

### § 405.3

### 17 CFR Ch. IV (4-1-10 Edition)

(15) The statement described in § 240.17a-5(f)(2) of this title shall be headed “Notice Pursuant to Section 405.2,” and shall be filed within 30 days following the effective date of registration as a government securities broker or dealer.

(16) References in § 240.17a-5(h)(2) of this title to § 240.17a-11 mean § 405.3(a) of this chapter.

(b) A government securities interdealer broker subject to the financial responsibility requirements of § 402.1(e) of this chapter shall comply with the requirements of § 240.17a-5 of this title (SEC Rule 17a-5), with the following modifications:

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

(2) References to “rules of the Commission” or words of similar import include, where appropriate, the regulations contained in this subchapter.

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

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

(5) References to § 240.15c3-3 and the exhibits thereto, relating to possession or control of customer securities and reserve requirements, mean § 403.4 of this chapter.

(6) The reference to § 240.15b1-2 of this title, relating to financial statements to be filed upon registration, means § 240.15Ca2-2.

(7) The supplemental report described in § 240.17a-5(e)(4) of this title, concerning the Securities Investor Protection Act, is not required.

(8) The statement described in § 240.17a-5(f)(2) of this title shall be headed “Notice Pursuant to Section 405.2” and shall be filed within 30 days following the effective date of registration as a government securities broker.

(9) References in § 240.17a-5(h)(2) of this title to § 240.17a-11 mean § 405.3(b) 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-5 of this title

(SEC Rule 17a-5), with the following modifications:

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

(2) References to “rules of the Commission” or words of similar import include, where appropriate, the regulations contained in this subchapter.

(3) References to § 240.15c3-3 and the exhibits thereto, relating to possession or control of customer securities and reserve requirements, mean § 403.4 of this chapter.

(4) The reference to § 240.15b1-2 of this title, relating to financial statements to be filed upon registration, means § 240.15Ca2-2.

(5) The supplemental report described in § 240.17a-5(e)(4) of this title, concerning the Securities Investor Protection Act, is not required.

(6) The statement described in § 240.17a-5(f)(2) of this title shall be headed “Notice Pursuant to § 405.2,” and shall be filed within 30 days following the effective date of registration as a government securities broker or dealer.

(7) References in § 240.17a-5(h)(2) of this title to § 240.17a-11 mean § 405.3(c) 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 60 FR 11026, Mar. 1, 1995; 64 FR 1737, Jan. 12, 1999]

### § 405.3 Notification provisions for certain registered government securities brokers and dealers.

(a) Every registered government securities broker or dealer, other than a government securities interdealer broker that is subject to the financial responsibility requirements of § 402.1(e) and a 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 registered government securities brokers and dealers.

(2) References to § 240.15c3-1, relating to net capital, mean § 402.2 of this chapter.

(3) References to “net capital” mean “liquid capital” as defined in §402.2 of this chapter.

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

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

“(c) Every registered government securities broker or dealer shall send notice promptly (but within 24 hours) in accordance with paragraph (g) of this section if a computation made pursuant to the requirements of §402.2 of this title shows, at any time during the month, that its liquid capital is less than 150 percent of total haircuts, determined in accordance with §402.2 of this title, or that its capital after deducting total haircuts from liquid capital is less than 120 percent of the registered government securities broker or dealer’s minimum capital requirement specified in §402.2 (b) or (c) of this title as applicable.”

(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 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.”

## § 405.4

(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 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

## 17 CFR Ch. IV (4-1-10 Edition)

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, customers 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