

responsibility (Nonperformance Coverage) in an amount determined by the Commission. Current Commission regulations require that Nonperformance Coverage be set at no less than 110 percent of the highest unearned passenger revenue<sup>1</sup> of the applicant within two fiscal years prior to filing an application with the Commission. 46 CFR 540.5–6. The amount of Nonperformance Coverage required is presently capped at \$15 million dollars. 46 CFR 540.9(j).

The \$15 million ceiling for Nonperformance Coverage has been in existence since 1991, when it was raised from \$10 million. The Commission is issuing this Notice of Inquiry (NOI) to gather information that will assist in assessing comprehensively the benefits or burdens that the Nonperformance Coverage requirement has on all sectors of the passenger vessel industry. Information derived through this Inquiry may determine whether changes to our program may be called for at this time. PVOs, ports, industry associations, credit and financial companies, sureties, guarantors, insurers, travel agents, cruise passengers and other interested parties are encouraged to participate by providing responses to the questions herein and information pertaining to the impact of Nonperformance Coverage.

To promote maximum participation, the NOI questions will be made available on the Commission's Web site, <http://www.fmc.gov>. The NOI questions also may be obtained by contacting the Commission's Secretary, Karen V. Gregory, by telephone at (202) 523–5725, or by e-mail at [secretary@fmc.gov](mailto:secretary@fmc.gov). In addition, non-confidential comments may be submitted as an attachment to an e-mail submission. These attachments must be submitted in Microsoft Word (2007 or prior version), Rich Text format (.rtf), or plain text (.txt).

Some commenters may wish to include some commercially sensitive information as necessary or relevant, whether by way of explaining their experience or detailing in practical terms the impact of Nonperformance Coverage. Any such information should be identified as commercially sensitive by the filer and the document or relevant portions thereof must be marked as confidential. Confidential treatment must be specifically requested for those marked portions, and one additional copy of the comments with the confidential portions redacted must

be provided along with the original and one copy of the complete comments. Confidential comments should not be submitted by e-mail. The Commission will provide confidential treatment to the extent allowable by law for submissions, or parts of submissions, for which the parties request confidentiality.

While the Commission intends that this review of Nonperformance Coverage be as thorough as possible, *there is no requirement that participants answer all NOI questions*. Commenters are free to answer only those questions for which they have direct experience or specific views.

The Commission accordingly invites written comments from interested parties responding to the following inquiries:

#### Notice of Inquiry Questions

##### A. PVOs' Cost of Complying With Nonperformance Regulations

1. Do you expect your company's unearned passenger revenue to increase, decrease or remain the same over the next twelve to twenty-four months? If you expect it to change, by what percent?

2. Set forth a detailed description of your actual costs for 2008, and actual or projected costs for 2009, directly related to satisfying the FMC's PVO regulations for Nonperformance Coverage.

3. With respect to passenger bookings and payments:

(i) What is your company's policy with regard to passenger reimbursement in the event of nonperformance of a cruise?

(ii) What is your company's booking policy regarding the timing and amount of booking deposit and for payment of any fare balance?

##### B. Adequacy of Nonperformance Coverage

The Commission is interested in assessing whether Nonperformance Coverage remains adequate for the purpose of protecting cruise passengers. The following questions are addressed to all interested parties:

4. What is your position with regard to the adequacy of the current ceiling of \$15 million? Please provide a detailed explanation with your response.

5. Should the Commission consider adjusting the \$15 million cap periodically based on an inflation factor (*i.e.*, Consumer Price Index)?

6. Should the Commission consider alternatives to the current \$15 million cap? Please provide a detailed explanation with your response.

7. If the \$15 million cap is modified, what would be the likely benefits or

burdens upon PVOs, related companies and the shipping public?

8. What other methodologies could the Commission use to establish adequate coverage amounts as required by current regulations?

9. Should the Commission consider legislative alternatives to the current Nonperformance Coverage requirement? If so, set forth a detailed response.

