

Issued in Renton, Washington, on February 3, 1995.

**S.R. Miller,**

*Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.*  
[FR Doc. 95-3246 Filed 2-28-95; 8:45 am]

BILLING CODE 4910-13-U

## NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

### 14 CFR Part 1241

#### Contract Appeals

**AGENCY:** National Aeronautics and Space Administration, (NASA).

**ACTION:** Final rule.

**SUMMARY:** NASA is amending Title 14 of the Code of Federal Regulations (CFR) by removing Part 1241, "Contract Appeals." The NASA Board of Contract Appeals no longer exists as a separate entity at NASA and its functions were assumed by the Armed Services Board of Contract Appeals. Section 18-33.211 of the NASA Federal Acquisition Regulation (FAR) Supplement adequately advises contracting officers and contractors that the Armed Services Board of Contract Appeals (ASBCA) is now NASA's authorized contract dispute forum.

**EFFECTIVE DATE:** February 9, 1995.

**FOR FURTHER INFORMATION CONTACT:** David P. Forbes, 202 358-2440.

#### SUPPLEMENTARY INFORMATION:

#### List of Subjects in 14 CFR Part 1241

Board of Contract Appeals, Administrative practice and procedure, Government contracts.

Under the authority, 42 U.S.C. 2473, 14 CFR Part 1241 is amended as follows:

#### PART 1241—[REMOVED AND RESERVED]

14 CFR Part 1241, consisting of §§ 1241.10 through 1241.234, is removed and reserved.

**Edward A. Frankle,**

*General Counsel.*

[FR Doc. 95-5044 Filed 2-28-95; 8:45 am]

BILLING CODE 7510-01-M

## DEPARTMENT OF THE TREASURY

### Office of the Under Secretary for Domestic Finance

**17 CFR Parts 400, 401, 402, 403, 404, 405, and 450**

**RIN 1505-AA44**

#### Amendments to Regulations for the Government Securities Act of 1986

**AGENCY:** Office of the Under Secretary for Domestic Finance, Treasury.

**ACTION:** Final rule.

**SUMMARY:** The Department of the Treasury ("Department") is publishing, as a final rule, amendments to the financial responsibility rules in part 402 and a conforming amendment to a recordkeeping requirement in part 404 of the regulations issued under the Government Securities Act of 1986 ("GSA"). The amendments raise the minimum capital requirements for all government securities brokers and dealers subject to the requirements of § 402.2 and establish a written notification requirement for certain withdrawals of capital. The amendments parallel the Securities and Exchange Commission's ("SEC") final and proposed amendments to the minimum net capital requirements for brokers and dealers subject to the requirements of 17 CFR 240.15c3-1 (Rule 15c3-1) and final rules regarding the withdrawal of capital. The Department is adopting the amendments unchanged from their proposed form.

**DATES:** Effective date: March 31, 1995. Further dates: see § 402.2e (Appendix E to § 402.2) for the phase-in schedule for the increased minimum capital levels.

**FOR FURTHER INFORMATION CONTACT:** Don Hammond (Assistant Director) or Kerry Lanham (Government Securities Specialist) at 202-219-3632. (TDD for the hearing impaired: 202-219-3988.)

#### SUPPLEMENTARY INFORMATION:

#### I. Background

The amendments to the Department's financial responsibility rules in part 402 raise the minimum capital requirements and establish written notification requirements for certain capital withdrawals for those government securities brokers and dealers subject to the provisions of § 402.2. Additionally, the Department is making a conforming change to the recordkeeping requirements of part 404 which is necessitated by the revisions to the minimum capital levels. The amendments parallel rule amendments adopted or proposed by the SEC. The

Department's amendments will increase investor confidence in the financial responsibility of government securities brokers and dealers without overburdening the government securities market.

