(v) Financial relations between a security futures intermediary and, or arranged by a security futures intermediary for, a person relating to trading in security futures by such person for its own account, if such person:

(A) Is a member of a national securities exchange or national securities association registered pursuant to section 15A(a) of the Act (15 U.S.C. 78o–3(a)); and

(B) Is registered with such exchange or such association as a security futures dealer pursuant to rules that are effective in accordance with section 19(b)(2) of the Act (15 U.S.C. 78s(b)(2)) and, as applicable, section 5c(c) of the CEA (7 U.S.C. 7a–2(c)), that:

(*1*) Require such member to be registered as a floor trader or a floor broker with the CFTC under Section 4f(a)(1) of the CEA (7 U.S.C. 6f(a)(1)), or as a dealer with the Commission under section 15(b) of the Act (15 U.S.C. 78o(b));

(*2*) Require such member to maintain records sufficient to prove compliance with this paragraph (c)(2)(v) and the rules of the exchange or association of which it is a member;

(*3*) Require such member to hold itself out as being willing to buy and sell security futures for its own account on a regular or continuous basis; and

(*4*) Provide for disciplinary action, including revocation of such member's registration as a security futures dealer, for such member's failure to comply with this Regulation (§§ 242.400 through 242.406) or the rules of the exchange or association.

(d) *Exemption*. The Commission may exempt, either unconditionally or on specified terms and conditions, financial relations involving any security futures intermediary, customer, position, or transaction, or any class of security futures intermediaries, customers, positions, or transactions, from one or more requirements of this Regulation (§§ 242.400 through 242.406), if the Commission determines that such exemption is necessary or appropriate in the public interest and consistent with the protection of investors. An exemption granted pursuant to this paragraph shall not operate as an exemption from any CFTC rules. Any exemption that may be required from such rules must be obtained separately from the CFTC.

§ 242.401 Definitions.

(a) For purposes of this Regulation (§§ 242.400 through 242.406) only, the following terms shall have the meanings set forth in this section.

(1) *Applicable margin rules* and *margin rules applicable to an account* mean the rules and regulations applicable to financial relations between a security futures intermediary and a customer with respect to security futures and related positions carried in a securities account or futures account as provided in § 242.402(a) of this Regulation (§§ 242.400 through 242.406).

(2) *Broker* shall have the meaning provided in section 3(a)(4) of the Act (15 U.S.C. 78c(a)(4)).

(3) *Contract multiplier* means the number of units of a narrow-based security index expressed as a dollar amount, in accordance with the terms of the security future contract.

(4) *Current market value* means, on any day:

(i) With respect to a security future:

(A) If the instrument underlying such security future is a stock, theproduct of the daily settlement price of such security future as shown by any regularly published reporting or quotation service, and the applicable number of shares per contract; or

(B) If the instrument underlying such security future is a narrow-based security index, as defined in section 3(a)(55)(B) of the Act (15 U.S.C. 78c(a)(55)(B)), the product of the daily settlement price of such security future as shown by any regularly published reporting or quotation service, and the applicable contract multiplier.

(ii) With respect to a security other than a security future, the most recent closing sale price of the security, as shown by any regularly published reporting or quotation service. If there is no recent closing sale price, the security futures intermediary may use any reasonable estimate of the market value of the security as of the most recent close of business.

(5) *Customer* excludes an exempted person and includes:

(i) Any person or persons acting jointly:

(A) On whose behalf a security futures intermediary effects a security futures transaction or carries a security futures position; or

(B) Who would be considered a customer of the security futures intermediary according to the ordinary usage of the trade;

(ii) Any partner in a security futures intermediary that is organized as a partnership who would be considered a customer of the security futures intermediary absent the partnership relationship; and

(iii) Any joint venture in which a security futures intermediary participates and which would be considered a customer of the security futures intermediary if the security futures intermediary were not a participant.

(6) *Daily settlement price* means, with respect to a security future, the settlement price of such security future determined at the close of trading each day, under the rules of the applicable exchange, clearing agency, or derivatives clearing organization.

(7) *Dealer* shall have the meaning provided in section 3(a)(5) of the Act (15 U.S.C. 78c(a)(5)).

(8) *Equity* means the equity or margin equity in a securities or futures account, as computed in accordance with the margin rules applicable to the account and subject to adjustment under § 242.404(c), (d) and (e) of this Regulation (§§ 242.400 through 242.406).

