

(e) *Extensions of credit.* (1) No security futures intermediary may extend or maintain credit to or for any customer for the purpose of evading or circumventing any requirement under this Regulation (§§ 242.400 through 242.406).

(2) A security futures intermediary may arrange for the extension or maintenance of credit to or for any customer by any person, provided that the security futures intermediary does not willfully arrange credit that would constitute a violation of Regulation T, U or X of the Board of Governors of the Federal Reserve System (12 CFR parts 220, 221, and 224) by such person.

(f) *Change in exempted person status.* Once a person ceases to qualify as an exempted person, it shall notify the security futures intermediary of this fact before entering into any new security futures transaction or related transaction that would require additional margin to be deposited under this Regulation (§§ 242.400 through 242.406). Financial relations with respect to any such transactions shall be subject to the provisions of this Regulation (§§ 242.400 through 242.406).

§ 242.403 Required margin.

(a) *Applicability.* Each security futures intermediary shall determine the required margin for the security futures and related positions held on behalf of a customer in a securities account or futures account as set forth in this section.

(b) *Required margin.*—(1) *General rule.* The required margin for each long or short position in a security future shall be twenty (20) percent of the current market value of such security future.

(2) *Offsetting positions.* Notwithstanding the margin levels specified in paragraph (b)(1) of this section, a self-regulatory authority may set the required initial or maintenance margin level for an offsetting position involving security futures and related positions at a level lower than the level that would be required under paragraph (b)(1) of this section if such positions were margined separately, pursuant to rules that meet the criteria set forth in section 7(c)(2)(B) of the Act (15 U.S.C. 78g(c)(2)(B)) and are effective in accordance with section 19(b)(2) of the Act (15 U.S.C. 78s(b)(2)) and, as applica-

ble, Section 5c(c) of the CEA (7 U.S.C. 7a-2(c)).

(c) *Procedures for certain margin level adjustments.* An exchange registered under section 6(g) of the Act (15 U.S.C. 78f(g)), or a national securities association registered under section 15A(k) of the Act (15 U.S.C. 78o-3(k)), may raise or lower the required margin level for a security future to a level not lower than that specified in this section, in accordance with section 19(b)(7) of the Act (15 U.S.C. 78s(b)(7)).

§ 242.404 Type, form and use of margin.

(a) *When margin is required.* Margin is required to be deposited whenever the required margin for security futures and related positions in an account is not satisfied by the equity in the account, subject to adjustment under paragraph (c) of this section.

(b) *Acceptable margin deposits.* (1) The required margin may be satisfied by a deposit of cash, margin securities (subject to paragraph (b)(2) of this section), exempted securities, any other asset permitted under Regulation T to satisfy a margin deficiency in a securities margin account, or any combination thereof, each as valued in accordance with paragraph (c) of this section.

(2) Shares of a money market mutual fund may be accepted as a margin deposit for purposes of this Regulation (§§ 242.400 through 242.406), *provided that:*

(i) The customer waives any right to redeem the shares without the consent of the security futures intermediary and instructs the fund or its transfer agent accordingly;

(ii) The security futures intermediary (or clearing agency or derivatives clearing organization with which the shares are deposited as margin) obtains the right to redeem the shares in cash, promptly upon request; and

(iii) The fund agrees to satisfy any conditions necessary or appropriate to ensure that the shares may be redeemed in cash, promptly upon request.

(c) *Adjustments.*

(1) *Futures accounts.* For purposes of this section, the equity in a futures account shall be computed in accordance

§ 242.404

17 CFR Ch. II (4-1-03 Edition)

with the margin rules applicable to the account, subject to the following:

(i) A security future shall have no value;

(ii) Each net long or short position in a listed option on a contract for future delivery shall be valued in accordance with the margin rules applicable to the account;

(iii) Except as permitted in paragraph (e) of this section, each margin equity security shall be valued at an amount no greater than its Regulation T collateral value;

(iv) Each other security shall be valued at an amount no greater than its current market value reduced by the percentage specified for such security in § 240.15c3-1(c)(2)(vi) of this chapter;

(v) Freely convertible foreign currency may be valued at an amount no greater than its daily marked-to-market U.S. dollar equivalent;

(vi) Variation settlement receivable (or payable) by an account at the close of trading on any day shall be treated as a credit (or debit) to the account on that day; and

(vii) Each other acceptable margin deposit or component of equity shall be valued at an amount no greater than its value under Regulation T.

(2) *Securities accounts.* For purposes of this section, the equity in a securities account shall be computed in accordance with the margin rules applicable to the account, subject to the following:

(i) A security future shall have no value;

(ii) Freely convertible foreign currency may be valued at an amount no greater than its daily mark-to-market U.S. dollar equivalent; and

(iii) Variation settlement receivable (or payable) to an account at the close of trading on any day shall be treated as a credit (or debit) by the account on that day.

