

the average net income for the most recent three years, this disclosure is not required.

(ii) Either the weighted average interest rate (based on present value) and range of rates or specific interest rates for all lease commitments included in the amount disclosed under paragraph (q) (4) (i) of this section.

(iii) The present value of rentals to be received from existing noncancelable subleases of property included under paragraph (q) (4) (i) of this section based on the interest rate implicit in the terms of the subleases at the times of entering into the subleases.

(iv) The impact upon net income for each period for which an income statement is presented if all noncapitalized financing leases were capitalized, related assets were amortized on a straight-line basis and interest cost was accrued on the basis of the outstanding lease liability. The amounts of amortization and interest cost included in the computation shall be separately identified. If the impact on net income is less than three percent of the average net income for the most recent three years, that fact may be stated in lieu of this disclosure. In calculating average net income, loss years should be excluded. If losses were incurred in each of the most recent three years, the average loss shall be used for purposes of this test.

The foregoing amendments are adopted pursuant to sections 6, 7, 8, 10 and 19(a) of the Securities Act of 1933; sections 12, 13, 15(d) and 23(a) of the Securities Exchange Act of 1934; and sections 5(b), 14 and 20(a) of the Public Utility Holding Company Act of 1935.

(Secs. 6, 7, 8, 10, 19(a), 48 Stat. 78, 79, 81, 85, secs. 205, 209, 48 Stat. 906, 908, sec. 8, 68 Stat. 685, 15 U.S.C. 77f, 77g, 77h, 77i, 77j; secs. 12, 13, 15(d), 23(a), 48 Stat. 892, 894, 895, 901, secs. 3, 8, 49 Stat. 1377, 1379, secs. 3, 4, 6, 10, 78 Stat. 565, 569, 570, 580, secs. 1, 2, 84 Stat. 1497, 15 U.S.C. 78i, 78m, 78o(d), 78w; secs. 5(b), 14, 20(a), 49 Stat. 812, 827, 833, 15 U.S.C. 79e, 79n, 79t.)

The amendments shall be effective with respect to financial statements filed with the Commission subsequent to November 30, 1973.

By the Commission.

GEORGE A. FITZSIMMONS,
Secretary.

OCTOBER 5, 1973.

[FR Doc. 73-22493 Filed 10-19-73; 8:45 am]

[Release No. 34-10429]

**PART 241—INTERPRETATIVE RELEASE
RELATING TO THE SECURITIES EX-
CHANGE ACT OF 1934 AND GENERAL
RULES AND REGULATIONS THERE-
UNDER**

**Guidelines for Control Locations for
Foreign Securities**

Rule 15c3-3 (17 CFR 240.15c3-3) under the Securities Exchange Act of 1934 requires a broker or dealer promptly to obtain possession or control

of all fully paid and excess margin securities carried for the account of its customers and to take action within designated time frames where possession or control has not been established. Subparagraphs (c) (4) and (c) (7) of Rule 15c3-3 deem control of customer securities to have been established if such securities are in the custody of a foreign depository, foreign clearing agency, foreign custodian bank, or such other location which the Commission upon application shall designate as a satisfactory control location for such securities.

INTRODUCTION

On January 30, 1973, in Securities Exchange Act Release No. 9969 (38 FR 3313) the Commission indicated it had received numerous requests to designate certain entities as satisfactory control locations for customers' foreign securities lodged in foreign locations (abroad) pursuant to paragraphs (c) (4) and (7) of Rule 15c3-3 in order that brokers or dealers may comply with the requirements of that rule to reduce such customer securities to their possession or control. The Commission anticipated that after reviewing the requests and obtaining such additional information as may be necessary it would publish guidelines for control locations for foreign securities. The release stated that the Commission had determined that, "to the extent a broker-dealer has utilized a foreign entity (e.g., a foreign custodian bank) for holding customers' foreign securities in a foreign location, or a domestic entity which holds such broker's or dealer's customers' foreign securities in a foreign location, as of January 15, 1973, or at any time within two years immediately preceding such date, such broker-dealer shall be permitted to utilize such entity as a satisfactory control location for such foreign securities under Rule 15c3-3 until May 31, 1973." On May 30, 1973, in Securities Exchange Act Release No. 10178 (38 FR 15622) the Commission announced its intention to continue the availability of these locations as permissible control locations for foreign securities and that it would publish guidelines for control locations for foreign securities.

The Commission has now determined to establish the following criteria for satisfactory control locations for foreign securities pursuant to paragraph (c) (4) and (7) of Rule 15c3-3.