(9) *Exempted person* means:

(i) A member of a national securities exchange, a registered broker or dealer, or a registered futures commission merchant, a substantial portion of whose business consists of transactions in securities, commodity futures, or commodity options with persons other than brokers, dealers, futures commission merchants, floor brokers, or floor traders, and includes a person who:

(A) Maintains at least 1000 active accounts on an annual basis for persons other than brokers, dealers, persons associated with a broker or dealer, futures commission merchants, floor brokers, floor traders, and persons affiliated with a futures commission merchant, floor broker, or floor trader that are effecting transactions in securities, commodity futures, or commodity options;

(B) Earns at least $10 million in gross revenues on an annual basis from transactions in securities, commodity futures, or commodity options with persons other than brokers, dealers, persons associated with a broker or dealer, futures commission merchants, floor brokers, floor traders, and persons affiliated with a futures commission merchant, floor broker, or floor trader; or

(C) Earns at least 10 percent of its gross revenues on an annual basis from transactions in securities, commodity futures, or commodity options with persons other than brokers, dealers, persons associated with a broker or dealer, futures commission merchants, floor brokers, floor traders, and persons affiliated with a futures commission merchant, floor broker, or floor trader.

(ii) For purposes of paragraph (a)(9)(i) of this section only, persons affiliated with a futures commission merchant, floor broker, or floor trader means any partner, officer, director, or branch manager of such futures commission merchant, floor broker, or floor trader (or any person occupying a similar status or performing similar functions), any person directly or indirectly controlling, controlled by, or under common control with such futures commission merchant, floor broker, or floor trader, or any employee of such a futures commission merchant, floor broker, or floor trader.

(iii) A member of a national securities exchange, a registered broker or dealer, or a registered futures commission merchant that has been in existence for less than one year may meet the definition of exempted person based on a six-month period.

(10) *Exempted security* shall have the meaning provided in section 3(a)(12) of the Act (15 U.S.C. 78c(a)(12)).

(11) *Floor broker* shall have the meaning provided in Section 1a(16) of the CEA (7 U.S.C. 1a(16)).

(12) *Floor trader* shall have the meaning provided in Section 1a(17) of the CEA (7 U.S.C. 1a(17)).

(13) *Futures account* shall have the meaning provided in § 240.15c3–3(a) of this chapter.

(14) *Futures commission merchant* shall have the meaning provided in Section 1a of the CEA (7 U.S.C. 1a).

(15) *Good faith*, with respect to making a determination or accepting a statement concerning financial relations with a person, means that the security futures intermediary is alert to the circumstances surrounding such financial relations, and if in possession of information that would cause a prudent person not to make the determination or accept the notice or certification without inquiry, investigates and is satisfied that it is correct.

(16) *Listed option* means a put or call option that is:

(i) Issued by a clearing agency that is registered under section 17A of the Act (15 U.S.C. 17q–1) or cleared and guaranteed by a derivatives clearing organization that is registered under Section 5b of the CEA (7 U.S.C. 7a–1); and

(ii) Traded on or subject to the rules of a self-regulatory authority.

(17) *Margin call* means a demand by a security futures intermediary to a customer for a deposit of cash, securities or other assets to satisfy the required margin for security futures or related positions or a special margin requirement.

(18) *Margin deficiency* means the amount by which the required margin in an account is not satisfied by the equity in the account, as computed in accordance with § 242.404 of this Regulation (§§ 242.400 through 242.406).

(19) *Margin equity security* shall have the meaning provided in Regulation T.

(20) *Margin security* shall have the meaning provided in Regulation T.

(21) *Member* shall have the meaning provided in section 3(a)(3) of the Act (15 U.S.C. 78c(a)(3)), and shall include persons registered under section 15(b)(11) of the Act (15 U.S.C. 78*o*(b)(11)) that are permitted to effect transactions on a national securities exchange without the services of another person acting as executing broker.

(22) *Money market mutual fund* means any security issued by an investment company registered under section 8 of the Investment Company Act of 1940 (15 U.S.C. 80a–8) that is considered a money market fund under § 270.2a–7 of this chapter.

(23) *Persons associated with a broker or dealer* shall have the meaning provided in section 3(a)(18) of the Act (15 U.S.C. 78c(a)(18)).

(24) *Regulation T* means Regulation T promulgated by the Board of Governors of the Federal Reserve System, 12 CFR part 220, as amended from time to time.

(25) *Regulation T collateral value*, with respect to a security, means the current market value of the security reduced by the percentage of required margin for a position in the security held in a margin account under Regulation T.

