

## §515.21

## 46 CFR Ch. IV (10–1–06 Edition)

(b) *Operation after death of sole proprietor.* In the event the owner of a licensed sole proprietorship dies, the licensee's executor, administrator, heir(s), or assign(s) may continue operation of such proprietorship solely with respect to shipments for which the deceased sole proprietor had undertaken to act as an ocean transportation intermediary pursuant to the existing license, if the death is reported within 30 days to the Commission and to all principals and shippers for whom services on such shipments are to be rendered. The acceptance or solicitation of any other shipments is expressly prohibited until a new license has been issued. Applications for a new license by the executor, administrator, heir(s), or assign(s) shall be made on Form FMC-18 Rev., and shall be accompanied by the transfer fee required under §515.5(b)(2).

(c) *Operation after retirement, resignation, or death of qualifying individual.* When a partnership or corporation has been licensed on the basis of the qualifications of one or more of the partners or officers thereof, and such qualifying individual(s) no longer serve in a full-time, active capacity with the firm, the licensee shall report such change to the Commission within 30 days. Within the same 30-day period, the licensee shall furnish to the Commission the name(s) and detailed intermediary experience of any other active managing partner(s) or officer(s) who may qualify the licensee. Such qualifying individual(s) must meet the applicable requirements set forth in §515.11(a). The licensee may continue to operate as an ocean transportation intermediary while the Commission investigates the qualifications of the newly designated partner or officer.

(d) *Incorporation of branch office.* In the event a licensee's validly operating branch office becomes incorporated as a separate entity, the licensee may continue to operate such office pending receipt of a separate license, provided that:

(1) The separately incorporated entity applies to the Commission for its own license within ten (10) days after incorporation, and

(2) While the application is pending, the continued operation of the office is

carried on as a *bona fide* branch office of the licensee, under its full control and responsibility, and not as an operation of the separately incorporated entity.

(e) Acquisition of one or more additional licensees. In the event a licensee acquires one or more additional licensees, for the purpose of merger, consolidation, or control, the acquiring licensee shall advise the Commission of such change within 30 days after such change occurs by submitting in duplicate, an amended Form FMC-18, Rev. No application fee is required when reporting this change.

[64 FR 11171, Mar. 8, 1999, as amended at 67 FR 39860, June 11, 2002]

### Subpart C—Financial Responsibility Requirements; Claims Against Ocean Transportation Intermediaries

#### §515.21 Financial responsibility requirements.

(a) *Form and amount.* Except as otherwise provided in this part, no person may operate as an ocean transportation intermediary unless that person furnishes a bond, proof of insurance, or other surety in a form and amount determined by the Commission to insure financial responsibility. The bond, insurance or other surety covers the transportation-related activities of an ocean transportation intermediary only when acting as an ocean transportation intermediary.

(1) Any person operating in the United States as an ocean freight forwarder as defined by §515.2(o)(1) shall furnish evidence of financial responsibility in the amount of \$50,000.

(2) Any person operating in the United States as an NVOCC as defined by §515.2(o)(2) shall furnish evidence of financial responsibility in the amount of \$75,000.

(3) Any unlicensed foreign-based entity, not operating in the United States as defined in §515.3, providing ocean transportation intermediary services for transportation to or from the United States, shall furnish evidence of financial responsibility in the amount of \$150,000. Such foreign entity will be held strictly responsible hereunder for

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the acts or omissions of its agent in the United States.

(4) The amount of the financial responsibility required to be furnished by any entity pursuant to paragraphs (a)(1) or (a)(2) of this section shall be increased by \$10,000 for each of the applicant's unincorporated branch offices.

(b) *Group financial responsibility.* Where a group or association of ocean transportation intermediaries accepts liability for an ocean transportation intermediary's financial responsibility for such ocean transportation intermediary's transportation-related activities under the Act, the group or association of ocean transportation intermediaries must file either a group supplemental coverage bond form, insurance form or guaranty form, clearly identifying each ocean transportation intermediary covered, before a covered ocean transportation intermediary may provide ocean transportation intermediary services. In such cases a group or association must establish financial responsibility in an amount equal to the lesser of the amount required by paragraph (a) of this section for each member or \$3,000,000 in aggregate. A group or association of ocean transportation intermediaries may also file an optional bond rider as provided for by § 515.25(c).

(c) *Common trade name.* Where more than one person operates under a common trade name, separate proof of financial responsibility is required covering each corporation or person separately providing ocean transportation intermediary services.

(d) *Federal military and civilian household goods.* Any person which exclusively transports used household goods and personal effects for the account of the Department of Defense, or for the account of the federal civilian executive agencies shipping under the International Household Goods Program administered by the General Services Administration, or both, is not subject to the requirements of subpart C of this part, but may be subject to other requirements, such as alternative surety bonding, imposed by the Department of

Defense, or the General Services Administration.

[64 FR 11171, Mar. 8, 1999, as amended at 69 FR 17945, Apr. 6, 2004]

### § 515.22 Proof of financial responsibility.

Prior to the date it commences furnishing ocean transportation intermediary services, every ocean transportation intermediary shall establish its financial responsibility for the purpose of this part by one of the following methods:

(a) Surety bond, by filing with the Commission a valid bond on Form FMC-48. Bonds must be issued by a surety company found acceptable by the Secretary of the Treasury;

(b) Insurance, by filing with the Commission evidence of insurance on Form FMC-67. The insurance must provide coverage for damages, reparations or penalties arising from any transportation-related activities under the Act of the insured ocean transportation intermediary. This evidence of financial responsibility shall be accompanied by: in the case of a financial rating, the Insurer's financial rating on the rating organization's letterhead or designated form; in the case of insurance provided by Underwriters at Lloyd's, documentation verifying membership in Lloyd's; and in the case of insurance provided by surplus lines insurers, documentation verifying inclusion on a current "white list" issued by the Non-Admitted Insurers' Information Office of the National Association of Insurance Commissioners. The Insurer must certify that it has sufficient and acceptable assets located in the United States to cover all damages arising from the transportation-related activities of the insured ocean transportation intermediary as specified under the Act. The insurance must be placed with:

(1) An Insurer having a financial rating of Class V or higher under the Financial Size Categories of A.M. Best & Company, or equivalent from an acceptable international rating organization;

(2) Underwriters at Lloyd's; or

(3) Surplus lines insurers named on a current "white list" issued by the Non-Admitted Insurers' Information Office