

**SECURITIES AND EXCHANGE COMMISSION****17 CFR Part 240**

[Release No. 34-44852; File No. S7-17-00]

RIN 3235-AH96

**Firm Quote and Trade-Through Disclosure Rules for Options****AGENCY:** Securities and Exchange Commission.**ACTION:** Final rule; extension of compliance date.

**SUMMARY:** The Securities and Exchange Commission ("Commission") is extending the compliance date for Rule 11Ac1-7 under the Securities Exchange Act of 1934 ("Exchange Act"). Rule 11Ac1-7 requires a broker-dealer to disclose to its customer when the customer's order for listed options is executed at a price inferior to a better published price, unless the transaction was effected on a market that participates in an intermarket linkage plan approved by the Commission. This rule was published on December 1, 2000 (66 FR 75439).

**DATES:** *Effective Date:* The effective date for Rule 11Ac1-7, published on December 1, 2000 (65 FR 75439), remains February 1, 2001.

*Compliance Date:* On March 15, 2001, the Commission extended the compliance date for Rule 11Ac1-7 (§ 240.11Ac1-7) from April 1, 2001 to October 1, 2001 (66 FR 15792). The Commission now extends the compliance date from October 1, 2001 to April 1, 2002.

**FOR FURTHER INFORMATION CONTACT:** Jennifer Colihan, Special Counsel, at (202) 942-0735, Division of Market Regulation, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549-1001.

**SUPPLEMENTARY INFORMATION:** On November 17, 2000, the Commission adopted Rule 11Ac1-7<sup>1</sup> ("Rule") under the Exchange Act to require a broker-dealer to disclose to its customer when the customer's order for listed options is executed at a price inferior to a better published quote ("intermarket trade-through"), and to disclose the better published quote available at that time.<sup>2</sup> This disclosure must be made in writing at or before the completion of the transaction, and may be provided in conjunction with the confirmation statement routinely sent to investors.

However, a broker-dealer is not required to disclose to its customer an intermarket trade-through if the broker-dealer effects the transaction on an exchange that participates in an approved linkage plan that includes provisions reasonably designed to limit customers' orders from being executed at prices that trade through a better published price. In addition, broker-dealers will not be required to provide the disclosure required by the Rule if the customer's order is executed as part of a block trade.

In the Adopting Release, the Commission noted that it would consider granting exemptive relief to broker-dealers from the disclosure requirements of the Rule if the options exchanges continued to make substantial progress towards implementing a linkage plan.<sup>3</sup> On March 15, 2001, the Commission extended the compliance date from April 1, 2001 to October 1, 2001, noting that while progress had been made toward implementing the linkage plan approved by the Commission in July,<sup>4</sup> the exchanges' efforts had not yet resulted in a linkage that could be implemented before the compliance date of April 1, 2001.

The Commission believes that the options exchanges have continued to make substantial progress on implementing the linkage. Specifically, on March 23, 2001, the options markets selected The Options Clearing Corporation ("The OCC") as the linkage provider. The OCC has advised the Commission that it expects to have finalized the technical specifications for the linkage by early November 2001. Each of the options exchanges is currently evaluating its internal systems to determine the modifications, development, and testing that will be needed to accommodate the linkage.

In addition, on June 27, 2001, the Commission approved an amendment to the Linkage Plan proposed by the options exchanges that satisfies the minimal requirements of the Trade-Through Disclosure Rule and, once implemented, would except broker-dealers who effect transactions on any of the linked markets from making the required disclosures under the Trade-Through Disclosure Rule.<sup>5</sup> Finally, each

of the options exchanges has filed proposed rule changes intended to incorporate the requirements of the Linkage Plan.<sup>6</sup>

Therefore, the Commission finds that good cause exists at this time to extend the compliance date for six months, to April 1, 2002, to allow the options exchanges to make further advancements towards implementing a linkage before imposing the disclosure requirements of the Rule on broker-dealers.

The Commission finds, in accordance with Section 553(b)(3)(A) of the Administrative Procedure Act,<sup>7</sup> that extending the compliance date relates solely to agency organization, procedure, or practice, and does not relate to a substantive rule. Accordingly, notice, opportunity for public comment, and publication prior to the extension are unnecessary.

By the Commission.

Dated: September 26, 2001.

