

Securities and Exchange Commission

§ 240.17a-6

Act of 1940, or (2) a sponsor or depositor of such a registered investment company who effects transactions in securities only with, or on behalf of, such registered investment company, the Commission will accept the financial statements filed pursuant to section 13 or 15(d) of the Securities Exchange Act of 1934 or section 30 of the Investment Company Act of 1940 and the rules and regulations promulgated thereunder as a filing pursuant to paragraph (d) of this section. Such a filing shall be deemed to satisfy the requirements of this section for any calendar year in which such financial statements are filed, provided that the statements so filed meet the requirements of the other rules under which they are filed with respect to time of filing and content.

(1) *Extensions and exemptions.* (1) A broker's or dealer's designated examining authority may extend the period under paragraph (d) of this section for filing annual audit reports. The designated examining authority for the broker or dealer shall maintain, in the manner prescribed in §240.17a-1, a record of each extension granted.

(2) Any "bank" as defined in section 3(a)(6) of the Act (48 Stat. 882; 15 U.S.C. 78c) and any "insurance company" as defined in section 3(a)(19) of the Act (78 Stat. 565; 15 U.S.C. 78c) registered as a broker or dealer to sell variable contracts but exempt from §240.15c3-1 shall be exempt from the provisions of this section.

(3) On written request of any national securities exchange, registered national securities association, broker or dealer, or on its own motion, the Commission may grant an extension of time or an exemption from any of the requirements of this section either unconditionally or on specified terms and conditions.

(4) The provisions of §240.17a-5 shall not apply to a broker or dealer registered pursuant to section 15(b)(11)(A) of the Act (15 U.S.C. 78o(b)(11)(A)) that is not a member of either a national securities exchange pursuant to section 6(a) of the Act (15 U.S.C. 78f(a)) or a national securities association registered pursuant to section 15A(a) of the Act (15 U.S.C. 78o-3(a)).

(m) *Notification of change of fiscal year.* (1) In the event any broker or dealer finds it necessary to change its fiscal year, it must file, with the Commission's principal office in Washington, DC, the regional or district office of the Commission for the region or district in which the broker or dealer has its principal place of business and the principal office of the designated examining authority for such broker or dealer, a notice of such change.

(2) Such notice shall contain a detailed explanation of the reasons for the change. Any change in the filing period for the audit report must be approved by the designated examining authority pursuant to paragraph (d)(1)(i) of this section.

(n) *Filing requirements.* For purposes of filing requirements as described in §240.17a-5, such filing shall be deemed to have been accomplished upon receipt at the Commission's principal office in Washington, DC, with duplicate originals simultaneously filed at the locations prescribed in the particular paragraph of §240.17a-5 which is applicable.

(o) *Compliance with §240.17a-12.* An OTC derivatives dealer may comply with §240.17a-5 by complying with the provisions of §240.17a-12.

CROSS REFERENCE: For interpretative release applicable to §240.17a-5, see No. 51 in tabulation, part 211 of this chapter.

[40 FR 59713, Dec. 30, 1975, as amended at 41 FR 5275, Feb. 5, 1976; 41 FR 12638, Mar. 26, 1976; 42 FR 23787, May 10, 1977; 44 FR 1975, Jan. 9, 1979; 45 FR 39842, June 12, 1980; 46 FR 13206, Feb. 20, 1981; 46 FR 35635, July 10, 1981; 57 FR 45294, Oct. 1, 1992; 58 FR 37657, July 13, 1993; 58 FR 45839, 45840, Aug. 31, 1993; 59 FR 5945, Feb. 9, 1994; 63 FR 37673, July 13, 1998; 63 FR 59213, 59401, Nov. 3, 1998; 67 FR 58300, Sept. 13, 2002]

§ 240.17a-6 Right of national securities exchange, national securities association, registered clearing agency or the Municipal Securities Rule-making Board to destroy or dispose of documents.

(a) Any document kept by or on file with a national securities exchange,

national securities association, registered clearing agency or the Municipal Securities Rulemaking Board pursuant to the Act or any rule or regulation thereunder may be destroyed or otherwise disposed of by such exchange, association, clearing agency or the Municipal Securities Rulemaking Board at the end of five years or at such earlier date as is specified in a plan for the destruction or disposition of any such documents if such plan has been filed with the Commission by such exchange, association, clearing agency or the Municipal Securities Rulemaking Board and has been declared effective by the Commission.

(b) Such plan may provide that any such document may be transferred to microfilm or other recording medium after such time as specified in the plan and thereafter be maintained and preserved in that form. If a national securities exchange, association, clearing agency or the Municipal Securities Rulemaking Board uses microfilm or other recording medium it shall:

(1) Be ready at all times to provide, and immediately provide, easily readable projection of the microfilm or other recording medium and easily readable hard copy thereof;

(2) Provide indexes permitting the immediate location of any such document on the microfilm or other recording medium; and

(3) In the case of microfilm, store a duplicate copy of the microfilm separately from the original microfilm for the time required.

(c) For the purposes of this rule a plan filed with the Commission by a national securities exchange, association, clearing agency or the Municipal Securities Rulemaking Board shall not become effective unless the Commission, having due regard for the public interest and for the protection of investors, declares the plan to be effective. The Commission in its declaration may limit the applications, reports, and documents as to which it shall apply, and may impose any other terms and conditions to the plan and to the period of its effectiveness which it deems necessary or appropriate in the public interest or for the protection of investors.

[45 FR 79426, Dec. 1, 1980]

§ 240.17a-7 Records of non-resident brokers and dealers.

(a)(1) Except as provided in paragraphs (b) and (c) of this section, each non-resident broker or dealer registered or applying for registration pursuant to section 15 of the Securities Exchange Act of 1934, as amended, shall keep, maintain, and preserve, at a place within the United States designated in a notice from him as provided in paragraph (a)(2) of this section, true, correct, complete and current copies of the books and records which he is required to make, keep current, maintain or preserve pursuant to any provision of any rule or regulation of the Commission adopted under the act.

(2) Except as provided in paragraph (b) of this section, each non-resident broker or dealer subject to this section shall furnish to the Commission a written notice specifying the address of the place within the United States where the copies of the books and records required to be kept and preserved by him pursuant to paragraph (a)(1) of this section are located. Each non-resident broker or dealer registered or applying for registration when this section becomes effective shall file such notice within 30 days after such rule becomes effective. Each non-resident broker or dealer who files an application for registration after this section becomes effective shall file such notice with such application for registration.

(b) Notwithstanding the provisions of paragraph (a) of this section, a non-resident broker or dealer subject to this section need not keep or preserve within the United States copies of the books and records referred to in said paragraph (a) of this section, if:

(1) Such broker or dealer files with the Commission, at the time or within the period provided by paragraph (a)(2) of this section, a written undertaking in form acceptable to the Commission and signed by a person thereunto duly authorized, to furnish to the Commission, upon demand, at its principal office in Washington, DC, or at any Regional or District Office of the Commission designated in such demand, true, correct, complete and current copies of any or all of the books and records which he is required to make,