

**§ 240.11a1-1(T)**

**17 CFR Ch. II (4-1-06 Edition)**

become effective unless the Commission, having due regard for the maintenance of fair and orderly markets, for the public interest, and for the protection of investors, declares the plan to be effective.

(c) For the purpose of this rule the term "on the floor of such exchange" shall include the trading floor; the rooms, lobbies, and other premises immediately adjacent thereto for use of members generally; other rooms, lobbies and premises made available primarily for use by members generally; and the telephone and other facilities in any such place.

(d) Any national securities exchange may apply for an exemption from the provisions of this rule in compliance with the provisions of section 11(c) of the Act.

(Sec. 11, 48 Stat. 891; 15 U.S.C. 78k)

[29 FR 7381, June 6, 1964, as amended at 62 FR 544, Jan. 3, 1997]

NOTE 1: The Commission finding that the floor trading plan of the New York Stock Exchange filed on May 25, 1964 is designed to eliminate floor trading activities not beneficial to the market hereby declares such plan effective August 3, 1964 subject to suspension or termination on sixty days written notice from the Commission, 29 FR 7381, June 6, 1964.

NOTE 2: The text of the Commission's action declaring effective the amendments to the Floor Trading Plan of the American Stock Exchange (33 FR 1073, Jan. 27, 1968) is as follows:

The Securities and Exchange Commission acting pursuant to the Securities Exchange Act of 1934, particularly sections 11(a) and 23(a) thereof, and Rule 11a-1 (17 CFR 240.11a-1) under the Act, deeming it necessary for the exercise of the functions vested in it, and having due regard for the maintenance of fair and orderly markets, for the public interest, and for the protection of investors, hereby declares the Floor Trading Plan of the American Stock Exchange, as amended by amendments filed on May 11, 1967, effective January 31, 1968. If at any time it appears to the Commission to be necessary or appropriate in the public interest, for the protection of investors, or for the maintenance of fair and orderly markets, or that floor trading activities which are not beneficial to the market have not been eliminated by the Floor Trading Plan of the American Stock Exchange, the Commission may suspend or terminate the effectiveness of the plan by sending at least 60 days written notice to the American Stock Exchange.

The American Stock Exchange shall have the opportunity to submit any written data, facts, arguments, or modifications in its plan within such 60-day period in such form as the Commission deems appropriate under the circumstances. The Commission has been informed that all persons subject to the Floor Trading Plan of the American Stock Exchange, as amended, have had actual notice thereof, and the Commission finds that notice and procedure pursuant to section 4 of the Administrative Procedure Act (5 U.S.C. section 553) are impracticable and unnecessary and that such Plan, as amended, may be, and is hereby, declared effective on January 31, 1968.

**§ 240.11a1-1(T) Transactions yielding priority, parity, and precedence.**

(a) A transaction effected on a national securities exchange for the account of a member which meets the requirements of section 11(a)(1)(G)(i) of the Act shall be deemed, in accordance with the requirements of section 11(a)(1)(G)(ii), to be not inconsistent with the maintenance of fair and orderly markets and to yield priority, parity, and precedence in execution to orders for the account of persons who are not members or associated with members of the exchange if such transaction is effected in compliance with each of the following requirements:

(1) A member shall disclose that a bid or offer for its account is for its account to any member with whom such bid or offer is placed or to whom it is communicated, and any such member through whom that bid or offer is communicated shall disclose to others participating in effecting the order that it is for the account of a member.

(2) Immediately before executing the order, a member (other than the specialist in such security) presenting any order for the account of a member on the exchange shall clearly announce or otherwise indicate to the specialist and to other members then present for the trading in such security on the exchange that he is presenting an order for the account of a member.

(3) Notwithstanding rules of priority, parity, and precedence otherwise applicable, any member presenting for execution a bid or offer for its own account or for the account of another member shall grant priority to any bid or offer at the same price for the account of a person who is not, or is not

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associated with, a member, irrespective of the size of any such bid or offer or the time when entered.

