

g. An offset position as defined in rule 15c3-1 under the Act, including its appendices, or any applicable SEC staff interpretation or no-action position.

(E) Approved Options Specialists' or Market Maker Accounts

(i) Notwithstanding the other provisions of (f)(11) and (f)(2)(f), a member may carry and clear the market maker permitted offset positions (as defined below) of one or more approved options specialists or market makers in an account that is limited to approved options specialist or market maker transactions, upon a "Good Faith" margin basis that is satisfactory to the concerned parties, provided the "Good Faith" margin requirement is not less than the Net Capital haircut deduction of the member carrying the transaction pursuant to rule 15c3-1 under the Act. In lieu of collecting the "Good Faith" margin requirement, a carrying member may elect to deduct in computing its Net Capital the amount of any deficiency between the equity maintained in the account and the "Good Faith" margin required. For the purpose of this paragraph (f)(11)(E), the term "approved options specialist or market maker" means a specialist, market maker, or registered trader in options as referenced in paragraph (f)(2)(f) of this rule, who is deemed a specialist for all purposes under the Act and who is registered pursuant to the rules of a national securities exchange.

(ii) For purposes of this paragraph (f)(11)(E), a permitted offset position means a position in the underlying asset or other related assets. Accordingly, a specialist or market maker may establish a long or short position in the assets underlying the options in which the specialist or market maker makes a market, or a security futures contract thereon, if the account holds the following permitted offset positions:

a. A long position in the underlying instrument or security futures contract offset by a short option position that is "in or at the money;"

b. A short position in the underlying instrument or security futures contract offset by a long option position that is "in or at the money;"

c. A stock position resulting from the assignment of a market-maker short option position or delivery in respect of a short security futures contract;

d. A stock position resulting from the exercise of a market maker long option position or taking delivery in respect of a long security futures contract;

e. A net long position in a security (other than an option) in which the market maker makes a market;

f. A net short position in a security (other than an option) in which the market maker makes a market; or

g. An offset position as defined in rule 15c3-1 under the Act, including its appendices, or any applicable SEC staff interpretation or no-action position.

(iii) For purposes of paragraphs (f)(11)(D) and (E), the term "in or at the money" means that the current market price of the underlying security is not more than two standard exercise intervals below (with respect to a call option) or above (with respect to a put option) the exercise price of the option; the term "in the money" means that the current market price of the underlying asset or index is not below (with respect to a call option) or above (with respect to a put option) the exercise price of the option; the term "overlying option" means a put option purchased or a call option written against a long position in an underlying asset; or a call option purchased, or a put option written against a short position in an underlying asset.

(iv) Securities, including options and security futures contracts, in such accounts shall be valued conservatively in light of current market prices and the amount that might be realized upon liquidation. Substantial additional margin must be required or excess Net Capital maintained in all cases where the securities carried: (a) Are subject to unusually rapid or violent changes in value including volatility in the expiration months of options or security futures contracts, (b) do not have an active market, or (c) in one or more or all accounts, including proprietary accounts combined, are such that they cannot be liquidated promptly or represent undue concentration of risk in view of the carrying member's Net Capital and its overall exposure to material loss.

(F) Approved Specialists' Accounts—others

(i) Notwithstanding the other provisions of (f)(11) and (f)(2)(f), a member may carry the account of an "approved specialist," which account is limited to specialist transactions including hedge transactions with security futures contracts upon a margin basis that is satisfactory to both parties. The amount of any deficiency between the equity in the account and haircut requirement pursuant to rule 15c3-1 shall be charged against the member's net capital when computing net capital under SEC rule 15c3-1.

(ii) For purposes of this paragraph (f)(11)(F), the term "approved specialist" means a specialist who is deemed a specialist for all purposes

under the Act and who is registered pursuant to the rules of a national securities exchange.

(G) Additional Requirements

(i) Money market mutual funds, as defined in rule 2a-7 under the Investment Company Act of 1940, can be used for satisfying margin requirements under this paragraph (f)(11), provided that the requirements of rule 404(b) under the Act and rule 46(b)(2) under the CEA are satisfied.

(ii) Day trading of security futures is subject to the minimum requirements of this rule. If deemed a pattern day-trader, the customer must maintain equity of \$25,000. The 20 percent requirement, for security futures contracts, should be calculated based on the greater of the initial or closing transaction and any amount exceeding NASD excess must be collected. The creation of a customer call subjects the account to all the restrictions contained in rule 2520(f)(8)(B).

(iii) The use of the "time and tick" method is based on the member's ability to substantiate the validity of the system used. Lacking this ability dictates the use of the aggregate method.

(iv) Security futures contracts transacted or held in a futures account shall not be subject to any provision of this rule.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in item IV below and is set forth in sections A, B, and C below.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

Background

The CFTC and SEC have adopted customer margin requirements for SFCs ("SEC/CFTC Margin Regulations")¹⁰ pursuant to authority delegated to them by the Federal Reserve Board ("FRB") under section 7(c)(2)(B) of the Act.¹¹ As noted in the adopting release,¹² section 7(c)(2) of the Act provides that the

¹⁰ 17 CFR 242.400 through 406.

¹¹ 15 U.S.C. 78g(c)(2)(B).

¹² Securities Exchange Act Release No. 46292 (August 1, 2002), 67 FR 53146 (August 14, 2002).