

Such person will be prohibited from engaging in activities requiring registration under the Act or from representing himself to be a registrant under the Act or the representative or agent of any registrant during the pendency of any suspension of his or his sponsor's registration. In accordance with § 3.31(c), each of the registrant's sponsors must file a notice with the National Futures Association on Form 8-T or on a Uniform Termination Notice for Securities Industry Registration reporting the termination of the association of the associated person within thirty days thereafter.

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■ 3. Section 3.31 is amended by revising paragraphs (c)(1) introductory text and (c)(2) to read as follows:

§ 3.31 Deficiencies, inaccuracies, and changes, to be reported.

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(c)(1) After the filing of a Form 8-R or a Form 3-R by or on behalf of any person for the purpose of permitting that person to be an associated person of a futures commission merchant, commodity trading advisor, commodity pool operator, introducing broker, or a leverage transaction merchant, that futures commission merchant, commodity trading advisor, commodity pool operator, introducing broker or leverage transaction merchant must, within thirty days after the occurrence of either of the following, file a notice thereof with the National Futures Association indicating:

* * * * *

(2) Each person registered as, or applying for registration as, a futures commission merchant, commodity trading advisor, commodity pool operator, introducing broker or leverage transaction merchant must, within thirty days after the termination of the affiliation of a principal with the registrant or applicant, file a notice thereof with the National Futures Association.

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Issued in Washington, DC, on November 1, 2007, by the Commission.

David A. Stawick,

Secretary of the Commission.

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DEPARTMENT OF THE TREASURY

31 CFR Part 2

Implementing Procedures for Mandatory Declassification Review and Access to Classified Information by Historical Researchers, Former Treasury Presidential and Vice Presidential Appointees, and Former Presidents and Vice Presidents

AGENCY: Departmental Offices, Treasury.

ACTION: Final rule.

SUMMARY: Section 5.4 of Executive Order 13292 requires the Department of the Treasury to promulgate implementing regulations with respect to classified national security information and to publish such regulations to the extent that they affect members of the public. These regulations relate to the processing of mandatory declassification review requests by the public and providing access to classified information, consistent with the interest of the national security, to historical researchers, former Treasury Presidential and Vice Presidential appointees, and former Presidents and Vice Presidents. The Department of the Treasury is revising its implementing regulations relating to classified national security information in 31 CFR part 2 to address only these two matters relating to the public. All other Treasury regulations pertaining to internal procedures governing classified national security information under Executive Order 13292 have been transferred to the Treasury Security Manual.

DATES: *Effective Date:* November 8, 2007.

FOR FURTHER INFORMATION CONTACT:

Robert A. McMenamin, Assistant Director (Information Security), Department of the Treasury, Office of Security Programs, Room 3180 Annex, 1500 Pennsylvania Avenue, NW., Washington, DC 20220, telephone (202) 622-1055 (not a toll-free number).

SUPPLEMENTARY INFORMATION: These regulations restate in pertinent part without substantive changes, existing processes for mandatory declassification review and access to classified information by historical researchers, former Treasury Presidential and Vice Presidential appointees, and former Presidents and Vice Presidents; updates the fee schedule for processing declassification review; and removes provisions in the current regulations from 31 CFR part 2 that apply to Treasury personnel and which have been transferred to the Treasury Security Manual. Accordingly, pursuant

to 5 U.S.C. 553(b)(B) and (d)(3), the Department of the Treasury finds good cause that prior notice and public procedures with respect to this rule are unnecessary and contrary to the public interest, and that good cause exists for making this rule effective upon the date of publication in the **Federal Register**.

Pursuant to Executive Order 12866, it has been determined that this final rule is not a significant regulatory action, and therefore a regulatory impact analysis is not required. Because no notice of proposed rulemaking is required, the provisions of the Regulatory Flexibility Act, 5 U.S.C. Ch 6, do not apply.

List of Subjects in 31 CFR Part 2

Archives and records, Classified information, Security measures.

