

Securities and Exchange Commission

§ 240.17a-6

time or an exemption from any of the requirements of this section either unconditionally or on specified terms and conditions.

(4) The provisions of § 240.17a-5 shall not apply to a broker or dealer registered pursuant to section 15(b)(11)(A) of the Act (15 U.S.C. 78o(b)(11)(A)) that is not a member of either a national securities exchange pursuant to section 6(a) of the Act (15 U.S.C. 78f(a)) or a national securities association registered pursuant to section 15A(a) of the Act (15 U.S.C. 78o-3(a)).

(n) *Notification of change of fiscal year.*

(1) In the event any broker or dealer finds it necessary to change its fiscal year, it must file, with the Commission's principal office in Washington, DC, the regional office of the Commission for the region in which the broker or dealer has its principal place of business and the principal office of the designated examining authority for such broker or dealer, a notice of such change.

(2) Such notice shall contain a detailed explanation of the reasons for the change. Any change in the filing period for the audit report must be approved by the designated examining authority pursuant to paragraph (d)(1)(i) of this section.

(o) *Filing requirements.* For purposes of filing requirements as described in § 240.17a-5, such filing shall be deemed to have been accomplished upon receipt at the Commission's principal office in Washington, DC, with duplicate originals simultaneously filed at the locations prescribed in the particular paragraph of § 240.17a-5 which is applicable.

(p) *Compliance with § 240.17a-12.* An OTC derivatives dealer may comply with § 240.17a-5 by complying with the provisions of § 240.17a-12.

CROSS REFERENCE: For interpretative release applicable to § 240.17a-5, see No. 51 in tabulation, part 211 of this chapter.

[40 FR 59713, Dec. 30, 1975]

EDITORIAL NOTE: For FEDERAL REGISTER citations affecting § 240.17a-5, see the List of CFR Sections Affected, which appears in the Finding Aids section of the printed volume and on GPO Access.

§ 240.17a-6 Right of national securities exchange, national securities association, registered clearing agency or the Municipal Securities Rulemaking Board to destroy or dispose of documents.

(a) Any document kept by or on file with a national securities exchange, national securities association, registered clearing agency or the Municipal Securities Rulemaking Board pursuant to the Act or any rule or regulation thereunder may be destroyed or otherwise disposed of by such exchange, association, clearing agency or the Municipal Securities Rulemaking Board at the end of five years or at such earlier date as is specified in a plan for the destruction or disposition of any such documents if such plan has been filed with the Commission by such exchange, association, clearing agency or the Municipal Securities Rulemaking Board and has been declared effective by the Commission.

(b) Such plan may provide that any such document may be transferred to microfilm or other recording medium after such time as specified in the plan and thereafter be maintained and preserved in that form. If a national securities exchange, association, clearing agency or the Municipal Securities Rulemaking Board uses microfilm or other recording medium it shall:

(1) Be ready at all times to provide, and immediately provide, easily readable projection of the microfilm or other recording medium and easily readable hard copy thereof;

(2) Provide indexes permitting the immediate location of any such document on the microfilm or other recording medium; and

(3) In the case of microfilm, store a duplicate copy of the microfilm separately from the original microfilm for the time required.

(c) For the purposes of this rule a plan filed with the Commission by a national securities exchange, association, clearing agency or the Municipal Securities Rulemaking Board shall not become effective unless the Commission, having due regard for the public interest and for the protection of investors, declares the plan to be effective. The Commission in its declaration may limit the applications, reports, and

§ 240.17a-7

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

documents as to which it shall apply, and may impose any other terms and conditions to the plan and to the period of its effectiveness which it deems necessary or appropriate in the public interest or for the protection of investors.

[45 FR 79426, Dec. 1, 1980]

§ 240.17a-7 Records of non-resident brokers and dealers.

(a)(1) Except as provided in paragraphs (b) and (c) of this section, each non-resident broker or dealer registered or applying for registration pursuant to section 15 of the Securities Exchange Act of 1934, as amended, shall keep, maintain, and preserve, at a place within the United States designated in a notice from him as provided in paragraph (a)(2) of this section, true, correct, complete and current copies of the books and records which he is required to make, keep current, maintain or preserve pursuant to any provision of any rule or regulation of the Commission adopted under the act.

(2) Except as provided in paragraph (b) of this section, each non-resident broker or dealer subject to this section shall furnish to the Commission a written notice specifying the address of the place within the United States where the copies of the books and records required to be kept and preserved by him pursuant to paragraph (a)(1) of this section are located. Each non-resident broker or dealer registered or applying for registration when this section becomes effective shall file such notice within 30 days after such rule becomes effective. Each non-resident broker or dealer who files an application for registration after this section becomes effective shall file such notice with such application for registration.

(b) Notwithstanding the provisions of paragraph (a) of this section, a non-resident broker or dealer subject to this section need not keep or preserve within the United States copies of the books and records referred to in said paragraph (a) of this section, if:

(1) Such broker or dealer files with the Commission, at the time or within the period provided by paragraph (a)(2) of this section, a written undertaking in form acceptable to the Commission

and signed by a person thereunto duly authorized, to furnish to the Commission, upon demand, at its principal office in Washington, DC, or at any Regional Office of the Commission designated in such demand, true, correct, complete and current copies of any or all of the books and records which he is required to make, keep current, maintain, or preserve pursuant to any provision of any rule or regulation of the Commission adopted under the act, or any part of such books and records which may be specified in such demand. Such undertaking shall be in substantially the following form:

The undersigned hereby undertakes to furnish at his own expense to the Securities and Exchange Commission at its principal office in Washington, DC, or at any Regional Office of said Commission specified in a demand for copies of books and records made by or on behalf of said Commission, true, correct, complete, and current copies of any or all, or any part, of the books and records which the undersigned is required to make, keep current or preserve pursuant to any provision of any rule or regulation of the Securities and Exchange Commission under the Securities Exchange Act of 1934. This undertaking shall be suspended during any period when the undersigned is making, keeping current, and preserving copies of all of said books and records at a place within the United States in compliance with § 240.17a-7 (Rule X-17A-7) under the Securities Exchange Act of 1934. This undertaking shall be binding upon the undersigned and the heirs, successors and assigns of the undersigned, and the written irrevocable consents and powers of attorney of the undersigned, its general partners and managing agents filed with the Securities and Exchange Commission shall extend to and cover any action to enforce same.

and

(2) Such broker or dealer furnishes to the Commission at his own expense within 14 days after written demand therefor forwarded to him by registered mail at his last address of record filed with the Commission and signed by the Secretary of the Commission or such other person as the Commission may authorize to act in its behalf, true, correct, complete and current copies of any or all books and records which such broker or dealer is required to make, keep current or preserve pursuant to any provision of any rule or regulation of the Commission adopted under the act, or any part of such