(26) *Related position*, with respect to a security future, means any position in an account that is combined with the security future to create an offsetting position as provided in § 242.403(b)(2) of this Regulation (§§ 242.400 through 242.406).

(27) *Related transaction*, with respect to a position or transaction in a security future, means:

(i) Any transaction that creates, eliminates, increases or reduces an offsetting position involving a security future and a related position, as provided in § 242.403(b)(2) of this Regulation (§§ 242.400 through 242.406); or

(ii) Any deposit or withdrawal of margin for the security future or a related position, except as provided in § 242.405(b) of this Regulation (§§ 242.400 through 242.406).

(28) *Securities account* shall have the meaning provided in § 240.15c3–3(a) of this chapter.

(29) *Security futures intermediary* means any creditor as defined in Regulation T with respect to its financial relations with any person involving security futures.

(30) *Self-regulatory authority* means a national securities exchange registered under section 6 of the Act (15 U.S.C. 78f), a national securities association registered under section 15A of the Act (15 U.S.C. 78o–3), a contract market registered under Section 5 of the CEA (7 U.S.C. 7) or Section 5f of the CEA (7 U.S.C. 7b–1), or a derivatives transaction execution facility registered under Section 5a of the CEA (7 U.S.C. 7a).

(31) *Special margin requirement* shall have the meaning provided in

§ 242.404(e)(1)(ii) of this Regulation (§§ 242.400 through 242.406).

(32) *Variation settlement* means any credit or debit to a customer account, made on a daily or intraday basis, for the purpose of marking to market a security future or any other contract that is:

(i) Issued by a clearing agency that is registered under section 17A of the Act (15 U.S.C. 78q–1) or cleared and guaranteed by a derivatives clearing organization that is registered under Section 5b of the CEA (7 U.S.C. 7a–1); and

(ii) Traded on or subject to the rules of a self-regulatory authority.

(b) Terms used in this Regulation (§§ 242.400 through 242.406) and not otherwise defined in this section shall have the meaning set forth in the margin rules applicable to the account.

(c) Terms used in this Regulation (§§ 242.400 through 242.406) and not otherwise defined in this section or in the margin rules applicable to the account shall have the meaning set forth in the Act and the CEA; if the definitions of a term in the Act and the CEA are inconsistent as applied in particular circumstances, such term shall have the meaning set forth in rules, regulations, or interpretations jointly promulgated by the Commission and the CFTC.

§ 242.402 General provisions.

(a) *Applicable margin rules.* Except to the extent inconsistent with this Regulation (§§ 242.400 through 242.406):

(1) A security futures intermediary that carries a security future on behalf of a customer in a securities account shall record and conduct all financial relations with respect to such security future and related positions in accordance with Regulation T and the margin rules of the self-regulatory authorities of which the security futures intermediary is a member.

(2) A security futures intermediary that carries a security future on behalf of a customer in a futures account shall record and conduct all financial relations with respect to such security future and related positions in accordance with the margin rules of the self-regulatory authorities of which the security futures intermediary is a member.

(b) *Separation and consolidation of accounts.*

(1) The requirements for security futures and related positions in one account may not be met by considering items in any other account, except as permitted or required under paragraph (b)(2) of this section or applicable margin rules. If withdrawals of cash, securities or other assets deposited as margin are permitted under this Regulation (§§ 242.400 through 242.406), bookkeeping entries shall be made when such cash, securities, or assets are used for purposes of meeting requirements in another account.

(2) Notwithstanding paragraph (b)(1) of this section, the security futures intermediary shall consider all futures accounts in which security futures and related positions are held that are within the same regulatory classification or account type and are owned by the same customer to be a single account for purposes of this Regulation (§§ 242.400 through 242.406). The security futures intermediary may combine such accounts with other futures accounts that are within the same regulatory classification or account type and are owned by the same customer for purposes of computing a customer's overall margin requirement, as permitted or required by applicable margin rules.

(c) *Accounts of partners.* If a partner of the security futures intermediary has an account with the security futures intermediary in which security futures or related positions are held, the security futures intermediary shall disregard the partner's financial relations with the firm (as shown in the partner's capital and ordinary drawing accounts) in calculating the margin or equity of any such account.

(d) *Contribution to joint venture.* If an account in which security futures or related positions are held is the account of a joint venture in which the security futures intermediary participates, any interest of the security futures intermediary in the joint account in excess of the interest which the security futures intermediary would have on the basis of its right to share in the profits shall be margined in accordance with this Regulation (§§ 242.400 through 242.406).