

# Rules and Regulations

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## SECURITIES AND EXCHANGE COMMISSION

### 17 CFR Parts 240 and 249

[Release No. 34-71194A; File No. S7-15-11]

RIN 3235-AL14

### Removal of Certain References to Credit Ratings Under the Securities Exchange Act of 1934

**AGENCY:** Securities and Exchange Commission.

**ACTION:** Final rule; correction.

**SUMMARY:** The Securities and Exchange Commission published a document in the **Federal Register** of January 8, 2014 that contained an incorrect instruction. This correction is being published to correct instruction 5.b in that document.

**DATES:** Effective July 7, 2014.

**FOR FURTHER INFORMATION CONTACT:** Carrie A. O'Brien, Special Counsel, at (202) 551-5640; Office of Financial Responsibility (Net Capital, Customer Protection, and Books and Records Requirements).

#### SUPPLEMENTARY INFORMATION:

#### § 240.15c3-1a [Corrected]

In the **Federal Register** of January 8, 2014, in FR Doc. 2013-31426, on page 1549, in the 14th line of the third column, Instruction 5.b. is corrected to read as follows:

■ b. Removing paragraphs (c)(4)(vi)(A) through (c)(4)(vi)(D);

Dated: July 2, 2014.

**Lynn M. Powalski,**  
Deputy Secretary.

[FR Doc. 2014-15841 Filed 7-7-14; 8:45 am]

**BILLING CODE** 8011-01-P

## DEPARTMENT OF THE TREASURY

### 17 CFR Parts 400, 401, 402, 403, 405, 420, 449, and 450

[Docket No. BPD GSRS 11-01]

RIN 1535-AA02

### Government Securities Act Regulations; Replacement of References to Credit Ratings and Technical Amendments

**AGENCY:** Office of the Assistant Secretary for Financial Markets, Treasury.

**ACTION:** Final rule.

**SUMMARY:** The Department of the Treasury (Treasury) is issuing in final form an amendment to the regulations issued under the Government Securities Act of 1986, as amended (GSA), to replace references to credit ratings in the regulations with alternative requirements. Section 939A of the Dodd-Frank Wall Street Reform and Consumer Protection Act (Dodd-Frank Act) requires Federal agencies to remove from their applicable regulations any reference to or requirement of reliance on credit ratings and to substitute a standard of creditworthiness as the agency determines appropriate for such regulations. This final rule amendment provides a substitute standard of creditworthiness for use in the liquid capital rule required by GSA regulations. It also contains several non-substantive, technical amendments to Treasury's GSA regulations to update certain information or to delete certain requirements that are no longer applicable.

**DATES:** The amendments will become effective August 7, 2014.

**ADDRESSES:** This final rule is available on the Bureau of the Fiscal Service's Web site at <http://www.treasurydirect.gov>. It is also available for public inspection and copying at the Treasury Department Library, 1500 Pennsylvania Avenue NW., Annex, Room 1020, Washington, DC, 20220. To visit the library, call (202) 622-0990 for an appointment.

**FOR FURTHER INFORMATION CONTACT:** Lori Santamorenna, Executive Director, Chuck Andreatta, Associate Director, or Kevin Hawkins, Government Securities Advisor, Department of the Treasury, Bureau of the Fiscal Service,

Government Securities Regulations Staff, (202) 504-3632 or email us at [govsecreg@fiscal.treasury.gov](mailto:govsecreg@fiscal.treasury.gov).

