

recordkeeping requirements through records created for its own use so long as those records include the information required in the proposed rules.

We request comment on the record maintenance provisions of paragraph (b) to proposed Rule 17a-5. Specifically, are there other records that an SIBHC should preserve in order to provide the Commission with adequate information in reviewing the SIBHC's financial or operational condition or compliance with applicable rules? In addition, we request comment as to what reports an SIBHC should maintain with respect to its affiliates that may be regulated by another financial regulator (for each such report, please delineate the information contained in that report, as well as any information an SIBHC would be required to maintain pursuant to proposed Rule 17i-6 that may not be included in that report).

3. Access to Records

The Commission has authority to examine an SIBHC and its affiliates pursuant to Section 17(i)(3)(C) of the Exchange Act.⁵⁷ However, the Act limits the focus and scope of such examinations. The statutory provisions also require that the Commission use, to the fullest extent possible, examination reports regarding an examination of the SIBHC or certain regulated affiliates made by an appropriate regulator.⁵⁸

Paragraph (d) of proposed Rule 17i-5 would specify that all information obtained by the Commission pursuant to this section from the SIBHC will be accorded confidential treatment pursuant to Section 24(b) of the Exchange Act. Section 17(j) of the Exchange Act⁵⁹ also provides for confidentiality of SIBHC documents. We believe it is important to accord confidential treatment to these documents because the information an SIBHC would be required to create, maintain, and grant the Commission access to pursuant to the proposed Rules would generally be highly sensitive, non-public business information.

We believe the requirements set forth in proposed Rule 17i-5 are necessary to keep the Commission informed as to the SIBHC's activities, financial condition, policies, systems for monitoring and controlling financial and operational risks, transactions and relationships between any broker or dealer affiliate of the SIBHC, and the extent to which the SIBHC has complied with the provisions of the Act and the

regulations prescribed and orders issued under the Act.

We request comment as to whether the Commission should accord confidential treatment to the documents an SIBHC is required to create, maintain, and grant the Commission access to pursuant to proposed Rule 17i-5.

F. Proposed Rule 17i-6: Reporting Requirements for SIBHCs

Proposed Rule 17i-6 would require an SIBHC to file certain monthly and quarterly reports with the Commission, as well as an annual audit report. These reporting requirements are designed to inform the Commission about the activities of the SIBHC, as well as the financial condition, policies, systems for monitoring and controlling financial and operational risks, and transactions and relationships involving the affiliate group. In addition, these requirements are designed to keep the Commission informed of the extent to which the SIBHC or its affiliates have complied with the provisions of the Exchange Act, and regulations prescribed and orders issued under the Exchange Act.

1. Monthly Reports

Paragraph (a) of proposed Rule 17i-6 would require that the SIBHC file a monthly risk report with the Commission, within 17 business days after the end of each month that is not also the end of a quarter. This report would include consolidated financial statements for the affiliate group, computations of consolidated allowable capital and allowances for market, credit, and operational risk, a graph reflecting daily intra-month Value at Risk ("VaR") for each business line, consolidated credit risk information, a summary report of the SIBHC's exposures on a consolidated basis for each of the top ten countries to which it is exposed, and certain regular risk reports the SIBHC generally provides to the persons responsible for managing risk for the affiliate group. These reports would be due within the same time frames as the monthly FOCUS reports broker-dealers are required to file pursuant to Rule 17a-5(a). These reports would allow the Commission to review and monitor the risk profile for the affiliate group. Further, they would alert the Commission to any deterioration in the affiliate group's financial or operational position and risk profile. Broker-dealers currently are required to file detailed financial information, which is used by the Commission and the broker-dealer's designated

examining authority⁶⁰ to evaluate the broker-dealer's financial and operational condition.

We request comment on the timing of the monthly reporting requirements. Further, we request comment on whether any additional information should be included in the monthly reports to be filed with the Commission. We also request comment on whether the monthly reporting requirement should be modified for an SIBHC (or a member of the affiliate group) required to file information, documents, and reports pursuant to §§ 13(a) or 15(d) of the Exchange Act and, if so, how and why they should be modified.

2. Quarterly Reports

Paragraph (a)(2) of proposed Rule 17i-6 would require that an SIBHC file a quarterly risk report with the Commission within 35 calendar days after the end of each quarter. This report would include, in addition to all the information required to be filed on a monthly basis, (i) consolidating financial statements (that break out data regarding each material affiliate into separate columns); (ii) the results of backtesting of each of the models used to compute allowable capital and allowances for market and credit risk; (iii) a description of all material pending legal or arbitration proceedings involving any member of the affiliate group that are required to be disclosed under generally accepted accounting principles; and (iv) the aggregate debt scheduled to mature within twelve months from the most recent quarter by each affiliate that is a broker-dealer and any other material affiliate, together with the allowance for losses for such transactions. The information an SIBHC would be required to file on a quarterly basis would provide the Commission with valuable insight as to the financial and operational condition of the SIBHC.

Requiring reports to be filed within 35 calendar days after the end of each quarter provides time frames similar to those for quarterly reports due from companies required to file information, documents, and reports pursuant to §§ 13(a) or 15(d) of the Exchange Act.⁶¹

⁶⁰ Pursuant to Exchange Act Rule 17d-1 [17 CFR 240.17d-1], where a broker-dealer is a member of more than one self-regulatory organization (as defined in Exchange Act § 3(a)(26) [15 U.S.C. 78c(a)(26)]), the Commission shall "designate" one self-regulatory organization as responsible for examining the broker-dealer for compliance with applicable financial responsibility rules. The self-regulatory organization of a broker-dealer that has been so designated is commonly referred to as the broker-dealer's designated examining authority (or "DEA").

⁶¹ See Release No. 33-8128 (Sep. 5, 2002), 67 FR 179 (Sep. 16, 2002).

⁵⁷ 15 U.S.C. 78q(i)(3)(C).

⁵⁸ See *supra*, note 17.

⁵⁹ 15 U.S.C. 78q(j).