the payment period, the broker-dealer must liquidate the customer's position. However, if exceptional circumstances exist, the broker-dealer can obtain an extension for its customer. Regulation T currently permits any self-regulatory organization (SRO) to grant these extensions. A New York Stock Exchange (NYSE) rule recently approved by the SEC requires broker-dealers for whom the NYSE is the designated examining authority (DEA) to obtain these extensions only from the NYSE.[3] Although the Board could leave Regulation T unchanged and most broker-dealers would still be required to go to their DEA instead of any SRO, the Board proposed amending Regulation T to require that extensions be granted only by a broker-dealer's DEA. This decision was based on analysis of the comments received by the Board in response to its advance notice of proposed rulemaking concerning the current review of Regulation T and the SEC's consideration of the NYSE rule filing. No new information was presented in this area. The Board is therefore adopting the requirement that extensions be granted by a broker-dealer's DEA.

C. Technical Amendments Concerning Foreign Securities

The Board proposed technical amendments to the cash account to clear up confusion resulting from its 1990 amendment allowing payment for foreign securities to be tied to the appropriate foreign settlement period. The amendments would clarify that this longer period is also used to determine when extensions of time must be

[2] 57 FR 27819 (June 22, 1992).

[3] NYSE Rule 434; SEC approval: 59 FR 26826 (May 24, 1994); Securities Exchange Act Release 34073 (May 17, 1994).

obtained and when the "90-day freeze" may be lifted for foreign securities. Two securities trade associations point out that the cash account establishes three other situations in which settlement regularly exceeds the standard settlement cycle: unissued securities, "when-issued" securities, and refunded securities.[4] These commenters suggest the proposed language be revised to consistently refer to the various time periods in determining when extensions are required and when the "90-day freeze" may be lifted. These amendments have been redrafted to accommodate this suggestion.

D. De Minimis Amount

The required liquidation of customer purchases for which payment has not been received within the required time currently does not apply to amounts of $500 or less. The Board proposed doubling this amount to $1000 in light of the ten years that had passed since the amount was last increased. This increase was supported by a wide variety of commenters. The increase to $1000 will still reduce the regulatory burden on broker-dealers and their examining authorities by reducing the number of extensions that must be requested and processed.

II. Government Securities

Two amendments were proposed to exempt most transactions in * * * government securities from Regulation T. The first exempts those brokers and dealers who effect customer transactions only in government securities (Section 15C Brokers). The second amendment effectively exempts transactions involving government securities for customers of general securities broker-dealers by allowing the transactions to be effected in a new government securities account. All of the commenters supported these two proposed amendments.

A. Exemption from Regulation T for Brokers and Dealers Whose Activities are Limited to Government Securities

The scope of Regulation T, as stated in section 220.1(b)(1), is "all financial relations between a customer and a creditor." In order to exempt Section 15C brokers from Regulation T, the Board proposed excluding them from the definition of creditor in section 220.2(b) of the regulation. The Public Securities Association (PSA) and the Securities Industry Association (SIA) suggest that the exclusion be moved to the scope section, so that Section 15C brokers would still be defined as "creditors" when they are not dealing with "customers." For example, the commenters point out that the term "creditor" is used in the broker-dealer credit account to describe permissible transactions between broker-dealers. In light of these comments, the exclusion has been moved to the scope section of Regulation T.

B. Government Securities Account

The second amendment proposed in the area of government securities was the creation of a new government securities account. This account would allow general broker-dealers to effect customer transactions that could be effected by Section 15C Brokers without regard to other restrictions in Regulation T.

In addition to general support of the proposal, commenters focused on two areas: the regulatory language used to describe the account and whether additional securities and other financial instruments should be included in its scope.

