are insured by the Federal Deposit Insurance Corporation, in which case reports may be made on the form required by the institution's appropriate regulatory agency for reports to the Federal Bureau of Investigation.

(d) *Required inquiries.* (1) Every reporting institution (except a reporting institution that, acting in its capacity as transfer agent, paying agent, exchange agent or tender agent for an equity issue, or registrar for a bond or other debt issue, compares all transactions against a shareholder or bondholder list and a current list of stop transfers) shall inquire of the Commission or its designee with respect to every securities certificate which comes into its possession or keeping, whether by pledge, transfer or otherwise, to ascertain whether such securities certificate has been reported as missing, lost, counterfeit or stolen, unless:

(i) The securities certificate is received directly from the issuer or issuing agent at issuance;

(ii) The securities certificate is received from another reporting institution or from a Federal Reserve Bank or Branch;

(iii) The securities certificate is received from a customer of the reporting institution; and

(A) Is registered in the name of such customer or its nominee; or

(B) Was previously sold to such customer, as verified by the internal records of the reporting institution;

(iv) The securities certificate is received as part of a transaction which has an aggregate face value of $10,000 or less in the case of bonds, or market value of $10,000 or less in the case of stocks; or

(v) The securities certificate is received directly from a drop which is affiliated with a reporting institution for the purposes of receiving or delivering certificates on behalf of the reporting institution.

(2) *Form of inquiry.* Inquiries shall be made in such manner as prescribed by the Commission or its designee.

(e) *Permissive reports and inquiries.* Every reporting insitution may report to or inquire of the Commission or its designee with respect to any securities certificate not otherwise required by this section to be the subject of a report or inquiry. The Commission on written request or upon its own motion may permit reports to and inquiries of the system by any other person or entity upon such terms and conditions as it deems appropriate and necessary in the public interest and for the protection of investors.

(f) *Exemptions.* The following types of securities are not subject to paragraphs (c) and (d) of this section:

(1) Security issues not assigned CUSIP numbers;

(2) Bond coupons;

(3) Uncertificated securities;

(4) Global securities issues; and

(5) Any securities issue for which neither record nor beneficial owners can obtain a negotiable securities certificates.

(g) *Recordkeeping.* Every reporting institution shall maintain and preserve in an easily accessible place for three years copies of all Forms X–17F–1A filed pursuant to this section, all agreements between reporting institutions regarding registration or other aspects of this section, and all confirmations or other information received from the Commission or its designee as a result of inquiry.

(Secs. 2, 17, and 23, 15 U.S.C. 78b, 78q, 78w)

[44 FR 31503, May 31, 1979; 45 FR 14022, Mar. 3, 1980, as amended at 53 FR 37289, Sept. 26, 1988; 53 FR 40721, Oct. 18, 1988]

§ 240.17f–2 Fingerprinting of securities industry personnel.

(a) *Exemptions for the fingerprinting requirement.* Except as otherwise provided in paragraph (a)(1) or (2) of this section, every member of a national securities exchange, broker, dealer, registered transfer agent and registered clearing agency shall require that each of its partners, directors, officers and employees be fingerprinted and shall submit, or cause to be submitted, the fingerprints of such persons to the Attorney General of the United States or its designee for identification and appropriate processing.

(1) *Permissive exemptions.* Every member of a national securities exchange, broker, dealer, registered transfer agent and registered clearing agency may claim one or more of the exemptions in paragraph (a)(1) (i), (ii), (iii) or

(iv) of this section; *Provided,* That all the requirements of paragraph (e) of this section are also satisfied.

(i) *Member of a national securities exchange, broker, dealer or registered clearing agency.* Every person who is a partner, director, officer or employee of a member of a national securities exchange, broker, dealer, or registered clearing agency shall be exempt if that person:

(A) Is not engaged in the sale of securities;

(B) Does not regularly have access to the keeping, handling or processing of *(1)* securities, *(2)* monies, or *(3)* the original books and records relating to the securities or the monies; and

(C) Does not have direct supervisory responsibility over persons engaged in the activities referred to in paragraphs (a)(1)(i) (A) and (B) of this section.