**CRITERIA FOR CONTROL LOCATIONS FOR
FOREIGN SECURITIES**

The Commission has determined:

(1) Pursuant to paragraph (c) (4) and (7) of Rule 15c3-3 that foreign securities lodged in the custody of foreign depositories, foreign clearing agencies, foreign custodian banks or foreign brokers or dealers for the account of customers of brokers or dealers shall be deemed to be lodged in satisfactory control locations for brokers or dealers subject to Rule 15c3-3; and

(2) Pursuant to paragraph (c) (7) of Rule 15c3-3 that foreign securities car-

ried by registered brokers or dealers for the account of customers of other brokers or dealers shall be deemed in satisfactory control locations for brokers or dealers subject to Rule 15c3-3.

Provided, That:

(a) The foreign securities lodged abroad shall be considered to be in the control of the broker or dealer for whom they are held pursuant to paragraph (c) (4) and (7), (1) to the extent that such securities are not subject to any right, charge, security interest, lien or claim of any kind in favor of the foreign entity except for their safe custody or administration and (2) to the extent that beneficial ownership of such securities is freely transferable without the payment of money or value other than for safe custody or administration;¹ and

(b) With respect to a registered broker or dealer carrying such foreign securities for another broker or dealer, (i) such securities shall be carried by the carrying broker or dealer in an account to be designated as a "Special Custody Account for the Exclusive Benefit of Customers of (name of the broker or dealer)" pursuant to paragraph (c) (7), (ii) the account shall contain only the securities of customers of that particular broker or dealer and (iii) the particular broker or dealer for whose customers those securities are carried shall have instructed the carrying broker or dealer to maintain physical possession or control of such securities free of any charge, lien, or claim of any kind in favor of such carrying broker or dealer. Additionally, security transactions shall not be effected through the account; its purpose being exclusively for the custody of customers' foreign securities. The carrying broker or dealer must also comply with the conditions set forth in (a) above.

The Commission has also determined in addition to the above criteria that, within 120 days of the publication of this release, any broker or dealer utilizing such locations must submit to George A. Fitzsimmons, Secretary, Securities and Exchange Commission, 500 North Capitol Street, Washington, D.C. 20549, the name, address, and principal place of business of the foreign entity which serves as a location for the lodgment of customer's foreign securities and the name and address of the governmental agency or other regulatory authority which supervises or regulates the respective foreign entity or in the case where such securities are carried in a "Special Custody Account" as described above by another registered broker or dealer, the name of that broker or dealer must be

¹ While the Commission recognizes that it is the practice in many foreign countries for the foreign entity to maintain a lien, claim, or other charge on customers' foreign securities for custody and administration charges, it is the broker's or dealer's responsibility to pay charges, claims, etc., promptly and to be certain that the amount of such charges, claims, etc., remain at all times minimal.

submitted.² Such submissions shall be considered an application to utilize such entities as satisfactory control locations pursuant to paragraph (c) (4) or (7) of Rule 15c3-3 and shall contain a representation of the broker or dealer that such entities meet the criteria specified above. An application submitted shall be considered accepted unless the Commission rejects such application within 90 days of its receipt by the Commission. During the 120 day period immediately following publication of this release, or during any period when an application is being considered by the Commission, to the extent a broker or dealer has utilized a foreign entity (e.g., a foreign custodian bank) for holding customer's foreign securities in a foreign location, or a domestic entity which holds such broker's or dealer's customers' foreign securities in a foreign location, as of January 15, 1973, or at any time within two years immediately preceding such date, such broker or dealer shall be permitted to continue to utilize such entities as satisfactory control locations for customers' foreign securities.

To the extent a broker or dealer wishes to utilize a new foreign entity or registered broker or dealer as a control location for customers' foreign securities and such entity meets the criteria outlined above he shall be permitted to do so provided he submits to the Secretary of the Commission the information required above prior to commencing the use of such locations.³ An application submitted shall be considered accepted unless the Commission rejects such application within 90 days of its receipt by the Commission. Such new locations shall be deemed satisfactory control locations during any period that such applications are being considered by the Commission.

The above criteria are initial guidelines to be supplemented or altered as the Commission gains further experience in the operation of Rule 15c3-3. The

Commission may find that any specific entity, although meeting the above criteria, shall not be a satisfactory control location for customers' foreign securities if the Commission determines that it would not be in the public interest or for the protection of investors to permit such entity to continue as a satisfactory control location.

In establishing the above criteria the Commission wishes to emphasize that these criteria are in no way intended to diminish a broker's or dealer's responsibility to (1) periodically compare and verify in conformity with the requirements of Rule 17a-13 under the Securities Exchange Act of 1934 foreign securities for which he has accountability; (2) be aware at all times of the amount of customers' fully paid foreign securities required to be in possession or control pursuant to Rule 15c3-3; and (3) take prompt steps to reduce fully paid foreign securities to the possession or control of the broker or dealer where such possession or control is required by Rule 15c3-3.

DEFINITION OF THE TERM CUSTOMER

Paragraph (a) (1) of Rule 15c3-3 defines the term customer for the purposes of that rule. The Commission has also determined that the term customer shall be further interpreted to include a broker or dealer to the extent he maintains with another broker or dealer an account designated as a "Special Custody Account for the Exclusive Benefit of Customers of (name of the broker or dealer)" which meets the criteria set forth above.