The SEC published its final capital withdrawal regulations on March 5, 1991,<sup>1</sup> finalized its first change in minimum capital levels on November 24, 1992,<sup>2</sup> but has not yet finalized its second proposal<sup>3</sup> on minimum capital levels for certain introducing firms. It is Treasury's objective, where practical, to have consistency with the SEC capital standard<sup>4</sup> and, ultimately, develop a uniform capital rule for all government securities brokers and dealers registered with the SEC.<sup>5</sup>

The Department first published these amendments in proposed form on June 22, 1994,<sup>6</sup> and the comment period closed on August 22, 1994. In addition, the National Association of Securities Dealers distributed the proposed changes to its potentially affected members. Treasury received no comments in response to the proposal.

## II. Analysis

### A. Minimum Capital Requirements

The SEC has either increased or proposed increasing the minimum net capital requirements for most brokers and dealers subject to Rule 15c3-1 to an amount ranging up to \$250,000, depending on the type of business conducted by the broker or dealer. The Treasury minimum dollar capital levels are based on liquid capital after deducting haircuts, which is comparable to the SEC's calculation of net capital. The Treasury capital rule<sup>7</sup> currently has a \$5,000 minimum liquid capital requirement for introducing brokers<sup>8</sup> and a \$25,000 minimum liquid capital requirement for all other government securities brokers and dealers<sup>9</sup> subject to the rule. The Department believes that increasing the minimum levels is appropriate in order to provide better protection to investors

<sup>1</sup> Securities Exchange Act Release No. 28927 (February 20, 1991), 56 FR 9124 (March 5, 1991).

<sup>2</sup> Securities Exchange Act Release No. 31511 (November 24, 1992), 57 FR 56973 (December 2, 1992).

<sup>3</sup> Securities Exchange Act Release No. 31512 (November 24, 1992), 57 FR 57027 (December 2, 1992).

<sup>4</sup> 17 CFR 240.15c3-1.

<sup>5</sup> The Treasury would have acted sooner on these amendments but its rulemaking authority under the GSA expired on October 1, 1991, and was not reauthorized until December 17, 1993. (107 Stat. 2344, Pub. L. 103-202).

<sup>6</sup> 59 FR 32155 (June 22, 1994).

<sup>7</sup> 17 CFR 402.2.

<sup>8</sup> 17 CFR 402.2(c).

<sup>9</sup> 17 CFR 402.2(b).

in the event of a government securities broker's or dealer's insolvency and to reflect the current realities of the government securities market. Accordingly, the Department is increasing the minimum capital requirements for all government securities brokers and dealers subject to the provisions of § 402.2. The other capital requirement—that liquid capital be equal to at least 120% of haircuts<sup>10</sup>—is unaffected by this action.

The increases are implemented by creating four minimum capital standards from the two current requirements, reflecting a better differentiation of the risks related to a government securities broker's or dealer's operations based on the type of government securities business it conducts. The four minimum capital requirements being adopted are as follows: (1) Government securities brokers and dealers that carry customer or broker-dealer accounts are subject to a minimum level of \$250,000; (2) government securities brokers and dealers that carry customer accounts but that operate under the exemption provided by Rule 15c3-3(k)(2)(i)<sup>11</sup> have a minimum requirement of \$100,000; (3) government securities brokers that introduce accounts on a fully disclosed basis and receive but do not hold customer securities are subject to a minimum requirement of \$50,000; and (4) introducing firms that never handle customer funds or securities are subject to a minimum requirement of \$25,000.

These changes represent increases from the current minimum levels of between \$20,000 and \$225,000, depending on the type of business conducted by the government securities broker or dealer. The Department is establishing fewer levels than the SEC has proposed since the operations of registered government securities brokers and dealers do not encompass all the activities available to diversified brokers or dealers. The increases that the Department is adopting are modest relative to the size and complexity of the government securities market and the operations of government securities brokers and dealers.

