

§ 240.15c3-3a

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

shall contain a summary of the justification for the granting of the extension.

(Secs. 15(c)(2), 15(c)(3), 17(a), 23(a), 48 Stat. 895, 897, 901, secs. 3, 4, 8, 49 Stat. 1377, 1379, secs. 2, 5, 52 Stat. 1075, 1076, sec. 7(d), 84 Stat. 1653; 15 U.S.C. 78o(c), 78q(a), 78w(a); sec. 6(c), 84 Stat. 1652; 15 U.S.C. 78fff)

[37 FR 25226, Nov. 29, 1972; 38 FR 6277, Mar. 8, 1973, as amended at 42 FR 23790, May 10, 1977; 44 FR 1975, Jan. 9, 1979; 45 FR 37688, June 4, 1980; 47 FR 21775, May 20, 1982; 47 FR 23920, June 2, 1982; 50 FR 41340, Oct. 10, 1985; 52 FR 30333, Aug. 14, 1987; 63 FR 59400, Nov. 3, 1998]

**§ 240.15c3-3a Exhibit A—formula for determination reserve requirement of brokers and dealers under § 240.15c3-3.**

	Credits	Debits
1. Free credit balances and other credit balances in customers' security accounts. (See Note A.)	\$XXX	.....
2. Monies borrowed collateralized by securities carried for the accounts of customers (See Note B.)	XXX	.....
3. Monies payable against customers' securities loaned (See Note C.)	XXX	.....
4. Customers' securities failed to receive (See Note D.)	XXX	.....
5. Credit balances in firm accounts which are attributable to principal sales to customers	XXX	.....
6. Market value of stock dividends, stock splits and similar distributions receivable outstanding over 30 calendar days	XXX	.....
7. Market value of short security count differences over 30 calendar days old	XXX	.....
8. Market value of short securities and credits (not to be offset by longs or by debits) in all suspense accounts over 30 calendar days	XXX	.....
9. Market value of securities which are in transfer in excess of 40 calendar days and have not been confirmed to be in transfer by the transfer agent or the issuer during the 40 days	.....	XXX
10. Debit balances in customers' cash and margin accounts excluding unsecured accounts and accounts doubtful of collection. (See Note E.)	.....	XXX
11. Securities borrowed to effectuate short sales by customers and securities borrowed to make delivery on customers' securities failed to deliver	.....	XXX
12. Failed to deliver of customers' securities not older than 30 calendar days	.....	XXX
13. Margin required and on deposit with the Options Clearing Corp. for all option contracts written or purchased in customer accounts. (See Note F.)	.....	XXX
Total credits	.....	.....
Total debits	.....	.....

	Credits	Debits
14. Excess of total credits (sum of items 1-9) over total debits (sum of items 10-13) required to be on deposit in the "Reserve Bank Account" (§240.15c3-3(e)). If the computation is made monthly as permitted by this section, the deposit shall be not less than 105 percent of the excess of total credits over total debits	.....	XXX

NOTE A. Item 1 shall include all outstanding drafts payable to customers which have been applied against free credit balances or other credit balances and shall also include checks drawn in excess of bank balances per the records of the broker or dealer.

NOTE B. Item 2 shall include the amount of Letters of Credit obtained by a member of Options Clearing Corporation which are collateralized by customers' securities, to the extent of the member's margin requirement at Options Clearing Corp.

NOTE C. Item 3 shall include in addition to monies payable against customer's securities loaned the amount by which the market value of securities loaned exceeds the collateral value received from the lending of such securities.

NOTE D. Item 4 shall include in addition to customers' securities failed to receive the amount by which the market value of securities failed to receive and outstanding more than thirty (30) calendar days exceeds their contract value.

NOTE E. (1) Debit balances in margin accounts shall be reduced by the amount by which a specific security (other than an exempted security) which is collateral for margin accounts exceeds in aggregate value 15 percent of the aggregate value of all securities which collateralize all margin accounts receivable; provided, however, the required reduction shall not be in excess of the amount of the debit balance required to be excluded because of this concentration rule. A specified security is deemed to be collateral for a margin account only to the extent it represents in value not more than 140 percent of the customer debit balance in a margin account.

(2) Debit balances in special omnibus accounts, maintained in compliance with the requirements of section 4(b) of Regulation T under the Act (12 CFR 220.4(b) or similar accounts carried on behalf of another broker or dealer, shall be reduced by any deficits in such accounts (or if a credit, such credit shall be increased) less any calls for margin, marks to the market, or other required deposits which are outstanding 5 business days or less.

(3) Debit balances in customers' cash and margin accounts included in the formula under item 10 shall be reduced by an amount equal to 1 percent of their aggregate value.