■ For the reasons stated in the preamble, 31 CFR part 2 is revised to read as follows:

PART 2—NATIONAL SECURITY INFORMATION

Sec.

- 2.1 Processing of mandatory declassification review requests.
- 2.2 Access to classified information by historical researchers, former Treasury Presidential and Vice Presidential appointees, and former Presidents and Vice Presidents.

Authority: 31 U.S.C. 321, E.O. 12958, 60 FR 19825, E.O. 13292, 68 FR 15315.

§ 2.1 Processing of mandatory declassification review requests.

(a) Except as provided by section 3.4(b) of Executive Order 13292, Further Amendment to Executive Order 12958, as amended, *Classified National Security Information*, all information classified by the Department of the Treasury under these Orders or any predecessor Executive Order shall be subject to mandatory declassification review by the Department, if:

- (1) The request for a mandatory declassification review describes the document or material containing the information with sufficient specificity to enable Treasury personnel to locate it with a reasonable amount of effort;
- (2) The information is not exempt from search and review under sections 105C, 105D, or 701 of the National Security Act of 1947 (50 U.S.C. 431, 432 and 432a); and
- (3) The information has not been reviewed for declassification within the past 2 years or the information is not the subject of pending litigation.

(b) Requests for classified records originated by the Department of the Treasury shall be directed to the Office of Security Programs, Attention:

Assistant Director (Information Security), 1500 Pennsylvania Avenue, NW., Washington, DC 20220. Upon receipt of each request for mandatory declassification review, pursuant to section 3.5 of Executive Order 13292, the following procedures will apply:

(1) The Office of Security Programs will acknowledge receipt of the request.

(2)(i) A mandatory declassification review request need not identify the requested information by date or title of the responsive records, but must be of sufficient specificity to allow Treasury personnel to locate records containing the information sought with a reasonable amount of effort. Whenever a request does not reasonably describe the information sought, the requester will be notified by the Office of Security Programs that unless additional information is provided or the scope of the request is narrowed, no further action will be undertaken with respect to the request.

(ii) If Treasury has reviewed the information within the past 2 years and determined that all or part thereof remains classified, or the information is the subject of pending litigation, the requester shall be so informed and advised of the requester's appeal rights.

(3) The Office of Security Programs will determine the appropriate Treasury offices or bureaus to conduct the mandatory declassification review. The Office of Security Programs will also advise Treasury and/or bureau reviewing officials concerning the mandatory declassification review process. Classified information relating to intelligence activities (including special activities), intelligence sources or methods, or cryptology will also be coordinated with the Office of the Assistant Secretary (Intelligence and Analysis). As appropriate, the Office of Security Programs will refer requests to other Federal departments and agencies having a direct interest in the requested documents.

(4)(i) Treasury personnel undertaking a mandatory declassification review shall make reasonable efforts to determine if particular information may be declassified. Reviewing officials may rely on applicable exemption criteria under the Freedom of Information Act, the Privacy Act, and any other applicable law that authorizes the withholding of information. Reviewing officials shall also identify the amount of search and review time required to process each request. Barring extenuating circumstances, mandatory declassification reviews for reasonably small volumes of records should be completed in a timely fashion. A final determination regarding large volumes

of records should ordinarily be made within one year of Treasury's receipt of any mandatory declassification review request.

(ii) If the Director, Office of Security Programs determines that a Treasury office or bureau responsible for conducting a mandatory declassification review is not making reasonable efforts to review classified information subject to a mandatory declassification request, the Director may authorize Treasury- and/or bureau-originated information to be declassified in consultation with the Department's Senior Agency Official.

(iii) If information cannot be declassified in its entirety, reasonable efforts, consistent with applicable law, will be made to release those declassified portions of the requested information that constitute a coherent segment. Upon the denial or partial denial of a declassification request, the requester will be so informed by the Office of Security Programs and advised of the requester's appeal rights.

