

To limit marketing offers, contact us [include all that apply]:

—By telephone: 1-877-###-####

—On the Web: www.-.com

—By mail: check the box and complete the form below, and send the form to:

—[Company name]

—[Company address]

Do not allow your affiliates to use my personal information to market to me.

#### A-2 Model Form for Initial Opt-Out Notice (Joint Notice)

##### [Your Choice to Limit Marketing]/[Marketing Opt Out]

—The [ABC group of companies] is providing this notice.

—[Optional: Federal law gives you the right to limit some but not all marketing from the [ABC] companies. Federal law also requires us to give you this notice to tell you about your choice to limit marketing from the [ABC] companies.]

—You may limit the [ABC companies], such as the [ABC commodity advisor, futures clearing merchant, and swap dealer] affiliates, from marketing their financial products or services to you based on your personal information that they receive from other [ABC] companies. This information includes your [income], your [account history], and your [credit score].

—Your choice to limit marketing offers from the [ABC] companies will apply [until you tell us to change your choice]/[for x years from when you tell us your choice]/[for at least 5 years from when you tell us your choice]. [Include if the opt-out period expires.] Once that period expires, you will receive a renewal notice that will allow you to continue to limit marketing offers from the [ABC] companies for [another x years]/[at least another 5 years].

—[Include, if applicable, in a subsequent notice, including an annual notice, for consumers who may have previously opted out.] If you have already made a choice to limit marketing offers from the [ABC] companies, you do not need to act again until you receive the renewal notice.

To limit marketing offers, contact us [include all that apply]:

By telephone: 1-877-###-####

On the Web: www.-.com

By mail: check the box and complete the form below, and send the form to:

[Company name]

[Company address]

Do not allow any company [in the ABC group of companies] to use my personal information to market to me.

#### A-3 Model Form for Renewal Notice (Single-Affiliate Notice)

##### [Renewing Your Choice To Limit Marketing]/[Renewing Your Marketing Opt Out]

—[Name of Affiliate] is providing this notice.

—[Optional: Federal law gives you the right to limit some but not all marketing from our affiliates. Federal law also requires us to give you this notice to tell you about your choice to limit marketing from our affiliates.]

—You previously chose to limit our affiliates in the [ABC] group of companies, such as

our [commodity advisor, futures clearing merchant, and swap dealer] affiliates, from marketing their financial products or services to you based on your personal information that we share with them. This information includes your [income], your [account history with us], and your [credit score].

—Your choice has expired or is about to expire.

To renew your choice to limit marketing for [x] more years, contact us [include all that apply]:

By telephone: 1-877-###-####

On the Web: www.-.com

By mail: check the box and complete the form below, and send the form to:

[Company name]

[Company address]

Renew my choice to limit marketing for [x] more years.

#### A-4 Model Form for Renewal Notice (Joint Notice)

##### [Renewing Your Choice To Limit Marketing]/[Renewing Your Marketing Opt Out]

—The [ABC group of companies] is providing this notice.

—[Optional: Federal law gives you the right to limit some but not all marketing from the [ABC] companies. Federal law also requires us to give you this notice to tell you about your choice to limit marketing from the [ABC] companies.]

—You previously chose to limit the [ABC companies], such as the [ABC commodity advisor, futures clearing merchant, and swap dealer] affiliates, from marketing their financial products or services to you based on your personal information that they receive from other [ABC] companies. This information includes your [income], your [account history], and your [credit score].

—Your choice has expired or is about to expire.

To renew your choice to limit marketing for [x] more years, contact us [include all that apply]:

By telephone: 1-877-###-####

On the Web: www.-.com

By mail: check the box and complete the form below, and send the form to:

[Company name]

[Company address]

Renew my choice to limit marketing for [x] more years.

#### A-5 Model Form for Voluntary “No Marketing” Notice

##### [Your Choice To Stop Marketing]

—[Name of Affiliate] is providing this notice. You may choose to stop all marketing from us and our affiliates.

To stop all marketing offers, contact us [include all that apply]:

By telephone: 1-877-###-####

On the Web: www.-.com

By mail: check the box and complete the form below, and send the form to:

[Company name]

[Company address]

Do not market to me.