**SUPPLEMENTARY INFORMATION:** We are amending Treasury's liquid capital rule for registered government securities brokers and dealers under the GSA regulations at 17 CFR part 402 to remove references to credit ratings and substitute a standard of creditworthiness. We are issuing this amendment in order to comply with the requirements of the Dodd-Frank Act.<sup>1</sup> We are not narrowing or broadening the scope of financial instruments that would qualify for beneficial treatment under the existing liquid capital rule. Section 939A(a) of the Dodd-Frank Act requires that Federal agencies, to the extent applicable, "review (1) any regulation issued by such agency that requires the use of an assessment of the credit-worthiness of a security or money market instrument; and (2) any references to or requirements in such regulations regarding credit ratings." Section 939A(b) requires the agency to modify any regulations identified to "remove any reference to or requirement of reliance on credit ratings and to substitute in such regulations such standard of credit-worthiness" as the agency determines to be appropriate for such regulations.<sup>2</sup>

#### I. Current Liquid Capital Rule

Treasury's liquid capital rule (17 CFR 402.2) prescribes minimum regulatory capital requirements for registered government securities brokers and dealers. In general, the liquid capital rule is a minimum ratio requirement of liquid capital to risk, as measured using various "haircuts,"<sup>3</sup> which are designed to account for the market risk inherent in a government securities broker's or dealer's securities positions and create a buffer of liquidity to protect against other risks associated with its securities business. Specifically, a government securities broker or dealer may not permit its liquid capital to be below an amount equal to 120 percent of "total haircuts," which is the sum of "credit risk haircuts" and "market risk

<sup>1</sup> Public Law 111-203, 124 Stat. 1376 (2010).

<sup>2</sup> See Section 939A of the Dodd-Frank Act.

<sup>3</sup> A "haircut" in the context of Treasury's liquid capital rule refers to a deduction in the market value of securities or other instruments held by a government securities broker or dealer as part of net worth for calculating its liquid capital.

haircuts” calculated by each government securities broker or dealer.<sup>4</sup>

In describing the method for registered government securities brokers and dealers to calculate their minimum capital requirements, the liquid capital rule categorizes certain dollar-denominated securities, debt instruments, and derivative instruments as “Treasury market risk instruments.”<sup>5</sup> These instruments receive a more favorable capital treatment than instruments that are more susceptible to changes in value due to market fluctuations, which receive a higher “other securities haircut.”<sup>6</sup> The definition of Treasury market risk instruments includes commercial paper which, in order to receive the more favorable haircut treatment of Treasury market risk instruments, must be of no more than one year to maturity [and] rated in one of the three highest categories by at least two nationally recognized statistical rating organizations.<sup>7</sup>

The liquid capital rule includes three references to a rating by a nationally recognized statistical rating organization (NRSRO), i.e., a credit rating, each in regard to commercial paper. NRSROs are credit rating agencies that are subject to Securities and Exchange Commission (SEC) registration and oversight.<sup>8</sup> At present, there are three registered government securities brokers and dealers, none of which currently or routinely hold commercial paper.

## II. The Proposed Rule

On September 27, 2011, Treasury published a proposed rule amendment<sup>9</sup> in which we proposed to replace references to credit ratings in our liquid capital rule, all of which pertain to commercial paper, with a substitute standard of creditworthiness. In place of these references, we proposed amending the term “Treasury market risk instrument” in the liquid capital rule to

include commercial paper that has only a minimal amount of credit risk as reasonably determined by the government securities broker or dealer pursuant to written policies and procedures the government securities broker or dealer establishes, maintains, and enforces to assess creditworthiness.<sup>10</sup> In making an assessment of credit and liquidity risk, the government securities broker or dealer would be required to follow written policies and procedures that it would establish, maintain, and enforce. The government securities broker or dealer could consider the following factors, to the extent appropriate, with respect to commercial paper in making this assessment.<sup>11</sup>

- Credit spreads (i.e., whether it is possible to demonstrate that a position in commercial paper is subject to a minimal amount of credit risk based on the spread between the commercial paper’s yield and the yield of Treasury or other securities, or based on credit default swap spreads that reference the security);
- Price and/or yield (i.e., whether the price and yield of a security are consistent with other securities that the government securities broker or dealer has reasonably determined are subject to a minimal amount of credit risk and whether the price resulted from active trading);

