

Entity That Has a Principal Regulator

(13) For purposes of Appendix E (§ 240.15c3–1e) and Appendix G (§ 240.15c3–1g) of this section, the term *entity that has a principal regulator* shall mean a person (other than a natural person) that is not a registered broker or dealer (other than a broker or dealer registered under section 15(b)(11) of the Act (15 U.S.C. 78o(b)(11))), provided that:

(i) The person is:

(A) An insured depository institution as defined in section 3(c)(2) of the Federal Deposit Insurance Act (12 U.S.C. 1813(c)(2));

(B) Registered with the Commodity Futures Trading Commission; or

(C) Registered with or licensed by a State insurance regulator and issues any insurance, endowment, or annuity policy or contract; or

(ii) There are in place appropriate arrangements so that information provided to the Commission is sufficiently reliable for the purposes of Appendix E and Appendix G, the person is primarily in the insured depository institutions business (excluding its insurance and commercial businesses), and the person is:

(A) A bank holding company as defined in section 2 of the Bank Holding Company Act of 1956 (12 U.S.C. 1841(a));

(B) A savings and loan holding company as defined in Section 10(a)(1)(D) of the Home Owners' Loan Act (12 U.S.C. 1467a(1)(D)); or

(C) A foreign bank as defined in section 1(b)(7) of the International Banking Act of 1978 (12 U.S.C. 3101(7)) that is from a jurisdiction for which any foreign bank has been approved by the Board of Governors of the Federal Reserve System to conduct business under 12 CFR 211.24(c), provided such foreign bank represents that it is subject to the same supervisory regime as the foreign bank previously approved by the Board of Governors of the Federal Reserve System.

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(15) * * * For a broker or dealer whose application for exemption under paragraph (a)(7) of this section has been granted by the Commission, the term *tentative net capital* means the net capital of the broker or dealer before deducting the market and credit risk capital charges computed pursuant to Appendix E to this section (§ 240.15c3–1e) or paragraph (c)(2)(vi) of this section, if applicable, and increased by the balance sheet value (including counterparty net exposure) resulting from transactions in derivative

instruments which would otherwise be deducted by virtue of paragraph (c)(2)(iv) of this section.

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4. Section 240.15c3–1e is revised to read as follows:

§ 240.15c3–1e Market and credit risk capital charges for certain brokers or dealers (Appendix E to 17 CFR 240.15c3–1).

Application

(a) A broker or dealer may apply to the Commission for authorization to compute market risk capital charges pursuant to this Appendix E in lieu of computing haircuts pursuant to § 240.15c3–1(c)(2)(vi) and to compute credit risk capital charges pursuant to this Appendix E on some or all of its credit exposures arising from transactions in derivatives instruments (if this Appendix E is used to calculate market risk capital charges on these instruments) in lieu of computing credit risk capital charges pursuant to § 240.15c3–1(c)(2)(iv).

(1) The documents and information submitted to the Commission by the broker or dealer as part of its application shall include the following:

(i) An executive summary of the documents and information provided to the Commission as part of the application and a description of the holding company of the broker or dealer, which may not be a natural person;

(ii) A comprehensive description of the internal risk management control system of the broker or dealer and how that system satisfies the requirements set forth in § 240.15c3–4;

(iii) A detailed list of the categories of positions that the broker or dealer holds in its proprietary accounts and a brief description of the methods that the broker or dealer will use to calculate market and credit risk capital charges on those categories of positions;

(iv) A description of all mathematical models used to price positions and to compute market and credit risk capital charges; a description of the creation, use, and maintenance of the mathematical models; a description of the broker's or dealer's internal risk management controls over those models, including a description of persons who may input data into the model and persons who have access to any or all of the model's outputs; a statement regarding whether the firm has developed its own mathematical models; if a mathematical model incorporates empirical correlations across risk categories, a description of the process for measuring correlations; a description of the backtesting

procedures the broker or dealer will use to backtest the mathematical model used to calculate maximum potential exposure; a description of how each mathematical model satisfies the qualitative and quantitative requirements set forth in paragraph (e) of this Appendix E; and for each mathematical model, a statement that the model is used to analyze and report risk to senior management;

(v) If the broker or dealer is applying to the Commission for approval to use scenario analysis to calculate market risk capital charges for certain positions, a list of those positions, a description of how those charges will be calculated using scenario analysis, and an explanation of why scenario analysis is appropriate to calculate market risk capital charges on those positions;

(vi) A description of how the broker or dealer will calculate current exposure;

(vii) A description of how the broker or dealer will determine internal credit ratings of counterparties, if applicable; and

(viii) A written undertaking by the holding company of the broker or dealer, in a form acceptable to the Commission, signed by a duly authorized person at the holding company, to the effect that, as a condition of Commission approval of the application of the broker or dealer to compute certain market and credit risk capital charges pursuant to this Appendix E, the holding company agrees to:

(A) Comply with the provisions of § 240.15c3–1g;

(B) Comply with all applicable provisions of this Appendix E;

(C) Comply with the provisions of § 240.15c3–4 with respect to an internal risk management control system for the affiliate group as though it were a broker-dealer that computes certain of its capital charges in accordance with this Appendix E;

(D) As part of the internal risk management control system for the affiliate group, establish, document, and maintain procedures for the detection and prevention of money laundering and terrorist financing;

(E) Permit the Commission to examine the books and records of any affiliate of the broker or dealer, including the holding company, if the affiliate is not an entity that has a principal regulator, as defined in § 240.15c3–1(c)(13);

(F) Make available to the Commission, for an entity that has a principal regulator, as defined specifically in § 240.15c3–1(c)(13)(ii), such information concerning the operations of the entity that the Commission finds is necessary