Issued in Washington, DC, on July 7, 2011 by the Commission.

David A. Stawick,

Secretary of the Commission.

### Appendices to Business Affiliate Marketing and Disposal of Consumer Information Rules—Commission Voting Summary and Statements of Commissioners

**Note:** The following appendices will not appear in the Code of Federal Regulations.

#### Appendix 1—Commission Voting Summary

On this matter, Chairman Gensler and Commissioners Dunn, Sommers, O’Malia and Chilton voted in the affirmative; no Commissioner voted in the negative.

#### Appendix 2—Statement of Chairman Gary Gensler

I support the final rulemaking to extend to customers of CFTC-regulated entities protections preventing certain business affiliated marketing and establishing other consumer information protections under the Fair Credit Reporting Act (FCRA). The rulemaking protects consumers by providing privacy protections to nonpublic consumer information held by entities that are subject to the jurisdiction of the Commission. The final rulemaking provides customers of CFTC-regulated entities with the same privacy protections now enjoyed by the customers of entities regulated by other Federal agencies.

The rulemaking has two important features. First, it allows customers to prohibit Commission-regulated entities from using certain consumer information obtained from an affiliate to make solicitations to that customer for marketing purposes. This will be done by means of a customer opt out. Second, it requires Commission-regulated entities to develop and implement a written program and procedures for the proper disposal of consumer information. The rulemaking will help prevent the unauthorized use and disclosure of nonpublic, consumer information.

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## SECURITIES AND EXCHANGE COMMISSION

### 17 CFR Part 240

[Release No. 34-64913]

### Technical Amendment to Commission Procedures for Filing Applications for Orders for Exemptive Relief Under Section 36 of the Exchange Act

**AGENCY:** Securities and Exchange Commission.

**ACTION:** Final rule; technical amendment.

**SUMMARY:** The Securities and Exchange Commission (“SEC” or “Commission”) is making technical amendments to the rule by which applications for exemptive relief under section 36 of the Securities and Exchange Act of 1934 (“Exchange Act”) may be submitted electronically. The amendments are intended only to clarify and update references to an SEC Web site address and to eliminate certain formatting requirements.

**DATES:** *Effective Date:* July 22, 2011.

**FOR FURTHER INFORMATION CONTACT:**

Linda Stamp Sundberg, Senior Special Counsel, at (202) 551-5550, Office of the Chief Counsel, Division of Trading and Markets, Securities and Exchange Commission, 100 F Street, NE., Washington, DC 20549.

**SUPPLEMENTARY INFORMATION:** The Commission is amending § 240.0-12(b) to update references to an SEC Web site address to be used in submitting applications for exemptive relief under section 36 of the Exchange Act and to eliminate certain formatting requirements.

**I. Certain Findings**

Under the Administrative Procedure Act (“APA”), notice of proposed rulemaking is not required when an agency, for good cause, finds “that notice and public procedure thereon are impracticable, unnecessary, or contrary to the public interest.”<sup>1</sup> The Commission is making technical changes to update the instructions and method for submitting a petition. The Commission finds that because the amendment is technical in nature and is being made solely to reflect the changes in way a person would submit and the Commission would receive a petition, publishing the amendment for comment is unnecessary.<sup>2</sup>

The APA also requires publication of a rule at least 30 days before its effective date unless the agency finds otherwise for good cause.<sup>3</sup> For the same reasons described above with respect to notice and opportunity for comment, the Commission finds that there is good

cause for these technical amendments to take effect on July 22, 2011.

**II. Consideration of Competitive Effects of Amendment**

Section 3(f) of the Exchange Act,<sup>4</sup> provides that whenever the Commission is engaged in rulemaking and is required to consider or determine whether an action is necessary or appropriate in the public interest, the Commission shall consider, in addition to the protection of investors, whether the action will promote efficiency, competition, and capital formation. Section 23(a)(2) of the Exchange Act requires the Commission, in adopting rules under the Exchange Act, to consider the competitive effects of such rules, if any, and to refrain from adopting a rule that would impose a burden on competition not necessary or appropriate in the furtherance of the purposes of the Exchange Act.<sup>5</sup>

Because these procedural amendments are technical in nature, and do not impose any additional requirements beyond those already required, we do not anticipate that the amendments would have a significant effect on efficiency, competition, or capital formation, and we do not anticipate that any competitive advantages or disadvantages would be created.