An analysis of the government securities brokers and dealers subject to the provisions of § 402.2 indicates that, as of September 30, 1994, only four, out of a total of 32, would not be in compliance with the fully phased-in

minimum capital levels. One of these firms would not be in compliance with the new requirements for introducing firms, two would be out of compliance with the \$100,000 requirement and one would not meet the \$250,000 level. The aggregate capital shortfall of these four firms is less than \$150,000. To ease the compliance burden and to provide a period for the affected government securities brokers and dealers to raise additional capital, if necessary, the Department is adding an Appendix E to § 402.2 which phases in the increases over approximately an 18-month time frame from the effective date. This corresponds to the phase-in time frames that were used by the SEC.

#### B. Capital Withdrawal Requirements

The SEC promulgated final rules regarding the withdrawal of capital by brokers and dealers.<sup>12</sup> These rules require written notification to the SEC and the broker's or dealer's designated examining authority of certain capital withdrawals, add a restriction on the withdrawal of capital based on the ratio of net capital to securities haircuts, provide additional definitions, and permit the SEC, by order, to prohibit the withdrawal of capital in certain described circumstances. The Department is amending its capital withdrawal provisions<sup>13</sup> to include the notification requirements and certain definitions but has determined not to adopt the other two requirements for the reasons described in the preamble to the proposed rule.

The notification provisions require post-withdrawal notification of certain significant capital withdrawals as well as prior notification for larger withdrawals. The timing of the notification is determined by the aggregate size of total withdrawals relative to the government securities broker's or dealer's excess liquid capital<sup>14</sup> over a 30 calendar day period. Once aggregate withdrawals have exceeded 20 percent of a government securities broker's or dealer's excess liquid capital in a 30 calendar day period, the government securities broker or dealer has two business days thereafter in which to file notification of the withdrawals. Aggregate withdrawals that would result in a government securities broker or dealer exceeding in the aggregate 30 percent of excess liquid capital in any 30 calendar day period require notification two business days

prior to such withdrawal.<sup>15</sup> A government securities broker or dealer may use the level of excess liquid capital calculated in its most recent Form G-405, "Report on Finances and Operations of Government Securities Brokers and Dealers (FOGS)" filing,<sup>16</sup> provided the firm assures itself that this amount has not materially changed since that time. A government securities broker or dealer is not required to provide notice to the Department, but instead notice is to be sent to the SEC and to the broker's or dealer's designated examining authority.

Net withdrawals that, in the aggregate, are less than \$500,000 in any 30 calendar day period or those that represent securities or commodities transactions between affiliates are excluded from the reporting requirement. The exclusion for securities and commodities transactions requires that the transactions be conducted in the ordinary course of business and settled no later than two business days after the date of the transaction. Forward settling transactions between affiliates are not eligible for this exclusion. Therefore, net losses on forward contracts or net payments on swap agreements, if due an affiliate, could trigger the notice requirement. The Department specifically requested comment about the limitations on this exception. As stated earlier, no comments were received on any aspect of the rule and, therefore, the Department is adopting this provision and the rule as proposed.

The SEC's capital withdrawal rule has a provision giving the SEC authority to prohibit a withdrawal of capital by a broker or dealer, for up to 20 business days, if the withdrawal would exceed 30 percent of excess net capital and is deemed detrimental to the financial integrity of the broker or dealer or may unduly jeopardize the broker's or dealer's ability to repay its creditors.<sup>17</sup> The SEC intends that this provision be used in emergency situations and the rule provides for an expeditious review of the SEC's action. For the reasons discussed in the preamble to the proposed rule and after receiving no comments to the contrary, the Department has determined that a similar provision will not be incorporated in the Treasury capital rule.

The Department's decision not to enact a corresponding order provision is

<sup>10</sup> The Treasury capital rule requires that a government securities broker or dealer maintain a capital level of the greater of (i) 120% of total haircuts; or (ii) the minimum dollar capital amounts, computed by deducting total haircuts from liquid capital, applicable to its business.