**Margaret H. McFarland,**  
*Deputy Secretary.*

[FR Doc. 01-24575 Filed 10-1-01; 8:45 am]

**BILLING CODE 8010-01-P**

**DEPARTMENT OF THE TREASURY****Customs Service****19 CFR Part 122**

[T. D. 01-70]

**User Fee Airports****AGENCY:** U.S. Customs Service, Department of the Treasury.**ACTION:** Final rule.

**SUMMARY:** This document amends the Customs Regulations to reflect the establishment of one additional user fee airport and the cancellation of another user fee airport. A user fee airport is one which, while not qualifying for designation as an international or landing rights airport, has been approved by the Commissioner of Customs to receive, for a fee, the services of a Customs officer for the processing of aircraft entering the United States and their passengers and cargo.

requires plan participants to actively surveil their markets for trades executed at prices inferior to those publicly quoted on other exchanges; and (3) makes clear that the failure of a market with a better quote to complain within a specified period of time that its quote was traded-through may affect potential liability, but does not signify that a trade-through has not occurred.

<sup>6</sup> See File Nos. SR-Amex-2001-64; SR-CBOE-2001-46; SR-ISE-2001-23; SR-PCX-2001-30; and SR-Phlx-2001-78.

<sup>7</sup> 5 U.S.C. 553(b)(3)(A).

<sup>3</sup> *Id.*

<sup>4</sup> See Securities Exchange Act Release No. 43086 (July 28, 2000), 65 FR 48023 (August 4, 2000) ("Linkage Plan").

<sup>5</sup> See Securities Exchange Act Release No. 44482, 66 FR 35470 (July 5, 2001). Specifically, the amendment: (1) Limits participants from trading through, not only the quotes of other linkage plan participants, but also, the quotes of exchanges that are not participants in an approved linkage plan; (2)

<sup>1</sup> 17 CFR 240.11Ac1-7.

<sup>2</sup> See Securities Exchange Act Release No. 43591 (November 17, 2000), 65 FR 75439 (December 1, 2000) ("Adopting Release").

**EFFECTIVE DATE:** October 2, 2001.

**FOR FURTHER INFORMATION CONTACT:**

Nancy Bruner, Mission Support, Office of Field Operations, (202) 927-2290.

**SUPPLEMENTARY INFORMATION:**

**Background**

Part 122, Customs Regulations (19 CFR part 122), sets forth regulations that are applicable to all international air commerce relating to the entry and clearance of aircraft and the transportation of persons and cargo by aircraft.

Under § 1644a, Title 19, United States Code (19 U.S.C. 1644a), the Secretary of the Treasury is authorized to designate places in the United States as ports of entry for civil aircraft arriving from any place outside of the United States, and for merchandise carried on the aircraft. These airports are referred to as international airports, and the location and name of each are listed in § 122.13, Customs Regulations (19 CFR 122.13). In accordance with § 122.33, Customs Regulations (19 CFR 122.33), the first landing of every civil aircraft entering the United States from a foreign area must be at one of these international airports, unless the aircraft has been specifically exempted from this requirement or permission to land elsewhere has been granted. Customs officers are assigned to all international airports to accept entries of merchandise, collect duties and enforce the customs laws and regulations.

Other than making an emergency or forced landing, if a civil aircraft desires to land at an airport not designated by Customs as an international airport, the pilot may request permission to land at a specific airport and, if granted, Customs assigns personnel to that airport for the aircraft. The airport where the aircraft is permitted to land is called a landing rights airport (19 CFR 122.14).

Section 236 of Public Law 98-573 (the Trade and Tariff Act of 1984), codified at 19 U.S.C. 58b, created an option for civil aircraft desiring to land at an airport other than an international or landing rights airport. A civil aircraft arriving from a place outside of the United States may ask Customs for permission to land at an airport designated by the Secretary of the Treasury as a user fee airport.

Pursuant to 19 U.S.C. 58b, an airport may be designated as a user fee airport if the Secretary of the Treasury determines that the volume of Customs business at the airport is insufficient to justify the availability of Customs services at the airport and the governor of the state in which the airport is

located approves the designation.

Generally, the type of airport that would seek designation as a user fee airport would be one at which a company, such as an air courier service, has a specialized interest in regularly landing.

As the volume of business anticipated at this type of airport is insufficient to justify its designation as an international or landing rights airport, the availability of Customs services is not paid for out of the Customs appropriations from the general treasury of the United States. Instead, the services of Customs officers are provided on a fully reimbursable basis to be paid for by the user fee airport on behalf of the recipients of the services.

