

Federal Aviation Regulations (14 CFR part 97) is amended by establishing, amending, suspending, or revoking Standard Instrument Approach Procedures, effective at 0901 UTC on the dates specified, as follows:

**PART 97—STANDARD INSTRUMENT APPROACH PROCEDURES**

1. The authority citation for part 97 continues to read as follows:

**Authority:** 49 U.S.C. app. 1348, 1354(a), 1421 and 1510; 49 U.S.C. 106(g); and 14 CFR 11.49(b)(2).

2. Part 97 is amended to read as follows:

**§§ 97.23, 97.25, 97.27, 97.29, 97.31, 97.33, 97.35 [Amended]**

By amending: § 97.23 VOR, VOR/DME, VOR or TACAN, and VOR/DME or TACAN; § 97.25 LOC, LOC/DME,

LDA, LDA/DME, SDF, SDF/DME; § 97.27 NDB, NDB/DME; § 97.29 ILS, ILS/DME, ISMLS, MLS, MLS/DME, MLS/RNAV; § 97.31 RADAR SIAPs; § 97.33 RNAV SIAPs; and § 97.35 COPTER SIAPs, identified as follows:

*Effective March 17, 1995*

FDC date	State	City	Airport	FDC No.	SIAP
02/22/95	FL	Fort Myers	Page Field	FDC 5/0832	ILS RWY 5 AMDT 6A...
02/22/95	FL	Fort Myers	Page Field	FDC 5/0833	NDB RWY 5 AMDT 5...
02/22/95	MO	Kansas City	Kansas City Intl	FDC 5/0842	ILS RWY 19L, ORIG...
02/22/95	WI	Superior	Richard I. Bong	FDC 5/0843	NDB RWY 31 AMDT 4...
02/23/95	PA	Pittsburgh	Pittsburgh International	FDC 5/0853	ILS RWY 28R AMDT 6...
02/24/95	AK	Nome	Nome	FDC 5/0869	NDB/DME OR GPS-1, RWY 2, ORIG B...
03/01/95	GA	Atlanta	Peachtree City-Falcon Field	FDC 5/0970	VOR/DME RNAV OR GPS RWY TWY 31, ORIG...
03/02/95	KY	Covington	Cincinnati/Northern Kentucky Intl	FDC 5/1007	ILS RWY 36L, AMDT 36...
03/02/95	NC	Greenville	Pitt-Greenville	FDC 5/1058	ILS RWY 19 AMDT 2...
03/02/95	ND	Mohall	Mohall Muni	FDC 5/1002	VOR/DME OR GPS RWY 31 AMDT 2...
03/08/95	NC	Hickory	Hickory Regional	FDC 5/1073	VOR RWY 24 AMDT 23...
03/08/95	NC	Hickory	Hickory Regional	FDC 5/1074	NDB OR GPS RWY 24 AMDT 4...
03/08/95	NC	Hickory	Hickory Regional	FDC 5/1075	ILS RWY 24 AMDT 6...
03/08/95	NC	North Wilkesboro	Wilkes County	FDC 5/1071	NDB OR GPS RWY 1 AMDT 1A...
03/08/95	NC	North Wilkesboro	Wilkes County	FDC 5/1072	LOC RWY 1 AMDT 1...
03/08/95	NC	Statesville	Statesville Muni	FDC 5/1077	VOR/DME RWY 10 AMDT 6A...
03/08/95	NC	Statesville	Statesville Muni	FDC 5/1079	NDB RWY 20 AMDT 8A...
03/08/95	NC	Washington	Warren Field	FDC 5/1078	VOR/DME RWY 5, AMDT 2...

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**SECURITIES AND EXCHANGE COMMISSION**

**17 CFR Part 240**

[Release No. 35473; File Nos. S7-29-93; S7-6-94]

RIN 3235-AG00; 3235-AF84

**Payment for Order Flow, Confirmation of Transactions**

**AGENCY:** Securities and Exchange Commission.

**ACTION:** Final rule; change of effective date.

**SUMMARY:** The Commission is postponing the effective date of Rule 11Ac1-3 and certain amendments to Rule 10b-10 under the Securities Exchange Act of 1934 from April 3, 1995 to October 2, 1995 in order to facilitate the orderly implementation of the enhanced disclosure requirements relating to payment for order flow and non-SIPC membership by broker-dealers.

