

provisions of Section 21.29 of the Federal Aviation Regulations (14 CFR 21.29) and the applicable bilateral airworthiness agreement. Pursuant to this bilateral airworthiness agreement, the CAA has kept the FAA informed of the situation described above. The FAA has examined the findings of the CAA, reviewed all available information, and determined that AD action is necessary for products of this type design that are certificated for operation in the United States.

Since an unsafe condition has been identified that is likely to exist or develop on other propellers of the same type design registered in the United States, the proposed AD would require installation of an improved overspeed governor, P/N 697052004. Overspeed governors, P/N 697052003, must be replaced within 480 hours time-in-service (TIS), or 3 months after the effective date of this AD, whichever occurs first, due to their higher wear rate. Overspeed governors, P/N 697052002, must be replaced within 2,000 hours TIS after the effective date of this AD. The actions would be required to be accomplished in accordance with the SB described previously.

There are approximately 163 propellers of the affected design in the worldwide fleet. There are currently no domestic propellers of the affected design that would be affected by this proposed AD, but if one were imported, it would take approximately 4 work hours per propeller to accomplish the proposed actions. The average labor rate is \$60 per work hour. Required parts would cost approximately \$2,500 per propeller. Based on these figures, the total cost impact of the proposed AD on a U.S. operator, if a propeller were imported, is estimated to be \$2,740 per propeller.

The regulations proposed herein would not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this proposal would not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

For the reasons discussed above, I certify that this proposed regulation (1) is not a "significant regulatory action" under Executive Order 12866; (2) is not a "significant rule" under the DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) if promulgated, will not have a significant economic impact, positive or negative,

on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A copy of the draft regulatory evaluation prepared for this action is contained in the Rules Docket. A copy of it may be obtained by contacting the Rules Docket at the location provided under the caption

ADDRESSES.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration proposes to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) as follows:

PART 39—AIRWORTHINESS DIRECTIVES

1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40113, 44701.

§ 39.13 [Amended]

2. Section 39.13 is amended by adding the following new airworthiness directive:

Dowty Aerospace Propellers: Docket No. 99-NE-38-AD.

Applicability: Dowty Aerospace Propellers R391-6-132-F/3 series propellers, installed on but not limited to Lockheed Martin 382J (C130J military) airplanes.

Note 1: This airworthiness directive (AD) applies to each propeller identified in the preceding applicability provision, regardless of whether it has been modified, altered, or repaired in the area subject to the requirements of this AD. For propellers that have been modified, altered, or repaired so that the performance of the requirements of this AD is affected, the owner/operator must request approval for an alternative method of compliance in accordance with paragraph (c) of this AD. The request should include an assessment of the effect of the modification, alteration, or repair on the unsafe condition addressed by this AD; and, if the unsafe condition has not been eliminated, the request should include specific proposed actions to address it.

Compliance: Required as indicated, unless accomplished previously.

To prevent overspeed governor failure, which could result in propeller overspeed, vibration, possible loss of propeller integrity, and loss of control of the airplane, accomplish the following:

(a) For propellers with overspeed governors, part number (P/N) 697052003, install an improved overspeed governor, P/N 697052004, within 480 hours time-in-service (TIS), or 3 months after the effective date of this AD, whichever occurs first, in accordance with Dowty Aerospace Propellers Service Bulletin (SB) No. C130J-61-26, Revision 1, dated April 13, 1999.

(b) For propellers with overspeed governors, P/N 697052002, install an improved overspeed governor, P/N 697052004, within 2,000 hours TIS after the effective date of this AD in accordance with Dowty Aerospace Propellers SB No. C130J-61-26, Revision 1, dated April 13, 1999.

(c) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be used if approved by the Manager, Boston Aircraft Certification Office (ACO). Operators shall submit their request through an appropriate FAA Principal Maintenance Inspector, who may add comments and then send it to the Manager, Boston ACO.

Note 2: Information concerning the existence of approved alternative methods of compliance with this airworthiness directive, if any, may be obtained from the Boston ACO.

(d) Special flight permits may be issued in accordance with sections 21.197 and 21.199 of the Federal Aviation Regulations (14 CFR 21.197 and 21.199) to operate the airplane to a location where the requirements of this AD can be accomplished.

Issued in Burlington, Massachusetts, on December 21, 1999.

David A. Downey,

Assistant Manager, Engine and Propeller Directorate, Aircraft Certification Service.

[FR Doc. 99-33572 Filed 12-27-99; 8:45 am]

BILLING CODE 4910-13-U

COMMODITY FUTURES TRADING COMMISSION

17 CFR Part 1

RIN 3038-AB35

Proposed Rulemaking Concerning Amendments to Insider Trading Regulation

AGENCY: Commodity Futures Trading Commission.