##### C. Practices of Sureties, Credit Card Companies and Others

The Commission is interested in assessing whether and to what extent the practices of sureties, credit card issuers or other companies may affect the availability of Nonperformance Coverage. The following questions are addressed primarily to financial entities, but may be answered by PVOs or other interested parties:

10. Have credit card companies added specific requirements for servicing PVOs?

11. What are the factors credit card issuers use to assess a cruise line's creditworthiness or financial fitness? How does a credit card issuer determine whether to implement additional security (*i.e.*, holdbacks, letters of credit, collateral)?

12. What are the factors that sureties or guarantors use to assess a cruise line's creditworthiness or financial fitness? Please describe the factors that affect premiums for passenger vessel operators. What indicators will cause an increase or decrease in premiums for bonds or guarantees?

##### Further Proceedings and Scheduling

Following receipt of written comments, the Commission anticipates holding one or more hearings to receive public testimony from interested parties. The Commission will announce the dates and locations of such hearings by subsequent Order.

By the Commission.

**Karen V. Gregory,**  
Secretary.

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## FEDERAL MARITIME COMMISSION

### Ocean Transportation Intermediary License Applicants

Notice is hereby given that the following applicants have filed with the Federal Maritime Commission an application for license as a Non-Vessel-Operating Common Carrier and Ocean Freight Forwarder—Ocean Transportation Intermediary pursuant to section 19 of the Shipping Act of 1984

<sup>1</sup> Unearned passenger revenue is defined as “that passenger revenue received for water transportation and all other accommodations, services, and facilities relating thereto not yet performed,” 46 CFR 540.2(i).

as amended (46 U.S.C. Chapter 409 and 46 CFR 515).

Persons knowing of any reason why the following applicants should not receive a license are requested to contact the Office of Transportation Intermediaries, Federal Maritime Commission, Washington, DC 20573.

**Non-Vessel-Operating Common Carrier and Ocean Freight Forwarder Transportation Intermediary Applicants**

ADP Logistics Corp., 517 W Wrightwood Ave., Elmhurst, IL 60126. *Officers:* Brian Lara, Associate Vice President, (Qualifying Individual) Yinggang Chen, President. St. John Logistics Inc., 190 Middlesex Essex Turnpike, #205, Iselin, NJ 08830. *Officer:* Patrick P. Pulikal, Secretary (Qualifying Individual). America's Trans-Logistics Inc., 3301 NW 97th Ave., Doral, FL 33172-1105. *Officers:* Jose R. Castillo, Vice President, (Qualifying Individual) Maria C. Ucros, President. Ocean Air Transport, Inc. dba SCM International, 101 Frontier Way, Bensenville, IL 60106. *Officers:* W. Neely Mallory, III, President, (Qualifying Individual) Robert E. Mallory, Director.

**Ocean Freight Forwarder—Ocean Transportation Intermediary Applicants**

Ameritrans Logistics, Inc., 112 SW Thomas Street, Ste. 100, Burleson, TX 76097. *Officers:* Michael J. Krall, President, (Qualifying Individual) Susan D. Curtis, Secretary. OPM International Group LLC, 3315 NW 46 Street, Miami, FL 33142. *Officer:* Olenka Riglos, Manager (Qualifying Individual).

Dated: December 4, 2009.

**Karen V. Gregory,**  
*Secretary.*

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**FEDERAL TRADE COMMISSION**

[File No. 091 0138]

**Service Corporation International; Analysis of the Agreement Containing Consent Orders to Aid Public Comment**

**AGENCY:** Federal Trade Commission.

**ACTION:** Proposed Consent Agreement.

**SUMMARY:** The consent agreement in this matter settles alleged violations of federal law prohibiting unfair or deceptive acts or practices or unfair

methods of competition. The attached Analysis to Aid Public Comment describes both the allegations in the draft complaint and the terms of the consent order — embodied in the consent agreement — that would settle these allegations.

