

Securities and Exchange Commission

§ 240.3a43-1

§ 240.3a40-1 Designation of financial responsibility rules.

The term *financial responsibility rules* for purposes of the Securities Investor Protection Act of 1970 shall include:

(a) Any rule adopted by the Commission pursuant to sections 8, 15(c)(3), 17(a) or 17(e)(1)(A) of the Securities Exchange Act of 1934;

(b) Any rule adopted by the Commission relating to hypothecation or lending of customer securities;

(c) Any rule adopted by any self-regulatory organization relating to capital, margin, recordkeeping, hypothecation or lending requirements; and

(d) Any other rule adopted by the Commission or any self-regulatory organization relating to the protection of funds or securities.

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

[44 FR 28318, May 15, 1979]

§ 240.3a43-1 Customer-related government securities activities incidental to the futures-related business of a futures commission merchant registered with the Commodity Futures Trading Commission.

(a) A futures commission merchant registered with the Commodity Futures Trading Commission ("CFTC") is not a government securities broker or government securities dealer solely because such futures commission merchant effects transactions in government securities that are defined in paragraph (b) of this section as incidental to such person's futures-related business.

(b) Provided that the futures commission merchant maintains in a regulated account all funds and securities associated with such government securities transactions (except funds and securities associated with transactions under paragraph (b)(1)(i) of this section and does not advertise that it is in the business of effecting transactions in government securities otherwise than in connection with futures or options on futures trading or the investment of margin or excess funds related to such trading or the trading of any other instrument subject to CFTC jurisdiction, the following transactions in government securities are incidental to the

futures-related business of such a futures commission merchant:

(1) Transactions as agent for a customer—

(i) To effect delivery pursuant to a futures contract; or

(ii) For risk reduction or arbitrage of existing or contemporaneously created positions in futures or options on futures;

(2) Transactions as agent for a customer for investment of margin and excess funds related to futures or options on futures trading or the trading of other instruments subject to CFTC jurisdiction, provided further that,

(i) Such transactions involve Treasury securities with a maturity of less than 93 days at the time of the transaction.

(ii) Such transactions generate no monetary profit for the futures commission merchant in excess of the costs of executing such transactions, or

(iii) Such transactions are unsolicited, and commissions and other income generated on transactions pursuant to this paragraph (b)(2)(iii) (including transactional fees paid by the futures commission merchant and charged to its customer) do not exceed 2% of such futures commission merchant's total commission revenues;

(3) Exchange of futures for physicals transactions as agent for or as principal with a customer; and

(4) Any transaction or transactions that the Commission exempts, either unconditionally or on specified terms and conditions, as incidental to the futures-related business of a specified futures commission merchant, a specified category of futures commission merchants, or futures commission merchants generally.

(c) Definitions. (1) *Customer* means any person for whom the futures commission merchant effects or intends to effect transactions in futures, options on futures, or any other instruments subject to CFTC jurisdiction.

(2) *Regulated account* means a customer segregation account subject to the regulations of the CFTC; provided, however, that, where such regulations do not permit to be maintained in such an account or require to be maintained in a separate regulated account funds or securities in proprietary accounts or