

(6) References to § 240.17a-3, relating to records, mean § 404.2 of this chapter.

(b) A government securities inter-dealer broker that is subject to the financial responsibility requirements of § 402.1(e) of this chapter shall comply with the requirements of § 240.17a-11 of this title (SEC Rule 17a-11), with the following modifications:

(1) References to “broker or dealer” include government securities inter-dealer brokers;

(2) References to § 240.15c3-1, relating to net capital, include the modifications contained in § 402.1(e) of this chapter.

(3) References to “net capital” mean net capital calculated as provided in § 402.1(e) of this chapter.

(4) References to § 240.17a-5, relating to reports and audit, mean § 405.2(b) of this chapter.

(5) References to § 240.17a-3, relating to records, mean § 404.2 of this chapter.

(c) A registered government securities broker or dealer that is also a futures commission merchant registered with the CFTC shall comply with the requirements of § 240.17a-11 of this title (SEC Rule 17a-11), with the following modifications:

(1) References to “broker or dealer” include government securities brokers and dealers.

(2) References to § 240.15c3-1, relating to net capital, mean either § 240.15c3-1 or § 1.17 of this title, depending on which computation results in the higher net capital requirement.

(3) References to “net capital” mean the higher of net capital calculated under § 240.15c3-1 or § 1.17 of this title.

(4) References to § 240.17a-5, relating to reports and audit, mean § 405.2(c) of this chapter.

(5) Section 240.17a-11(c) for the purposes of this section is modified to read as follows:

“(c) Every broker or dealer shall send notice promptly (but within 24 hours) after the occurrence of the events specified in paragraphs (c)(1), (c)(2), (c)(3), or (c)(4) of this section in accordance with paragraph (g) of this section.”

(6) A new paragraph 240.17a-11(c)(4) is added to read as follows:

“(4) If a computation made by a government securities broker or dealer that is not a registered broker or dealer

er but that is also a futures commission merchant registered with the Commodity Futures Trading Commission shows that:

“(i) The adjusted net capital of such entity is less than the greater of:

“(A) 150 percent of the appropriate minimum dollar amount required by § 1.17(a)(1)(i), or

“(B) 6 percent of the following amount: The customer funds required to be segregated pursuant to § 4d(2) of the Commodity Exchange Act and § 1.17 of this title, less the market value of commodity options purchased by option customers on or subject to the rules of a contract market, provided, however, the deduction for each option customer shall be limited to the amount of customer funds in such option customer’s account; or

“(ii) At any point during the month, aggregate indebtedness is in excess of 1200 percent of net capital or total net capital is less than 120 percent of the minimum net capital required.”

(7) References to § 240.17a-3, relating to records, mean § 404.2 of this chapter.

(Approved by the Office of Management and Budget under control number 1535-0089)

[52 FR 27954, July 24, 1987, as amended at 59 FR 53731, Oct. 26, 1994; 59 FR 55910, Nov. 9, 1994; 60 FR 18734, Apr. 13, 1995]

§ 405.4 Financial recordkeeping and reporting of currency and foreign transactions by registered government securities brokers and dealers.

Every registered government securities broker or dealer who is subject to the requirements of the Currency and Foreign Transactions Reporting Act of 1970 shall comply with the reporting, recordkeeping and record retention requirements of 31 CFR part 103. Where 31 CFR part 103 and § 404.3 of this chapter require the same records to be preserved for different periods of time, such records or reports shall be preserved for the longer period of time.

§ 405.5 Risk assessment reporting requirements for registered government securities brokers and dealers.

(a) Every registered government securities broker or dealer shall comply with the requirements of § 240.17h-2T of

§ 405.5

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

this title (SEC Rule 17h-2T), with the following modifications:

(1) For the purposes of this section, references to “broker or dealer” and “broker or dealer registered with the Commission pursuant to Section 15 of the Act” mean registered government securities brokers or dealers.

(2) For the purposes of this section, references to §§ 240.17h-1T and 240.17h-2T of this title mean those sections as modified by §§ 404.2(b) and 405.5, respectively.

(3) For the purposes of this section, “associated person” has the meaning set out in Section 3(a)(18) of the Act (15 U.S.C. 78c(a)(18)), except that natural persons are excluded.

(4) Paragraph 240.17h-2T(b) of this title is modified to read as follows:

“(b) *Exemptions.* (1) The provisions of this section shall not apply to any registered government securities broker or dealer:

“(i) Which is exempt from the provisions of § 240.15c3-3 of this title, as made applicable by § 403.4, pursuant to paragraph (k)(2) of § 240.15c3-3 of this title; or

“(ii) If the registered government securities broker or dealer does not qualify for exemption from the provisions of § 240.15c3-3 of this title, as made applicable by § 403.4, and such registered government securities broker or dealer does not hold funds or securities for, or owe money or securities to, customers and does not carry the accounts of, or for, customers; unless

“(iii) In the case of paragraphs (b)(1) (i) or (ii) of this section, the registered government securities broker or dealer maintains capital of at least \$20,000,000, including debt subordinated in accordance with Appendix D of § 240.15c3-1 of this title, as modified by Appendix D of § 402.2.