ACTION: Proposed rulemaking.

SUMMARY: The Commodity Futures Trading Commission ("Commission") proposes to amend Commission Regulation 1.59 which addresses various trading prohibitions imposed on persons associated with self-regulatory organizations ("SROs"). Regulation 1.59 presently requires SROs to adopt rules prohibiting employees, governing board members, and members of committees from certain trading activities and from disclosing material, non-public information. The Commission proposes to amend Regulation 1.59 so that governing board members, and individuals serving as the "functional equivalent" of governing board members, would be clearly excluded from the definition of "employee" for Regulation 1.59 purposes. The Commission also seeks to clarify the

meaning of Regulation 1.59(b)(1)(i) regarding the scope of the SRO employee trading prohibition, as its current punctuation may create some confusion. Finally, the Commission is requesting public comment regarding the application of Regulation 1.59 to non-paid advisors and paid consultants.

DATES: Comments must be submitted by January 27, 2000.

FOR FURTHER INFORMATION CONTACT:

David P. Van Wagner, Associate Director, or Joshua R. Marlow, Attorney-Advisor, Division of Trading and Markets, Commodity Futures Trading Commission, Three Lafayette Centre, 1155 21st Street, N.W., Washington, D.C. 20581. Telephone: (202) 418-5490.

SUPPLEMENTARY INFORMATION:

I. Introduction

Commission Regulation 1.59 generally requires SROs to adopt rules prohibiting employees, governing board members, and committee members from trading commodity interests on the basis of material, non-public information obtained in the course of their official duties (hereinafter referred to as "material, non-public information"). The Commission is proposing to amend Regulation 1.59 to provide greater clarity by resolving certain ambiguities in the current provision. The following sections of this release analyze the Commission's proposed rulemaking. Each section describes a provision of the Commission's proposed rulemaking and the Commission's rationale for proposing the amendment. The release also poses certain questions as to other aspects of the regulation in order to encourage comment from industry participants.

II. Proposed Rulemaking

A. Background

Currently, there are two categories of individuals subject to Regulation 1.59:

(1) SRO employees, including those employed by the SRO on a salaried or contract basis; and (2) SRO governing board and/or committee members. Under Regulation 1.59, SRO employees are subject to stricter prohibitions against trading than SRO governing board or committee members.

Specifically, employees are absolutely prohibited from trading any commodity interest traded on or cleared by the employing contract market or clearing organization, or any related commodity interest. Additionally, employees having access to material, non-public information concerning a commodity interest are prohibited from trading in any such commodity interest that is traded on or cleared by contract markets

or clearing organizations other than the employing self-regulatory organization, or traded on or cleared by a linked exchange.

Governing board and committee members, on the other hand, are prohibited from using material, non-public information for any purpose other than the performance of their official duties. The possession of material, non-public information, therefore, does not bar these individuals from trading commodity interests. Rather, under Regulation 1.59(c), governing board and committee members are prohibited from trading for their own account, or for or on behalf of any other account, based on this material, non-public information.

B. Technical Amendments

1. Definition of "Employee"

a. Governing Board Members. Current Regulation 1.59(a)(2) defines "employee" as "any person hired or otherwise employed on a salaried or contract basis by a self-regulatory organization." In 1986, when this definition was originally adopted, members of governing boards generally were not salaried. Since that time, the industry trend has been to give stipends or payments to governing board members for their service. As such, the Commission believes there may be a need to clarify the "employee" definition since salaried governing board members are potentially subject to two inconsistent insider trading restrictions: one for governing board members and another for employees.

The Commission believes that including salaried governing board members in the definition of "employee" might create disincentives for those individuals to serve in this capacity, thus preventing SROs from taking advantage of their expertise. The Commission therefore proposes to amend the definition of "employee" to exclude explicitly governing board members. This would make clear that persons who receive a salary from the SRO solely for their governing board activities would be excluded from the "employee" restrictions against trading. Accordingly, under Regulation 1.59(c), all governing board members, regardless of a salary received solely for their governing board activities, would be prohibited only from using material, non-public information for any purpose other than the performance of their official duties.

b. Individuals Serving as the Functional Equivalent of Governing Board Members. There are certain types of individuals salaried by SROs that

work closely with governing boards but are not technically governing board members. Specifically, some exchange governing boards permit *ex officio* or *emeritus* members to participate in board deliberations. The Commission understands that such individuals can provide valuable assistance and counsel. Under current Regulation 1.59, such individuals are technically "employees" since they are compensated by the exchange and are not bona fide governing board members. However, because *ex officio* and *emeritus* members are paid solely for their governing board activities, the Commission believes they are more analogous to governing board members than to SRO employees and should be treated as such for purposes of Regulation 1.59. As current Regulation 1.59 does not define "governing board member," the Commission proposes to amend it by defining the term specifically to include individuals who solely perform the functions of governing board members, even if they are not technically members of the exchange's governing board. The definition would therefore include those individuals serving the "functional equivalent" of governing board members.

