

submitted as a Web-based ePetition via EFS-Web with the petition fee set forth in 37 CFR 1.17(h). Information regarding submission of Web-based ePetitions is available at <http://www.uspto.gov/patents/process/file/efs/guidance/epetition-info.jsp>. Depending on whether a patent number has been assigned, applicants must select either the "Petition to Withdraw from Issue after Payment of the Issue Fee (37 CFR 1.313(c)(1) or (2))" or the "Petition to Withdraw from Issue after Payment of the Issue Fee (37 CFR 1.313(c)(1) or (2) with Assigned Patent Number)." The RCE that accompanies a QPIDS submission under this pilot program will be deemed sufficient to satisfy the requirement in 37 CFR 1.313(c)(2) that the petition to withdraw from issue is for consideration of an RCE in compliance with 37 CFR 1.114, even though the RCE will only be processed if the examiner determines that any item of information in the IDS necessitates reopening prosecution.

#### 4. RCE and Fee

A submission under this pilot program must include an RCE, with the IDS meeting the submission requirement for the RCE. The RCE will be treated as a "conditional" RCE until the examiner determines whether any item of information in the IDS necessitates reopening prosecution. Additionally, the QPIDS submission must be accompanied by the RCE fee under 37 CFR 1.17(e) in order to process the ePetition to withdraw the application from issue under 37 CFR 1.313(c)(2).

Under this pilot program, the RCE will be processed and treated as an RCE under 37 CFR 1.114 in the event the examiner determines that any item of information contained in the IDS necessitates the reopening of prosecution in the application. In this instance, the IDS fee under 37 CFR 1.17(p) will be automatically returned because the IDS complies with 37 CFR 1.97(b)(4). Otherwise, if the examiner determines that no item of information in the IDS necessitates reopening prosecution, the RCE will *not* be processed and the RCE fee will be automatically returned. This will save applicants both the time and costs associated with RCE practice. An RCE filed pursuant to this pilot program complies with the timing requirement of 37 CFR 1.114(a)(1). This pilot program is an exception to the provision in MPEP 706.07(h), which provides that the Office will treat a "conditional" RCE as if an RCE had been filed. Otherwise, the Office generally treats conditional requests without regard to the

"conditional" designation (*see, e.g.*, MPEP 201.06(d), MPEP 706.07(g), and MPEP 714.13).

#### B. Processing of QPIDS Pilot Program Submissions

A compliant ePetition to withdraw the application from issue, pursuant to 37 CFR 1.313(c)(2), will be granted immediately upon submission. After the grant of such a petition, the IDS submission made under this pilot program will be identified and placed on the examiner's "expedited" docket for consideration. If the examiner determines that no item of information in the IDS necessitates reopening prosecution, the examiner will issue a corrected notice of allowability (*i.e.*, form PTOL-37). The corrected notice of allowability will identify the IDS and be accompanied by a copy of the submitted IDS listing (*e.g.*, form PTO/SB/08) as considered by the examiner. *See* MPEP 609.05(b). Considered information will be printed on the patent pursuant to MPEP 609.06. No applicant response to the corrected notice of allowability will be necessary. In this instance, the RCE will *not* be processed and the RCE fee will be automatically returned by the Office (the IDS and petition fees will not be returned). In this instance, where the examiner has determined that prosecution does not need to be reopened, a new notice of allowance and fee(s) due (*i.e.*, PTOL-85) will not be issued. To the extent provisions of 37 CFR 1.313(a) are not consistent with this pilot program, such provisions are hereby waived for QPIDS pilot program submissions.

If the examiner determines that any item of information in the IDS necessitates reopening prosecution, the RCE will be processed and placed on the examiner's docket. In this instance, the RCE will be deemed filed as of the filing date of the QPIDS submission, and the IDS fee will be automatically returned by the Office because the IDS complies with 37 CFR 1.97(b)(4) (the petition fee will not be returned). The applicant will be notified that prosecution is being reopened (via a form PTO-2300), and such notification will identify the IDS and be accompanied by a copy of the submitted IDS listing (*e.g.*, form PTO/SB/08) as considered by the examiner. *See* MPEP 609.05(b). If the application is subsequently again found allowable, the applicant may request that the previously paid issue fee be reapplied toward the issue fee that is now due in the same application. *See* MPEP 1306.

