

Effective November 15, 1940, Part 21, as amended, of the Civil Air Regulations, is amended by:

1. Amending § 21.1500 (a) to read as follows:

§ 21.1500 (a) The provisions of Parts 01, 21, 27, 40, 60, 61, and 98, together with such Parts of the provisions of Part 04 as are pertinent to the operations of air carrier aircraft.

2. Amending § 21.174 (e) to read as follows:

§ 21.174 (e) Altitudes and permissible errors in §§ 21.170 through 21.173 are applicable when flight tests are conducted in aircraft of a gross weight in excess of 10,000 pounds, otherwise those in 20.147 apply.

3. Striking § 21.45 and attendant note.

By the Civil Aeronautics Board.

[SEAL] THOMAS G. EARLY,
Secretary.

[F. R. Doc. 40-4941; Filed, November 18, 1940;
10:00 a. m.]

TITLE 17—COMMODITY AND SECURITIES EXCHANGES

CHAPTER II—SECURITIES AND EXCHANGE COMMISSION

PART 240—SECURITIES EXCHANGE ACT OF 1934

HYPOTHECATION OF CUSTOMERS' SECURITIES

The Securities and Exchange Commission, deeming it necessary for the exercise of the functions vested in it and necessary and appropriate in the public interest and for the protection of investors so to do, pursuant to authority conferred upon it by the Securities Exchange Act of 1934, as amended, particularly sections 8 (c), 3 (b), and 23 (a) thereof, hereby adopts the following rule:

§ 240.8c-1 *Hypothecation of customers' securities*—(a) *General provisions.* No member of a national securities exchange, and no broker or dealer who transacts a business in securities through the medium of any such member shall, directly or indirectly, hypothecate or arrange for or permit the continued hypothecation of any securities carried for the account of any customer under circumstances

(1) that will permit the commingling of securities carried for the account of any such customer with securities carried for the account of any other customer, without first obtaining the written consent of each such customer to such hypothecation;

(2) that will permit such securities to be commingled with securities carried for the account of any person other than a bona fide customer of such member, broker or dealer under a lien for a loan made to such member, broker or dealer; or

(3) that will permit securities carried for the account of customers to be hypothecated, or subjected to any lien or liens or claim or claims of the pledgee or pledgees, for a sum which exceeds the aggregate indebtedness of all customers in respect of securities carried for their accounts; except that this clause shall not be deemed to be violated by reason of an excess arising on any day through the reduction of the aggregate indebtedness of customers on such day, provided that funds in an amount sufficient to eliminate such excess are paid or placed in transfer to pledgees for the purpose of reducing the sum of the liens or claims to which securities carried for the account of customers are subject as promptly as practicable after such reduction occurs, but before the lapse of one half hour after the commencement of banking hours on the next banking day at the place where the largest principal amount of loans of such member, broker or dealer are payable and, in any event, before such member, broker or dealer on such day has obtained or increased any bank loan collateralized by securities carried for the account of customers.

(b) *Definitions.* For the purposes of this rule

(1) the term "customer" shall not be deemed to include any general or special partner or any director or officer of such member, broker or dealer, or any participant, as such, in any joint, group or syndicate account with such member, broker or dealer or with any partner, officer or director thereof;

(2) the term "securities carried for the account of any customer" shall be deemed to mean:

(i) securities received by or on behalf of such member, broker or dealer for the account of any customer;

(ii) securities sold and appropriated by such member, broker or dealer to a customer, except that if such securities were subject to a lien when appropriated to a customer they shall not be deemed to be "securities carried for the account of any customer" pending their release from such lien as promptly as practicable;

(iii) securities sold, but not appropriated, by such member, broker or dealer to a customer who has made any payment therefor, to the extent that such member, broker or dealer owns and has received delivery of securities of like kind, except that if such securities were subject to a lien when such payment was made they shall not be deemed to be "securities carried for the account of any customer" pending their release from such lien as promptly as practicable;

(3) "aggregate indebtedness" shall not be deemed to be reduced by reason of uncollected items. In computing aggregate indebtedness, related guaranteed and guarantor accounts shall be treated

as a single account and considered on a consolidated basis, and balances in accounts carrying both long and short positions shall be adjusted by treating the market value of the securities required to cover such short position as though such market value were a debit; and

(4) in computing the sum of the liens or claims to which securities carried for the account of customers of a member, broker or dealer are subject, any rehypothecation of such securities by another member, broker or dealer who is subject to this rule or to § 240.15c2-1 shall be disregarded.