2. Clarification That SRO Employees With Access to Material, Non-Public Information are Prohibited From Trading in any Commodity Interest Traded on or Cleared by: (1) Contract Markets or Clearing Organizations Other Than the Employing SRO; or (2) Linked Exchanges

Regulation 1.59(b) establishes four types of trading prohibitions for SRO employees. This paragraph, however, does not distinctly enumerate each trading prohibition. It merely provides a list, separating each prohibition with a comma. Specifically, the paragraph requires SROs to maintain in effect rules which, at a minimum, prohibit employees from trading in the following four scenarios:

In any commodity interest traded on or cleared by the employing contract market or clearing organization, in any related commodity interest, in any commodity interest traded on or cleared by contract markets or clearing organizations other than the employing self-regulatory organization, and in any commodity interest traded on or cleared by a linked exchange *where the employee has access to material nonpublic information concerning such commodity interest;*

Regulation 1.59(b)(1)(i) (emphasis added).

The Commission believes that the present structure of this paragraph may

create confusion as to which trading prohibitions the underlined clause modifies. In particular, because no punctuation precedes the clause "where the employee has access to material nonpublic information concerning such commodity interest" (hereinafter referred to as the "access clause"), this precondition for the application of the trading restriction would appear to apply to only one trading scenario—the trading scenario that immediately precedes it. However, an examination of this provision as it existed prior to the 1993 amendments to Regulation 1.59 ("1993 Amendments") and of the **Federal Register** releases promulgating those amendments confirms that the "access clause" should also apply to the prohibition on trading "in any commodity interest traded on or cleared by contract markets or clearing organizations other than the employing self-regulatory organization."¹

Prior to the 1993 Amendments, the insider trading regulation for employees required SROs to adopt rules which, at a minimum, prohibited employees from trading in the following three scenarios:

In any commodity interest traded on or cleared by the employing contract market or clearing organization, in any related commodity interest, and in any commodity interest traded on or cleared by contract markets or clearing organizations other than the employing self-regulatory organization where the employee has access to material nonpublic information concerning such commodity interest.

51 FR 44866, 44869 (Dec. 12, 1986) (emphasis added).

In that release, the three scenarios were individually numbered at one point in the narrative,² rather than merely separated by commas as done in the text of the regulation, and thus made clear that the "access clause" applied only to the last trading scenario.

In 1993, the fourth prohibited trading scenario relating to "any commodity interest traded on or cleared by a linked exchange" (hereinafter referred to as the "linked exchange prohibition") was added immediately before the "access clause."³ The **Federal Register** release proposing the addition stated it "would make clear that SRO rules must prohibit SRO employees from trading in commodity interests traded on or cleared by linked exchanges where the

employee has access to material, non-public information."⁴ As a result of inserting this fourth trading scenario, without further altering the paragraph in any other way, the "access clause" reads as applying only to the "linked exchange prohibition." Notably, neither the proposing release nor the adopting release of the 1993 Amendments indicated that a change of policy was intended with respect to the treatment of trading a commodity interest "traded on or cleared by contract markets or clearing organizations other than the employing self-regulatory organization."

In order to correct this, the Commission proposes to amend Regulation 1.59(b)(1)(i) by subdividing each prohibition into a separate subparagraph.⁵ The Commission believes that these proposed amendments to paragraph (b)(1)(i) would clearly distinguish the situations in which employees of SROs are absolutely prohibited from trading commodity interests from the situations in which they are prohibited from trading only if they have access to material, non-public information.

C. Clarification of the Treatment of "Consultants"

The Commission is aware that SROs employ consultants in a variety of capacities. Furthermore, Commission staff understands that, in general, consultants are mostly used in the field of information technology. Depending on the nature of work being done, a consultant may or may not have access to material, non-public information.

Regulation 1.59 provides that consultants are SRO "employees" since Regulation 1.59(a)(2) defines an employee as "any person hired or otherwise employed on a salaried or contract basis by a self-regulatory organization." Indeed, the Commission specifically indicated its intention that such consultants be considered "employees" for Regulation 1.59 purposes when it originally promulgated the regulation in 1986.⁶ Nonetheless, Commission staff has learned that some exchanges may retain consultants that they do not consider

⁴ 58 FR 44470, 44472 (Aug. 23, 1993).