The fees which are to be charged at user fee airports, according to the statute, shall be paid by each person using the Customs services at the airport and shall be in the amount equal to the expenses incurred by the Secretary of the Treasury in providing Customs services which are rendered to such person at such airport, including the salary and expenses of those employed by the Secretary of the Treasury to provide the Customs services. To implement this provision, generally, the airport seeking the designation as a user fee airport of that airport's authority agrees to pay Customs a flat fee annually and the users of the airport are to reimburse that airport/airport authority. The airport/airport authority agrees to set and periodically to review its charges to ensure that they are in accord with the airport's expenses.

Pursuant to Treasury Department Order No. 165, Revised (Treasury Decision 53564), all the rights, privileges, powers and duties vested in the Secretary of the Treasury by the Tariff Act of 1930, as amended, by the navigation laws, or by any other laws administered by Customs, are transferred to the Commissioner of Customs. Accordingly, the authority granted to the Secretary of the Treasury to designate user fee airports and to determine appropriate fees is delegated to the Commissioner of Customs.

Under this authority, Customs has determined that certain conditions must be met before an airport can be designated as a user fee airport. At least one full-time Customs officer must be requested, and the airport must be responsible for providing Customs with satisfactory office space, equipment and supplies, at no cost to the Federal Government.

Thirty-six airports are currently listed in § 122.15, Customs Regulations, as user fee airports. This document revises the list of user fee airports. It adds Edinburg International Airport, in

Edinburg, Texas, to this listing of designated user fee airports and removes the Arkansas Aeroplex at Blytheville, Arkansas from the list. These actions are taken pursuant to the airports' request.

**Regulatory Flexibility Act and Executive Order 12866**

Because no notice of proposed rulemaking is required for this final rule, the provisions of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) do not apply. Agency organization matters such as this amendment are exempt from consideration under Executive Order 12866.

**Inapplicability of Public Notice and Delayed Effective Date Requirements**

Because this amendment merely updates the list of user fee airports designated by the Commissioner of Customs in accordance with 19 U.S.C. 58b and neither imposes any additional burdens on, nor takes away any existing rights or privileges from, the public, pursuant to 5 U.S.C. 553 (b)(B), notice and public procedure are unnecessary, and for the same reasons, pursuant to 5 U.S.C. 553(d)(3) a delayed effective date is not required.

**Drafting Information**

The principal author of this document was Janet L. Johnson, Regulations Branch, Office of Regulations and Rulings, U.S. Customs Service. However, personnel from other offices participated in its development.

**List of Subjects in 19 CFR Part 122**

Air carriers, Aircraft, Airports, Customs duties and inspection, Freight.

**Amendments to the Regulations**

Part 122, Customs Regulations (19 CFR part 122) is amended as set forth below.

**PART 122—AIR COMMERCE REGULATIONS**

1. The authority citation for part 122, Customs Regulations, continues to read as follows:

**Authority:** 5 U.S.C. 301; 19 U.S.C. 58b, 66, 1433, 1436, 1448, 1459, 1590, 1594, 1623, 1624, 1644, 1644a.

**§ 122.15 User fee airports.**

2. The listing of user fee airports in section 122.15(b) is amended by removing "Blytheville, Arkansas" from the "Location" column and on the same line "Arkansas Aeroplex" from the "Name" column; and by adding, in alphabetical order, in the "Location" column, "Edinburg, Texas" and by

adding on the same line, in the "Name" column, "Edinburg International Airport".

**Charles W. Winwood,**

*Acting Commissioner of Customs.*

Approved: September 26, 2001.

**Timothy E. Skud,**

*Acting Deputy Assistant Secretary of the Treasury.*

[FR Doc. 01-24534 Filed 10-1-01; 8:45 am]

BILLING CODE 4820-02-P

## DEPARTMENT OF TRANSPORTATION

### Coast Guard

#### 33 CFR Part 165

[CGD01-01-164]

RIN 2115-AA97

#### **Safety and Security Zones; Coast Guard Force Protection for Station Jonesport, Jonesport, Maine; Coast Guard Group Southwest Harbor, Southwest Harbor, Maine; and Station Rockland, Rockland Harbor Maine**

**AGENCY:** Coast Guard, DOT.

**ACTION:** Temporary final rule.

**SUMMARY:** The Coast Guard is establishing temporary safety and security zones in the waters surrounding Coast Guard facilities located in Jonesport, Maine; Southwest Harbor, Maine; and Rockland, Maine. These security and safety zones are needed to safeguard Coast Guard facilities, vessels and personnel from potential future sabotage or other subversive acts, accidents or other causes of a similar nature. Entry or movement within these zones by any vessel of any description whatsoever, without the express authority of the Captain of the Port, Portland, or his authorized patrol representative, is strictly prohibited.

