

both investment advisers and broker-dealers) could rely on rule 206(3)-3T.⁶⁴ We did not receive any comments on these estimates.

D. Reporting, Recordkeeping, and Other Compliance Requirements

The provisions of rule 206(3)-3T impose certain reporting or recordkeeping requirements, and our amendment will extend the imposition of these requirements for an additional two years. The two-year extension will not alter these requirements.

Rule 206(3)-3T is designed to provide an alternative means of compliance with the requirements of section 206(3) of the Advisers Act. Investment advisers taking advantage of the rule with respect to non-discretionary advisory accounts are required to make certain disclosures to clients on a prospective, transaction-by-transaction and annual basis.

Specifically, rule 206(3)-3T permits an adviser, with respect to a non-discretionary advisory account, to comply with section 206(3) of the Advisers Act by, among other things: (i) Making certain written disclosures; (ii) obtaining written, revocable consent from the client prospectively authorizing the adviser to enter into principal trades; (iii) making oral or written disclosure and obtaining the client's consent orally or in writing prior to the execution of each principal transaction; (iv) sending to the client confirmation statements for each principal trade that disclose the capacity in which the adviser has acted and indicating that the client consented to the transaction; and (v) delivering to the client an annual report itemizing the principal transactions. Advisers are already required to communicate the content of many of the disclosures pursuant to their fiduciary obligations to clients. Other disclosures are already required by rules applicable to broker-dealers.

Our amendment will only extend the rule for two years in its current form. Advisers currently relying on the rule already should be making the disclosures described above.

E. Agency Action To Minimize Effect on Small Entities

The Regulatory Flexibility Act directs us to consider significant alternatives that would accomplish our stated objective, while minimizing any significant adverse impact on small entities.⁶⁵ Alternatives in this category would include: (i) Establishing different compliance or reporting standards or

timetables that take into account the resources available to small entities; (ii) clarifying, consolidating, or simplifying compliance requirements under the rule for small entities; (iii) using performance rather than design standards; and (iv) exempting small entities from coverage of the rule, or any part of the rule.

We believe that special compliance or reporting requirements or timetables for small entities, or an exemption from coverage for small entities, may create the risk that the investors who are advised by and effect securities transactions through such small entities would not receive adequate disclosure. Moreover, different disclosure requirements could create investor confusion if it creates the impression that small investment advisers have different conflicts of interest with their advisory clients in connection with principal trading than larger investment advisers. We believe, therefore, that it is important for the disclosure protections required by the rule to be provided to advisory clients by all advisers, not just those that are not considered small entities. Further consolidation or simplification of the rule for investment advisers that are small entities would be inconsistent with the Commission's goals of fostering investor protection.

We have endeavored through rule 206(3)-3T to minimize the regulatory burden on all investment advisers eligible to rely on the rule, including small entities, while meeting our regulatory objectives. It was our goal to ensure that eligible small entities may benefit from the Commission's approach to the new rule to the same degree as other eligible advisers. The condition that advisers seeking to rely on the rule must also be registered as broker-dealers and that each account with respect to which an adviser seeks to rely on the rule must be a brokerage account subject to the Exchange Act, and the rules thereunder, and the rules of the self-regulatory organization(s) of which it is a member, reflect what we believe is an important element of our balancing between easing regulatory burdens (by affording advisers an alternative means of compliance with section 206(3) of the Act) and meeting our investor protection objectives.⁶⁶ Finally, we do not consider using performance rather than design standards to be consistent with our statutory mandate of investor protection in the present context.

⁶⁶ See 2007 Principal Trade Rule Release, Section II.B.7 (noting commenters that objected to this condition as disadvantaging small broker-dealers (or affiliated but separate investment advisers and broker-dealers)).

VIII. Statutory Authority

The Commission is amending rule 206(3)-3T pursuant to sections 206A and 211(a) of the Advisers Act.