(c) *Exemption for cash accounts.*

The provisions of paragraph (a) (1) hereof shall not apply to any hypothecation of securities carried for the account of a customer in a special cash account within the meaning of section 4 (c) of Regulation T of the Board of Governors of the Federal Reserve System: *Provided*, That at or before the completion of the transaction of purchase of such securities for, or of sale of such securities to, such customer, written notice is given or sent to such customer disclosing that such securities are or may be hypothecated under circumstances which will permit the commingling thereof with securities carried for the account of other customers. The term "the completion of the transaction" shall have the meaning given to such term by § 240.15c1-1 (b).

(d) *Exemption for clearing house liens.* The provisions of paragraphs (a) (2), (a) (3), and (f) hereof shall not apply to any lien or claim of the clearing corporation, or similar department or association, of a national securities exchange, for a loan made and to be repaid on the same calendar day, which is incidental to the clearing of transactions in securities or loans through such corporation, department or association: *Provided, however*, That for the purpose of paragraph (a) (3) hereof, "aggregate indebtedness of all customers in respect of securities carried for their accounts" shall not include indebtedness in respect of any securities subject to any lien or claim exempted by this paragraph.

(e) *Exemption for certain liens on securities of noncustomers.* The provisions of paragraph (a) (2) hereof shall not be deemed to prevent such member, broker or dealer from permitting securities not carried for the account of a customer to be subjected (i) to a lien for a loan made against securities carried for the account of customers, provided the pledgee agrees that securities which it is informed are carried for the account of customers will be physically segregated from any other securities, or (ii) to a lien for a loan made and to be repaid on the same calendar day. For the purpose of this exemption, a loan shall be deemed to be "made against securities carried for the account of customers" if only securities carried for the account

of customers are used to obtain or to increase such loan or as substitutes for other securities carried for the account of customers.

(f) *Notice and certification requirements.* No person subject to this rule shall hypothecate any security carried for the account of a customer unless, at or prior to the time of each such hypothecation, he gives written notice to the pledgee that the security pledged is carried for the account of a customer and that such hypothecation does not contravene any provision of this rule, except that in the case of an omnibus account the member, broker or dealer for whom such account is carried may furnish a signed statement to the person carrying such account that all securities carried therein by such member, broker or dealer will be securities carried for the account of his customers and that the hypothecation thereof by such member, broker or dealer will not contravene any provision of this rule. The provisions of this paragraph shall not apply to any hypothecation of securities under any lien or claim of a pledgee securing a loan made and to be repaid on the same calendar day. (Sec. 3, 48 Stat. 882; 15 U.S.C. 78c; sec. 8, 48 Stat. 888; 15 U.S.C., 78h; sec. 23, 48 Stat. 901; sec. 8, 47 Stat. 1379; 15 U.S.C. 78w and Sup. III) [Gen. Rules and Regs., Rule X-8C-1, effective February 17, 1941]

By the Commission.

[SEAL] FRANCIS P. BRASSOR,
Secretary.

[F. R. Doc. 40-4917; Filed, November 15, 1940;
4:14 p. m.]