**EFFECTIVE DATE:** This section is effective from 6 p.m. September 19, 2001 until March 17, 2002.

**ADDRESSES:** Documents as indicated in this preamble are available for inspection or copying at Marine Safety Office Portland, Maine, 103 Commercial Street, Portland, Maine between 8 a.m. and 4 p.m., Monday through Friday, except Federal Holidays.

**FOR FURTHER INFORMATION CONTACT:** Lieutenant (Junior Grade) W. W. Gough, Chief, Ports and Waterways Safety Branch, Port Operations Department, Captain of the Port, Portland, Maine at (207) 780-3251.

**SUPPLEMENTARY INFORMATION:**

### Regulatory History

Pursuant to 5 U.S.C. 553, a notice of proposed rulemaking (NPRM) was not published for this regulation. Good cause exists for not publishing a NPRM and for making this regulation effective in less than 30 days after publication in the **Federal Register**. Due to the catastrophic nature and extent of damage realized from the aircraft crashes into the World Trade Center towers, this rulemaking is urgently necessary to protect the national security interests of the United States against future potential terrorist strikes against governmental targets. Any delay in the establishment and enforcement of this regulation's effective date would be unnecessary and contrary to public interest and national security since immediate action is needed to protect Coast Guard Group Southwest Harbor Base, Southwest Harbor, Maine; Coast Guard Station Jonesport, Jonesport, Maine; and Coast Guard Station Rockland, Rockland Harbor, Maine's facilities, vessels and personnel; as well as the public and maritime community, from potential terrorist attacks. The public will be kept apprised of the safety and security zones and respective changes via Broadcast Notice to Mariners.

### Background and Purpose

On September 11, 2001, both towers of the World Trade Center, New York City, New York, were destroyed as a result of two commercial airliner crashes, an act that can only be explained as resulting from terrorist attacks. This regulation establishes three safety and security zones in the waters immediately surrounding the Coast Guard facilities in Southwest Harbor, Rockland, and Jonesport Maine: (1) All the waters off of Station Jonesport, Jonesport, Maine, within a 75-yard radius of 44° 31' 38" N, 067° 36' 58" W; (2) all the waters of Southwest Harbor, Maine off of Coast Guard Base Southwest Harbor, (a) within a 60-yard radius of 44° 16' 30" N, 068° 18' 45" W; and (b) within a 20-yard radius of 44° 16' 30" N, 068° 18' 47" W; and (3) all the waters of Rockland Harbor, Maine off of Station Rockport (a) within a 75-yard radius of 44° 06' 16" N, 069° 06' 04" W; and (b) within a 60-yard radius of 44° 06' 19" N, 069° 06' 07" W. The safety and security zones have identical boundaries, and restrict entry into or movement within the waters of Southwest Harbor, Jonesport Harbor and Rockland Harbor. The safety and security zones are necessary to protect Coast Guard personnel, facilities, the public and the surrounding area from

sabotage or other subversive acts, accidents, or events of a similar nature. All persons other than those approved by the Captain of the Port or his authorized patrol representative are prohibited from entering into or moving within the zones without the prior approval of the Captain of the Port. The public will be notified of the safety and security zones via Broadcast Notice to Mariners.

### Regulatory Evaluation

This temporary final rule is not a significant regulatory action under section 3(f) of Executive Order 12866 and does not require an assessment of potential costs and benefits under section 6(a)(3) of that order. The Office of Management and Budget has not reviewed it under that Order. It is not significant under the regulatory policies and procedures of the Department of Transportation (DOT) (44 FR 11040; February 26, 1979). The Coast Guard expects the economic impact of this proposal to be so minimal that a full Regulatory Evaluation under paragraph 10e of the regulatory policies and procedures of DOT is unnecessary for the following reasons: These safety and security zones limit movement within only a portion of Southwest Harbor, Jonesport and Rockland Harbors, allowing vessels to safely navigate around the safety and security zones without delay, and maritime advisories will be made to advise the maritime community of the safety and security zones.

### Small Entities

Under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*), the Coast Guard must consider whether this proposal will have a significant economic impact on a substantial number of small entities. "Small entities" may include (1) small businesses and not-for-profit organizations that are independently owned and operated and are not dominant in their fields and (2) governmental jurisdictions with populations of less than 50,000.

For the reasons addressed under the Regulatory Evaluation above, the Coast Guard expects the impact of this regulation to be minimal and certifies under 5 U.S.C. 605(b) that this final rule will not have a significant economic impact on a substantial number of small entities.

### Collection of Information

This rule contains no collection of information requirements under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).