

three years in an easily accessible place using any storage media acceptable under § 240.17a-4(f):

(1) The documents created in accordance with paragraph (a) of this section;

(2) All notices of intention, amendments thereto, and other documentation and information filed with the Commission pursuant to § 240.17i-2, and any responses thereto;

(3) All reports and notices filed by the supervised investment bank holding company pursuant to § 240.17i-6;

(4) All notices filed by the supervised investment bank holding company pursuant to § 240.17i-8; and

(5) Records documenting the system of internal risk management controls required to be established pursuant to § 240.17i-4, including written guidelines, policies, and procedures.

(c) A supervised investment bank holding company may maintain the records specified in paragraph (b) of this section either at the supervised investment bank holding company, at an affiliate, or at a records storage facility, provided that the records are located within the United States. If the records are maintained by an entity other than the supervised investment bank holding company, the supervised investment bank holding company shall file with the Commission a written undertaking in a form acceptable to the Commission from the entity, signed by a duly authorized person at the entity maintaining the records, to the effect that the supervised investment bank holding company were maintaining the records pursuant to this section and that the entity maintaining the records undertakes to permit examination of those records at any time or from time to time during business hours by representatives or designees of the Commission and to promptly furnish the Commission or its designee a true, correct, complete and current copy of all or any part of those records in paper, or electronically if the records are stored electronically, as specified by the Commission's representative or designee. The election to store records pursuant to the provisions of this paragraph (c) shall not relieve the supervised investment bank holding company from any of its re-

sponsibilities under this section or § 240.17i-6.

(d) All information created pursuant to this section and obtained by the Commission from the supervised investment bank holding company shall be accorded confidential treatment to the extent permitted by law.

[69 FR 34494, June 21, 2004]

§ 240.17i-6 Reporting requirements for supervised investment bank holding companies.

(a) *Monthly and quarterly reports.* The supervised investment bank holding company shall file:

(1) A report as of the end of each month, filed not later than 30 calendar days after the end of the month, *Except that* the monthly report need not be filed for a month-end that coincides with a fiscal quarter-end. The monthly report shall include:

(i) A consolidated balance sheet and income statement (including notes to the financial statements) and statements of allowable capital and allowances for market, credit, and operational risk computed pursuant to § 240.17i-7 for the affiliate group, *Except that* the consolidated balance sheet and income statement for the first month of the fiscal year may be filed at a time to which the Commission agrees (when making a determination pursuant to § 240.17i-2(d)(2));

(ii) A graph reflecting, for each business line, the daily intra-month Value at Risk;

(iii) Consolidated credit risk information, including:

(A) Aggregate current exposure and current exposures (including commitments) for the 15 largest exposures listed by counterparty;

(B) Aggregate maximum potential exposure and maximum potential exposures for the 15 largest exposures listed by counterparty; and

(C) A summary report reflecting the geographic distribution of the supervised investment bank holding company's exposures, on a consolidated basis, for each of the top ten countries to which it is exposed (by residence of the main operating group of the counterparty); and

(iv) Certain risk reports the supervised investment bank holding company regularly provides to the persons responsible for managing risk for the affiliate group that the Commission may request from time to time.

(2) A report as of the end of each fiscal quarter, filed not later than 35 calendar days after the end of the quarter, which shall include (except as provided in paragraph (a)(3) below):

(i) The information contained in the monthly report, as set forth in paragraph (1) above;

(ii) A consolidating balance sheet and income statement for the affiliate group, which shall break out information regarding each material affiliate into separate columns, but may consolidate information regarding affiliate group entities that are not material affiliates into one column;

(iii) The results of backtesting of all models used to compute allowable capital and allowances for market and credit risk indicating, for each model, the number of backtesting exceptions;

(iv) A description of all material pending legal or arbitration proceedings involving the supervised investment bank holding company or any member of the affiliate group that are required to be disclosed by the supervised investment bank holding company under generally accepted accounting principles; and

(v) The aggregate amount of unsecured borrowings and lines of credit, segregated into categories, scheduled to mature within twelve months from the most recent fiscal quarter as to each material affiliate.

(3) For a quarter-end that coincides with the supervised investment bank holding company's fiscal year-end, the supervised investment bank holding company need not include in its filing consolidated and consolidating balance sheets and income statements.

(b) *Organizational chart.* The supervised investment holding company shall file, concurrently with its quarterly report for the quarter-end that coincides with the supervised investment bank holding company's fiscal year-end, an organizational chart, as of the investment bank holding company's fiscal year end. Quarterly updates should be provided where a mate-

rial change in the information provided to the Commission has occurred.

