inconsistent with the purposes of the Advisers Act to use performance standards to specify different requirements for small entities.

The Commission believes that the proposed rule will not adversely affect small entities because it does not impose significant, new reporting, recordkeeping, or compliance requirements. Instead, the proposed rule would avoid the imposition of unnecessary regulatory burdens on the provision of brokerage services solely because broker-dealers re-price their full-service brokerage or provide execution-only services in addition to full service brokerage. Therefore, it is not feasible to further clarify, consolidate or simplify the rule's provisions for small entities.

G. Solicitation of Comments

We encourage written comments on matters discussed in this IRFA. In particular, the Commission seeks comment on: (i) The number of small entities that would be affected by the proposed rule; and (ii) whether the impact of the proposed rule on small entities would be economically significant. Commenters are asked to describe the nature of any impact and provide empirical data supporting the extent of the impact.

VII. Statutory Authority

We are proposing the rule pursuant to our authority under Sections 202(a)(11)(F) and 211(a) under the Act. Section 202(a)(11)(F) gives us authority to except, by rule or order, from the statutory definition of ''investment adviser'' persons not within the intent of that definition.[38] Section 211(a) gives us authority to classify, by rule, persons and matters within our jurisdiction and to prescribe different requirements for different classes of persons, as necessary or appropriate to the exercise of our authority under the Act.

List of Subjects in 17 CFR Parts 275 and 279

Reporting and recordkeeping requirements.

[38] Because we are using our authority under section 202(a)(11)(F), broker-dealers relying on the rule would not be subject to state adviser statutes. Section 203A(b)(1)(B) of the Act (15 U.S.C. 80b–3A(b)(1)(B)) provides that ''[n]o law of any State or political subdivision thereof requiring the registration, licensing, or qualification as an investment adviser or supervised person of an investment adviser shall apply to any person * * * that is not registered under [the Advisers Act] because *that person is excepted from the definition of an investment adviser under section 202(a)(11).*'' (emphasis added).

Text of Proposed Rule

For the reasons set out in the preamble, Title 17, Chapter II of the Code of Federal Regulations is proposed to be amended as follows:

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

1. The general authority citation for part 275 is revised to read as follows:

Authority: 15 U.S.C. 80b–2(a)(11)(F), 80b–2(a)(17), 80b–3, 80b–4, 80b–6(4), 80b–6a, 80b–11, unless otherwise noted.

* * * * *

2. Section 275.202(a)(11)–1 is added to read as follows:

§ 275.202(a)(11)–1 Certain broker-dealers deemed not to be investment advisers.

A broker or dealer registered with the Commission under Section 15 of the Securities Exchange Act of 1934 (15 U.S.C. 78o) (the ''Exchange Act''):

(a) Will not be deemed to be an investment adviser based solely on its receipt of special compensation, provided that:

(1) The broker or dealer does not exercise investment discretion, as that term is defined in Section 3(a)(35) of the Exchange Act (15 U.S.C. 78c(a)(35)), over the accounts from which it receives special compensation;

(2) Any investment advice provided by the broker or dealer with respect to accounts from which it receives special compensation is solely incidental to the brokerage services provided to those accounts; and

(3) Advertisements for, and contracts or agreements governing, accounts for which the broker or dealer receives special compensation include a prominent statement that the accounts are brokerage accounts;

(b) Will not be deemed to have received special compensation solely because the broker or dealer charges a commission, mark-up, mark-down or similar fee for brokerage services that is greater than or less than one it charges another customer; and

(c) Is an investment adviser solely with respect to those accounts for which it provides services or receives compensation that subject the broker or dealer to the Act.

PART 279—FORMS PRESCRIBED UNDER THE INVESTMENT ADVISERS ACT OF 1940

3. The authority citation for part 279 continues to read as follows:

Authority: The Investment Advisers Act of 1940, *15 U.S.C. 80b–1, et seq.*

4. By amending Instruction 7 in Form ADV Schedule I Instructions (referenced in § 279.1) by adding paragraph (c)(5) to read as follows:

Note: The text of Form ADV does not and the amendment will not appear in the Code of Federal Regulations.