PART 240—SECURITIES EXCHANGE ACT OF 1934

HYPOTHECATION OF CUSTOMERS' SECURITIES

The Securities and Exchange Commission, deeming it necessary for the exercise of the functions vested in it and necessary and appropriate in the public interest and for the protection of investors so to do, and finding that such action is reasonably designed to prevent fraudulent, deceptive and manipulative acts and practices, pursuant to authority conferred upon it by the Securities Exchange Act of 1934, as amended, particularly sections 15 (c) (2) and 23 (a) thereof, hereby adopts the following rule:

§ 240.15c2-1 *Hypothecation of customers' securities*—(a) *General provisions.* The term "fraudulent, deceptive, or manipulative act or practice", as used in section 15 (c) (2) of the Act [sec. 15, 48 Stat. 895; sec. 3, 49 Stat. 1377; sec. 2, 52 Stat. 1075; 15 U.S.C. 78o and Sup. III], is hereby defined to include the direct or indirect hypothecation by a broker or dealer, or his arranging for or permitting, directly or indirectly, the continued hypothecation of any securi-

ties carried for the account of any customer under circumstances

(1) that will permit the commingling of securities carried for the account of any such customer with securities carried for the account of any other customer, without first obtaining the written consent of each such customer to such hypothecation;

(2) that will permit such securities to be commingled with securities carried for the account of any person other than a bona fide customer of such broker or dealer under a lien for a loan made to such broker or dealer; or

(3) that will permit securities carried for the account of customers to be hypothecated, or subjected to any lien or liens or claim or claims of the pledgee or pledgees, for a sum which exceeds the aggregate indebtedness of all customers in respect of securities carried for their accounts; except that this clause shall not be deemed to be violated by reason of an excess arising on any day through the reduction of the aggregate indebtedness of customers on such day, provided that funds in an amount sufficient to eliminate such excess are paid or placed in transfer to pledgees for the purpose of reducing the sum of the liens or claims to which securities carried for the account of customers are subject as promptly as practicable after such reduction occurs, but before the lapse of one half hour after the commencement of banking hours on the next banking day at the place where the largest principal amount of loans of such broker or dealer are payable and, in any event, before such broker or dealer on such day has obtained or increased any bank loan collateralized by securities carried for the account of customers.

(b) *Definitions.* For the purposes of this rule

(1) the term "customer" shall not be deemed to include any general or special partner or any director or officer of such broker or dealer, or any participant, as such, in any joint, group or syndicate account with such broker or dealer or with any partner, officer or director thereof;

(2) the term "securities carried for the account of any customer" shall be deemed to mean:

(i) securities received by or on behalf of such broker or dealer for the account of any customer;

(ii) securities sold and appropriated by such broker or dealer to a customer, except that if such securities were subject to a lien when appropriated to a customer they shall not be deemed to be "securities carried for the account of any customer" pending their release from such lien as promptly as practicable;

(iii) securities sold, but not appropriated, by such broker or dealer to a customer who has made any payment therefor, to the extent that such broker or dealer owns and has received delivery

of securities of like kind, except that if such securities were subject to a lien when such payment was made they shall not be deemed to be "securities carried for the account of any customer" pending their release from such lien as promptly as practicable;

(3) "aggregate indebtedness" shall not be deemed to be reduced by reason of uncollected items. In computing aggregate indebtedness, related guaranteed and guarantor accounts shall be treated as a single account and considered on a consolidated basis, and balances in accounts carrying both long and short positions shall be adjusted by treating the market value of the securities required to cover such short positions as though such market value were a debit; and

(4) in computing the sum of the liens or claims to which securities carried for the account of customers of a broker or dealer are subject, any rehypothecation of such securities by another broker or dealer who is subject to this rule or to § 240.8c-1 shall be disregarded.

(c) *Exemption for cash accounts.* The provisions of paragraph (a) (1) hereof shall not apply to any hypothecation of securities carried for the account of a customer in a special cash account within the meaning of section 4(c) of Regulation T of the Board of Governors of the Federal Reserve System, provided that at or before the completion of the transaction of purchase of such securities for, or of sale of such securities to, such customer, written notice is given or sent to such customer disclosing that such securities are or may be hypothecated under circumstances which will permit the commingling thereof with securities carried for the account of other customers. The term "the completion of the transaction" shall have the meaning given to such term by § 240.15c1-1 (b).