<sup>11</sup> 17 CFR 240.15c3-3(k)(2)(i).

<sup>12</sup> See *Supra* note 1.

<sup>13</sup> 17 CFR 402.2(i).

<sup>14</sup> Excess liquid capital is that amount of liquid capital which exceeds the greater of the amount of capital required under (i) § 402.2(a); or (ii) § 402.2 (b) or (c) as applicable.

<sup>15</sup> If prior notification is required, the post-withdrawal notification must also be filed.

<sup>16</sup> 17 CFR 405.2 requires certain government securities brokers and dealers to file monthly and quarterly financial reports.

<sup>17</sup> 17 CFR 240.15c3-1(e)(3).

supported by the fact that the SEC has existing temporary cease and desist authority. A temporary cease and desist order, while different from a capital withdrawal order, serves a similar purpose. Both are emergency remedies that can be expeditiously applied. Prior to issuing a temporary cease and desist order, the SEC must provide notice and opportunity for a hearing unless the SEC “\* \* \* determines that notice and hearing prior to entry would be impracticable or contrary to the public interest.”<sup>18</sup>

The more limited scope of the temporary cease and desist order is not problematic to the Department because the authority provides the SEC with the ability to issue such an order not only if a rule violation has occurred but also if one is threatened. Because the SEC is the appropriate regulatory agency for government securities brokers or dealers subject to § 402.2, an impending violation of a § 402.2 requirement could be cause for the issuance of a temporary cease and desist order. As discussed more fully in the preamble to the proposed rule, the Department believes that, in lieu of developing a separate capital withdrawal order provision, it should rely on the SEC’s existing cease and desist order authority.

Consistent with this approach, the Department also is excluding this provision of Rule 15c3-1 from the compliance requirements for those government securities brokers and dealers registered under Section 15C of the Securities Exchange Act of 1934 (15 U.S.C. 78o-5) that are subject to the SEC capital rule (i.e., interdealer brokers operating under § 402.1(e) and futures commission merchants).

In adopting the withdrawal provisions, the Department has restructured certain related definitions of terms into a Miscellaneous Provisions paragraph (i)(3) and has added a description of what constitutes an advance or loan of liquid capital, which is one component of the restricted activities.

**C. Conforming Change**

Due to the revisions of the minimum capital requirements under both the SEC and Treasury capital rules, a conforming change is required in the recordkeeping provisions of part 404. Specifically, paragraph 404.2(a)(4) contains references to the minimum dollar capital amounts required of government securities clearing brokers and dealers. The Department is revising these references in accordance with the fully

phased-in minimum capital level of \$250,000 required of clearing firms.

**III. Special Analyses**

It has been determined that these amendments are not a “significant regulatory action” as defined in Executive Order 12866. Therefore, a Regulatory Assessment is not required.

In the preamble to the proposed rules, pursuant to the Regulatory Flexibility Act (5 U.S.C. 601, *et seq.*), the Department certified that these amendments, if adopted, would not have a significant economic impact on a substantial number of small entities. Accordingly, a regulatory flexibility analysis was not prepared. In reviewing the final rules being adopted herein and in light of the fact that no comments were received, the Department has concluded that there is no reason to alter the previous certification.

The collections of information contained in the final regulations have been reviewed and approved by the Office of Management and Budget in accordance with the Paperwork Reduction Act (44 U.S.C. 3504(h)) under control number 1535-0089.

*Estimated total annual reporting burden:* 5 hours.

*Estimated average annual burden per respondent:* 1 hour.

*Estimated number of respondents:* 5.

*Estimated annual frequency of response:* Twice.

Comments concerning the accuracy of this burden estimate and suggestions for reducing this burden should be directed to the Forms Management Branch, Bureau of the Public Debt, Department of the Treasury, Parkersburg, West Virginia 26106-1328; and to the Office of Management and Budget, Paperwork Reduction Project 1535-0089, Attention: Desk Officer for Department of the Treasury, Washington, DC 20503.

