

Securities and Exchange Commission

§ 300.400

Act of the commencement of proceedings has not been published, then as soon as practicable after publication of such notice, a broker or dealer who had executed transactions in securities out of which arose open contractual commitments with the debtor shall furnish to the trustee such information with respect to the buy-in, sell-out or other status of open contractual commitments as called for by Forms 300-A, B and C (§§301.300a-301.300c of this chapter) including appropriate supporting documentation and schedules.

§ 300.304 Retained rights of brokers or dealers.

(a) Nothing stated in these rules shall be construed to prejudice the right of a broker or dealer to any claim against the debtor's estate, or the right of the trustee to make any claim against a broker or dealer, with respect to a commitment of the debtor which was outstanding on the filing date, but (1) which is not described in § 300.300(c), or (2) which, although described in § 300.300(c), does not meet the requirements specified in § 300.301 or was not closed out of completed in accordance with § 300.302 or was not reported to the trustee in conformity with § 300.303 or was not supported by appropriate documentation.

(b) Nothing stated in these rules shall be construed to prejudice the right of a broker or dealer to a claim against the debtor's estate for the amount by which the money difference due the broker or dealer upon a buy-in or sell-out may exceed the amount paid by the trustee to such broker or dealer.

§ 300.305 Excluded contracts.

Notwithstanding the fact that an open contractual commitment described in § 300.300(c) meets the requirements of § 300.301 and the other requirements of these rules, a court shall not be precluded from canceling such commitment, awarding damages, or granting such other remedy as it shall deem fair and equitable if, on application of the trustee or SIPC, it determines that such commitment was not entered into in the ordinary course of business or was entered into by the debtor, or the broker or dealer or his customer, for the purposes of creating a commitment

in contemplation of a liquidation proceeding under the Act. Such a determination shall be made after notice and opportunity for hearing by the debtor, such broker or dealer, or such customer, and may be made before or after the delivery of securities or payment of the contract price or before or after any buy-in or sell-out of the open contractual commitment, or otherwise.

§ 300.306 Completion or closeout pursuant to SIPC direction.

In its discretion SIPC may, in order to prevent a substantial detrimental impact upon the financial condition of one or more brokers or dealers, direct the closeout or completion of an open contractual commitment, irrespective of whether it is described in § 300.300(c) or meets the requirements of § 300.301 or has been reported in conformity with § 300.303 or is supported by appropriate documentation. SIPC shall consult with the Securities and Exchange Commission before SIPC makes any determinations under this section.

§ 300.307 Completion with cash or securities of customer.

The trustee may, if authorized by the court, complete an open contractual commitment of the debtor, regardless of whether it is described in § 300.300(c) or meets the requirements of § 300.301 or has been reported to the trustee in conformity with § 300.303, to the extent that such commitment is completed with customer name securities of the customer of the debtor for whose account the commitment was made, or with cash or securities paid or delivered by or for the account of such customer to the debtor or trustee after the filing date.

§ 300.400 Satisfaction of customer claims for standardized options.

(a) For the purpose of sections 7(b)(1), 8 (b) and (d), and 16(11) of the Securities Investor Protection Act (hereinafter referred to as "the Act"), this rule will be applied in determining what a customer will receive in either (1) a liquidation proceeding pursuant to the Act or (2) a direct payment procedure pursuant to section 10 of the Act, in satisfaction of a claim based upon Standardized Options positions.