A non-compliant QPIDS submission that otherwise complies with the requirements of 37 CFR 1.114 will be

treated as an RCE. For example, failure to provide an authorization to charge a deposit account for payment of the IDS fee or failure to select or otherwise provide an appropriate timeliness statement will result in the RCE being processed. Similarly, a submission under this pilot program that includes an amendment will be processed as an RCE.

Taking post-issue fee payment processing times into consideration, applicants are strongly encouraged to file IDS submissions under this pilot program as soon as the applicants become aware that it is necessary to submit an IDS. Applicants are reminded, where applicable, to include a statement under 37 CFR 1.704(d) so as to avoid reduction in patent term adjustment pursuant to 37 CFR 1.704(c)(10). *See, Revision of Patent Term Adjustment Provisions Relating to Information Disclosure Statements*, 76 FR 74700, 74701 (December 1, 2011) (final rule).

Additional information regarding this pilot program will be made available on the USPTO's Web site at [http://www.uspto.gov/patents/init\\_events/qpids.jsp](http://www.uspto.gov/patents/init_events/qpids.jsp).

Dated: May 3, 2012.

**David J. Kappos,**

*Under Secretary of Commerce for Intellectual Property and Director of the United States Patent and Trademark Office.*

[FR Doc. 2012-11222 Filed 5-9-12; 8:45 am]

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## SECURITIES AND EXCHANGE COMMISSION

### COMMODITY FUTURES TRADING COMMISSION

[Release Nos. 34-66932; File No. 265-26]

#### Joint CFTC-SEC Advisory Committee on Emerging Regulatory Issues

**AGENCIES:** Securities and Exchange Commission ("SEC") and Commodity Futures Trading Commission ("CFTC") (each, an "Agency," and collectively, "Agencies").

**ACTION:** Notice of Federal Advisory Committee Renewal.

**SUMMARY:** The Chairmen of the SEC and CFTC, with the concurrence of the other SEC and CFTC Commissioners, respectively, intend to renew the charter of the Joint CFTC-SEC Advisory Committee on Emerging Regulatory Issues (the "Committee").

#### Comments

Because the Agencies will jointly review all comments submitted, interested parties may send comments

to either Agency and need not submit responses to both Agencies. Respondents are encouraged to use the title "Joint CFTC-SEC Advisory Committee" to facilitate the organization and distribution of comments between the Agencies. Interested parties are invited to submit responses to:

*Securities and Exchange Commission:* Written comments may be submitted by the following methods:

*Electronic Comments*

- Use the SEC's Internet submission form (<http://www.sec.gov/rules/other/shtml>); or
- Send an email to [rule-comments@sec.gov](mailto:rule-comments@sec.gov).

Please include File No. 265-26 on the subject line.

*Paper Comments*

- Send paper comments in triplicate to Elizabeth M. Murphy, Secretary, Securities and Exchange Commission, 100 F St. NE., Washington 20549. All submissions should refer to File No. 265-26.

To help the SEC process and review your comments more efficiently, please use only one method. The SEC staff will post all comments on the SEC's Internet Web site (<http://www.sec.gov/rules/shtml>). Comments will also be available for Web site viewing and printing in the SEC's Public Reference Room, 100 F St. NE., Washington, DC 20549, on official business days between the hours of 10:00 a.m. and 3:00 p.m. All comments received will be posted without change; we do not edit personal identifying information from your submissions. You should submit only information that you wish to make available publicly.

*Commodity Futures Trading Commission*

- Written comments may be mailed to the Commodity Futures Trading Commission, Three Lafayette Center, 1155 21st Street NW., Washington, DC 20581, attention Office of the Secretary; transmitted by facsimile to the CFTC at (202) 418-5521; or transmitted electronically to [Jointcommittee@cftc.gov](mailto:Jointcommittee@cftc.gov). Reference should be made to "Joint CFTC-SEC Advisory Committee."