1. Description. The government securities account was proposed for "transactions involving government securities, provided the transaction would be permissible for a broker or dealer registered under section 15C of the act." The PSA and the SIA both suggest deletion of the reference to Section 15C Brokers because they believe it is confusing and unnecessary. They argue that section 15C does not establish permissible and impermissible classes of transactions in government securities. However, section 15C(b)(7) of the Act prohibits government securities brokers and dealers from effecting "any transaction * * * in any government security in contravention of any rule under this section." The regulatory language for the government securities account has been redrafted to clarify that it is available for transactions involving government securities as long as the transaction is not prohibited under section 15C or any of the rules thereunder.

2. Scope. The PSA, SIA, SIA-Credit Division and one broker-dealer suggest that all exempted securities, including municipal securities, be included in the new account. A second broker-dealer would include foreign sovereign debt that meets the margin requirements of Regulation T. In addition, three of these commenters believe that all nonconvertible debt securities that meet the margin requirements of Regulation T should be eligible for the account and one of these commenters would like "money market instruments" such as certificates of deposit, bankers acceptances and commercial paper to be covered by the new account. All of these suggestions will be considered in the course of Board's review of Regulation T, with an opportunity for public comment. As explained in the request for public comment on the proposed government securities account, the rationale for the new account stems from the unique regulatory scheme established for U.S. government securities and brokers and dealers in that market.

Regulatory Flexibility Act

The Board certifies that this final rule will not have a significant economic impact on a substantial number of small entities.

Paperwork Reduction Act

This regulation imposes no additional reporting requirements or modification to existing reporting requirements.

List of Subjects in 12 CFR Part 220

Banks, Banking, Bonds, Brokers, Commodity futures, Credit, Federal Reserve System, Investment companies, Investments, Margin, Margin requirements, National Market System (NMS Security), Reporting and recordkeeping requirements, Securities.

For the reasons set out in the preamble, 12 CFR part 220 is amended as follows:

PART 220—CREDIT BY BROKERS AND DEALERS (REGULATION T)

1. The authority citation for Part 220 is revised to read as follows:

Authority: 15 U.S.C. 78c, 78g, 78h, 78q, and 78w.

2. Section 220.1 is amended as follows:

a. The word "seven" in the first sentence of paragraph (b)(1) is revised to read "eight".

b. A new paragraph (b)(3) is added to read as follows:

§ 220.1 Authority, purpose, and scope.

* * * * *

(b) * * *

(3) This part does not apply to transactions between a customer and a broker or dealer registered only under section 15C of the Act.

3. Section 220.2 is amended as follows:

a. Paragraph (h) is revised.

b. Paragraphs (w) through (aa) are redesignated as paragraphs (x) through (bb) and new paragraph (w) is added.

The revisions and additions read as follows:

§ 220.2 Definitions.

* * * * *

[4] See § 220.8(b)(1)(i)(B)–(D) of Regulation T

(h) *Examining authority* means:

(1) The national securities exchange or national securities association of which a creditor is a member; or

(2) If a member of more than one self-regulatory organization, the organization designated by the SEC as the examining authority for the creditor.

* * * * *

(w) *Payment period* means the number of business days in the standard securities settlement cycle in the United States, as defined in SEC Rule 15c6–1 (17 CFR 240.15c6–1) under the Act, plus two business days. Until June 1, 1995, payment period means seven business days.

* * * * *

4. In § 220.4, the figure "$500" in paragraph (d) is revised to read "$1000" and paragraph (c)(3) is revised to read as follows:

§ 220.4 Margin account.

* * * * *

(c) * * *

(3) *Time limits.* (i) A margin call shall be satisfied within one payment period after the margin deficiency was created or increased.

(ii) The payment period may be extended for one or more limited periods upon application by the creditor to its examining authority unless the examining authority believes that the creditor is not acting in good faith or that the creditor has not sufficiently determined that exceptional circumstances warrant such action. Applications shall be filed and acted upon prior to the end of the payment period or the expiration of any subsequent extension.

* * * * *

5. In § 220.8, the figure "$500" in paragraph (b)(4) is revised to read "$1000" and paragraphs (b)(1)(i) introductory text, (b)(1)(ii), (b)(3), (c)(2)(i), and (d) are revised to read as follows:

§ 220.8 Cash account.