(4) Debit balances in cash and margin accounts of household members and other persons related to principals of a broker or dealer and debit balances in cash and margin accounts of affiliated persons of a broker or dealer shall be excluded from the Reserve Formula, unless the broker or dealer can demonstrate that such debit balances are directly related to credit items in the formula.

(5) Debit balances in margin accounts (other than omnibus accounts) shall be reduced by the amount by which any single customer's debit balance exceeds 25% (to the extent such amount is greater than \$50,000) of the broker-dealer's tentative net capital (i.e., net capital prior to securities haircuts) unless the broker or dealer can demonstrate that the debit balance is directly related to credit items in the Reserve Formula. Related accounts (e.g., the separate accounts of an individual, accounts under common control or subject to cross guarantees) shall be deemed to be a single customer's accounts for purposes of this provision.

If the registered national securities exchange or the registered national securities association having responsibility for examining the broker or dealer ("designated examining authority") is satisfied, after taking into account the circumstances of the concentrated account including the quality, diversity, and marketability of the collateral securing the debit balances or margin accounts subject to this provision, that the concentration of debit balances is appropriate, then such designated examining authority may grant a partial or plenary exception from this provision.

The debit balance may be included in the reserve formula computation for five business days from the day the request is made.

(6) Debit balances of joint accounts, custodian accounts, participations in hedge funds or limited partnerships or similar type accounts or arrangements of a person who would be excluded from the definition of customer ("non-customer") which persons includible in the definition of customer shall be included in the Reserve Formula in the following manner: if the percentage ownership of the non-customer is less than 5 percent then the entire debit balance shall be included in the formula; if such percentage ownership is between 5 percent and 50 percent then the portion of the debit balance attributable to the non-customer shall be excluded from the formula unless the broker or dealer can demonstrate that the debit balance is directly related to credit items in the formula; if such percentage ownership is greater than 50 percent, then the entire debit balance shall be excluded from the formula unless the broker or dealer can demonstrate that the debit balance is directly related to credit items in the formula.

NOTE: F. Item 13 shall include the amount of margin required and on deposit with Options Clearing Corporation to the extent such margin is represented by cash, proprietary qualified securities, and letters of credit collateralized by customers' securities.

[42 FR 27224, May 27, 1977, as amended at 50 FR 41340, Oct. 10, 1985; 52 FR 30334, Aug. 14, 1987]

**§ 240.15c3-4 Internal risk management control systems for OTC derivatives dealers.**

(a) An OTC derivatives dealer shall establish, document, and maintain a system of internal risk management controls to assist it in managing the risks associated with its business activities, including market, credit, leverage, liquidity, legal, and operational risks.

(b) An OTC derivatives dealer shall consider the following when adopting its internal control system guidelines, policies, and procedures:

- (1) The ownership and governance structure of the OTC derivatives dealer;
- (2) The composition of the governing body of the OTC derivatives dealer;
- (3) The management philosophy of the OTC derivatives dealer;
- (4) The scope and nature of established risk management guidelines;
- (5) The scope and nature of the permissible OTC derivatives activities;
- (6) The sophistication and experience of relevant trading, risk management, and internal audit personnel;
- (7) The sophistication and functionality of information and reporting systems; and
- (8) The scope and frequency of monitoring, reporting, and auditing activities.

(c) An OTC derivatives dealer's internal risk management control system shall include the following elements:

- (1) A risk control unit that reports directly to senior management and is

independent from business trading units;

(2) Separation of duties between personnel responsible for entering into a transaction and those responsible for recording the transaction in the books and records of the OTC derivatives dealer;

(3) Periodic reviews (which may be performed by internal audit staff) and annual reviews (which must be conducted by independent certified public accountants) of the OTC derivatives dealer's risk management systems;

(4) Definitions of risk, risk monitoring, and risk management; and

(5) Written guidelines, approved by the OTC derivatives dealer's governing body, that include and discuss the following:

- (i) The OTC derivatives dealer's consideration of the elements in paragraph (b) of this section;
- (ii) The scope, and the procedures for determining the scope, of authorized activities or any nonquantitative limitation on the scope of authorized activities;
- (iii) Quantitative guidelines for managing the OTC derivatives dealer's overall risk exposure;

(iv) The type, scope, and frequency of reporting by management on risk exposures;

(v) The procedures for and the timing of the governing body's periodic review of the risk monitoring and risk management written guidelines, systems, and processes;

(vi) The process for monitoring risk independent of the business or trading units whose activities create the risks being monitored;

(vii) The performance of the risk management function by persons independent from or senior to the business or trading units whose activities create the risks;

(viii) The authority and resources of the groups or persons performing the risk monitoring and risk management functions;

(ix) The appropriate response by management when internal risk management guidelines have been exceeded;

(x) The appropriate response by management when internal risk management guidelines have been exceeded;