(c) *Additional reports.* Upon receiving notice from the Commission, the supervised investment bank holding company shall file other information as the Commission may request in order to monitor the supervised investment bank holding company's financial or operational condition, risk management system, and transactions and relationships among members of the affiliate group.

(d) *Annual audit report.* (1) A supervised investment bank holding company shall file an annual audit report as of the end of the supervised investment bank holding company's fiscal year, that includes:

(i) Consolidated financial statements (including notes to the financial statements) for the supervised investment bank holding company. The audited financial statements must include a supporting schedule containing statements of allowable capital and allowances for market, credit and operational risk computed in accordance with § 240.17i-7. The audit must be conducted by a registered public accounting firm (as that term is defined at 15 U.S.C. 7201(a)(12)) in accordance the rules promulgated by the Public Company Accounting Oversight Board; and

(ii) A supplemental report entitled "Accountant's Report on Internal Risk Management Control System" prepared by the registered public accounting firm (as that term is defined at 15 U.S.C. 7201(a)(12)) indicating the results of the accountant's review of the internal risk management control system established and documented by the supervised investment bank holding company in accordance with § 240.17i-4 and utilized by the affiliate group. This review must be conducted by the accountant in accordance with procedures agreed to by the supervised investment bank holding company and the accountant conducting the review. The agreed-upon procedures are to be performed and the report is to be prepared in accordance with the rules promulgated by the Public Company Accounting Oversight Board. The purpose of the review is to confirm that the internal risk management control system complies with the requirements of

Securities and Exchange Commission

§ 240.17i-7

§ 240.17i-4 and that the supervised investment bank holding company and its affiliate group are adhering to the requirements of that internal risk management control system. The supervised investment bank holding company must file, prior to the commencement of the review, the procedures for conducting the audit agreed to by the supervised investment bank holding company and the accountant (pursuant to paragraph (d)(1) of this section). Prior to the commencement of each subsequent review, the supervised investment bank holding company shall file with the Commission a notice of any changes to the agreed-upon procedures.

(2) Annual audit reports prepared pursuant to this paragraph (d) shall be prepared as of the same date as the annual audit of the supervised investment bank holding company's affiliated broker or dealer.

(3) Annual audit reports prepared pursuant to this paragraph (d) shall be filed not later than 65 calendar days after the end of the fiscal year.

(e) *Consolidating Balance Sheet and Income Statement.* The supervised investment bank holding company shall file, concurrently with the annual audit report, an unaudited consolidating balance sheet and income statement, as of the supervised investment bank holding company's fiscal year-end, for the affiliate group.

(f) *Extensions and exemptions.* Upon the written request of the supervised investment bank holding company, or on its own motion, the Commission may conditionally or unconditionally grant or deny an extension of time or an exemption from any of the requirements of paragraphs (a) through (e) of this section to the extent that such exemption or extension of time is necessary or appropriate in the public interest or for the protection of investors.

(g) *When filed.* The reports required to be filed pursuant to this section shall be considered filed when two copies are received at the Commission's principal office in Washington, DC. The copies shall be addressed to the Division of Market Regulation, Office of Financial Responsibility.

(h) *Confidentiality.* All reports and statements filed by the supervised investment bank holding company with the Commission pursuant to this section shall be accorded confidential treatment to the extent permitted by law.

[69 FR 34494, June 21, 2004]

§ 240.17i-7 Calculations of allowable capital and risk allowances or alternative capital assessment.

(a) *Computation of allowable capital.* The supervised investment bank holding company must compute allowable capital on a consolidated basis as the aggregate of the following:

(1) Common shareholders' equity on the consolidated balance sheet of the supervised investment bank holding company less:

(i) Goodwill;

(ii) Deferred tax assets, except those permitted for inclusion in Tier 1 capital by the Board of Governors of the Federal Reserve (12 CFR 225, Appendix A);

(iii) Other intangible assets; and

(iv) Other deductions from common stockholders' equity as required by the Board of Governors of the Federal Reserve in calculating Tier 1 capital (as defined in 12 CFR 225, Appendix A).

(2) Cumulative and non-cumulative preferred stock, except that the amount of cumulative preferred stock may not exceed 33% of the items included in allowable capital pursuant to paragraph (a)(1) of this section, excluding cumulative preferred stock, provided that:

(i) The stock does not have a maturity date;

(ii) The stock cannot be redeemed at the option of the holder of the instrument;

(iii) The stock has no other provisions that will require future redemption of the issue; and

(iv) The issuer of the stock can defer or eliminate dividends; and

(3) The sum of the following items on the consolidated balance sheet, to the extent that sum does not exceed the sum of the items included in allowable capital pursuant to paragraphs (a)(1) and (a)(2) of this section: