

FDC Date	State	City	Airport	FDC Number	SIAP
01/20/99	AL.	HUNTSVILLE .....	HUNTSVILLE INTL-CARL T. JONES FIELD.	FDC 9/0203	ILS RWY 18L AMDT 2...
01/20/99	AL.	MONTGOMERY .....	MONTGOMERY REGIONAL (DANNELLY FIELD).	FDC 9/0353	ILS RWY 28, AMDT 8B...
01/20/99	NC.	MOUNT AIRY .....	MOUNT AIRY/SURRY COUNTY	FDC 9/0360	NDB RWY 36, ORIG...
01/20/99	NC.	MOUNT AIRY .....	MOUNT AIRY/SURRY COUNTY	FDC 9/0361	GPS RWY 36, ORIG...
01/20/99	TN.	SMYRNA .....	SMYRNA .....	FDC 9/0359	NDB RWY 32 AMDT 8...
11/26/98	NJ.	TETERBORO .....	TETERBORO .....	FDC 8/8263	VOR/DME RWY 6 ORIG...
11/26/98	NJ.	TETERBORO .....	TETERBORO .....	FDC 8/8264	NDB OR GPS RWY 6 AMDT 17B...

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## SECURITIES AND EXCHANGE COMMISSION

### 17 CFR Part 270

[Release Nos. IC-23670; IS-1179; File No. S7-23-95]

RIN 3235-AE98

### Custody of Investment Company Assets Outside the United States

**AGENCY:** Securities and Exchange Commission.

**ACTION:** Final rule; extension of compliance date.

**SUMMARY:** The Commission is extending the compliance date for certain amendments to the rule under the Investment Company Act that governs the custody of investment company assets outside the United States.

**EFFECTIVE DATES:** The *effective* date of the rule amendments published on May 16, 1997 (62 FR 26923) remains June 16, 1997. Effective February 1, 1999, the *compliance* date for the rule amendments, except for the amended definition of an "eligible foreign custodian," is extended from February 1, 1999, to May 1, 1999.

**FOR FURTHER INFORMATION CONTACT:** Thomas M.J. Kerwin, Senior Counsel, or C. Hunter Jones, Assistant Director, Office of Regulatory Policy, at (202) 942-0690, in the Division of Investment Management, Mail Stop 5-6, Securities and Exchange Commission, 450 5th Street, N.W., Washington, D.C. 20549.

**SUPPLEMENTARY INFORMATION:** The Commission is extending the compliance date for certain amendments to rule 17f-5 [17 CFR 270.17f-5] under the Investment Company Act of 1940 [15 U.S.C. 80a].

### I. Discussion

The Commission adopted amendments to rule 17f-5 under the Investment Company Act in 1997 (the

"1997 Amendments").<sup>1</sup> The release that adopted the 1997 Amendments provided that the amendments would become effective on June 16, 1997, and that registered management investment companies ("funds") must bring their foreign custody arrangements into compliance with the amended rule by June 16, 1998.<sup>2</sup> In May 1998, in anticipation that funds and custodian banks would recommend additional amendments to the rule, the Commission extended the compliance date for certain of the 1997 Amendments to February 1, 1999.<sup>3</sup>

On June 30, 1998, representatives of funds and of custodian banks submitted to the Commission a joint proposal to further amend rule 17f-5.<sup>4</sup> The Commission's staff has studied the joint proposal and continues to gather information about related issues. The staff is preparing recommendations to the Commission on whether to propose further amendments to rule 17f-5 based on the joint proposal or other possible approaches. Additional time beyond February 1, 1999 will be necessary for the staff to complete its analysis and make its recommendations. The Commission therefore is extending until May 1, 1999 the compliance date for certain of the 1997 Amendments.<sup>5</sup> In the interim, a fund may continue to operate its foreign custody arrangements either under the 1997 Amendments, or under rule 17f-5 as it existed prior to the 1997

Amendments, but subject to the amended definition of eligible foreign custodian.<sup>6</sup>

### II. Certain Findings

The Commission for good cause finds that, based on the reasons cited above, notice and solicitation of comment regarding the extension of the compliance date for certain of the 1997 Amendments is impracticable, unnecessary, and contrary to the public interest.<sup>7</sup> The Commission notes that the February 1, 1999 compliance date is imminent, that many funds may not be in a position to comply with the 1997 Amendments, and that a limited extension will aid the Commission in considering whether additional amendments are necessary. Fund representatives have stated that if the compliance date is not extended, some funds may have to withdraw assets from foreign custodians or sell foreign assets, which could increase costs for investors or otherwise harm investors.<sup>8</sup> The Commission notes that the 1997 Amendments were submitted for public notice and comment, and that any amendments that may be considered in the future will be submitted for notice and comment.

In analyzing the costs and benefits of this action, the Commission believes that the extension of the compliance date for certain of the 1997 Amendments will not impose costs on funds, but will enable funds to avoid the costs of attempting to comply with certain rule provisions that they assert may be unworkable. The Commission

<sup>1</sup> See Custody of Investment Company Assets Outside the United States, Investment Company Act Release No. 22658 (May 12, 1997) [62 FR 26923 (May 16, 1997)].

<sup>2</sup> *Id.* at text following n.86.

<sup>3</sup> See Custody of Investment Company Assets Outside the United States, Investment Company Act Release No. 23201 (May 21, 1998) [63 FR 29345 (May 29, 1998)].

<sup>4</sup> See Letter to Barry P. Barbash, Director, Division of Investment Management, from Amy B.R. Lancellotta, Senior Counsel, Investment Company Institute and Daniel L. Goelzer, Baker & McKenzie (June 30, 1998) (placed in File No. S7-23-95).

<sup>5</sup> The compliance date for the amended definition of an "eligible foreign custodian" was June 16, 1998. See Investment Company Act Release No. 23201, *supra* note 3, at n.7 and accompanying text. The extension of the compliance date for the other 1997 Amendments is effective without 30-day advance notice because the extension "grants or recognizes an exemption or relieves a restriction." 5 U.S.C. 553(d)(1).

<sup>6</sup> See Investment Company Act Release No. 23201, *supra* note 3, at text preceding n.9. The fund may apply either of these alternative frameworks separately to each foreign custodian or subcustodian it uses. The fund's arrangement with a particular foreign custodian or subcustodian should comply in its entirety either with old rule 17f-5 (subject to the amended definition of eligible foreign custodian), or with the rule as amended by all of the 1997 Amendments.

<sup>7</sup> See section 553(b)(3)(B) of the Administrative Procedure Act [U.S.C. 553(b)(3)(B)] (an agency may dispense with prior notice and comment when it finds, for good cause, that notice and comment are "impracticable, unnecessary, or contrary to the public interest").

<sup>8</sup> See Investment Company Act Release No. 23201, *supra* note , at nn.4-6 and accompanying text.

believes that the extension will produce potential benefits by continuing to permit funds to choose between two alternative ways to comply with the rule.

Dated: January 28, 1999.

By the Commission.

**Margaret H. McFarland,**

*Deputy Secretary.*

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## DEPARTMENT OF ENERGY

### Federal Energy Regulatory Commission

#### 18 CFR Part 284

[Docket No. RM96-1-010; Order No. 587-J]

#### Standards For Business Practices of Interstate Natural Gas Pipelines

Issued January 28, 1999.

**AGENCY:** Federal Energy Regulatory Commission.

**ACTION:** Final rule; order on rehearing.

**SUMMARY:** The Federal Energy Regulatory Commission is granting rehearing and clarification of Order No. 587-I, 63 FR 53565, with respect to the procedures pipelines must follow in maintaining parity between transactions offered on interactive Internet web sites and transactions provided using electronic file transfer.

**ADDRESSES:** Federal Energy Regulatory Commission, 888 First Street, NE, Washington, DC 20426.

#### FOR FURTHER INFORMATION CONTACT:

Michael Goldenberg, Office of the General Counsel, Federal Energy Regulatory Commission, 888 First Street, NE, Washington, DC 20426, (202) 208-2294

Marvin Rosenberg, Office of Economic Policy, Federal Energy Regulatory Commission, 888 First Street, NE, Washington, DC 20426, (202) 208-1283

Kay Morice, Office of Pipeline Regulation, Federal Energy Regulatory Commission, 888 First Street, NE, Washington, DC 20426, (202) 208-0507

**SUPPLEMENTARY INFORMATION:** In addition to publishing the full text of this document in the **Federal Register**, the Commission also provides all interested persons an opportunity to inspect or copy the contents of this document during normal business hours in the Public Reference Room at 888 First Street, NE, Room 2A, Washington,

DC 20426. The Commission Issuance Posting System (CIPS) provides access to the texts of formal documents issued by the Commission. CIPS can be accessed via Internet through FERC's Homepage (<http://www.ferc.fed.us>) using the CIPS Link or the Energy Information Online icon. The full text of this document will be available on CIPS in ASCII and WordPerfect 6.1 format. CIPS is also available through the Commission's electronic bulletin board service at no charge to the user and may be accessed using a personal computer with a modem by dialing 202-208-1397, if dialing locally, or 1-800-856-3920, if dialing long distance. To access CIPS, set your communications software to 19200, 14400, 12000, 9600, 7200, 4800, 2400, or 1200 bps, full duplex, no parity, 8 data bits and 1 stop bit. User assistance is available at 202-208-2474 or by E-mail to [CipsMaster@FERC.fed.us](mailto:CipsMaster@FERC.fed.us).

This document is also available through the Commission's Records and Information Management System (RIMS), an electronic storage and retrieval system of documents submitted to and issued by the Commission after November 16, 1981. Documents from November 1995 to the present can be viewed and printed. RIMS is available in the Public Reference Room or remotely via Internet through FERC's Homepage using the RIMS link or the Energy Information Online icon. User assistance is available at 202-208-2222, or by E-mail to [RimsMaster@FERC.fed.us](mailto:RimsMaster@FERC.fed.us).

Finally, the complete text on diskette in WordPerfect format may be purchased from the Commission's copy contractor, RVJ International, Inc. RVJ International, Inc., is located in the Public Reference Room at 888 First Street, NE, Washington, DC 20426.

Before Commissioners: James J. Hoecker, Chairman; Vicky A. Bailey, William L. Massey, Linda Breathitt, and Curt Hébert, Jr.

#### Order No. 587-J; Order Granting Rehearing and Clarification

On October 29, 1998, the Interstate Natural Gas Association of America (INGAA) filed a request for clarification or rehearing of Order No. 587-I<sup>1</sup> with respect to the policy for achieving parity between interactive Internet web sites and electronic file transfers. The Commission grants rehearing and provides clarification as discussed below.

<sup>1</sup> Standards For Business Practices Of Interstate Natural Gas Pipelines, Order No. 587-I, 63 FR 53565 (Oct. 6, 1998), III FERC Stats. & Regs. Regulations Preambles ¶ 31,067 (Sep. 29, 1998).

#### Background

In Order No. 587-I, the Commission, in relevant part, adopted a dual approach to communications with interstate pipelines. Shippers were given the choice of transacting business with pipelines either through an interactive Internet web site<sup>2</sup> or through standardized computer-to-computer file transfers. The Commission has incorporated by reference into its regulations standards governing electronic file transfers promulgated by the Gas Industry Standards Board (GISB).<sup>3</sup> These standards employ a format using ASC X12 electronic data interchange (EDI).<sup>4</sup> To ensure a level playing field for those using interactive web sites and EDI file transfers, the Commission sought to ensure that shippers could conduct the same transactions and receive the same response priority regardless of the format used.<sup>5</sup>

The Commission further recognized that pipelines might have a need to update and offer new services on their interactive web sites. In order to maintain equality between interactive web sites and EDI file transfers, the Commission established a process to ensure that, whenever feasible, newly-developed transactions available on interactive web sites will also be available through EDI file transfers:

when pipelines are developing new services for their interactive web sites, they must also consider the method for implementing the business practice using EDI and, in compliance with standard 1.2.2, provide advance notice of their proposed EDI solution to GISB for review. Before initiating the new service, pipelines should file under section 4 of the NGA at least 30 days prior to the proposed implementation date detailing the efforts they have made to develop a standardized file transfer. If the pipeline has complied with the requirement to provide GISB with advance notice of their proposed EDI solution, it would be permitted to implement its new service on schedule. This approach should not inhibit development of new interactive solutions while at the same time helping to ensure that those using file transfers are not denied a

<sup>2</sup> Interactive web sites permit shippers to view information on-line and transmit information to the pipelines by filling in on-line forms.

<sup>3</sup> GISB is a private, not-for-profit standards organization with membership drawn from all segments of the natural gas industry, including pipelines, local distribution companies, producers, end-users, and service providers (including gas marketers). Its standards must be approved by a consensus of the industry segments.

<sup>4</sup> Standards for EDI are promulgated by the American National Standards Institute (ANSI) Accredited Standards Committee (ASC) X12.

<sup>5</sup> Order No. 587-I, 63 FR at 53571, III FERC Stats. & Regs. Regulations Preambles ¶ 31,067 at 30,740.