

Department of the Treasury

§ 402.2e

“(2) *Notice of Maturity or Accelerated Maturity.* Every government securities broker or dealer shall immediately notify the Examining Authority for such broker or dealer if, after giving effect to all Payments of Payment Obligations subordination agreements then outstanding which are then due or mature within the following six months without reference to any projected profit or loss of the broker or dealer, the liquid capital, as defined in § 402.2(d) of this title, of such government securities broker or dealer, would be less than 150% of total haircuts, as defined in § 402.2(g) of this title.”.

(j) Section 240.15c3-1d(c)(5)(i) is modified to read as follows:

“(i) For the purpose of enabling a government securities broker or dealer to participate as an underwriter of securities or other extraordinary activities in compliance with the capital requirements of § 402.2 of this title, a government securities broker or dealer shall be permitted, on no more than three occasions in any 12 month period, to enter into a subordination agreement on a temporary basis which has a stated term of no more than 45 days from the date such subordination agreement became effective. This temporary relief shall not apply to a government securities broker or dealer if, within the preceding thirty calendar days, it has given notice pursuant to § 405.3, or if immediately prior to entering into such subordination agreement, the liquid capital, as defined in § 402.2(d) of this title, of such broker or dealer would be less than 150% of total haircuts, as defined in § 402.2(g) of this title, or the amount of its then outstanding subordination agreements exceeds the limits specified in § 240.15c3-1(d). Such temporary subordination agreement shall be subject to all other provisions of this appendix D.”.

(k) Section 240.15c3-1d(c)(5)(ii)(A) is modified to read as follows:

“(A) After giving effect thereto (and to all Payments of Payment Obligations under any other subordinated agreements then outstanding the maturity or accelerated maturities of which are scheduled to fall due within six months after the date such prepayment is to occur pursuant to this provision or on or prior to the date on

which the Payment Obligation in respect of such prepayment is scheduled to mature disregarding this provision, whichever date is earlier) without reference to any projected profit or loss of the government securities broker or dealer, the liquid capital, as defined in § 402.2(d) of this title, of such broker or dealer, would be less than 180% of total haircuts, as defined in § 402.2(g) of this title.”.

[52 FR 27931, July 24, 1987, as amended at 59 FR 53731, Oct. 26, 1994]

§ 402.2e Appendix E—Temporary minimum requirements.

(a) A government securities broker or dealer that falls within the provisions of paragraph (b)(1) of § 402.2 shall maintain not less than the greater of:

(1) The amount of liquid capital required under paragraph (a) of § 402.2; or

(2) The amount of liquid capital, after deducting total haircuts, of:

(i) \$25,000 through June 30, 1995;

(ii) \$100,000 from July 1, 1995 through December 31, 1995;

(iii) \$175,000 from January 1, 1996 through June 30, 1996; and

(iv) \$250,000 from July 1, 1996 and thereafter.

(b) A government securities broker or dealer that falls within the provisions of paragraph (b)(2) of § 402.2 shall maintain not less than the greater of:

(1) The amount of liquid capital required under paragraph (a) of § 402.2; or

(2) The amount of liquid capital, after deducting total haircuts, of:

(i) \$25,000 through June 30, 1995;

(ii) \$50,000 from July 1, 1995 through December 31, 1995;

(iii) \$75,000 from January 1, 1996 through June 30, 1996; and

(iv) \$100,000 from July 1, 1996 and thereafter.

(c) A government securities broker that falls within the provisions of paragraph (c)(1) of § 402.2 shall maintain not less than the greater of:

(1) The amount of liquid capital required under paragraph (a) of § 402.2; or

(2) The amount of liquid capital, after deducting total haircuts, of:

(i) \$5,000 through June 30, 1995;

(ii) \$20,000 from July 1, 1995 through December 31, 1995;

(iii) \$35,000 from January 1, 1996 through June 30, 1996; and

(iv) \$50,000 from July 1, 1996 and thereafter.

(d) A government securities broker that falls within the provisions of paragraph (c)(2) of § 402.2 shall maintain not less than the greater of:

(1) The amount of liquid capital required under paragraph (a) of § 402.2; or

(2) The amount of liquid capital, after deducting total haircuts, of:

(i) \$5,000 through June 30, 1995;

(ii) \$11,000 from July 1, 1995 through December 31, 1995;

(iii) \$18,000 from January 1, 1996 through June 30, 1996; and

(iv) \$25,000 from July 1, 1996 and thereafter.

[60 FR 11026, Mar. 1, 1995; 60 FR 12825, Mar. 8, 1995]

PART 403—PROTECTION OF CUSTOMER SECURITIES AND BALANCES

Sec.

403.1 Application of part to registered brokers and dealers.

403.2 Hypothecation of customer securities.

403.3 Use of customers' free credit balances.

403.4 Customer protection—reserves and custody of securities.

403.5 Custody of securities held by financial institutions that are government securities brokers or dealers.

403.6 Compliance with part by futures commission merchants.

403.7 Effective dates.

AUTHORITY: Sec. 101, Pub. L. 99-571, 100 Stat. 3209; sec. 4(b), Pub. L. 101-432, 104 Stat. 963; sec. 102, sec. 106, Pub. L. 103-202, 107 Stat. 2344 (15 U.S.C. 78o-5(a)(5), (b)(1)(A), (b)(4)).

SOURCE: 52 FR 27947, July 24, 1987, unless otherwise noted.

§ 403.1 Application of part to registered brokers and dealers.

With respect to their activities in government securities, compliance by registered brokers or dealers with § 240.8c-1 of this title (SEC Rule 8c-1), as modified by § 403.2 (a), (b) and (c), with § 240.15c2-1 of this title (SEC Rule 15c2-1), with § 240.15c3-2 of this title (SEC Rule 15c3-2), as modified by § 403.3, and with § 240.15c3-3 of this title (SEC Rule 15c3-3), as modified by § 403.4 (a) through (d), (f)(2) through (3), (g) through (j), and (m), including provisions in those rules relating to OTC de-

rivatives dealers, constitutes compliance with this part.

[71 FR 54411, Sept. 15, 2006]

§ 403.2 Hypothecation of customer securities.

Every registered government securities broker or dealer shall comply with the requirements of § 240.8c-1 of this title concerning hypothecation of customer securities with the following modifications:

(a) In § 240.8c-1(a), the words “no government securities broker or dealer” shall be substituted for the words “no member of a national securities exchange, and no broker or dealer who transacts a business in securities through the medium of such member.”

(b) Section 240.8c-1(d) is modified to read as follows:

“(d) *Exemption for clearing liens.* The provisions of paragraphs (a)(2), (a)(3) and (f) of this section shall not apply to any lien or claim of a clearing bank, or the clearing corporation (or similar department or association) of a national securities exchange or a registered national securities association, for a loan made to acquire any securities subject to said lien and to be repaid on the same calendar day, which loan is incidental to the clearing of transactions in securities or loans through such bank, corporation, department or association; *provided, however*, that for the purpose of paragraph (a)(3) of this section, ‘aggregate indebtedness of all customers in respect of securities carried for their accounts’ shall not include indebtedness in respect of any securities subject to any lien or claim exempted by this paragraph.”

(c) References to “member, broker or dealer” mean “government securities broker or dealer.”

§ 403.3 Use of customers' free credit balances.

Every registered government securities broker or dealer shall comply with the requirement of § 240.15c3-2 of this title concerning the use of customer free credit balances. For purposes of this section, all references to “broker or dealer” in § 240.15c3-2 shall include government securities brokers and dealers.