List of Subjects in 17 CFR Part 275

Investment advisers, Reporting and recordkeeping requirements.

Text of Rule Amendment

■ For the reasons set out in the preamble, Title 17, Chapter II of the Code of Federal Regulations is amended as follows.

PART 275—RULES AND REGULATIONS, INVESTMENT ADVISERS ACT OF 1940

■ 1. The authority citation for part 275 continues to read in part as follows:

Authority: 15 U.S.C. 80b-2(a)(11)(G), 80b-2(a)(17), 80b-3, 80b-4, 80b-4a, 80b-6(4), 80b-6a, and 80b-11, unless otherwise noted.
* * * * *

§ 275.206(3)-3T [Amended]

■ 2. In § 275.206(3)-3T, amend paragraph (d) by removing the words "December 31, 2010" and adding in their place "December 31, 2012".

Dated: December 28, 2010.

By the Commission.

Elizabeth M. Murphy,
Secretary.

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DEPARTMENT OF HOMELAND SECURITY

U.S. Customs and Border Protection

19 CFR Part 141

[USCBP-2008-0062; CBP Dec. 10-33]

RIN 1515-AD61 (Formerly 1505-AB96)

Technical Correction: Completion of Entry and Entry Summary—Declaration of Value

AGENCY: Customs and Border Protection, Department of Homeland Security.

ACTION: Final rule.

SUMMARY: Customs and Border Protection (CBP) periodically reviews its regulations to ensure that they are current, correct, and consistent. As a result of this review process, CBP has determined that a correction to part 141 of title 19 of the CBP Regulations (19 CFR part 141) is necessary to reflect that the underlying statutory authority for § 141.61(g) has expired and that this regulation is no longer necessary.

⁶⁴ IARD data as of November 1, 2010.

⁶⁵ See 5 U.S.C. 603(c).

Accordingly, part 141 of the CBP regulations is amended by removing the obsolete regulation.

DATES: The final rule is effective December 30, 2010.

FOR FURTHER INFORMATION CONTACT:

Robert Shervette, Trade and Commercial Regulations Branch, Regulations and Rulings, Office of International Trade, (202) 325-0274.

SUPPLEMENTARY INFORMATION:

Background

It is the policy of Customs and Border Protection (CBP) to periodically review title 19 of the Code of Federal Regulations (19 CFR) to ensure that it is accurate and up-to-date so that the importing and general public is aware of CBP requirements and procedures regarding import-related activities. As part of this review policy, CBP has determined that a correction to 19 CFR part 141 is necessary.

Section 141.61 of the CBP regulations (19 CFR 141.61) prescribes the manner by which entry and entry summary documentation must be completed. Within § 141.61, paragraph (g) requires an importer to indicate on the CBP Form 7501 the manner by which the declared transaction value on imported merchandise was determined. This requirement is authorized by § 15422(a) of the Food, Conservative, and Energy Act of 2008 (the "Act"), Public Law 110-234, 122 Stat. 1547 (19 U.S.C. 1484 note), in which Congress required CBP to collect for a one-year period beginning August 20, 2008, and ending August 19, 2009, from importers information on whether the transaction value of imported merchandise is determined on the basis of the price paid by the buyer in the first or earlier sale occurring prior to introduction of the merchandise into the United States.

On August 25, 2008, CBP published an interim rule as CBP Dec. 08-31 in the **Federal Register** (73 FR 49939) implementing the Act's first sale declaration requirement that for a specified time period importers were required to declare, at the time of entry, the transaction value method employed. As the statutory authority for the importer declaration requirement expired on August 19, 2009, this document amends 19 CFR 141.61 by removing paragraph (g).

Inapplicability of Notice and Delayed Effective Date Requirements

Because the technical corrections set forth in this document merely conform to existing law, CBP finds that good cause exists for dispensing with notice and public procedure as unnecessary

under 5 U.S.C. 553(b)(B). For this same reason, pursuant to 5 U.S.C. 553(d)(3), CBP finds that good cause exists for dispensing with the requirement for a delayed effective date.