⁵ As proposed, Regulations 1.59(b)(1)(i)(A), (B), (C) and (D) would each be styled to prohibit an employee "from trading, directly or indirectly," certain commodity contracts in various circumstances.

⁶ 51 FR 44866, 44867 at note 6 (Dec. 12, 1986). "It should be noted that consultants and independent contractors employed by the self-regulatory organization would be included within the definition of 'employee' under [R]egulation 1.59 and, therefore, would be subject to the same restrictions applicable to all other exchange employees."

"employees." The Commission requests comment on whether Regulation 1.59 should be amended in any way in order to clarify the treatment of these consultants.

D. Request for Comments on Use of Non-Paid Advisors by Governing Boards and Committees

The Commission also seeks comment concerning the application of Regulation 1.59 to non-paid advisors of SRO governing boards and committees. Presently, these individuals are not subject to Regulation 1.59 requirements as they are neither "employees"—since they are not compensated—nor actual members of an SRO governing board or committee. The Commission believes that such advisors may merit special treatment under Regulation 1.59. Towards that end, the Commission requests comment on the extent to which such individuals are utilized by SRO governing boards and committees and their level of participation in these bodies' deliberations. In particular, the Commission seeks comment on whether these individuals are merely solicited for their opinions or integrally involved in various matters being addressed by the SRO governing board or committees.

E. Conclusion

The Commission believes that the proposed amendments to Regulation 1.59 would clarify existing ambiguities as well as adapt, as appropriate, to changes in the industry since the regulation was last amended.

III. Related Matters

A. Regulatory Flexibility Act

The Regulatory Flexibility Act ("RFA")⁷ requires that agencies, in promulgating rules, consider the impact of those rules on small businesses. The Commission previously has determined that contract markets are not "small entities" for purposes of the RFA, and that the Commission, therefore, need not consider the effect of proposed rules on contract markets.⁸ Furthermore, the Acting Chairman of the Commission previously has certified on behalf of the Commission that comparable rule proposals affecting registered futures associations, if adopted, would not have a significant economic impact on a substantial number of small entities.⁹

This proposed rulemaking would impact SROs, both contract markets and registered futures associations, and their employees, governing board members and committee members. The

⁷ 5 U.S.C. 601 *et seq.* (1994).

⁸ 47 FR 18618, 18619 (Apr. 30, 1982).

⁹ See 58 FR 13565, 13569 (Mar. 12, 1993).

¹ See 58 FR 44470 (Aug. 23, 1993); 58 FR 54966 (Oct. 25, 1993). The 1993 Amendments were made in order to, among other things, implement the felony standard of Section 214 of the Futures Trading Practices Act of 1992 and to update the definitions of "linked exchange" and "material information" due to certain industry developments since Regulation 1.59 was revised last.

² 51 FR 44866, 44867 (Dec. 12, 1986).

³ 58 FR 54966, 54971, 54974 (Oct. 25, 1993).

Commission has previously determined that the establishment of Regulation 1.59, as well as subsequent amendments to the regulation, have not created significant economic impact for affected entities or persons.¹⁰

The Commission does not believe that the proposed amendments would have a significant economic impact on SROs or employees, governing board members and committee members. The proposed amendments merely clarify the existing rule. The obligations and prohibitions which would be established by the proposed amendments are essentially the same obligations and prohibitions that are created by SRO rules promulgated pursuant to existing Regulation 1.59.

Therefore, the Chairman, on behalf of the Commission, hereby certifies, pursuant to Section 3(a) of the RFA,¹¹ that the proposed rulemaking, if adopted, would not have a significant economic impact on a substantial number of small entities.

B. Agency Information Activities: Proposed Collection; Comment Request

The Paperwork Reduction Act of 1980 ("PRA")¹² imposes certain requirements on federal agencies (including the Commission) in connection with their conducting or sponsoring any collection of information as defined by the PRA. The Commission believes the proposed amendments to Regulation 1.59 would not impose a paperwork burden on self-regulatory organizations.

Copies of the information collection submission to the Office of Management and Budget are available from Stacy Dean Yochum, Clearance Officer, Commodity Futures Trading Commission, Three Lafayette Centre, 1155 21st Street, N.W., Washington, D.C. 20581. Telephone: (202) 418-5157.

List of Subjects in 17 CFR Part 1

Commodity futures, Contract markets, Clearing organizations, Members of contract markets.