(ii) *Registered transfer agents.* Every person who is a partner, director, officer or employee of a registered transfer agent shall be exempt if that person:

(A) Is not engaged in transfer agent functions (as defined in section 3(a)(25) of the Securities Exchange Act of 1934) or activities incidental thereto; or

(B) Meets the conditions in paragraphs (a)(1)(i) (B) and (C) of this section.

(iii) *Registered broker-dealers engaged in sales of certain securities.* Every partner, director, officer and employee of a registered broker or dealer who satisfies paragraph (a)(1)(i)(B) of this section shall be exempt if that broker or dealer:

(A) Is engaged exclusively in the sale of shares of registered open-end management investment companies, variable contracts, or interests in limited partnerships, unit investment trusts or real estate investment trusts; *Provided,* That those securities ordinarily are not evidenced by certificates;

(B) Is current in its continuing obligation under §§ 240.15b1–1 and 15b3–1(b) to update Item 10 of Form BD to disclose the existence of any statutory disqualification set forth in sections 3(a)(39), 15(b)(4) and 15(b)(6) of the Securities Exchange Act of 1934;

(C) Has insurance or bonding indemnifying it for losses to customers caused by the fraudulent or criminal acts of any of its partners, directors, officers or employees for whom an exemption is being claimed under paragraph (a)(1)(iii) of this section; and

(D) Is subject to the jurisdiction of a state insurance department with respect to its sale of variable contracts.

(iv) *Illegible fingerprint cards.* Every person who is a partner, director, officer or employee shall be exempt if that member of a national securities exchange, broker, dealer, registered transfer agent or registered clearing agency, on at least three occasions:

(A) Attempts in good faith to obtain from such person a complete set of fingerprints acceptable to the Attorney General or its designee for identification and appropriate processing by requiring that person to be fingerprinted, by having that person's fingerprints rolled by a person competent to do so and by submitting the fingerprint cards for that person to the Attorney General of the United States or its designee in accordance with proper procedures;

(B) Has that person's fingerprint cards returned to it by the Attorney General of the United States or its designee without that person's fingerprints having been identified because the fingerprints were illegible; and

(C) Retains the returned fingerprint cards and any other required records in accordance with paragraph (d) of this section and §§ 240.17a–3(a)(13), 17a–4(e)(2) and 240.17Ad–7(e)(1) under the Securities Exchange Act of 1934.

(2) *Other exemptions by application to the Commission.* The Commission, upon specified terms, conditions and periods, may grant exemptions to any class of partners, directors, officers or employees of any member of a national securities exchange, broker, dealer, registered transfer agent or registered clearing agency, if the Commission finds that such action is not inconsistent with the public interest or the protection of investors.

(b) *Fingerprinting pursuant to other law.* Every member of a national securities exchange, broker, dealer, registered transfer agent and registered clearing agency may satisfy the fingerprinting requirement of section 17(f)(2) of the Securities Exchange Act of 1934 as to any partner, director, officer or employee, if:

(1) The person, in connection with his or her present employment with such organization, has been fingerprinted pursuant to any other law, statute, rule or regulation of any state or federal government or agency thereof;

(2) The fingerprint cards for that person are submitted, or are caused to be submitted, to the Attorney General of the United States or its designee for identification and appropriate processing, and the Attorney General or its designee has processed those fingerprint cards; and

(3) The processed fingerprint cards or any substitute records, together with any information received from the Attorney General or its designee, are maintained in accordance with paragraph (d) of this section.

(c) *Fingerprinting plans of self-regulatory organizations.* The fingerprinting requirement of section 17(f)(2) of the Securities Exchange Act of 1934 may be satisfied by submitting appropriate and complete fingerprint cards to a registered national securities exchange or to a registered national securities association which, pursuant to a plan filed with, and declared effective by, the Commission, forwards such fingerprint cards to the Attorney General of the United States or its designee for identification and appropriate processing. Any plan filed by a registered national securities exchange or a registered national securities association shall not become effective, unless declared effective by the Commission as not inconsistent with the public interest or the protection of investors; and, in declaring any such plan effective, the Commission may impose any terms and conditions relating to the provisions of the plan and the period of its effectiveness as it may deem necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Securities Exchange Act of 1934.

