

Securities and Exchange Commission

§ 240.15c2-7

and disadvantages which such person will incur in the entire transaction, including the loan arrangement, (iii) all commissions, discounts, and other remuneration received and to be received in connection with the entire transaction including the loan arrangement, by the broker or dealer, by any person controlling, controlled by, or under common control with the broker or dealer, and by any other person participating in the transaction; *Provided, however,* That the broker or dealer shall be deemed to be in compliance with this paragraph if the customer, before any purchase, loan, or other related element of the transaction is entered into in a manner legally binding upon the customer, receives a statement from the lender, or receives a prospectus or offering circular from the broker or dealer, which statement, prospectus or offering circular contains the information required by this paragraph; and

(2) Obtains from such person information concerning his financial situation and needs, reasonably determines that the entire transaction, including the loan arrangement, is suitable for such person, and retains in his files a written statement setting forth the basis upon which the broker or dealer made such determination; *Provided, however,* That the written statement referred to in this paragraph must be made available to the customer on request.

(b) This section shall not apply to any credit extended or any loan arranged by any broker or dealer subject to the provisions of Regulation T (12 CFR part 220) if such credit is extended or such loan is arranged, in compliance with the requirements of such regulation, only for the purpose of purchasing or carrying the security offered or sold; *Provided, however,* That notwithstanding this paragraph, the provisions of paragraph (a) shall apply in full force with respect to any transaction involving the extension of or arrangement for credit by a broker or dealer (i) in a special insurance premium funding account within the meaning of section 4(k) of Regulation T (12 CFR 220.4(k)) or (ii) in compliance with the terms of § 240.3a12-5 of this chapter.

(c) This section shall not apply to any offer to extend credit or arrange

any loan, or to any credit extended or loan arranged, in connection with any offer or sale, or attempt to induce the purchase, of any municipal security.

(d) This section shall not apply to a transaction involving the extension of credit by an OTC derivatives dealer, as defined in § 240.3b-12, if the transaction is exempt from the provisions of Section 7(c) of the Act (15 U.S.C. 78g(c)) pursuant to § 240.36a1-1.

(Sec. 3(a)(12), 48 Stat. 882, as amended, 84 Stat. 718, 1435, 1499 (15 U.S.C. 78c(12)); sec. 7(c), 48 Stat. 886, as amended, 82 Stat. 452 (15 U.S.C. 78g(c)); sec. 11(d)(1), 48 Stat. 891 as amended, 68 Stat. 686 (15 U.S.C. 78k(d)(1)); sec. 15(c), 48 Stat. 895, as amended, 52 Stat. 1075, 84 Stat. 1653 (15 U.S.C. 78o(c)); sec. 23(a), 48 Stat. 901, as amended, 49 Stat. 704, 1379 (15 U.S.C. 78w(a))

[40 FR 6646, Feb. 13, 1975, as amended at 41 FR 22826, June 7, 1976; 63 FR 59397, Nov. 3, 1998]

§ 240.15c2-6 [Reserved]

§ 240.15c2-7 Identification of quotations.

(a) It shall constitute an attempt to induce the purchase or sale of a security by “making a ‘fictitious quotation’” within the meaning of section 15(c)(2) of the Act, for any broker or dealer to furnish or submit, directly or indirectly, any quotation for a security (other than a municipal security) to an inter-dealer quotation system unless:

(1) The inter-dealer-quotation-system is informed, if such is the case, that the quotation is furnished or submitted;

(i) By a correspondent broker or dealer for the account or in behalf of another broker or dealer, and if so, the identity of such other broker or dealer; and/or

(ii) In furtherance of one or more other arrangements (including a joint account, guarantee of profit, guarantee against loss, commission, markup, markdown, indication of interest and accommodation arrangement) between or among brokers or dealers, and if so, the identity of each broker or dealer participating in any such arrangement or arrangements; *Provided, however,* That the provisions of this subparagraph shall not apply if only one of the brokers or dealers participating in any

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such arrangement or arrangements furnishes or submits a quotation with respect to the security to an inter-dealer-quotation-system.

(2) The inter-dealer-quotation-system to which the quotation is furnished or submitted makes it a general practice to disclose with each published quotation, by appropriate symbol or otherwise, the category or categories (paragraph (a)(1)(i) and/or (ii) of this section) in furtherance of which the quotation is submitted, and the identities of all other brokers and dealers referred to in paragraph (a)(1) of this section where such information is supplied to the inter-dealer-quotation-system under the provisions of paragraph (a)(1) of this section.

(b) It shall constitute an attempt to induce the purchase or sale of a security by making a “fictitious quotation,” within the meaning of section 15(c)(2) of the Act, for a broker or dealer to enter into any correspondent or other arrangement (including a joint account, guarantee of profit, guarantee against loss, commission, markup, markdown, indication of interest and accommodation arrangement) in furtherance of which two or more brokers or dealers furnish or submit quotations with respect to a particular security unless such broker or dealer informs all brokers or dealers furnishing or submitting such quotations of the existence of such correspondent and other arrangements, and the identity of the parties thereto.

(c) For purposes of this section:

(1) The term *inter-dealer-quotation-system* shall mean any system of general circulation to brokers and dealers which regularly disseminates quotations of identified brokers or dealers but shall not include a quotation sheet prepared and distributed by a broker or dealer in the regular course of his business and containing only quotations of such broker or dealer.

(2) The term *quotation* shall mean any bid or offer, or any indication of interest (such as OW or BW) in any bid or offer.

(3) The term *correspondent* shall mean a broker or dealer who has a direct line of communication to another broker or

dealer located in a different city or geographic area.

(Sec. 15, 48 Stat. 895, as amended; 15 U.S.C. 78o)

[29 FR 11530, Aug. 12, 1964, as amended at 41 FR 22826, June 7, 1976]

§ 240.15c2-8 Delivery of prospectus.

(a) It shall constitute a deceptive act or practice, as those terms are used in section 15(c)(2) of the Act, for a broker or dealer to participate in a distribution of securities with respect to which a registration statement has been filed under the Securities Act of 1933 unless he complies with the requirements set forth in paragraphs (b) through (h) of this section. For the purposes of this section, a broker or dealer participating in the distribution shall mean any underwriter and any member or proposed member of the selling group.

(b) In connection with an issue of securities, the issuer of which has not previously been required to file reports pursuant to sections 13(a) or 15(d) of the Securities Exchange Act of 1934, unless such issuer has been exempted from the requirement to file reports thereunder pursuant to section 12(h) of the Act, such broker or dealer shall deliver a copy of the preliminary prospectus to any person who is expected to receive a confirmation of sale at least 48 hours prior to the sending of such confirmation. This paragraph (b) does not apply with respect to asset-backed securities (as defined in §229.1101 of this chapter) that meet the requirements of General Instruction I.B.5 of Form S-3 (§239.13 of this chapter).

(c) Such broker or dealer shall take reasonable steps to furnish to any person who makes written request for a preliminary prospectus between the filing date and a reasonable time prior to the effective date of the registration statement to which such prospectus relates, a copy of the latest preliminary prospectus on file with the Commission. Reasonable steps shall include receiving an undertaking by the managing underwriter or underwriters to send such copy to the address given in the requests.

(d) Such broker or dealer shall take reasonable steps to comply promptly with the written request of any person