



May 16, 2013

Elizabeth M. Murphy, Secretary,
Securities and Exchange Commission,
100 F Street NE., Washington, DC
20549-1090.

Re: Regulation Systems Compliance and Integrity
Proposed rule and form; proposed rule amendment.
Release No. 34-69077; File No. S7-01-13
RIN 3235-AL43

We have reviewed the proposed amendments to 17 CFR Parts 242 and 249 and are concerned that they do not conform to the Federal Plain Language Guidelines (www.plainlanguage.gov/howto/guidelines/reader-friendly.cfm). This is contrary to Executive Order 13563, Improving Regulations and Regulatory Review (January 18, 2011), which states that "our regulatory system ... must ensure that regulations are accessible, consistent, **written in plain language**, and easy to understand." We have attached our comments on the proposed amendment.

The Federal Plain Language Guidelines were developed by the Plain Language Action and Information Network. PLAIN is the official interagency working group supporting the implementation of the Plain Writing Act of 2010 (Public Law 111-274). While the Act does not itself apply to the wording of federal regulations, OMB's guidance on implementing the Act specifically notes that E.O. 13563 requires that regulations be "written in plain language."

Our principal concern with the proposed regulations is the burden that the SEC is placing on readers with long sections, long sentences, and extensive use of legalese. Although SEC regulations are necessarily complicated, simpler wording following plain language guidelines would make the regulations easier to read and follow--without sacrificing precision. To illustrate this, we have attached several examples from the proposed regulations, with possible plain-language substitutes.

The Center for Plain Language is a 501(c)(3) organization dedicated to clearer communication from government to citizens. Our Regulatory Review Committee is composed of former federal rulemaking officials with extensive experience in drafting and reviewing federal regulations in plain language. As former Assistant Chief Counsel for Regulations for the FAA, I can assure you that

writing regulations that conform to plain language guidelines benefits both agencies and their regulated community.

If you wish to discuss our comments or would like more information on the Federal Plain Language Guidelines, please feel free to contact our committee at the email address below.

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Center for Plain Language
Comments on Readability of Proposed Amendments to
17 CFR Parts 242 and 249
Regulation Systems Compliance and Integrity
Release No. 34-69077; File No. S7-01-13

Executive Order 13563, Improving Regulations and Regulatory Review (January 18, 2011), requires that regulations be written in plain language. In several significant respects the language of the proposed amendments and forms does not conform to the Federal Plain Language Guidelines (www.plainlanguage.gov/howto/guidelines/reader-friendly.cfm). If you follow the guidelines, your proposed regulations will be easier for readers to absorb and implement. Here are some examples of possible plain-language revisions:

Keep sections and paragraphs short; use pronouns to speak directly to the reader

The plain language guidelines recommend writing short paragraphs, and in the case of regulations, short sections. Long sections discourage your readers from trying to understand your material. Short sections are easier to read, understand, and absorb.

Section 242.1000, for example, takes up nine and a half columns in the Federal Register.

You could turn paragraph (a) *Definitions* into a separate section. [We recommend that you add a definition of "you" and "we," and use these pronouns throughout the regulations. ("You means an SCI entity." "We means the SEC.")]

You could divide paragraph (b) into much smaller sections with informative headings like:

What must my policies and procedures be designed to ensure?

What must my policies and procedures include?

When will we consider your policies and procedures to be reasonably designed?

When must my personnel begin to take appropriate action in response to an SCI event?

Question headings, like the ones we have used here, are the most useful type of headings. Most people come to government documents with questions. Question headings help readers find the information they are looking for quickly. The question-and-answer format helps your reader scan the document and find specific information.

An example of a revised section

Here's how you could rewrite another section of the proposed amendment to conform to plain language guidelines. Below the rewrite we discuss a few of the guidelines we've followed.

Original proposed language	Possible plain language version
<p>(c) Recordkeeping Requirements Related to Compliance with Regulation SCI. *****</p> <p>(2) An SCI entity that is not an SCI SRO shall:</p> <p>(i) Make, keep, and preserve at least one copy of all documents, including correspondence, memoranda, papers, books, notices, accounts, and other such records, relating to its compliance with Regulation SCI, including, but not limited to, records relating to any changes to its SCI systems and SCI security systems;</p> <p>(ii) Keep all such documents for a period of not less than five years, the first two years in a place that is readily accessible to the Commission or its representatives for inspection and examination; and</p> <p>(iii) Upon request of any representative of the Commission, promptly furnish to the possession of such representative copies of any documents required to be kept and preserved by it pursuant to paragraphs (c)(2)(i) and (c)(2)(ii) of this section.</p> <p>(3) Upon or immediately prior to ceasing to do business or ceasing to be registered under the Securities Exchange Act of 1934, an SCI entity shall take all necessary action to ensure that the records required to be made, kept, and preserved by this section shall be accessible to the Commission and its representatives in the manner required by this section and for the remainder of the period required by this section.</p>	<p>*****</p> <p>(2) All SCI entities, except SCI SROs, must:</p> <p>(i) Preserve at least one copy of all documents relating to your compliance with Regulation SCI, including records relating to any changes to your SCI systems and SCI security systems. The documents that you must keep include correspondence, memoranda, papers, books, notices, accounts, and similar records.</p> <p>(ii) Keep all these documents for not less than five years, the first two years in a place that is readily accessible to the us or our representatives for examination; and</p> <p>(iii) On request of any Commission representative, promptly furnish copies of any documents that you are required to preserve under paragraphs (c)(2)(i) and (c)(2)(ii) of this section.</p> <p>(3) On or immediately prior to ceasing to do business or be registered under the Securities Exchange Act of 1934, you must ensure that these preserved are accessible to the us and our representatives in the manner required by this section and for the rest of the required period.</p>

Avoid unnecessary legalese

Such

"Such" as a demonstrative pronoun is classic legalese and it's off-putting for the lay reader. Use *this, that, these, or those* or simply *the*.

Use "must" for requirements

Legal writing experts strongly recommend against using "shall." They point to a long history of court cases giving "shall" different meanings and suggest that the term be abandoned. You can read what the experts say at

www.plainlanguage.gov/howto/wordsuggestions/shallmust.cfm.

Many agencies already use the word "must" to convey obligations. The US Courts are eliminating "shall" in favor of "must" in their Rules of Procedure.

Doublets and triplets

Legal writing experts caution against using doublets and triplets without a good reason. If one word encompasses another, they advise using the broader word. If the words are synonyms, pick one. Courts try to interpret to every word. Why risk a court finding a meaning you didn't intend?

make, keep, and preserve	What does "make" add since you don't seem to require the SCI entity to make any specific documents. You seem to require the entity to simply "keep and preserve" any documents it makes. "Preserve" includes "keep."
inspection and examination	What does "inspection" add to "examination" (and vice versa)? Pick one.

Omit unnecessary words

Removing unnecessary words has a cumulative impact on readability, helping to diminish the numbing effect of complex material. Readers resent having to read requirements. Making them shorter and easier to read improves the chances of them being absorbed and followed.

For a period of not less than five years	For at least five years
Any representative of the Commission	Any Commission representative
To the possession of such representative	Is it really necessary to state this when you say "furnish?"
Or immediately prior to ceasing to business	What does "immediately" add if you aren't

	defining "immediately?" And "before" instead of "prior to" is plainer language.
Take all necessary action to	What does this add to "ensure?"

Use short, simple words

As with omitting unnecessary words, the cumulative effect of using shorter, simpler words is to make the regulation easier on the reader.

Upon	On
Prior to	Before
Pursuant to	Under
The remainder of	The rest of