(d) *Record maintenance*—(1) *Maintenance of processed fingerprint cards and other related information.* Every member of a national securities exchange, broker, dealer, registered transfer agent and registered clearing agency shall maintain the processed fingerprint card or any substitute record when such card is not returned after processing, together with any information received from the Attorney General or its designee, for every person required to be fingerprinted under section 17(f)(2) of the Securities Exchange Act of 1934 and for persons who have complied with this section pursuant to paragraph (b) or (c) of this section. Every substitute record shall state the name of the person whose fingerprint card was submitted to the Attorney General of the United States, the name of the member of a national securities exchange, broker, dealer, registered transfer agent or registered clearing agency that submitted the fingerprint card, the name of the person or organization that rolled the fingerprints, the date on which the fingerprints were rolled, and the date the fingerprint card was submitted to the Attorney General of the United States. The processed fingerprint card and every other substitute record containing the information required by this paragraph, together with any information received from the Attorney General of the United States, shall be kept in an easily accessible place at the organization's principal office and shall be made available upon request to the Commission, the appropriate regulatory agency (if not the Commission) or other designated examining authority. The organization's principal office must provide to the regional, branch or satellite office actually employing the person written evidence that the person's fingerprints have been processed by the FBI, and must provide to that office a copy of any criminal history record information received from the FBI. All fingerprint cards, records and information required to be maintained under this paragraph shall be retained for a period of not less than three years after termination of that person's employment or relationship with the organization.

(2) *Record maintenance by designated examining authorities.* The records required to be maintained and preserved by a member of a national securities exchange, broker, or dealer pursuant to the requirements of paragraph (d)(1) of this section may be maintained and preserved on behalf of that member, broker, or dealer by a self-regulatory

organization that is also the designated examining authority for that member, broker or dealer, *Provided* That the self-regulatory organization has filed in accordance with §240.17f–2(c) a fingerprinting plan or amendments to an existing plan concerning the storage and maintenance of records and that plan, as amended, has been declared effective by the Commission, and *Provided Further* That:

(i) Such records are subject at any time, or from time to time, to reasonable periodic, special or other examinations by representatives of the Commission; and

(ii) The self-regulatory organization furnishes to the Commission, upon demand, at either the principal office or at the regional office complete, correct and current hard copies of any and all such records.

(3) *Reproduction of records on microfilm.* The records required to be maintained pursuant to paragraph (d)(1) of this section may be produced or reproduced on microfilm and preserved in that form. If such microfilm substitution for hard copy is made by a member of a national securities exchange, broker, dealer, registered transfer agent or registered clearing agency, or by a self-regulatory organization maintaining and storing records pursuant to paragraph (d)(2) of this section, it shall at all times:

(i) Have available for examination by the Commission, the appropriate regulatory agency (if not the Commission) or other designated examining authority, facilities for the immediate, easily readable projection of the microfilm and for the production of easily readable and legible facsimile enlargements;

(ii) File and index the films in such a manner as to permit the immediate location and retrieval of any particular record;

(iii) Be ready to provide, and immediately provide, any facsimile enlargement which the Commission, the appropriate regulatory agency (if not the Commission) or other designated examining authority by their examiners or other representatives may request; and

(iv) For the period for which the microfilm records are required to be maintained, store separately from the original microfilm records a copy of the microfilm records.

(e) *Notice requirement.* Every member of a national securities exchange, broker, dealer, registered transfer agent and registered clearing agency that claims one or more of the exemptions in paragraph (a)(1) of this section shall make and keep current a statement entitled ''Notice Pursuant to Rule 17f–2'' containing the information specified in paragraph (e)(1) of this section.