* * * * *

(b) * * *

(1) * * *

(i) Within one payment period of the date:

* * * * *

(ii) In the case of the purchase of a foreign security, within one payment period of the trade date or the date on which settlement is required to occur by the rules of the foreign securities market, provided this period does not exceed the maximum time permitted by this part for delivery against payment transactions.

* * * * *

(3) *Shipment of securities, extension.* If any shipment of securities is incidental to consummation of a transaction, a creditor may extend the payment period by the number of days required for shipment, but by not more than one additional payment period.

* * * * *

(c) * * *

(2) * * *

(i) Within the period specified in paragraph (b)(1) of this section, full payment is received or any check or draft in payment has cleared and the proceeds from the sale are not withdrawn prior to such payment or check clearance; or

* * * * *

(d) *Extension of time periods; transfers.* (1) Unless the creditor's examining authority believes that the creditor is not acting in good faith or that the creditor has not sufficiently determined that exceptional circumstances warrant such action, it may upon application by the creditor:

(i) Extend any period specified in paragraph (b) of this section;

(ii) Authorize transfer to another account of any transaction involving the purchase of a margin or exempted security; or

(iii) Grant a waiver from the 90 day freeze.

(2) Applications shall be filed and acted upon prior to the end of the payment period, or in the case of the purchase of a foreign security within the period specified in paragraph (b)(1)(ii) of this section, or the expiration of any subsequent extension.

§ 220.18 [Redesignated as § 220.19]

6. Section 220.18 is redesignated as § 220.19 and new § 220.18 is added to read as follows:

§ 220.18 Government securities account.

In a government securities account, a creditor may effect and finance transactions involving government securities, provided the transaction is not prohibited by section 15C of the Act or any rule thereunder.

By order of the Board of Governors of the Federal Reserve System, October 18, 1994.

Jennifer J. Johnson,

Deputy Secretary of the Board.

[FR Doc. 94–26357 Filed 10–24–94; 8:45 am]

BILLING CODE 6210–01–P

FEDERAL DEPOSIT INSURANCE CORPORATION

12 CFR Part 346

Foreign Banks

CFR Correction

In title 12 parts 300 to 499 of the Code of Federal Regulations, revised as of January 1, 1994, § 346.6 (a)(7) appearing on page 409 should be removed.

BILLING CODE 1505–01–D

DEPARTMENT OF THE TREASURY

Office of Thrift Supervision

12 CFR Parts 500, 506, 508, 545, 552, 558, 563, 564, 574, 590

[No. 94–166]

Miscellaneous Technical Amendments

AGENCY: Office of Thrift Supervision, Treasury.

ACTION: Final rule.

SUMMARY: The Office of Thrift Supervision (OTS) is adopting several technical corrections and clarifications to its regulations on home loans and other real estate loans, hearings, operating subsidiaries, appraisals, interest rate risk management procedures, and its incorporation and standard conversion regulations. The OTS is also amending its insider transactions rule and removing or revising obsolete or superseded provisions concerning investment limitations, stock ownership, conservatorships, and remote service units. Finally, the agency is adding a waiver provision affecting regulations that are not statutorily mandated.

EFFECTIVE DATE: January 1, 1995.

FOR FURTHER INFORMATION CONTACT: Elissa Schwartz, Senior Paralegal, (202) 906–7908, or Deborah Dakin, Assistant Chief Counsel, (202) 906–6445, Regulations and Legislation Division, Chief Counsel's Office, Office of Thrift Supervision, 1700 G Street, NW., Washington DC 20552.

SUPPLEMENTARY INFORMATION: On April 21, 1994, the Office of Thrift Supervision (OTS) proposed several technical corrections to revise, clarify, or remove obsolete or ambiguous regulations.[1]

The agency received three comments in response to the proposal. Two comments were submitted by trade associations and one comment was

[1] 59 FR 18979 (April 21, 1994).