**DATES:** Comments must be received on or before December 28, 2009.

**ADDRESSES:** Interested parties are invited to submit written comments electronically or in paper form. Comments should refer to “SCI Palm, File No. 091 0138” to facilitate the organization of comments. Please note that your comment — including your name and your state — will be placed on the public record of this proceeding, including on the publicly accessible FTC website, at (<http://www.ftc.gov/os/publiccomments.shtml>).

Because comments will be made public, they should not include any sensitive personal information, such as an individual's Social Security Number; date of birth; driver's license number or other state identification number, or foreign country equivalent; passport number; financial account number; or credit or debit card number. Comments also should not include any sensitive health information, such as medical records or other individually identifiable health information. In addition, comments should not include any “[t]rade secret or any commercial or financial information which is obtained from any person and which is privileged or confidential. . . .” as provided in Section 6(f) of the FTC Act, 15 U.S.C. 46(f), and Commission Rule 4.10(a)(2), 16 CFR 4.10(a)(2). Comments containing material for which confidential treatment is requested must be filed in paper form, must be clearly labeled “Confidential,” and must comply with FTC Rule 4.9(c), 16 CFR 4.9(c).<sup>1</sup>

Because paper mail addressed to the FTC is subject to delay due to heightened security screening, please consider submitting your comments in electronic form. Comments filed in electronic form should be submitted by using the following weblink on: (<https://public.commentworks.com/ftc/sci-palm>) and following the instructions on the web-based form. To ensure that the Commission considers an electronic comment, you must file it on the web-based form at the weblink: ([https://](https://public.commentworks.com/ftc/sci-palm)

<sup>1</sup>The comment must be accompanied by an explicit request for confidential treatment, including the factual and legal basis for the request, and must identify the specific portions of the comment to be withheld from the public record. The request will be granted or denied by the Commission's General Counsel, consistent with applicable law and the public interest. See FTC Rule 4.9(c), 16 CFR 4.9(c).

[public.commentworks.com/ftc/sci-palm](http://public.commentworks.com/ftc/sci-palm)). If this Notice appears at (<http://www.regulations.gov/search/index.jsp>), you may also file an electronic comment through that website. The Commission will consider all comments that regulations.gov forwards to it. You may also visit the FTC website at (<http://www.ftc.gov/>) to read the Notice and the news release describing it.

A comment filed in paper form should include the “SCI Palm, File No. 091 0138” reference both in the text and on the envelope, and should be mailed or delivered to the following address: Federal Trade Commission, Office of the Secretary, Room H-135 (Annex D), 600 Pennsylvania Avenue, NW, Washington, DC 20580. The FTC is requesting that any comment filed in paper form be sent by courier or overnight service, if possible, because U.S. postal mail in the Washington area and at the Commission is subject to delay due to heightened security precautions.

The Federal Trade Commission Act (“FTC Act”) and other laws the Commission administers permit the collection of public comments to consider and use in this proceeding as appropriate. The Commission will consider all timely and responsive public comments that it receives, whether filed in paper or electronic form. Comments received will be available to the public on the FTC website, to the extent practicable, at (<http://www.ftc.gov/os/publiccomments.shtml>). As a matter of discretion, the Commission makes every effort to remove home contact information for individuals from the public comments it receives before placing those comments on the FTC website. More information, including routine uses permitted by the Privacy Act, may be found in the FTC's privacy policy, at (<http://www.ftc.gov/ftc/privacy.shtml>).

**FOR FURTHER INFORMATION CONTACT:**

Goldie V. Walker (202-326-2919), Bureau of Competition, 600 Pennsylvania Avenue, NW, Washington, D.C. 20580.

**SUPPLEMENTARY INFORMATION:** Pursuant to section 6(f) of the Federal Trade Commission Act, 38 Stat. 721, 15 U.S.C. 46(f), and § 2.34 the Commission Rules of Practice, 16 CFR 2.34, notice is hereby given that the above-captioned consent agreement containing a consent order to cease and desist, having been filed with and accepted, subject to final approval, by the Commission, has been placed on the public record for a period of thirty (30) days. The following Analysis to Aid Public Comment describes the terms of the consent