(1) *Contents of statement.* The Notice required by paragraph (e) of this section shall:

(i) State the name of the organization and state whether it is a member of a national securities exchange, broker, dealer, registered transfer agent, or registered clearing agency;

(ii) Identify by division, department, class, or name and position within the organization all persons who are claimed to have satisfied the fingerprinting requirement of section 17(f)(2) of the Securities Exchange Act of 1934 pursuant to paragraph (b) of this section;

(iii) Identify by division, department, class, title or position within the organization all persons claimed to be exempt under paragraphs (a)(1)(i) through (iii) of this section, and identify by name all persons claimed to be exempt under paragraph (a)(1)(iv). Persons identified under this paragraph (e)(1)(iii) shall be exempt from the requirement of section 17(f)(2) of the Securities Exchange Act of 1934 unless notified to the contrary by the Commission;

(iv) Describe, in generic terms, the nature of the duties of the person or classes of persons, and the nature of the functions and operations of the divisions and departments, identified as exempt in paragraph (e)(1)(iii) of this section; and

(v) Describe the security measures utilized to ensure that only those persons who have been fingerprinted in accordance with the fingerprinting requirement of section 17(f)(2) of the Securities Exchange Act of 1934 or who are exempt under paragraph (a)(1)(iv)

of this section have access to the keeping, handling or processing of securities or monies or the original books and records relating thereto.

(2) *Record maintenance.* A copy of the Notice required to be made and kept current under paragraph (e) of this section shall be kept in an easily accessible place at the organization's principal office and at the office employing the persons for whom exemptions are claimed and shall be made available upon request for inspection by the Commission, appropriate regulatory agency (if not the Commission) or other designated examining authority.

(3) *Exemption from the notice requirement.* A registered transfer agent that performs transfer agent functions only on behalf of itself as an issuer and that receives fewer than 500 items for transfer and fewer than 500 items for processing during any six consecutive months shall be exempt from the notice requirement of paragraph (c) of this section.

[47 FR 54060, Dec. 1, 1982]

§ 240.17h–1T Risk assessment recordkeeping requirements for associated persons of brokers and dealers.

(a) *Requirement to maintain and preserve information.* (1) Every broker or dealer registered with the Commission pursuant to section 15 of the Act, and every municipal securities dealer registered pursuant to Section 15B of the Act for which the Commission is the appropriate regulatory agency, unless exempt pursuant to paragraph (d) of this section, shall maintain and preserve the following information:

(i) An organizational chart which includes the broker or dealer and all its associated persons. Included in the organizational chart shall be a designation of which associated persons are Material Associated Persons as that term is used in paragraph (a)(2) of this section;

(ii) Written policies, procedures, or systems concerning the broker or dealer's:

(A) Method(s) for monitoring and controlling financial and operational risks to it resulting from the activities of any of its associated persons, other than a natural person;

(B) Financing and capital adequacy, including information regarding sources of funding, together with a narrative discussion by management of the liquidity of the material assets, the structure of debt capital, and sources of alternative funding; and

(C) Trading positions and risks, such as records regarding reporting responsibilities for trading activities, policies relating to restrictions or limitations on trading securities and financial instruments or products, and a description of the types of reviews conducted to monitor existing positions, and limitations or restrictions on trading activities.

(iii) A description of all material pending legal or arbitration proceedings involving a Material Associated Person or the broker or dealer that are required to be disclosed by the ultimate holding company under generally accepted accounting principles on a consolidated basis;

(iv) Consolidated and consolidating balance sheets, prepared in accordance with generally accepted accounting principles, which may be unaudited and which shall include the notes to the financial statements, as of quarter end for the broker or dealer and its ultimate holding company;

(v) Quarterly consolidated and consolidating income statements and consolidated cash flow statements, prepared in accordance with generally accepted accounting principles, which may be unaudited and which shall include the notes to the financial statements, for the broker or dealer and its ultimate holding company;

(vi) The amount as of quarter end, and at month end if greater than quarter end, of the aggregate long and short securities and commodities positions held by each Material Associated Person, including a separate listing of each single unhedged securities or commodities position, other than U.S. government or agency securities, that exceeds the Materiality Threshold at any month end;

(vii) The notional or contractual amounts, and in the case of options, the value of the underlying instruments, as of quarter end, of financial instruments with off-balance sheet risk