Regulatory Flexibility Act

Because this document is not subject to the notice and public procedure requirements of 5 U.S.C. 553, it is not subject to the provisions of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*).

Executive Order 12866

These amendments do not meet the criteria for a "significant regulatory action" as specified in Executive Order 12866.

Signing Authority

This document is limited to technical corrections of the CBP regulations. Accordingly, it is being signed under the authority of 19 CFR 0.1(b)(1).

List of Subjects in 19 CFR Part 141

Customs duties and inspection, Entry of merchandise, Reporting and recordkeeping requirements.

Amendments to the Regulations

■ For the reasons set forth above, part 141 of the CBP regulations (19 CFR part 141) is amended as set forth below.

PART 141—ENTRY OF MERCHANDISE

■ 1. The general authority for part 141 continues to read as follows, and the specific authority for § 141.61 is removed:

Authority: 19 U.S.C. 66, 1448, 1484, 1624.
* * * * *

■ 2. Section 141.61 is amended by removing paragraph (g).

Dated: December 23, 2010.

Alan Bersin,

Commissioner, U.S. Customs and Border Protection.

[FR Doc. 2010-32912 Filed 12-29-10; 8:45 am]

BILLING CODE 9111-14-P

DEPARTMENT OF STATE

22 CFR Part 40

[Public Notice: 7285]

Visas: Waiver for Ineligible Nonimmigrants Under the Immigration and Nationality Act

AGENCY: State Department.

ACTION: Final rule.

SUMMARY: This rule incorporates a revision to the Immigration and Nationality Act made in section 5503(1)

of the Intelligence Reform and Terrorism Prevention Act of 2004 relative to the grounds of inadmissibility under the Immigration and Nationality Act (INA) for which consular officers or the Secretary of State may recommend that the Secretary of Homeland Security exercise discretionary waiver authority in the case of an applicant for a nonimmigrant visa.

DATES: This rule is effective December 30, 2010.

FOR FURTHER INFORMATION CONTACT:

Lauren A. Prosnik, Legislation and Regulations Division, Visa Services, Department of State, 2401 E Street, NW., Room L-603D, Washington, DC 20520-0106, (202) 663-2951.

SUPPLEMENTARY INFORMATION:

Why is the Department promulgating this rule?

The Intelligence Reform and Terrorism Prevention Act of 2004, Public Law 108-458, at Subtitle E, section 5501(a)(2), amended INA 212(d)(3)(A), replacing a bar against a waiver for an alien who is ineligible for a nonimmigrant visa under INA 212(a)(3)(E) with a bar against a waiver for an alien who is ineligible for a nonimmigrant visa under clauses (i) or (ii) of INA 212(a)(3)(E). The same legislation also amended INA 212(a)(3)(E) to add clause (iii), to which the waiver bar does not apply. This rule amends 22 CFR Part 40 to conform to these amended provisions.

Regulatory Findings

Administrative Procedure Act

This regulation involves a foreign affairs function of the United States and, therefore, in accordance with 5 U.S.C. 553(a)(1), is not subject to the rule making procedures set forth at 5 U.S.C. 553.

Regulatory Flexibility Act/Executive Order 13272: Small Business

Because this final rule is exempt from notice and comment rulemaking under 5 U.S.C. 553, it is exempt from the regulatory flexibility analysis requirements set forth at sections 603 and 604 of the Regulatory Flexibility Act (5 U.S.C. 603 and 604). Nonetheless, consistent with section 605(b) of the Regulatory Flexibility Act (5 U.S.C. 605(b)), the Department certifies that this rule will not have a significant economic impact on a substantial number of small entities. This regulates individual aliens who are ineligible under INA 212(a)(3)(E)(i) and 212(a)(3)(E)(ii) and does not affect any