Form ADV

* * * * *

Schedule I Instructions

* * * * *

Instruction 7. *Determining Assets Under Management*

* * * * *

(c) *Continuous and Regular Supervisory or Management Services.*

* * * * *

Accounts that do not receive continuous and regular supervisory or management services:

* * * * *

(5) Brokerage accounts, unless the applicant has discretionary authority.

* * * * *

Dated: November 4, 1999.

By the Commission.

Jonathan G. Katz,

Secretary.

[FR Doc. 99–29395 Filed 11–9–99; 8:45 am]

BILLING CODE 8010–01–P

DEPARTMENT OF THE TREASURY

Customs Service

19 CFR Part 101

Extension of Port Limits of Puget Sound, WA

AGENCY: U. S. Customs Service, Department of the Treasury.

ACTION: Notice of proposed rulemaking.

SUMMARY: This document proposes to amend the Customs Regulations pertaining to the field organization of Customs by extending the geographical limits of the consolidated port of Puget Sound, Washington. This proposed change is being made as part of Customs continuing program to obtain more efficient use of its personnel, facilities, and resources and to provide better service to carriers, importers, and the general public.

DATES: Comments must be received on or before January 10, 2000.

ADDRESSES: Written comments may be submitted to and inspected at the Regulations Branch, Office of Regulations and Rulings, 1300 Pennsylvania Avenue N.W., Third Floor, Washington, D.C. 20229, on

regular business days between the hours of 9 a.m. and 4:30 p.m.

FOR FURTHER INFORMATION CONTACT: Betsy Passuth, Office of Field Operations, 202–927–0795.

SUPPLEMENTARY INFORMATION:

Background

As part of a continuing program to obtain more efficient use of its personnel, facilities and resources, and to provide better service to carriers, importers and the general public, Customs proposes to amend § 101.3, Customs Regulations (19 CFR 101.3) by extending the geographical limits of the consolidated port of Puget Sound, Washington.

The geographical limits of the consolidated port of Puget Sound, as set forth in Treasury Decision (T.D.) 96–63, published in the **Federal Register** (61 FR 43428) on August 23, 1996, include Seattle, Anacortes, Bellingham, Everett, Friday Harbor, Neah Bay, Olympia, Port Angeles, Port Townsend and Tacoma. This document proposes to amend the port description of Puget Sound, particularly, to extend and redefine the boundaries of Tacoma as described in the port limit description of the Puget Sound port of entry in T.D. 96–63.

The description of Tacoma within the description of the Puget Sound port is proposed to be extended to include two industrial parks which have new facilities for clearing, storing and forwarding imported merchandise and require the services of Customs personnel. These industrial parks are : Lakewood Industrial Park, 120 acres located in Lakewood, Washington, southeast of the existing port limits; and Sumner Industrial Park, 88 acres located in Sumner, Washington, east of the existing port limits.

Proposed New Puget Sound Port Limits

The geographical area within the boundaries of the consolidated port of Puget Sound is proposed to be as follows:

The ports of Seattle (Section 35, Township 27 North, Range 3 East, West Meridian, County of Snohomish, and the geographical area beginning at the intersection of N.W. 205th Street and the waters of Puget Sound, proceeding in an easterly direction along the King County line to its intersection with 100th Avenue N.E., thence southerly along 100th Avenue N.E. and its continuation to the intersection of 100th Avenue S.E. and S.E. 240th Street, thence westerly along S.E. 240th Street, to its intersection with North Central Avenue, thence southerly along North Central Avenue, its continuation as South Central Avenue and 83rd Avenue South and its connection to Auburn Way North, thence southerly along Auburn Way North and its continuation as Auburn Way South to its intersection with State Highway 18, thence westerly along Highway 18 to its intersection with A Street S.E., then southerly along A Street S.E. to its intersection with the King County Line, then westerly along the King County Line to its intersection with the waters of Puget Sound and then northerly along the shores of Puget Sound to its intersection with N.W. 205th Street, the point of beginning, all within the County of King, State of Washington), Anacortes, Bellingham, Everett, Friday Harbor, Neah Bay, Olympia, Port Angeles, Port Townsend, and the territory in Tacoma, beginning at the intersection of the westernmost city limits of Steilacoom and The Narrows and proceeding easterly along Main Street to the intersection of Stevens Street, then southerly along Stevens Street to the intersection of Washington Boulevard, then easterly along Washington Boulevard to the intersection of Gravely Lake Drive S.W., then southeasterly to the intersection of Nyanza Road, SW, then southerly to its intersection with Pacific Highway (U.S. Route 99), then proceeding in a northeasterly direction along Pacific Highway to its intersection with 112 Street East and continuing in an easterly direction along 112 Street East to its intersection with the northwest corner of McChord Air Force Base, then proceeding along the northern, then western, then southern boundary of McChord Air Force Base to its intersection, just west of Lake Mondress, with the northern boundary of the Fort Lewis Military Reservation, then proceeding in an easterly direction along the northern boundary of the Fort Lewis Military Reservation to its intersection with Pacific Avenue (SR–7), then proceeding in a southerly direction along Pacific Avenue (SR–7) to its intersection with SR–507, then proceeding in a southeasterly direction along SR–7 to its intersection with 224th Street East, then proceeding in an easterly direction along 224th Street East to its intersection with Meridian Street South (SR–161), then proceeding in a northerly direction along Meridian Street South (SR–161) to the intersection with 176 Street East, then easterly along 176 Street East extended to the intersection with Sunrise Parkway East, then northwesterly along Sunrise Parkway East to the intersection with 122nd Avenue East, then northerly to the intersection with Old Military Road East, then northeasterly to the intersection with SR–162, then northerly along SR–162 to the intersection with SR–410, then easterly along SR–410 to the intersection with 166th Avenue East, then northerly to the intersection with Sumner-Tapps Highway, continuing northeasterly along Sumner-Tapps Highway to 16th Street East, then easterly to 182 Avenue East, then northerly to the northern boundary of Pierce County, then proceeding in a westerly direction along the northern boundary of Pierce County to its intersection with Puget Sound, then proceeding in a generally southwesterly direction along the banks of the East Passage of Puget Sound, Commencement Bay, and The Narrows to the point of intersection with the westernmost city limits of Steilacoom, Washington, including all points and places on the southern boundary of the Juan de Fuca Strait from the eastern port limits of Neah Bay to the western port limits of Port Townsend, all points and places on the western boundary of Puget Sound, including Hood Canal, from the port limits of Port Townsend to the northern port limits of Olympia, all points and places on the southern boundary of Puget Sound from the port limits of Olympia to the western port limits of Tacoma, and all points and places on the eastern boundary of Puget Sound and contiguous waters from the port limits of Tacoma north to the southern port limits of Bellingham, all in the State of Washington.

Comments

Prior to the adoption of this proposal, consideration will be given to written comments timely submitted to Customs. Submitted comments will be available for public inspection in accordance with the Freedom of Information Act (5 U.S.C. 552), section 1.4, Treasury Department Regulations (31 CFR 1.4), and section 103.11(b), Customs Regulations (19 CFR 103.11(b)), on regular business days between the hours of 9:00 a.m. and 4:30 p.m., at the Regulations Branch, Office of Regulations and Rulings, 1300 Pennsylvania Avenue N.W., Third Floor, Washington, D.C. 20229.

Authority

This change is proposed under the authority of 5 U.S.C. 301 and 19 U.S.C. 2, 66, and 1624.

Regulatory Flexibility Act and Executive Order 12866

Customs establishes, expands, and consolidates Customs ports of entry throughout the United States to accommodate the volume of Customs-related activity in various parts of the

country. Thus, although this document is being issued with notice for public comment, because it relates to agency management and organization it is not subject to the notice and public procedure requirements of 5 U.S.C. 553. Accordingly, this document is not subject to the provisions of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). Agency organization matters such as this proposed port extension are not subject to Executive Order 12866.

Drafting Information

The principal author of this document was Janet L. Johnson, Regulations Branch. However, personnel from other offices participated in its development.

Raymond W. Kelly,

Commissioner of Customs.

Approved: October 1, 1999.

John P. Simpson,

Deputy Assistant Secretary of the Treasury.

[FR Doc. 99–29379 Filed 11–9–99; 8:45 am]

BILLING CODE 4820–02–P

NATIONAL INDIAN GAMING COMMISSION

25 CFR Part 504

RIN 3141–AA04

Classification of Games

AGENCY: National Indian Gaming Commission.

ACTION: Proposed rule.