By the Commission.

GEORGE A. FITZSIMMONS,
Secretary.

OCTOBER 12, 1973.

[FR Doc.73-22432 Filed 10-19-73;8:45 am]

Title 19—Customs Duties

CHAPTER I—UNITED STATES CUSTOMS SERVICE, DEPARTMENT OF THE TREASURY

[T.D. 73-297]

PART 1—GENERAL PROVISIONS

Changes in Customs Field Organization

OCTOBER 11, 1973.

On July 31, 1973, a notice of a proposal to establish a consolidated Dallas/Fort Worth Customs port of entry with geographical limits to include the area within Dallas and Tarrant Counties, Texas, was published in the FEDERAL REGISTER (38 FR 20338). No comments were received regarding this proposal.

Accordingly, by virtue of the authority vested in the President by sec. 1 of the Act of August 1, 1914, 38 Stat. 623, as amended (19 U.S.C. 2), and delegated to the Secretary of the Treasury by Executive Order No. 10289, September 17, 1951 (3 CFR Ch. II), and pursuant to authority provided by Treasury Department Order No. 190, Rev. 9 (38 FR 17517), Dallas and Fort Worth, Texas, are hereby consolidated as a Customs port

of entry designated as the Dallas/Fort Worth Customs port of entry with the geographical limits to include all of the area within Dallas and Tarrant Counties, Texas, effective upon publication.

To reflect this change, the table in § 1.2(c) of the Customs Regulations is amended by inserting "Dallas/Fort Worth, Texas (including territory described in T.D. 73-297)" directly above "Oklahoma City, Okla. (including territory described in T.D. 66-132)." and deleting "Dallas, Tex." and "Fort Worth, Tex. (T.D. 55792)." in the column headed "Ports of entry" in the Houston, Texas, district (Region VI).

It is desirable to make the Customs port of entry available to the public as soon as possible. Therefore, good cause is found for dispensing with the delayed effective date provision of 5 U.S.C. 553 (d).

(Sec. 1, 37 Stat. 424, sec. 1, 38 Stat. 623, as amended; 19 U.S.C. 1, 2.)

[SEAL] JAMES B. CLAWSON,
Acting Assistant Secretary
of the Treasury.

[FR Doc.73-22415 Filed 10-19-73;8:45 am]

Title 31—Money and Finance: Treasury

CHAPTER II—FISCAL SERVICE, DEPARTMENT OF THE TREASURY

SUBCHAPTER A—BUREAU OF ACCOUNTS

PART 257—PAYMENT ON ACCOUNT OF DEPOSITS IN THE POSTAL SAVINGS SYSTEM

Alternate Form

The Department of the Treasury has determined that it is necessary to amend its regulations governing Payment on Account of Deposits in the Postal Savings System, at 31 CFR Part 257, by adding a new § 257.3, to allow for the use of Standard Form No. 1055 (SF-1055) in lieu of Post Office Department Form 1680 (POD-1680) when supplies of the latter form are exhausted, or are otherwise unavailable.

Since the new section concerns a matter which is essentially procedural and has minimal public effect, notice and public procedure respecting this action is not deemed appropriate or necessary. Accordingly, Part 257, Subchapter A, Chapter II of Title 31 of the Code of Federal Regulations is amended by: (1) amending the table of sections to read as follows:

- § 257.1 Scope of regulations.
- § 257.2 Application for payments by individuals.
- § 257.3 Alternate form.
- § 257.4 Interest.

and (2) adding a new § 257.3 to read as follows:

§ 257.3 Alternate Form.

Whenever the stock of Form No. 1680, the use of which is prescribed in this part, is exhausted, or the form is otherwise unavailable, Standard Form 1055 (SF-1055)—Claim Against the United

² The submission shall be filed in duplicate and shall be entitled "Application for Control Locations for Foreign Securities" pursuant to paragraphs (c) (4) and (7), as appropriate. The Commission has examined the question of whether an "Application for Control Locations for Foreign Securities" should be treated as confidential and is satisfied that it may and should treat such applications as confidential. Under Section 24(a) of the Securities Exchange Act of 1934, 15 U.S.C. 78x(a), the Commission is forbidden to require disclosure of trade secrets. The identity of these foreign entities is information that may fall within that description. Even if it is not, the Commission is satisfied that the identity of these foreign entities is the type of sensitive commercial information exempt from the disclosure requirements of the Freedom of Information Act under 5 U.S.C. 552(b) (4).

³ If a broker or dealer wishes to utilize an entity other than a foreign depository, foreign clearing agency, foreign custodian bank or registered broker or dealer as a control location for foreign securities pursuant to paragraphs (c) (4) and (7) of Rule 15c3-3, it shall make application pursuant to paragraph (c) (7).