**III. Statutory Authority and Text of Amendment**

We are adopting these technical amendments pursuant to the authority set forth in the Exchange Act and particularly Sections 23(a) and 36(a) (15 U.S.C. 78w(a), and 78mm(a), respectively).

**List of Subjects in 17 CFR Part 240**

Brokers, Confidential business information, Fraud, Reporting and recordkeeping requirements, Securities.

For the reasons set out in the preamble, Title 17, Chapter II of the Code of Federal Regulations is amended as follows:

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

■ 1. The authority citation for part 240 continues to read, in part, as follows:

**Authority:** 15 U.S.C. 77c, 77d, 77g, 77j, 77s, 77z-2, 77z-3, 77eee, 77ggg, 77nnn, 77sss, 77ttt, 78c, 78d, 78e, 78f, 78g, 78i, 78j, 78j-1, 78k, 78k-1, 78l, 78m, 78n, 78n-1, 78o, 78o-4, 78p, 78q, 78s, 78u-5, 78w, 78x, 78ll, 78mm, 80a-20, 80a-23, 80a-29, 80a-37, 80b-3, 80b-4, 80b-11, and 7201 et seq., 18 U.S.C.

<sup>4</sup> 15 U.S.C. 78c(f).

<sup>5</sup> 15 U.S.C. 78w(a)(2).

1350, and 12 U.S.C. 5221(e)(3), unless otherwise noted.

\* \* \* \* \*

■ 2. Section 240.0-12 is amended by revising paragraph (b) to read as follows:

**§ 240.0-12 Commission procedures for filing applications for orders for exemptive relief under Section 36 of the Exchange Act.**

\* \* \* \* \*

(b) An applicant may submit a request electronically. The electronic mailbox to use for these applications is described on the Commission’s Web site at <http://www.sec.gov> in the “Exchange Act Exemptive Applications” section. In the event the electronic mailbox is revised in the future, applicants can find the appropriate mailbox by accessing the “Electronic Mailboxes at the Commission” section.

\* \* \* \* \*

Dated: July 19, 2011.

**Elizabeth M. Murphy,**  
*Secretary.*

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**DEPARTMENT OF THE TREASURY**

**Internal Revenue Service**

**26 CFR Part 1**

[TD 9530]

RIN 1545-BH56

**Guidance Under Section 956 for Determining the Basis of Property Acquired in Certain Nonrecognition Transactions; Correction**

**AGENCY:** Internal Revenue Service (IRS), Treasury.

**ACTION:** Correction to final and temporary regulations.

**SUMMARY:** This document describes a correction to final and temporary regulations (TD 9530) that were published in the **Federal Register** on Friday, June 24, 2011, regarding the determination of basis in certain United States property acquired by a controlled foreign corporation in certain nonrecognition transactions that are intended to repatriate earnings and profits of the controlled foreign corporation without U.S. income taxation.

**DATES:** This correction is effective on July 22, 2011, and is applicable beginning June 24, 2011.

**FOR FURTHER INFORMATION CONTACT:** Kristine A. Crabtree, (202) 622-3840 (not a toll-free number).

**SUPPLEMENTARY INFORMATION:**

<sup>1</sup> 5 U.S.C. 553(b).

<sup>2</sup> For similar reasons, the amendments do not require analysis under the Regulatory Flexibility Act (“RFA”) or analysis of major rule status under the Small Business Regulatory Enforcement Fairness Act. See 5 U.S.C. 601(2) (for purposes of RFA analysis, the term “rule” means any rule for which the agency publishes a general notice of proposed rulemaking); and 5 U.S.C. 804(3)(C) (for purposes of Congressional review of agency rulemaking, the term “rule” does not include any rule of agency organization, procedure or practice that does not substantially affect the rights or obligations of non-agency parties).

<sup>3</sup> See 5 U.S.C. 553(d)(3).