

## Securities and Exchange Commission

## § 240.15c2-1

sends to such customer written notification of the existence of such participation or interest.

[41 FR 22826, June 7, 1976]

### § 240.15c1-7 Discretionary accounts.

(a) The term *manipulative, deceptive, or other fraudulent device or contrivance*, as used in section 15(c) of the Act, is hereby defined to include any act of any broker, dealer or municipal securities dealer designed to effect with or for any customer's account in respect to which such broker, dealer or municipal securities dealer or his agent or employee is vested with any discretionary power any transactions or purchase or sale which are excessive in size or frequency in view of the financial resources and character of such account.

(b) The term *manipulative, deceptive, or other fraudulent device or contrivance*, as used in section 15(c)(1) of the Act, is hereby defined to include any act of any broker, dealer or municipal securities dealer designed to effect with or for any customer's account in respect to which such broker, dealer or municipal securities dealer or his agent or employee is vested with any discretionary power any transaction of purchase or sale unless immediately after effecting such transaction such broker, dealer or municipal securities dealer makes a record of such transaction which record includes the name of such customer, the name, amount and price of the security, and the date and time when such transaction took place.

[41 FR 22826, June 7, 1976]

### § 240.15c1-8 Sales at the market.

The term *manipulative, deceptive, or other fraudulent device or contrivance*, as used in section 15(c)(1) of the Act, is hereby defined to include any representation made to a customer by a broker, dealer or municipal securities dealer who is participating or otherwise financially interested in the primary or secondary distribution of any security which is not admitted to trading on a national securities exchange that such security is being offered to such customer "at the market" or at a price related to the market price unless such broker, dealer or municipal securities

dealer knows or has reasonable grounds to believe that a market for such security exists other than that made, created, or controlled by him, or by any person for whom he is acting or with whom he is associated in such distribution, or by any person controlled by, controlling or under common control with him.

[41 FR 22826, June 7, 1976]

### § 240.15c1-9 Use of pro forma balance sheets.

The term *manipulative, deceptive, or other fraudulent device or contrivance*, as used in section 15(c)(1) of the Act, is hereby defined to include the use of financial statements purporting to give effect to the receipt and application of any part of the proceeds from the sale or exchange of securities, unless the assumptions upon which each such financial statement is based are clearly set forth as part of the caption to each such statement in type at least as large as that used generally in the body of the statement.

(Sec. 2, 52 Stat. 1075; 15 U.S.C. 78o)

[13 FR 8205, Dec. 22, 1948]

### § 240.15c2-1 Hypothecation of customers' securities.

(a) *General provisions.* The term *fraudulent, deceptive, or manipulative act or practice*, as used in section 15(c) (2) of the Act, is hereby defined to include the direct or indirect hypothecation by a broker or dealer, or his arranging for or permitting, directly or indirectly, the continued hypothecation of any securities carried for the account of any customer under circumstances:

(1) That will permit the commingling of securities carried for the account of any such customer with securities carried for the account of any other customer, without first obtaining the written consent of each such customer to such hypothecation;

(2) That will permit such securities to be commingled with securities carried for the account of any person other than a bona fide customer of such broker or dealer under a lien for a loan made to such broker or dealer; or

(3) That will permit securities carried for the account of customers to be hypothecated, or subjected to any lien