

§ 240.11b-1

17 CFR Ch. II (4-1-10 Edition)

(f) The provisions of this section shall not apply to transactions by exchange members to which, by operation of section 11(a)(3) of the Act, section 11(a)(1) of the Act is not effective.

(Secs. 2, 3, 4, 6, 7, 11, 18, 89 Stat. 97, 104, 110, 111, 121, 155 (15 U.S.C. 78b, 78c, 78f, 78k, 78k-1, 78o, 78w); secs. 2, 3, 10, 23, 48 Stat. 881, 882, 891, 901, as amended (15 U.S.C. 78j))

[43 FR 11554, Mar. 17, 1978, as amended at 43 FR 18562, May 1, 1978]

ADOPTION OF REGULATION ON CONDUCT OF SPECIALISTS

§ 240.11b-1 Regulation of specialists.

(a)(1) The rules of a national securities exchange may permit a member of such exchange to register as a specialist and to act as a dealer.

(2) The rules of a national securities exchange permitting a member of such exchange to register as a specialist and to act as a dealer shall include:

(i) Adequate minimum capital requirements in view of the markets for securities on such exchange;

(ii) Requirements, as a condition of a specialist's registration, that a specialist engage in a course of dealings for his own account to assist in the maintenance, so far as practicable, of a fair and orderly market, and that a finding by the exchange of any substantial or continued failure by a specialist to engage in such a course of dealings will result in the suspension or cancellation of such specialist's registration in one or more of the securities in which such specialist is registered;

(iii) Provisions restricting his dealings so far as practicable to those reasonably necessary to permit him to maintain a fair and orderly market or necessary to permit him to act as an odd-lot dealer;

(iv) Provisions stating the responsibilities of a specialist acting as a broker in securities in which he is registered; and

(v) Procedures to provide for the effective and systematic surveillance of the activities of specialists.

(b) If after appropriate notice and opportunity for hearing the Commission finds that a member of a national securities exchange registered with such exchange as a specialist in specified se-

curities has, for any account in which he, his member organization, or any participant therein has any beneficial interest, direct or indirect, effected transactions in such securities which were not part of a course of dealings reasonably necessary to permit such specialist to maintain a fair and orderly market, or to act as an odd-lot dealer, in the securities in which he is registered and were not effected in a manner consistent with the rules adopted by such exchange pursuant to paragraph (a)(2)(iii) of this section, the Commission may by order direct such exchange to cancel, or to suspend for such period as the Commission may determine, such specialist's registration in one or more of the securities in which such specialist is registered: *Provided, however,* If such exchange has itself suspended or cancelled such specialist's registration in one or more of the securities in which such specialist is registered, no further sanction shall be imposed pursuant to this paragraph (b) except in a case where the Commission finds substantial or continued misconduct by a specialist: *And provided, further,* That the provisions of this paragraph (b) shall not apply to a member of a national securities exchange exempted pursuant to the provisions of paragraph (d) of this section.

(c) For the purposes of this section, the term *rules* of an exchange shall mean its constitution, articles of incorporation, by-laws, or rules or instruments corresponding thereto, whatever the name, and its stated policies.

(d) Any national securities exchange may apply for an exemption from the provisions of this section in compliance with the provisions of section 11(c) of the Act.

(Sec. 11, 48 Stat. 891, 892; 15 U.S.C. 78k)

[29 FR 15863, Nov. 26, 1964, as amended at 46 FR 15135, Mar. 4, 1981]

EXEMPTION OF CERTAIN SECURITIES FROM SECTION 11(D)(1)

§ 240.11d1-1 Exemption of certain securities from section 11(d)(1).

A security shall be exempt from the provisions of section 11(d)(1) with respect to any transaction by a broker and dealer who, directly or indirectly extends or maintains or arranges for