**EFFECTIVE DATES:** The effective date of the final rule published on November 2, 1994 (59 FR 55006) is postponed until October 2, 1995. The effective date of § 240.10b-10(a) (9), which was published on November 17, 1995 (59 FR 59612) and which applies to non-SIPC broker-dealers other than government securities broker-dealers, is postponed until October 2, 1995. The effective date of the other amendments to § 240.10b-10 that was published on November 17, 1995, remains April 3, 1995.

**FOR FURTHER INFORMATION CONTACT:** Carlene Kim, Senior Counsel, at 202/942-4180, Office of Trading Practices, Division of Market Regulation, Securities and Exchange Commission, 450 Fifth Street, N.W. Mail Stop 5-1, Washington, D.C. 20549. For questions relating to compliance with new Rule 11Ac1-3 and amendments to Rule 10b-10 concerning payment for order flow, please contact Gail Marshall, Attorney, at 202/942-7129, Office of Market Supervision, Division of Market Regulation. For questions relating to compliance with the amendment to Rule 10b-10 relating to disclosure of a broker-dealer's non-SIPC status, please contact C. Dirk Peterson, Senior

Counsel, at 202/942-0073, Office of Chief Counsel, Division of Market Regulation.

**SUPPLEMENTARY INFORMATION:**

**A. Payment for Order Flow**

On October 27, 1994, the Commission adopted Rule 11Ac1-3 [17 CFR 240.11Ac1-3] and amendments to Rule 10b-10 [17 CFR 240.10b-10] under the Securities Exchange Act of 1934.<sup>1</sup> Rule 11Ac1-3 requires broker-dealers to disclose, in annual account statements and new account forms, their policies regarding the receipt of payment for order flow and to provide a detailed description of the nature of the compensation received. Rule 11Ac1-3 also requires broker-dealers to provide information about order routing policies for orders subject to payment for order flow, including an explanation of the extent to which orders can be executed at prices superior to the best bid and offer. Rule 10b-10, as amended, requires broker-dealers to state on confirmations whether they receive payment for order flow, and that the source and nature of

<sup>1</sup> Securities Exchange Act Release No. 34902 (October 27, 1994), 59 FR 55006.

the compensation will be provided upon written request. The effective date is April 3, 1995.

On October 27, 1994, the Commission also proposed for comment amendments to Rules 11Ac1-3 and 10b-10.<sup>2</sup> The proposed amendments would require broker-dealers to disclose on confirmations the range of payment for order flow received on a per share basis and to provide a statement that, upon written customer request, additional transaction-specific information will be provided. In new customer and annual account statements, broker-dealers would be required to disclose the range of payment for order flow received on a per share basis, as well as the aggregate amount or estimated value of payment for order flow received on an annual basis. The proposals also would require parallel disclosure for orders subject to internalization/affiliate order routing. Finally, the proposals would require broker-dealers to describe their order-routing policies for all orders, including those that are subject of internalization/affiliate order routing, and describe the extent to which such orders may enjoy price improvement opportunities.

The Division of Market Regulation ("Division") is analyzing the issues raised by the 22 comment letters that were received. A majority of the commenters responding to the proposing release requested that the effective date of any further changes be delayed. Several broker-dealers stated that it would be extremely burdensome for them to make the systems changes required by any additional amendments, given the time and resources demanded by requirements of the newly-adopted changes and the transition to three day settlement. The Division is receiving an increasing number of inquiries from broker-dealers regarding implementation of the adopted rules. Many broker-dealers indicate that systems changes must be made soon in order to be ready for the April 3 effective date. The Division believes that similar systems changes will be necessary to implement any additional requirements based upon the proposed amendments.<sup>3</sup> It would enhance efficiency and reduce costs if broker-dealers could make systems changes at one time rather than potentially be required to make changes twice to

implement payment for order flow requirements. The Commission believes, however, that it is not feasible to have any additional changes take effect on April 3.

Accordingly, the Commission believes that an effective date of October 2, 1995 for Rule 11Ac1-3 and amendments to Rule 10b-10 relating to payment for order flow disclosures, adopted on October 27, 1994 and any additional amendments would promote an orderly adjustment to the enhanced disclosure regime.<sup>4</sup> For the reasons discussed above, the Commission for good cause finds that notice and solicitation of comment regarding the effective date is impracticable, unnecessary, and contrary to the public interest.