(d) *Exemption for clearing house liens.* The provisions of paragraphs (a) (2), (a) (3) and (f) hereof shall not apply to any lien or claim of the clearing corporation, or similar department or association, of a national securities exchange, for a loan made and to be repaid on the same calendar day, which is incidental to the clearing of transactions in securities or loans through such corporation, department or association: *Provided, however,* That for the purpose of paragraph (a) (3) hereof, "aggregate indebtedness of all customers in respect of securities carried for their accounts" shall not include indebtedness in respect of any securities subject to any lien or claim exempted by this paragraph.

(e) *Exemption for certain liens on securities of noncustomers.* The provisions of paragraph (a) (2) hereof shall not be deemed to prevent such broker or dealer from permitting securities not carried for the account of a customer to

be subjected (i) to a lien for a loan made against securities carried for the account of customers, provided the pledgee agrees that securities which it is informed are carried for the account of customers will be physically segregated from any other securities, or (ii) to a lien for a loan made and to be repaid on the same calendar day. For the purpose of this exemption, a loan shall be deemed to be "made against securities carried for the account of customers" if only securities carried for the account of customers are used to obtain or to increase such loan or as substitutes for other securities carried for the account of customers.

(f) *Notice and certification requirements.* No person subject to this rule shall hypothecate any security carried for the account of a customer unless, at or prior to the time of each such hypothecation, he gives written notice to the pledgee that the security pledged is carried for the account of a customer and that such hypothecation does not contravene any provision of this rule, except that in the case of an omnibus account the broker or dealer for whom such account is carried may furnish a signed statement to the person carrying such account that all securities carried therein by such broker or dealer will be securities carried for the account of his customers and that the hypothecation thereof by such broker or dealer will not contravene any provision of this rule. The provisions of this clause shall not apply to any hypothecation of securities under any lien or claim of a pledgee securing a loan made and to be repaid on the same calendar day. (Sec. 15, 48 Stat. 895; sec. 3, 49 Stat. 1377; sec. 2, 52 Stat. 1075; 15 U.S.C. 780 and Sup. III) [Gen. Rules & Regs., Rule X-15C2-1, effective February 17, 1941.]

By the Commission.

[SEAL] FRANCIS P. BRASSOR,
Secretary.

[F. R. Doc. 40-4918; Filed, November 15, 1940;
4:14 p. m.]

TITLE 22—FOREIGN RELATIONS CHAPTER I—DEPARTMENT OF STATE

SUBCHAPTER C—NEUTRALITY

PART 149—COMMERCE WITH STATES EN- GAGED IN ARMED CONFLICT¹

Additional Regulations

§ 149.1 *Exportation or transportation of articles or materials* * * *

(j) *Greece.* The regulations under section 2 (c) and (i) of the joint resolution of Congress approved November 4, 1939, which the Secretary of State promulgated on November 10² and November 25³ 1939, henceforth apply equally

¹ The number of this part has been changed from 12 to 149.

² 22 CFR 149.1 (a)-(d). 4 F.R. 4598.

³ 22 CFR 149.1 (e). 4 F.R. 4701.

in respect to the export or transport of articles and materials to Greece. (54 Stat. 4, 6; 22 U.S.C., Supp. V, 245j-1; Proc. No. 2444, November 15, 1940)

[SEAL] SUMNER WELLES,
Acting Secretary of State.
NOVEMBER 15, 1940.

[F. R. Doc. 40-4931; Filed, November 16, 1940;
10:30 a. m.]