(d) *Satisfaction restriction.* Any transaction, position or deposit that is used to satisfy the required margin for security futures or related positions under this Regulation (§§ 242.400 through 242.406), including a related position, shall be unavailable to satisfy the required margin for any other position or transaction or any other requirement.

(e) *Alternative collateral valuation for margin equity securities in a futures account.*

(1) Notwithstanding paragraph (c)(1)(iii) of this section, a security futures intermediary need not value a margin equity security at its Regulation T collateral value when determining whether the required margin for the security futures and related positions in a futures account is satisfied, *provided that:*

(i) The margin equity security is valued at an amount no greater than the current market value of the security reduced by the lowest percentage level of margin required for a long position in the security held in a margin account under the rules of a national securities exchange registered pursuant to section 6(a) of the Act (15 U.S.C. 78f(a));

(ii) Additional margin is required to be deposited on any day when the day's security futures transactions and related transactions would create or increase a margin deficiency in the account if the margin equity securities were valued at their Regulation T collateral value, and shall be for the amount of the margin deficiency so created or increased (a "special margin requirement"); and

(iii) Cash, securities, or other assets deposited as margin for the positions in an account are not permitted to be withdrawn from the account at any time that:

(A) Additional cash, securities, or other assets are required to be deposited as margin under this section for a transaction in the account on the same or a previous day; or

(B) The withdrawal, together with other transactions, deposits, and withdrawals on the same day, would create or increase a margin deficiency if the margin equity securities were valued at their Regulation T collateral value.

(2) All security futures transactions and related transactions on any day shall be combined to determine the amount of a special margin requirement. Additional margin deposited to satisfy a special margin requirement shall be valued at an amount no greater than its Regulation T collateral value.

(3) If the alternative collateral valuation method set forth in paragraph (e) of this section is used with respect to an account in which security futures or related positions are carried:

(i) An account that is transferred from one security futures intermediary to another may be treated as if it had been maintained by the transferee from the date of its origin, if the transferee accepts, in good faith, a signed statement of the transferor (or, if that is not practicable, of the customer), that any margin call issued under this Regulation (§§ 242.400 through 242.406) has been satisfied; and

(ii) An account that is transferred from one customer to another as part of a transaction, not undertaken to avoid the requirements of this Regulation (§§ 242.400 through 242.406), may be treated as if it had been maintained for the transferee from the date of its origin, if the security futures intermediary accepts in good faith and keeps with the transferee account a signed statement of the transferor describing the circumstances for the transfer.

(f) *Guarantee of accounts.* No guarantee of a customer's account shall be given any effect for purposes of determining whether the required margin in an account is satisfied, except as permitted under applicable margin rules.

§ 242.405 Withdrawal of margin.

(a) *By the customer.* Except as otherwise provided in § 242.404(e)(1)(ii) of this Regulation (§§ 242.400 through 242.406), cash, securities, or other assets deposited as margin for positions in an account may be withdrawn, provided that the equity in the account after such withdrawal is sufficient to satisfy the required margin for the security futures and related positions in the account under this Regulation (§§ 242.400 through 242.406).

(b) *By the security futures intermediary.* Notwithstanding paragraph (a) of this section, the security futures intermediary, in its usual practice, may deduct the following items from an account in which security futures or related positions are held if they are considered in computing the balance of such account:

(1) Variation settlement payable, directly or indirectly, to a clearing agency that is registered under section 17A of the Act (15 U.S.C. 78q-1) or a derivatives clearing organization that is registered under section 5b of the CEA (7 U.S.C. 7a-1);

(2) Interest charged on credit maintained in the account;

(3) Communication or shipping charges with respect to transactions in the account;

(4) Payment of commissions, brokerage, taxes, storage and other charges lawfully accruing in connection with the positions and transactions in the account;

(5) Any service charges that the security futures intermediary may impose; or

(6) Any other withdrawals that are permitted from a securities margin account under Regulation T, to the extent permitted under applicable margin rules.

§ 242.406 Undermargined accounts.

(a) *Failure to satisfy margin call.* If any margin call required by this Regulation (§§ 242.400 through 242.406) is not met in full, the security futures intermediary shall take the deduction required with respect to an undermargined account in computing its net capital under Commission or CFTC rules.

(b) *Accounts that liquidate to a deficit.* If at any time there is a liquidating deficit in an account in which security futures are held, the security futures intermediary shall take steps to liquidate positions in the account promptly and in an orderly manner.

(c) *Liquidation of undermargined accounts not required.* Notwithstanding Section 402(a) of this Regulation (§§ 242.400 through 242.406), section 220.4(d) of Regulation T (12 CFR 220.4(d)) respecting liquidation of positions in lieu of deposit shall not apply with respect to security futures carried in a securities account.

REGULATION AC—ANALYST CERTIFICATION

SOURCE: 68 FR 9492, February 27, 2003, unless otherwise noted.