

net capital would be less than 200 percent of the minimum dollar amount required by paragraph (a)(1)(ii) of this section or

(B) Pre-tax losses during the latest three-month period equalled more than 15% of current excess net capital.

Any subordination agreement entered into pursuant to this paragraph (c)(5)(ii) shall be subject to all the other provisions of this Appendix D. Any such subordination agreement shall not be considered equity for purposes of subsection (d) of section 15c3-1, despite the length of the initial term of the loan.

(6)(i) *Filing.* Two copies of any proposed subordination agreement (including nonconforming subordination agreements) shall be filed at least 10 days prior to the proposed execution date of the agreement with the Commission's Regional or District Office for the region or district in which the broker or dealer maintains its principal place of business or at such other time as the Regional or District Office for good cause shall accept such filing. Copies of the proposed agreement shall also be filed with the Examining Authority in such quantities and at such time as the Examining Authority may require. The broker or dealer shall also file with said parties a statement setting forth the name and address of the lender, the business relationship of the lender to the broker or dealer, and whether the broker or dealer carried funds or securities for the lender at or about the time the proposed agreement was so filed. All agreements shall be examined by the Commission's Regional or District Office or the Examining Authority with whom such agreement is required to be filed prior to their becoming effective. No proposed agreement shall be a satisfactory subordination agreement for the purposes of this section unless and until the Examining Authority has found the agreement acceptable and such agreement has become effective in the form found acceptable.

(ii) The broker or dealer need not file with the Regional or District Office for the region or district in which the broker or dealer maintains its principal place of business (if a Regional or District Office is not its Examining Au-

thority) copies of any proposed subordination agreement or the statement described above if the Examining Authority for that broker or dealer has consented to file with the Commission periodic reports (not less than monthly) summarizing for the period, on a firm-by-firm basis, the subordination agreements it has approved for that period. Such reports should include at the minimum, the amount of the loan and its duration, the name of the lender and the business relationship of the lender to the broker or dealer.

(7) *Subordination Agreements in Effect Prior to Adoption.* Any subordination agreement which has been entered into prior to December 20, 1978 and which has been deemed to be satisfactorily subordinated pursuant to 17 CFR 240.15c3-1 as in effect prior to December 20, 1978, shall continue to be deemed a satisfactory subordination agreement until the maturity of such agreement. *Provided,* That no renewal of an agreement which provides for automatic or optional renewal by the broker or dealer or lender shall be deemed to be a satisfactory subordination agreement unless such renewed agreement meets the requirements of this Appendix within 6 months from December 20, 1978. *Provided, further,* That all subordination agreements must meet the requirements of this Appendix within 5 years of December 20, 1978.

(Secs. 15(c)(3), 17(a) and 23(a), 15 U.S.C. 78o(c)(3), 78q(a), and 78w(a))

[40 FR 29808, July 16, 1975, as amended at 42 FR 31778, June 23, 1977; 44 FR 34887, June 15, 1979; 46 FR 35635, July 10, 1981; 47 FR 21775, May 20, 1982; 49 FR 31848, Aug. 9, 1984; 57 FR 56988, Dec. 2, 1992; 58 FR 37657, July 13, 1993; 59 FR 5945, Feb. 9, 1994]

§ 240.15c3-1e Temporary Minimum Requirements (Appendix E to 17 CFR 240.15c3-1e).

Brokers or Dealers That Carry Customer Accounts Aggregate Indebtedness Standard

(a) A broker or dealer that falls within the provisions of paragraph (a)(2)(i) of § 240.15c3-1 and computes its required net capital under § 240.15c3-1(a)(1)(i) shall maintain net capital not less than the greater of the amount computed under the paragraph (a)(1)(i) or:

§ 240.15c3-1f

17 CFR Ch. II (4-1-01 Edition)

- (1) \$25,000 until June 30, 1993;
- (2) \$100,000 on July 1, 1993, until December 31, 1993;
- (3) \$175,000 on January 1, 1994, until June 30, 1994; and
- (4) \$250,000 on July 1, 1994.

Brokers or Dealers That Elect the Alternative Standard

- (b) A broker or dealer that elects the provisions of § 240.15c3-1(a)(1)(ii) shall maintain net capital of not less than the greater of the amount computed under the paragraph (a)(1)(ii) or:
- (1) \$100,000 until June 30, 1993;
 - (2) \$150,000 on July 1, 1993, until December 31, 1993;
 - (3) \$200,000 on January 1, 1994, until June 30, 1994; and
 - (4) \$250,000 on July 1, 1994.

Broker or Dealers That are Exempt From Securities Exchange Act Rule 15c3-3 Under Paragraph (k)(2)(i) and Dealers

- (c) A broker or dealer that falls within the provisions of § 240.15c3-1(a)(2) (ii) or (iii) and computes its required net capital under § 240.15c3-1(a)(1)(i) shall maintain net capital not less than the greater of the same computed under § 240.15c3-1(a)(1)(i) or:
- (1) \$25,000 until June 30, 1993;
 - (2) \$50,000 on July 1, 1993, until December 31, 1993;
 - (3) \$75,000 on January 1, 1994, until June 30, 1994; and
 - (4) \$100,000 on July 1, 1994.

Brokers or Dealers That Introduce Customer Accounts and Receive Securities

- (d) An introducing broker that falls within the provisions of § 240.15c3-1(a)(2)(iv) and computes its required net capital under § 240.15c3-1(a)(1)(i) shall maintain net capital of not less than the greater of the amount computed under § 240.15c3-1(a)(1)(i) or:
- (1) \$5,000 until June 30, 1993;
 - (2) \$20,000 on July 1, 1993, until December 31, 1993;
 - (3) \$35,000 on January 1, 1994, until June 30, 1994; and
 - (4) \$50,000 on July 1, 1994.

Brokers or Dealers Engaged in the Sale of Redeemable Shares of Registered Investment Companies and Certain Other Share Accounts

- (e) A broker or dealer that falls within the provisions of § 240.15c3-1(a)(2)(v) and computes its required net capital under § 240.15c3-1(a)(1)(i) shall maintain net capital of not less than the greater of the amount computed under § 240.15c3-1(a)(1)(i) or:
- (1) \$2,500 until June 30, 1993;
 - (2) \$10,000 on July 1, 1993, until December 31, 1993;
 - (3) \$17,500 on January 1, 1994, until June 30, 1994; and
 - (4) \$25,000 on July 1, 1994.

Other Brokers or Dealers

- (f) A broker or dealer that falls within the provisions of § 240.15c3-1(a)(2)(vi), computes its required net capital under § 240.15c3-1(a)(1)(i) and is not otherwise subject to a \$5,000 minimum net capital requirement shall maintain net capital of not less than the greater of the amount computed under § 240.15c3-1(a)(1)(i) or:
- (1) \$2,500 until June 30, 1993;
 - (2) \$3,300 on July 1, 1993, until December 31, 1993;
 - (3) \$4,100 on January 1, 1994, until June 30, 1994; and
 - (4) \$5,000 on July 1, 1994.

[57 FR 56990, Dec. 2, 1992]

§ 240.15c3-1f Optional market and credit risk requirements for OTC derivatives dealers (Appendix F to 17 CFR 240.15c3-1).

Application Requirements

- (a) An OTC derivatives dealer may apply to the Commission for authorization to compute capital charges for market and credit risk pursuant to this Appendix F in lieu of computing securities haircuts pursuant to § 240.15c3-1(c)(2)(vi).
- (1) An OTC derivatives dealer's application shall contain the following information:
- (i) *Executive summary.* An OTC derivatives dealer shall include in its application an Executive Summary of information provided to the Commission.