SUBCHAPTER C—NEUTRALITY

PART 156—TRAVEL¹

Pursuant to the provisions of section 5 of the joint resolution of Congress, approved November 4, 1939, and of the President's proclamation of April 10, 1940, the regulations in 22 CFR 156.1 and 156.2 of November 6, 1939,² as amended November 17, 1939,³ April 25, 1940,⁴ May 11, 1940,⁵ and June 10, 1940,⁶ are hereby amended to read as follows:

§ 156.1 *American diplomatic, consular, military, and naval officers.* American diplomatic and consular officers and their families, members of their staffs and their families, and American military and naval officers and personnel and their families may travel pursuant to orders on vessels of France; Germany; Poland; or the United Kingdom, India, Australia, Canada, New Zealand, the Union of South Africa; Norway; Belgium; the Netherlands; Italy; and Greece if the public service requires. (54 Stat. 7; 22 U.S.C., Supp. V, 245j-4; Proc. No. 2444, November 15, 1940.)

§ 156.2 *Other American citizens.* Other American citizens may travel on vessels of France; Germany; Poland; or the United Kingdom, India, Australia, Canada, New Zealand, the Union of South Africa; Norway; Belgium; the Netherlands; Italy; and Greece: *Provided, however,* That travel on or over the north Atlantic Ocean, north of 35 degrees north latitude and east of 66 degrees west longitude or on or over other waters adjacent to Europe or over the continent of Europe or adjacent islands shall not be permitted except when specifically authorized by the Passport Division of the Department of State or an American diplomatic or consular officer abroad in each case. (54 Stat. 7; 22 U.S.C., Supp. V, 245j-4; Proc. No. 2444, November 15, 1940)

[SEAL] SUMNER WELLES,
Acting Secretary of State.
NOVEMBER 15, 1940.

[F. R. Doc. 40-4933; Filed, November 16, 1940;
10:30 a. m.]

¹ The number of this part has been changed from 55C to 156.

² 4 F.R. 4509.

³ 4 F.R. 4640.

⁴ 5 F.R. 1597.

⁵ 5 F.R. 1695.

⁶ 5 F.R. 2211.

SUBCHAPTER C—NEUTRALITY

PART 161—SOLICITATION AND COLLECTION OF FUNDS AND CONTRIBUTIONS¹

Additional Regulations

§ 161.20 *Contributions for use in Greece.* The rules and regulations (22 CFR 161.1-16) under section 8 of the joint resolution of Congress approved November 4, 1939, which the Secretary of State promulgated on November 6, 1939,² henceforth apply equally to the solicitation and collection of contributions for use in Greece. (54 Stat. 8; 22 U.S.C., Supp. V, 245j-7; Proc. No. 2444, November 15, 1940)

[SEAL] SUMNER WELLES,
Acting Secretary of State.
NOVEMBER 15, 1940.

[F. R. Doc. 40-4932; Filed, November 16, 1940;
10:30 a. m.]

TITLE 25—INDIANS

CHAPTER I—OFFICE OF INDIAN AFFAIRS

PART 71—GENERAL GRAZING REGULATIONS

AUTHORITY TO SELL GRAZING PRIVILEGES ON TRIBAL AND ALLOTTED LAND

Section 71.10 is amended to read as follows:

§ 71.10 *Authority to sell grazing privileges on tribal and allotted land.* Grazing privileges may be sold for all Indian land, other than tribal land required to meet the Indian free grazing privileges: *Provided,* That authority to do so has been granted in the following manner:

(a) Authority to sell grazing privileges on tribal lands shall be granted by a majority vote of the Indians in general council or their duly authorized representatives.

(b) Authority to sell grazing privileges on allotted land may be granted by the allottees, except those classes hereinafter described in paragraphs (c) and (d), by means of "Powers of Attorney" or "Authorities to Grant Grazing Privileges." In unorganized tribes these instruments may be made out to the Superintendent or to any tribal body that may be authorized by the Commissioner of Indian Affairs to receive such instruments. In organized tribes, such instruments may be accepted by any tribal agency or officer authorized, under the Constitution, bylaws, and charter of the tribe, to receive the same, or by the Superintendent.

(c) Authority to grant grazing privileges on the allotments of minors, other than orphans, shall be given by the head of the family.

(d) The Superintendent may grant grazing privileges on the restricted al-

¹ The number of this part has been changed from 40 to 161.

² 4 F.R. 4510.