### B. SIPC Status Disclosure

In addition, on November 10, 1994, the Commission adopted amendments to Rule 10b-10 which, among other things, require a broker or dealer that is not a member of the Securities Investor Protection Corporation ("SIPC") to affirmatively disclose its non-SIPC status on customer confirmations.<sup>5</sup> This requirement is consistent with the Commission's authority under the Government Securities Act Amendments of 1993 to require government securities broker-dealers, which are excluded from SIPC membership, to disclose that they are not SIPC members rather than require them to become members.<sup>6</sup> Congress

<sup>4</sup>The staff of the Division will not recommend that the Commission take enforcement action under Rule 10b-10, if broker-dealers comply with the requirements of amended Rule 10b-10 as of April 3, 1995. With respect to new customer and annual account statements, broker-dealers may, of course, also elect to comply with the requirements of Rule 11Ac1-3 prior to October 2, 1995.

<sup>5</sup> See Securities Exchange Act Release No. 34962 (Nov. 10, 1994), 59 FR 59612. All broker-dealers registered as government securities brokers and dealers under Section 15C of the Exchange Act, 15 U.S.C. 78o-5, are excluded from SIPC membership. While most brokers and dealers registered with the Commission under Section 15(b) of the Exchange Act, 15 U.S.C. 78o(b) are required to be SIPC members, some of these persons are excluded from SIPC membership, as well. 15 U.S.C. 78ll(12). Among those excluded from SIPC membership under the Securities Investor Protection Act of 1970 are broker-dealers whose business consists exclusively of (a) the distribution of shares of registered investment open-end companies or unit investment trusts, (b) the sale of variable annuities, (c) the business of insurance, or (d) the business of rendering investment advisory services to registered investment companies or insurance company separate accounts. 15 U.S.C. 78ccc(a)(2)(A)(ii).

<sup>6</sup>In a report to Congress, the GAO recommended that government securities brokers and dealers be required to become members of SIPC, or in the absence of membership, disclose that they are not SIPC members. See S. Rep. No. 422, 103rd Cong., 1st Sess. 16 (1993). Congress subsequently amended Section 15C of the Exchange Act to prohibit government securities brokers and dealers from effecting a transaction in any security in

believed that disclosure was the appropriate approach to remedy the gap in SIPC coverage.

When the Commission adopted this amendment, it stated that confirmation disclosure is necessary "to ensure that customers are not led to believe that their accounts are subject to protection beyond what actually is the case \* \* \*."<sup>7</sup> The Commission recognized that in some situations, however, the costs would exceed the benefits of disclosure, and thus, adopted an exclusion from the disclosure requirement for transactions in investment company shares where the investor sends purchase money directly to a non-affiliated transfer agent, custodian, or other designated agent of the issuing investment company.

In a letter dated February 16, 1995, the Investment Company Institute ("ICI") expressed concern about the operational consequences, as well as the policy and investor protection implications of non-SIPC status disclosure, and requested that the Commission consider further amending Rule 10b-10. In addition, the ICI requested that the Commission consider extending the effective date of the amendment to Rule 10b-10 requiring disclosure of non-SIPC status. In the ICI's view, it will be particularly burdensome for mutual fund groups to obtain information about the SIPC status of their underwriters. By letter dated December 19, 1994, the College Retirement Equities Fund raised similar concerns with respect to broker-dealers whose business consists exclusively of the sale of variable annuities.

The Commission, therefore, is postponing the effective date from April 3, 1995 to October 2, 1995 of the Rule 10b-10 amendment pertaining to non-SIPC disclosure by broker-dealers that are excluded from SIPC membership pursuant to Section 3(a)(2)(A)(ii) of the Securities Investor Protection Act of 1970.<sup>8</sup>

Dated: March 10, 1995.

By the Commission.

**Margaret H. McFarland,**

*Deputy Secretary.*

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contravention of Commission rules requiring the timely disclosure that a customer's account is not protected by SIPC. See 15 U.S.C. 78o-5(a)(4).

<sup>7</sup> Securities Exchange Act Release No. 34962 (November 10, 1994), 59 FR 59612.

<sup>8</sup> 15 U.S.C. 78ccc(a)(2)(A)(ii).

The effective date of this provision remains April 3, 1995, however, for all other brokers and dealers.

<sup>2</sup> Securities Exchange Release No. 34903 (October 27, 1994), 59 FR 55014.

<sup>3</sup> In the intervening period, the Commission may also consider further regulatory initiatives regarding payment for order flow in light of the comments received on the proposed amendments, and in light of the pending inquiries into the Nasdaq market by the Commission and the U.S. Department of Justice.