(5)(i) If Treasury receives a mandatory declassification review request for information in its possession that were originated by another Federal department or agency, the Office of Security Programs will forward the request to that department or agency for a declassification determination, together with a copy of the requested records, a recommendation concerning a declassification determination, and a request to be advised of that department's or agency's declassification determination. The Office of Security Programs may, after consultation with the originating department or agency, inform any requester of the referral unless such association is itself classified under Executive Order 13292 or prior orders.

(ii) Mandatory declassification review requests concerning classified information originated by a Treasury office or bureau that has been transferred to another Federal department or agency will be forwarded to the appropriate successor department or agency for a declassification determination.

(6) If another Federal department or agency forwards a mandatory declassification review request to Treasury for information in its custody that was classified by Treasury, the Office of Security Programs will:

(i) Advise the referring department or agency as to whether it may notify the requester of the referral; and

(ii) Respond to the Federal department, agency, or requester, as applicable, in accordance with the requirements of this section.

(7)(i) Upon the denial, in whole or in part, of a request for the mandatory declassification review of information, the Office of Security Programs will so notify the requester in writing and will inform the requester of the right to appeal the classification determination within 60 calendar days of the receipt of the classification determination. The notice will also advise the requester of the name and address of the Treasury official who will be responsible for deciding an appeal (the Deciding Official). The Office of Security Programs will coordinate appeals with the appropriate Treasury offices and bureaus.

(ii) The Deciding Official should make a determination on an appeal within 30 working days following the receipt of the appeal, or within 60 working days following receipt if the Deciding Official determines that additional time is required to make a determination and so notifies the requester. The Deciding Official should notify the requester in writing of Treasury's determination on appeal and, if applicable, the reasons for any whole or partial denial of the appeal. The Office of Security Programs will also notify the requester of their right of a final appeal to the Interagency Security Classification Appeals Panel, as appropriate, under 32 CFR 2001.33.

(8)(i) Treasury may charge fees for search, review, and duplicating costs in connection with a mandatory declassification review request.

(A) The fee for services of Treasury personnel involved in locating and/or reviewing records will be charged at the rate of a GS-11, Step 1 employee, in the Washington-Baltimore Federal pay area, in effect when the mandatory declassification review request is received by the Office of Security Programs for searches that take more than two hours or for review times that are greater than two hours. Fees may be waived, in writing, by a bureau head or the equivalent Treasury official at the Assistant Secretary level.

(B) There is no fee for duplicating the first 100 pages of fully or partially releasable documents. The cost of additional pages is 20 cents per page. No charges shall be levied for search and/or review time requiring less than 2 hours.

(ii) If it is estimated that the fees associated with a mandatory declassification review will exceed \$100, the Office of Security Programs will notify the requester in writing of the estimated costs and shall obtain satisfactory written assurance of full payment or require the requester to make an advance payment of the entire estimated fee before proceeding to

process the request. Treasury may request pre-payment where the fee is likely to exceed \$500. After 60 calendar days without receiving the requester's written assurance of full payment or agreement to make pre-payment of estimated fees (or to amend the mandatory declassification review request in a manner as to result in fees acceptable to the requester), Treasury may administratively terminate the mandatory declassification review request. Failure of a requester to pay fees after billing will result in future requests not being honored. Nothing in this paragraph will preclude Treasury from taking any other lawful action to recover payment for costs incurred in processing a mandatory declassification review request.

(iii) Payment of fees shall be made by check or money order to the Treasurer of the United States. Fees charged by Treasury for mandatory declassification review are separate and distinct from any other fees that may be imposed by a Presidential Library, the National Archives and Records Administration, or another Federal department or agency.

§ 2.2 Access to classified information by historical researchers and former Treasury Presidential and Vice Presidential appointees, former Presidents and Vice Presidents.