**List of Subjects**

17 CFR Part 402

Brokers, Government securities.

17 CFR Part 404

Banks, banking, Brokers, Government securities, Reporting and recordkeeping requirements.

For the reasons set out in the preamble, 17 CFR chapter IV is amended as follows:

**PART 402—FINANCIAL RESPONSIBILITY**

1. The authority citation for part 402 is revised to read as follows:

**Authority:** 15 U.S.C. 78o-5(b)(1)(A), (b)(4).

2. Section 402.1 is amended by revising paragraphs (d) and (e)(1) to read as follows:

**§ 402.1 Application of part to registered brokers and dealers and financial institutions; special rules for futures commission merchants and government securities interdealer brokers; effective date.**

\* \* \* \* \*

(d) *Futures commission merchants.* A futures commission merchant subject to § 1.17 of this title that is a government securities broker or dealer but is not a registered broker or dealer shall not be subject to the limitations of § 402.2 but rather to the capital requirement of § 1.17 or § 240.15c3-1, except paragraph (e)(3) thereof, of this title, whichever is greater.

(e) *Government securities interdealer broker.* (1) A government securities interdealer broker, as defined in paragraph (e)(2) of this section, may, with the prior written consent of the Secretary, elect not to be subject to the limitations of § 402.2 but rather to be subject to the requirements of § 240.15c3-1 of this title (SEC Rule 15c3-1), except paragraphs (c)(2)(ix) and (e)(3) thereof, and paragraphs (e)(3) through (8) of this section by filing such election in writing with its designated examining authority. A government securities interdealer broker may not revoke such election without the written consent of its designated examining authority.

\* \* \* \* \*

3. Section 402.2 is amended by revising paragraphs (b), (c) and (i), and by adding an OMB parenthetical at the end of the section to read as follows:

**§ 402.2 Capital requirements for registered government securities brokers or dealers.**

\* \* \* \* \*

(b)(1) *Minimum liquid capital for brokers or dealers that carry customer accounts.* Notwithstanding the provisions of paragraph (a) of this section, a government securities broker or dealer that carries customer or broker or dealer accounts and receives or holds funds or securities for those persons within the meaning of § 240.15c3-1(a)(2)(i) of this title, shall have and maintain liquid capital in an amount not less than \$250,000 (see paragraph (a) of Appendix E to this section, § 402.2e, for temporary minimum requirements), after deducting total haircuts as defined in paragraph (g) of this section.

(2) *Minimum liquid capital for brokers or dealers that carry customer accounts, but do not generally hold customer funds or securities.* Notwithstanding the provisions of

<sup>18</sup> 15 U.S.C. 78u-3(c)(1).

paragraphs (a) and (b)(1) of this section, a government securities broker or dealer that carries customer or broker or dealer accounts and is exempt from the provisions of § 240.15c3-3 of this title, as made applicable to government securities brokers and dealers by § 403.4 of this chapter, pursuant to paragraph (k)(2)(i) thereof (17 CFR 240.15c3-3(k)(2)(i)), shall have and maintain liquid capital in an amount not less than \$100,000 (see paragraph (b) of Appendix E to this section, § 402.2(e), for temporary minimum requirements), after deducting total haircuts as defined in paragraph (g) of this section.

(c)(1) *Minimum liquid capital for introducing brokers that receive securities.* Notwithstanding the provisions of paragraphs (a) and (b) of this section, a government securities broker or dealer that introduces on a fully disclosed basis transactions and accounts of customers to another registered or noticed government securities broker or dealer but does not receive, directly or indirectly, funds from or for, or owe funds to, customers, and does not carry the accounts of, or for, customers shall have and maintain liquid capital in an amount not less than \$50,000 (see paragraph (c) of Appendix E to this section, § 402.2(e), for temporary minimum requirements), after deducting total haircuts as defined in paragraph (g) of this section. A government securities broker or dealer operating pursuant to this paragraph (c)(1) may receive, but shall not hold customer or other broker or dealer securities.

(2) *Minimum liquid capital for introducing brokers that do not receive or handle customer funds or securities.* Notwithstanding the provisions of paragraphs (a), (b) and (c)(1) of this section, a government securities broker or dealer that does not receive, directly or indirectly, or hold funds or securities for, or owe funds or securities to, customers, and does not carry accounts of, or for, customers and that effects ten or fewer transactions in securities in any one calendar year for its own investment account shall have and maintain liquid capital in an amount not less than \$25,000 (see paragraph (d) of Appendix E to this section, § 402.2(e), for temporary minimum requirements), after deducting total haircuts as defined in paragraph (g) of this section.

\* \* \* \* \*

(i) *Provisions relating to the withdrawal of equity capital.*

(1) *Notice Provisions.* No equity capital of the government securities broker or dealer or a subsidiary or affiliate consolidated pursuant to

Appendix C to this section, § 402.2c, may be withdrawn by action of a stockholder or partner, or by redemption or repurchase of shares of stock by any of the consolidated entities or through the payment of dividends or any similar distribution, nor may any unsecured advance or loan be made to a stockholder, partner, sole proprietor, employee or affiliate without providing written notice, given in accordance with paragraph (i)(1)(iv) of this section, when specified in paragraphs (i)(1) (i) and (ii) of this section:

(i) Two business days prior to any withdrawals, advances or loans if those withdrawals, advances or loans on a net basis exceed in the aggregate in any 30 calendar day period, 30 percent of the government securities broker's or dealer's excess liquid capital. A government securities broker or dealer, in an emergency situation, may make withdrawals, advances or loans that on a net basis exceed 30 percent of the government securities broker's or dealer's excess liquid capital in any 30 calendar day period without giving the advance notice required by this paragraph, with the prior approval of its designated examining authority. When a government securities broker or dealer makes a withdrawal with the consent of its designated examining authority, it shall in any event comply with paragraph (i)(1)(ii) of this section; and

(ii) Two business days after any withdrawals, advances or loans if those withdrawals, advances or loans on a net basis exceed in the aggregate in any 30 calendar day period, 20 percent of the government securities broker's or dealer's excess liquid capital.

(iii) This paragraph (i)(1) of this section does not apply to:

(A) Securities or commodities transactions in the ordinary course of business between a government securities broker or dealer and an affiliate where the government securities broker or dealer makes payment to or on behalf of such affiliate for such transaction and then receives payment from such affiliate for the securities or commodities transaction within two business days from the date of the transaction; or

(B) Withdrawals, advances or loans which in the aggregate in any such 30 calendar day period, on a net basis, equal \$500,000 or less.

(iv) Each required notice shall be effective when received by the Commission in Washington, DC, the regional or district office of the Commission for the area in which the government securities broker or dealer has its principal place of business, and

the government securities broker's or dealer's designated examining authority.

(2) *Withdrawal Limitations.* No equity capital of the government securities broker or dealer or a subsidiary or affiliate consolidated pursuant to Appendix C to this section, § 402.2c, may be withdrawn by action of a stockholder or a partner, or by redemption or repurchase of shares of stock by any of the consolidated entities or through the payment of dividends or any similar distribution, nor may any unsecured advance or loan be made to a stockholder, partner, sole proprietor, employee or affiliate if, after giving effect thereto and to any other such withdrawals, advances or loans and any Payments of Payment Obligations (as defined in § 240.15c3-1d of this title, Appendix D to SEC Rule 15c3-1, modified as provided in Appendix D to this section, § 402.2d) under satisfactory subordination agreements which are scheduled to occur within 180 calendar days following such withdrawal, advance or loan, either:

(i) The ratio of liquid capital to total haircuts, determined as provided in § 402.2, would be less than 150 percent; or

(ii) Liquid capital minus total haircuts would be less than 120 percent of the minimum capital required by § 402.2(b) or § 402.2(c) as applicable; or

(iii) In the case of any government securities broker or dealer included in such consolidation, the total outstanding principal amounts of satisfactory subordination agreements of the government securities broker or dealer (other than such agreements which qualify as equity under § 240.15c3-1(d) of this title) would exceed 70% of the debt-equity total as defined in § 240.15c3-1(d).

(3) *Miscellaneous Provisions.* (i) Excess liquid capital is that amount in excess of the amount required by the greater of § 402.2(a) or, §§ 402.2 (b) or (c), as applicable. For the purposes of paragraphs (i)(1) and (i)(2) of this section, a government securities broker or dealer may use the amount of excess liquid capital, liquid capital and total haircuts reported in its most recently required filed Form G-405 for the purposes of calculating the effect of a projected withdrawal, advance or loan relative to excess liquid capital or total haircuts. The government securities broker or dealer must assure itself that the excess liquid capital, liquid capital or the total haircuts reported on the most recently required filed Form G-405 have not materially changed since the time such report was filed.

(ii) The term equity capital includes capital contributions by partners, par or

stated value of capital stock, paid-in capital in excess of par, retained earnings or other capital accounts. The term equity capital does not include securities in the securities accounts of partners and balances in limited partners' capital accounts in excess of their stated capital contributions.

(iii) Paragraphs (i)(1) and (i)(2) of this section shall not preclude a government securities broker or dealer from making required tax payments or preclude the payment to partners of reasonable compensation, and such payments shall not be included in the calculation of withdrawals, advances or loans for purposes of paragraphs (i)(1) and (i)(2) of this section.

(iv) For the purposes of this subsection (i), any transaction between a government securities broker or dealer and a stockholder, partner, sole proprietor, employee or affiliate that results in a diminution of the government securities broker's or dealer's liquid capital shall be deemed to be an advance or loan of liquid capital.

\* \* \* \* \*

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

4. By adding § 402.2e (Appendix E) as follows:

**§ 402.2e Appendix E—Temporary Minimum Requirements.**

(a) A government securities broker or dealer that falls within the provisions of paragraph (b)(1) of § 402.2 shall maintain not less than the greater of:

- (1) The amount of liquid capital required under paragraph (a) of § 402.2(a); or
- (2) The amount of liquid capital, after deducting total haircuts, of:
  - (i) \$25,000 through June 30, 1995;
  - (ii) \$100,000 from July 1, 1995 through December 31, 1995;
  - (iii) \$175,000 from January 1, 1996 through June 30, 1996; and
  - (iv) \$250,000 from July 1, 1996 and thereafter.

(b) A government securities broker or dealer that falls within the provisions of paragraph (b)(2) of § 402.2 shall maintain not less than the greater of:

- (1) The amount of liquid capital required under paragraph (a) of § 402.2; or
- (2) The amount of liquid capital, after deducting total haircuts, of:
  - (i) \$25,000 through June 30, 1995;
  - (ii) \$50,000 from July 1, 1995 through December 31, 1995;
  - (iii) \$75,000 from January 1, 1996 through June 30, 1996; and
  - (iv) \$100,000 from July 1, 1996 and thereafter.

(c) A government securities broker that falls within the provisions of

paragraph (c)(1) of § 402.2 shall maintain not less than the greater of:

- (1) The amount of liquid capital required under paragraph (a) of § 402.2; or
- (2) The amount of liquid capital, after deducting total haircuts, of:
  - (i) \$5,000 through June 30, 1995;
  - (ii) \$20,000 from July 1, 1995 through December 31, 1995;
  - (iii) \$35,000 from January 1, 1996 through June 30, 1996; and
  - (iv) \$50,000 from July 1, 1996 and thereafter.

(d) A government securities broker that falls within the provisions of paragraph (c)(2) of § 402.2 shall maintain not less than the greater of:

- (1) The amount of liquid capital required under paragraph (a) of § 402.2; or
- (2) The amount of liquid capital, after deducting total haircuts, of:
  - (i) \$5,000 through June 30, 1995;
  - (ii) \$11,000 from July 1, 1995 through December 31, 1995;
  - (iii) \$18,000 from January 1, 1996 through June 30, 1996; and
  - (iv) \$25,000 from July 1, 1996 and thereafter.

\* \* \* \* \*

**PART 404—RECORDKEEPING AND PRESERVATION OF RECORDS**

5. The authority citation for Part 404 is revised to read as follows:

**Authority:** 15 U.S.C. 78o-5(b)(1)(B), (b)(1)(C), (b)(4).

6. Section 404.2 is amended by revising paragraph (a)(4) to read as follows:

**§ 404.2 Records to be made and kept current by registered government securities brokers and dealers; records of non-resident registered government securities brokers and dealers.**

- (a) \* \* \*
- (4) Paragraph 240.17a-3(b)(1) is modified to read as follows:
 

“(1) This section shall not be deemed to require a government securities broker or dealer registered pursuant to Section 15C(a)(1)(A) of the Act (15 U.S.C. 78o-5(a)(1)(A)) to make or keep such records of transactions cleared for such government securities broker or dealer as are customarily made and kept by a clearing broker or dealer pursuant to the requirements of §§ 240.17a-3 and 240.17a-4: *Provided*, that the clearing broker or dealer has and maintains net capital of not less than \$250,000 (or, in the case of a clearing broker or dealer that is a registered government securities broker or dealer, liquid capital less total haircuts, determined as provided in § 402.2 of this title, of not

less than \$250,000) and is otherwise in compliance with § 240.15c3-1, § 402.2 of this title, or the capital rules of the exchange of which such clearing broker or dealer is a member if the members of such exchange are exempt from § 240.15c3-1 by paragraph (b)(2) thereof.”.

\* \* \* \* \*

**§§ 400.4, 400.5, 401.9, 403.5, 404.2, 404.3, 404.4, 404.5, 405.2, and 450.4 [Amended]**

7. For each section indicated in the list above, remove the Office of Management and Budget control number from the parenthetical statement at the end of each section, and add in its place “1535-0089”:

Dated: February 15, 1995.  
**Frank N. Newman,**  
*Deputy Secretary.*  
 [FR Doc. 95-4941 Filed 2-28-95; 8:45 am]  
 BILLING CODE 4810-39-W

**DEPARTMENT OF HEALTH AND HUMAN SERVICES**

**Food and Drug Administration**

**21 CFR Part 450**

[Docket No. 94N-0302]

**Antibiotic Drugs; Bleomycin Sulfate; Stay of Regulation**

**AGENCY:** Food and Drug Administration, HHS.

**ACTION:** Final rule; stay of regulation.

**SUMMARY:** The Food and Drug Administration (FDA) is staying a regulation that established standards for an antibiotic drug, bleomycin sulfate bulk drug substance. This action is being taken in response to a petition for stay of action.

**EFFECTIVE DATE:** November 9, 1994.

**FOR FURTHER INFORMATION CONTACT:** Tamar S. Nordenberg, Center for Drug Evaluation and Research (HFD-366), Food and Drug Administration, 7500 Standish Pl., Rockville, MD 20855, 301-594-2041.

**SUPPLEMENTARY INFORMATION:** In the **Federal Register** of October 4, 1994 (59 FR 50484), FDA published, as a final rule to become effective on November 3, 1994, a new antibiotic regulation setting forth standards for a bleomycin sulfate bulk drug substance (21 CFR 450.10). This new regulation differed from the monograph standards for sterile bleomycin sulfate bulk drug, set forth in 21 CFR 450.10a, in two respects: The new regulation did not require sterility at the bulk stage, and the new regulation