

(i) The stock does not have a maturity date;

(ii) The stock cannot be redeemed at the option of the holder of the instrument;

(iii) The stock has no other provisions that will require future redemption of the issue; and

(iv) The issuer of the stock can defer or eliminate dividends; and

(3) The sum of the following items on the consolidated balance sheet, to the extent that sum does not exceed the sum of the items included in allowable capital pursuant to paragraphs (a)(1) and (a)(2) of this section:

(i) Cumulative preferred stock in excess of the 33% limit specified in paragraph (a)(2) of this section; and

(ii) Subordinated debt if:

(A) The original weighted average maturity of the subordinated debt is at least five years;

(B) Each subordinated debt instrument states clearly on its face that repayment of the debt is not protected by any Federal agency or the Securities Investor Protection Corporation;

(C) The subordinated debt is unsecured and subordinated in right of payment to all senior indebtedness of the holding company; and

(D) The subordinated debt instrument permits acceleration only in the event of bankruptcy or reorganization of the holding company under Chapters 7 (liquidation) and 11 (reorganization) of the U.S. Bankruptcy Code (11 U.S.C. 7 and 11 U.S.C. 11, respectively).

(b) *Allowance for market risk.* The supervised investment bank holding company shall calculate its allowance for market risk on a consolidated basis daily for all proprietary positions, including debt instruments, equity instruments, commodity instruments, foreign exchange contracts, and derivative contracts, which shall be the sum of:

(1) *Value at risk.* The value at risk ("VaR") measure obtained by applying one or more approved VaR models to each position and multiplying the result by the appropriate multiplication factor. Each VaR model shall meet the applicable qualitative and quantitative requirements set forth in § 240.15c3-1e(e). In addition, the model shall be one that can be disaggregated by each line of business and by each legal entity exposed to market risk. The initial multiplication factor shall be three, unless the Commission determines pursuant to § 240.17i-2(a) or (c), based on a review of the supervised investment bank holding company's internal risk management and control system and the VaR model, that another multiplication factor is appropriate. A

supervised investment bank holding company may use a VaR model to determine its allowance for market risk only for positions for which there is adequate historical data to support a VaR model; and

(2) *Alternative method.* If there is not adequate historical data to support a VaR model for certain positions, the supervised investment bank holding company shall use the method described in its notice of intention to calculate the allowance for market risk.

(c) *Allowance for credit risk.* The supervised investment bank holding company shall compute an allowance for credit risk daily for certain assets on the consolidated balance sheet and certain off-balance sheet items, including loans and loan commitments, exposures due to derivatives contracts, structured financial products, other extensions of credit, and credit substitutes as follows:

(1) Multiplying the credit equivalent amount of the asset or off-balance sheet item by the appropriate credit risk weight of the asset or off-balance sheet item or counterparty as determined according to paragraph (c)(1)(ii) of this section, then multiplying the product by 8%, in accordance with the following:

(i) *Credit equivalent amount:*

(A) The *credit equivalent amount for receivables relating to derivative contracts, repurchase agreements, reverse repurchase agreements, stock loans, stock borrows, and other similar collateralized transactions* is the sum of:

(1) The supervised investment bank holding company's current exposure to the counterparty (as defined in paragraph (c)(1)(i)(E) of this section); and

(2) The supervised investment bank holding company's maximum potential exposure to the counterparty (as defined in paragraph (c)(1)(i)(F) of this section) multiplied by the appropriate multiplication factor. The initial multiplication factor shall be one, unless the Commission determines pursuant to § 240.17i-2(a) or (c), based on a review of the group-wide internal risk management control system, including a review of the VaR model used to determine maximum potential exposure, that another multiplication factor is appropriate;

(B) The *credit equivalent amount for certain loans and loan commitments receivable* shall be determined by multiplying the nominal amount of the contract by the following credit conversion factors:

(1) 0% credit conversion factor for loan commitments that:

(i) May be unconditionally cancelled by the lender; or

(ii) May be cancelled by the lender due to credit deterioration of the borrower;

(2) 5% credit conversion factor for margin loans extended by members of the affiliate group in compliance with applicable self-regulatory organization rules and Federal regulations;

(3) 20% credit conversion factor for:

(i) Loan commitments of less than one year; or

(ii) Short term self-liquidating trade related contingencies, including letters of credit;

(4) 50% credit conversion factor for loan commitments with an original maturity of greater than one year that contain transaction contingencies, including performance bonds, revolving underwriting facilities, note issuance facilities and bid bonds; and

(5) 100% credit conversion factor for bankers' acceptances, standby letters of credit, and forward purchases of assets, and similar direct credit substitutes;

(C) *Credit equivalent amount for other assets.* The credit equivalent amount for other assets shall be the asset's book value on the supervised investment bank holding company's consolidated balance sheet;

(D) The *current exposure* of a member of the affiliate group to a counterparty is the current replacement value of the counterparty's positions with the member of the affiliate group, including the effect of netting agreements with that counterparty meeting the requirements of § 240.15c3-1e(d)(5) and taking into account the value of collateral from the counterparty pledged to and held by any member of the affiliate group meeting the requirements of § 240.15c3-1e(d)(6), and the fair market value of any credit derivatives that specifically change the exposure to the counterparty (as long as the credit derivatives are not used to change the credit risk weight of the counterparty as provided in paragraph (c)(1)(ii)(E) of this section);

(E) The *maximum potential exposure* of a member of the affiliate group to a counterparty is the increase in the net replacement value of the counterparty's positions with the member of the affiliate group, including the effect of netting agreements with that counterparty meeting the requirements of § 240.15c3-1e(d)(5) and taking into account the value of collateral from the counterparty pledged to and held by any member of the affiliate group meeting the requirements of § 240.15c3-1e(d)(6), and the fair market value of any credit derivatives that specifically change the exposure to the counterparty (as long as the credit derivatives are not used to change the credit risk weight of the