In consideration of the foregoing, and based on the authority contained in the Commodity Exchange Act and, in particular, Sections 3, 4b, 5, 5a, 6, 6b, 8, 8a, 9, 17, and 23(b) thereof, 7 U.S.C. 5, 6b, 7, 7a, 8, 13a, 12, 12a, 13, 21 and 26(b), the Commission hereby proposes to amend Title 17, Chapter I, Part 1 of

the Code of Federal Regulations as follows:

PART 1—GENERAL REGULATIONS UNDER THE COMMODITY EXCHANGE ACT

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

Authority: 7 U.S.C. 2, 2a, 4, 4a, 6, 6a, 6b, 6c, 6d, 6e, 6f, 6g, 6h, 6i, 6j, 6k, 6l, 6m, 6n, 6o, 7, 7a, 8, 9, 12, 12a, 12c, 13a, 13a-1, 16, 19, 21, 23, and 24, unless otherwise stated.

2. Section 1.59 would be amended as follows:

A. Paragraphs (a)(3) through (a)(8) are redesignated as paragraphs (a)(4) through (a)(9).

B. Paragraph (a)(2) is redesignated as paragraph (a)(3) and revised and new paragraph (a)(2) is added;

C. Paragraph (b)(1) introductory text and paragraph (b)(1)(i) are revised to read as follows:

§ 1.59 Activities of self-regulatory organization employees and governing members who possess material, non-public information.

(a) *Definitions.* For purposes of this section:

* * * * *

(2) *Governing board member* means a member, or functional equivalent thereof, of the board of governors of a self-regulatory organization.

(3) *Employee* means any person hired or otherwise employed on a salaried or contract basis by a self-regulatory organization, but does not include any governing board member compensated by the exchange solely for governing board activities.

* * * * *

(b) Employees of self-regulatory organizations: Self-regulatory organization rules.

(1) Each self-regulatory organization must maintain in effect rules which have been submitted to the Commission pursuant to section 5a(a)(12)(A) of the Act and Commission regulation 1.41 (or, pursuant to section 17(j) of the Act in the case of a registered futures association) that, at a minimum, prohibit:

(i) Employees of the self-regulatory organization:

(A) From trading, directly or indirectly, in any commodity interest traded on or cleared by the employing contract market or clearing organization;

(B) From trading, directly or indirectly, in any related commodity interest;

(C) From trading, directly or indirectly, in any commodity interest traded on or cleared by contract markets or clearing organizations other than the

employing self-regulatory organization where the employee has access to material, nonpublic information concerning such commodity interest; and

(D) From trading, directly or indirectly, in any commodity interest traded on or cleared by a linked exchange where the employee has access to material, nonpublic information concerning such commodity interest; and

* * * * *

Issued in Washington, DC on December 15, 1999, by the Commission.

Jean A. Webb,

Secretary of the Commission.

[FR Doc. 99-33305 Filed 12-27-99; 8:45 am]

BILLING CODE 6351-01-P

SECURITIES AND EXCHANGE COMMISSION

17 CFR Parts 230, 240, 243, and 249

[Release Nos. 33-7787, 34-42259, IC-24209, File No. S7-31-99]

RIN 3235-AH82

Selective Disclosure and Insider Trading

AGENCY: Securities and Exchange Commission.

ACTION: Proposed rule.

SUMMARY: The Securities and Exchange Commission is proposing new rules to address three issues: the selective disclosure by issuers of material nonpublic information; whether insider trading liability depends on a trader's "use" or "knowing possession" of material nonpublic information; and when the breach of a family or other non-business relationship may give rise to liability under the misappropriation theory of insider trading. The proposals are designed to promote the full and fair disclosure of information by issuers, and to clarify and enhance existing prohibitions against insider trading.

DATES: Public comments are due on or before March 29, 2000.

ADDRESSES: Please send three copies of your comment letter to Jonathan G. Katz, Secretary, Securities and Exchange Commission, 450 5th Street, NW, Washington, DC 20549-0609. Comments can also be sent electronically to the following e-mail address: rule-comments@sec.gov. Your comment letter should refer to File No. S7-31-99. If e-mail is used, include this file number on the subject line. Anyone can inspect and copy the comment letters in the Commission's Public Reference Room at 450 5th St., NW,

¹⁰ See 47 FR 18618 (Apr. 30, 1982); 50 FR 24533 (June 11, 1985); 51 FR 44866 (Dec. 12, 1986); 52 FR 32568 (Aug. 28, 1987); 52 FR 48974 (Dec. 29, 1987); 58 FR 44470 (Aug. 23, 1993); 58 FR 54966 (Oct. 25, 1993).

¹¹ 5 U.S.C. 605(b) (1994).

¹² 44 U.S.C. 3501 *et seq.* (1988).