“(2) The provisions of this section shall not apply to any registered government securities broker or dealer which maintains capital of less than \$250,000, including debt subordinated in accordance with Appendix D of § 240.15c3-1 of this title, as modified by Appendix D of § 402.2, even if the registered government securities broker or dealer holds funds or securities for, or owes money or securities to, cus-

tomers or carries the accounts of, or for, customers.

“(3) The provisions of this section shall not apply to any registered government securities broker or dealer which has an associated person that is a registered broker or dealer, provided that:

“(i) The registered broker or dealer is subject to, and in compliance with, the provisions of § 240.17h-1T and § 240.17h-2T of this title, and

“(ii) All of the Material Associated Persons of the registered government securities broker or dealer are Material Associated Persons of the registered broker or dealer subject to § 240.17h-1T and § 240.17h-2T of this title.

“(4) In calculating capital for the purposes of this paragraph, a registered government securities broker or dealer shall include with its equity capital and subordinated debt the equity capital and subordinated debt of any other registered government securities brokers or dealers or registered brokers or dealers that are associated persons of such registered government securities broker or dealer, except that the equity capital and subordinated debt of registered brokers and dealers that are exempt from the provisions of § 240.15c3-3 of this title, pursuant to paragraph (k)(1) of § 240.15c3-3, shall not be included in the capital computation.

“(5) The Secretary may, upon written application by a Reporting Registered Government Securities Broker or Dealer, exempt from the provisions of this section, either unconditionally or on specified terms and conditions, any registered government securities brokers or dealers that are associated persons of such Reporting Registered Government Securities Broker or Dealer. The term “Reporting Registered Government Securities Broker or Dealer” shall mean any registered government securities broker or dealer that submits such application to the Secretary on behalf of its associated registered government securities brokers or dealers.”

(5) Paragraph 240.17h-2T(c) of this title is modified to read as follows:

“(c) *Special provisions with respect to Material Associated Persons subject to the supervision of certain domestic regulators.*

Department of the Treasury

§ 420.1

A registered government securities broker or dealer shall be deemed to be in compliance with the reporting requirements of paragraph (a) of this section with respect to a Material Associated Person if such registered government securities broker or dealer files Items 1, 2, and 3 (in Part I) of Form 17-H in accordance with paragraph (a) of this section, provided that:

“(1) Such Material Associated Person is subject to examination by or the reporting requirements of a Federal banking agency and the registered government securities broker or dealer or such Material Associated Person furnishes in accordance with paragraph (a) of this section copies of reports filed by the Material Associated Person with the Federal banking agency pursuant to section 5211 of the Revised Statutes, section 9 of the Federal Reserve Act, section 7(a) of the Federal Deposit Insurance Act, section 10(b) of the Home Owners’ Loan Act, or section 5 of the Bank Holding Company Act of 1956; or * * * ”

(6) Paragraph 240.17h-2T(d) of this title is modified to read as follows:

“(d) *Special provisions with respect to Material Associated Persons subject to the supervision of a foreign financial regulatory authority.* A registered government securities broker or dealer shall be deemed to be in compliance with the reporting requirements of paragraph (a) of this section with respect to a Material Associated Person if such registered government securities broker or dealer furnishes, in accordance with the provisions of paragraph (a) of this section, Items 1, 2, and 3 (in Part I) of Form 17-H and copies of the reports filed by such Material Associated Person with a Foreign Financial Regulatory Authority. The registered government securities broker or dealer shall file a copy of the original Foreign Financial Regulatory report and a copy translated into the English language. For the purposes of this section, the term Foreign Financial Regulatory Authority shall have the meaning set forth in section 3(a)(52) of the Act.”

(7) Paragraph 240.17h-2T(f) of this title is modified to read as follows:

“(f) *Implementation schedule.* Every registered government securities broker or dealer subject to the require-

ments of this section shall file the information required by Items 1, 2 and 3 (in Part I) of Form 17-H by July 31, 1995. Commencing September 30, 1995, the provisions of this section shall apply in their entirety.”

(Approved by the Office of Management and Budget under control number 1535-0089)

[60 FR 20401, Apr. 26, 1995]

PART 420—LARGE POSITION REPORTING

Sec.

420.1 Applicability.

420.2 Definitions.

420.3 Reporting.

420.4 Recordkeeping.

420.5 Effective Date.

APPENDIX A TO PART 420—SEPARATE REPORTING ENTITY.

APPENDIX B TO PART 420—SAMPLE LARGE POSITION REPORT.

AUTHORITY: 15 U.S.C. 78o-5(f).

SOURCE: 61 FR 48348, Sept. 12 1996, unless otherwise noted.

§ 420.1 Applicability.

(a) This part, including the Appendices, is applicable to all persons that participate in the government securities market, including, but not limited to: government securities brokers and dealers, depository institutions that exercise investment discretion, registered investment companies, registered investment advisers, pension funds, hedge funds and insurance companies that may control a reportable position in a recently-issued marketable Treasury bill, note or bond as those terms are defined in § 420.2.

(b) Notwithstanding paragraph (a) of this section, foreign central banks, foreign governments and international monetary authorities are exempt from this part. This exemption is not applicable to a broker, dealer, financial institution or other entity that engages primarily in commercial transactions and that may be owned in whole or in part by a foreign government.

(c) Notwithstanding paragraph (a) of this section, Federal Reserve Banks are exempt from this part for the portion of any reportable position they control for their own account.