(a) Access to classified information may be granted only to individuals who have a need-to-know the information. This requirement may be waived, however, for individuals who:

- (1) Are engaged in historical research projects;
- (2) Previously occupied a position in the Treasury to which they were appointed by the President under 3 U.S.C. 105(a)(2)(A), or the Vice President under 3 U.S.C. 106(a)(1)(A); or
- (3) Served as President or Vice President.

(b) Access to classified information may be granted to individuals described in paragraph (a) of this section upon:

- (1) A written determination by Treasury's Senior Agency Official, under Section 5.4(d) of Executive Order 13292, that access is consistent with the interest of the national security; and
- (2) Receipt of the individual's written agreement to safeguard classified information, including taking all appropriate steps to protect classified information from unauthorized disclosure or compromise. This written agreement must also include the individual's consent to have any and all notes (including those prepared or stored in electronic media, whether written or oral) reviewed by authorized

Treasury personnel to ensure that no classified information is contained therein and, if so, that the classified information is not published.

(c)(i)(A) A historical researcher is not authorized to have access to foreign government information or information classified by another Federal department or agency.

(B) A former Treasury Presidential or Vice Presidential appointee is only authorized access to classified information that the former official originated, reviewed, signed or received while serving as such an appointee.

(C) A former President or Vice President is only authorized access to classified information that was prepared by Treasury while that individual was serving as President or Vice President.

(ii) Granting access to classified information pursuant to this section does not constitute the granting of a security clearance for access to classified information.

(d) Treasury personnel will coordinate access to classified information by individuals described in paragraph (a) of this section with the Director, Office of Security Programs, who will ensure that the written agreement described in paragraph (b)(2) of this section is signed as a condition of being granted access to classified information.

(e) Any review of classified information by an individual described in paragraph (a) of this section shall take place in a location designated by the Director, Office of Security Programs. Such persons must be accompanied at all times by appropriately authorized Treasury personnel authorized to have access to the classified information being reviewed. All notes (including those prepared or stored in electronic media, whether written or oral) made by an individual described in paragraph (a) of this section shall remain in the custody of the Office of Security Programs pending a determination by appropriately cleared subject matter experts that no classified information is contained therein.

(f) An individual described in paragraph (a) of this section is subject to search, as are all packages or carrying cases prior to entering or leaving Treasury. Access to Treasury-originated classified information at another Federal department or agency, as may be authorized by the Director, Office of Security Programs shall be governed by security protocols in effect at the other Federal department or agency.

(g) Treasury personnel must perform a physical verification and an accounting of all classified information each time such information is viewed by

an individual described in paragraph (a) of this section. Physical verification and an accounting of all classified information shall be made both prior to and after viewing. Any discrepancy must be immediately reported to the Director, Office of Security Programs.

(h) An individual described in paragraph (a) of this section may be charged reasonable fees for services rendered by Treasury in connection with the review of classified information under this section. To the extent such services involve searching, reviewing, and copying material, the provisions of § 2.1(b)(8) shall apply.

Dated: October 30, 2007.

Wade C. Straw,

Director, Office of Security Programs.

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DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Parts 101, 105 and 106

Transportation Security Administration

49 CFR Part 1572

[Docket Nos. TSA-2006-24191; USCG-2006-24196]

RIN 1652-AA41

Transportation Worker Identification Credential (TWIC) Implementation in the Maritime Sector; Hazardous Materials Endorsement for a Commercial Driver's License

AGENCY: Transportation Security Administration (TSA), United States Coast Guard, Department of Homeland Security (DHS).

ACTION: Notice of Public Meeting.

SUMMARY: The Transportation Security Administration (TSA) and the Coast Guard invite interested members of the smart card technology community, vendors of biometric card readers, and the general public to meet in Washington, DC to discuss the Transportation Worker Identification Credential (TWIC) Reader Hardware and Card Application Specification. The meeting will be open to the public and will also be available by teleconference.

DATES: This meeting will be held on November 19, 2007 from 1 p.m. to 4 p.m. EST. This meeting may close early if all business is finished.

ADDRESSES: The meeting will be held in room 2415, U.S. Coast Guard