(b) A member shall be deemed to meet the requirements of section 11(a)(1)(G)(i) of the Act if during its preceding fiscal year more than 50 percent of its gross revenues was derived from one or more of the sources specified in that section. In addition to any revenue which independently meets the requirements of section 11(a)(1)(G)(i), revenue derived from any transaction specified in paragraph (A), (B), or (D) of section 11(a)(1) of the Act or specified in 17 CFR 240.11a1-4(T) shall be deemed to be revenue derived from one or more of the sources specified in section 11(a)(1)(G)(i). A member may rely on a list of members which are stated to meet the requirements of section 11(a)(1)(G)(i) if such list is prepared, and updated at least annually, by the exchange. In preparing any such list, an exchange may rely on a report which sets forth a statement of gross revenues of a member if covered by a report of independent accountants for such member to the effect that such report has been prepared in accordance with generally accepted accounting principles.

(Secs. 2, 3, 6, 11, 11A, and 23, 89 Stat. 97, 104, 110, 111, 156 (15 U.S.C. 78b, 78c, 78f, 78k, 78k-1, 78w); secs. 2, 3, 11, 23, 48 Stat. 881, 882, 885, 891, 901, as amended)

[43 FR 11553, Mar. 17, 1978, as amended at 43 FR 18562, May 1, 1978; 44 FR 6093, Jan. 31, 1979]

### § 240.11a1-2 Transactions for certain accounts of associated persons of members.

A transaction effected by a member of a national securities exchange for the account of an associated person thereof shall be deemed to be of a kind which is consistent with the purposes of section 11(a)(1) of the Act, the protection of investors, and the maintenance of fair and orderly markets if the transaction is effected:

(a) For the account of and for the benefit of an associated person, if, assuming such transaction were for the account of a member, or

(b) For the account of an associated person but for the benefit of an account carried by such associated person, if,

assuming such account were carried on the same basis by a member.

The member would have been permitted, under section 11(a) of the Act and the other rules thereunder, to effect the transaction: *Provided, however*, That a transaction may not be effected by a member for the account of and for the benefit of an associated person under section 11(a)(1)(G) of the Act and Rule 11a1-1(T) thereunder unless the associated person derived, during its preceding fiscal year, more than 50 percent of its gross revenues from one or more of the sources specified in section 11(a)(1)(G)(i) of the Act.

(Secs. 2, 3, 4, 6, 7, 11, 18, 89 Stat. 97, 104, 110, 111, 121, 155 (15 U.S.C. 78b, 78c, 78f, 78k, 78k-1, 78o, 78w); secs. 2, 3, 10, 23, 48 Stat. 881, 882, 891, 901, as amended (15 U.S.C. 78j))

[43 FR 11553, Mar. 17, 1978; 43 FR 14451, Apr. 6, 1978]

### § 240.11a1-3(T) Bona fide hedge transactions in certain securities.

A bona fide hedge transaction effected on a national securities exchange by a member for its own account or an account of an associated person thereof and involving a long or short position in a security entitling the holder to acquire or sell an equity security, and a long or short position in one or more other securities entitling the holder to acquire or sell such equity security, shall be deemed to be of a kind which is consistent with the purposes of section 11(a)(1) of the Act, the protection of investors, and the maintenance of fair and orderly markets.

(Secs. 2, 3, 6, 11, 11A, and 23, 89 Stat. 97, 104, 110, 111, 156 (15 U.S.C. 78b, 78c, 78f, 78k, 78k-1, 78w); secs. 2, 3, 11, 23, 48 Stat. 881, 882, 885, 891, 901, as amended)

[44 FR 6093, Jan. 31, 1979]

### § 240.11a1-4(T) Bond transactions on national securities exchanges.

A transaction in a bond, note, debenture, or other form of indebtedness effected on a national securities exchange by a member for its own account or the account of an associated person thereof shall be deemed to be of a kind which is consistent with the purposes of section 11(a)(1) of the Act, the protection of investors, and the