**FOR FURTHER INFORMATION CONTACT:** Ronesha Butler, Special Counsel, at (202) 551-5629, Division of Trading and Markets, Securities and Exchange Commission, 100 F St. NE., Washington DC 20549, or Gail Scott, Committee Management Officer, at (202) 418-5139, Commodity Futures Trading Commission, Three Lafayette Center,

1155 21st Street, NW., Washington, DC 20581.

**SUPPLEMENTARY INFORMATION:** In accordance with the requirements of the Federal Advisory Committee Act, 5 U.S.C. App. 2, the Agencies are publishing this notice that the Chairmen of the SEC and CFTC, with the concurrence of the other SEC and CFTC Commissioners, intend to renew the charter of the Committee. The Committee was originally established on May 10, 2010, to operate for a term of two years.<sup>1</sup> The Committee's objectives and scope of activities are to conduct public meetings, submit reports and recommendations to the CFTC and the SEC and otherwise to serve as a vehicle for discussion and communication on regulatory issues of mutual concern and their effect on the CFTC's and SEC's statutory responsibilities. Subjects to be addressed by the Committee will include, but will not be limited to, identification of emerging regulatory risks, assessment and quantification of the impact of such risks and their implications for investors and market participants, and to further the Agencies' efforts on regulatory harmonization. The Committee will work to develop clear and specific goals toward identifying and addressing emerging regulatory risks, protecting investors and customers, and furthering regulatory harmonization, and to recommend processes and procedures for achieving and reporting on those goals.

To achieve the Committee's goals, the Chairmen of the SEC and CFTC may appoint approximately 10-15 members. There will be two co-designated federal officers of the Committee. The Chairman of the CFTC will appoint a CFTC employee to serve as one co-designated federal officer of the Committee and the Chairman of the SEC will appoint an SEC employee to serve as the other co-designated federal officer of the Committee. The co-designated federal officers jointly call all of the Committee's and subcommittees' meetings, prepare and jointly approve all meeting agendas, adjourn any meeting when they jointly determine adjournment to be in the public interest, and chair meetings when directed to do so. The co-designated federal officers also will attend all Committee and subcommittee meetings. The Chairmen of the CFTC and of the SEC continue to serve as Co-Chairmen of the Committee. The Committee's membership will be fairly balanced in terms of points of

view represented and the functions to be performed.

The Committee's charter will be filed with the Senate Committee on Agriculture, Nutrition and Forestry; the House of Representatives Committee on Agriculture; the Senate Committee on Banking, Housing, and Urban Affairs; the House Committee on Financial Services; and U.S. General Services Administration Committee Management Secretariat ("Secretariat"). A copy of the charter also will be filed with the SEC, CFTC and the Library of Congress. The charter will be available for Web site viewing and printing in the Public Reference Room at the SEC's headquarters and posted on the SEC's Web site at [www.sec.gov](http://www.sec.gov) and the CFTC's Web site at [www.cftc.gov](http://www.cftc.gov).

The Committee will continue to operate for an additional two years from the date of renewal of the charter unless, before the expiration of that time period, its charter is re-established or renewed in accordance with the Federal Advisory Committee Act or unless either the Chairman of the SEC or the Chairman of the CFTC determines that the Committee's continuance is no longer in the public interest.

The Committee will meet at such intervals as are necessary to carry out its functions. It is estimated that the meetings will occur six times per year. Meetings of subgroups or subcommittees of the full Committee may occur more frequently.

The charter will provide that the duties of the Committee are to be solely advisory. Each Agency alone will make any determinations of action to be taken and policy to be expressed with respect to matters within their respective authority as to which the Committee provides advice or makes recommendations.

The Chairmen of the Agencies affirm that the renewal of the Committee is necessary and in the public interest.

By the Securities and Exchange Commission.

**Elizabeth M. Murphy,**  
*Secretary.*

By the Commodity Futures Trading Commission.

Dated: May 7, 2012.

**David A. Stawick,**  
*Secretary.*

[FR Doc. 2012-11324 Filed 5-9-12; 8:45 am]

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<sup>1</sup> See Securities Act Release No. 9123, 75 FR 27028 (May 13, 2010) (File No. 265-26).