SUMMARY: The National Indian Gaming Commission (Commission) proposes regulations which will establish a formal process for the classification of games played on Indian lands under the Indian Gaming Regulatory Act (Act). These regulations would require that the Commission decide that a game is a Class II game before it authorizes the play of such game in a Class II gaming operation. It also allows for a transition period to implement this process.

DATES: Comments may be submitted on or before January 10, 2000.

ADDRESSES: Comments may be mailed to: Game Classification Comments, National Indian Gaming Commission, 1441 L Street, NW, Suite 9100, Washington, DC 20005, delivered to that address between 8:30 a.m. and 5:30 p.m., Monday through Friday, or faxed to 202/632–7066 (this is not a toll-free number). Comments received may be inspected between 9 a.m. and noon, and between 2 p.m. and 5 p.m., Monday through Friday.

FOR FURTHER INFORMATION CONTACT: Penny J. Coleman at 202/632–7003; fax 202/632–7066 (these are not toll-free numbers).

SUPPLEMENTARY INFORMATION: The Indian Gaming Regulatory Act (IGRA, or the Act), enacted on October 17, 1988, established the National Indian Gaming Commission (Commission). Under the Act, the Commission is charged with regulating class II gaming and certain aspects of class III gaming on Indian lands. The regulations proposed today would establish a formal, administrative process for deciding whether a game is a Class II or III game and allow the Commission to discontinue the current advisory classification opinion process.

Regulatory Flexibility Act

This proposed rule will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.* Because this rule is procedural in nature, it will not impose substantive requirements that could be deemed impacts within the scope of the Act.

Paperwork Reduction Act

The Commission is in the process of obtaining clearance from the Office of Management and Budget (OMB) for the information collection requirements contained in this proposed rule, as required by 44 U.S.C. 3501 *et seq.* The information required to be submitted is identified in sections 504.6, 504.7 and 504.8. The information will be used to determine whether a game can be classified as a Class II or III game or a nongambling game and whether the continued play of the games remains consistent with the classification decisions issued by the Commission.

The public reporting burden for this collection of information is estimated to average 10 hours per game classification request, including the time for reviewing instructions, gathering and maintaining the data needed, and completing and reviewing the collection of information. The Commission estimates that, during the first two years of the implementation of this regulatory process, approximately 50 requests for classification decisions will be filed each year, for an annual burden of 500 hours. After the first two years, the Commission estimates that approximately 20 requests for classification decisions will be filed each year, for an annual burden of 200 hours.

Send comments regarding this collection of information, including suggestions for reducing the burden to both, Penny Coleman, National Indian Gaming Commission, 1441 L Street NW, Suite 9100, Washington, DC 20005; and to the Office of Information and Regulatory Affairs, Office of Management and Budget, Washington, DC 20503. The Office of Management and Budget (OMB) has up to 60 days to approve or disapprove the information collection, but may respond after 30 days; therefore public comments should be submitted to OMB within 30 days in order to assure their maximum consideration.

The Commission solicits public comment as to:

a. Whether the collection of information is necessary for the proper performance of the functions of the Commission, and whether the information will have practical utility;

b. The accuracy of the Commission's estimate of the burden of the collection of information, including the validity of the methodology and assumptions used;

c. The quality, utility, and clarity of the information to be collected; and

d. How to minimize the burden of the collection of information on those who are to respond, including the use of appropriate automated electronic, mechanical, or other forms of information technology.

An agency may not conduct, and a person is not required to, respond to a collection of information unless it displays a currently valid OMB control number.

National Environmental Policy Act

The Commission has determined that this proposed rule does not constitute a major Federal action significantly affecting the quality of the human environment and that no detailed statement is required pursuant to the National Environmental Policy Act of 1969.

Montie R. Deer,

Chairman, National Indian Gaming Commission.

List of Subjects in 25 CFR Part 504

Gambling, Indians-lands, Reporting and recordkeeping requirement.

For the reasons stated in the preamble, the National Indian Gaming Commission proposes to amend 25 CFR by adding a new Part 504 as follows:

PART 504—CLASSIFICATION OF GAMES

Sec.

504.1 What does this part cover?
504.2 What is a classification decision and who may apply for it?
504.3 Why must a tribe apply for or sponsor the application for a classification decision?
504.4 Can a tribe rely on a decision issued to another tribe?