- Liquidity (i.e., whether the commercial paper can be sold quickly at a minimal transaction cost);

- Securities-related research (i.e., whether providers of securities-related research believe the issuer of the commercial paper will be able to meet its financial commitments, generally, or specifically, with respect to the commercial paper held by the government securities broker or dealer);

- Internal or external credit risk assessments (i.e., whether credit assessments developed internally by the government securities broker or dealer or externally by a credit rating agency, irrespective of its status as an NRSRO, express a view as to the credit risk associated with a particular security);

- Default statistics (i.e., whether providers of credit information relating to securities express a view that the commercial paper has a probability of default consistent with other commercial paper with a minimal amount of credit risk);

- Inclusion on an index (i.e., whether a security, or issuer of the security, is included as a component of a recognized index of instruments that are subject to a minimal amount of credit risk); and

- Factors specific to the commercial paper market (e.g., general liquidity conditions). The range and type of specific factors considered by the government securities broker or dealer, and how frequently it updates its assessment, would vary depending on the particular commercial paper under review.

If the government securities broker or dealer conducts an assessment of creditworthiness and determines that the commercial paper it holds has more than a minimal amount of credit risk, the government securities broker or dealer would not classify the commercial paper as a Treasury market risk instrument, and would apply the higher “other securities haircut” in its liquid capital computation. Similarly, if the government securities broker or dealer does not have written policies and procedures to assess creditworthiness, or chooses not to use its policies and procedures, it would apply the “other securities haircut” treatment to the commercial paper it holds.

Under Treasury’s GSA regulations that govern recordkeeping requirements,<sup>12</sup> which generally incorporate the SEC’s Rule 17a–4 recordkeeping requirements for brokers and dealers,<sup>13</sup> each government securities broker or dealer is required to preserve for a period of not less than three years, the first two years in an easily accessible place, the written policies and procedures that it establishes, maintains, and enforces for assessing credit risk for commercial paper. The SEC amended Rule 17a–4 to require brokers and dealers to preserve the written policies and procedures they establish, document, maintain, and enforce to assess creditworthiness.<sup>14</sup> No amendment is necessary to Treasury’s recordkeeping requirements in § 404.3 because it incorporates by reference the SEC’s Rule 17a–4, and through such incorporation Rule 17a–4 extends to registered government securities brokers and dealers.

## III. Comment Received in Response to the Proposed Rule

We received one comment letter on the proposed rule amendment from a

<sup>4</sup> See § 402.2(a) and (g). The market risk haircut equals the sum of the Treasury market risk haircut and other securities haircut. The credit risk haircut equals the sum of the total counterparty exposure haircut, the total concentration of credit haircut, and the credit volatility haircut.

<sup>5</sup> See § 402.2(e). The Treasury market risk haircut methodology quantifies risk by placing positions in the categories corresponding to their remaining term to maturity and applying different haircut factors to positions grouped in the categories.

<sup>6</sup> See § 402.2a(b).

<sup>7</sup> See § 402.2(e)(1)(v), § 402.2a(c)—Instructions to Schedule A—Liquid Capital Requirement Summary Computation, Line 3—Haircuts on credit exposure, paragraph c, and § 402.2a(c)—Instructions to Schedule B—Calculation of Net Immediate Position in Securities and Financings, Columns 3 and 4, paragraph (5), as amended.

<sup>8</sup> 72 FR 33564 (June 18, 2007).

<sup>9</sup> 76 FR 59592 (September 27, 2011).

<sup>10</sup> *Id.* at 59595.

<sup>11</sup> This list of factors is not exhaustive or mutually exclusive. It is closely aligned with the list of factors in the SEC’s recent amendments to Exchange Act Rule 15c3–1, and the Rule’s appendices, to remove references to credit ratings in the SEC’s Net Capital Rule. 79 FR 1522 (January 8, 2014).

<sup>12</sup> See § 404.3(a).

<sup>13</sup> See 17 CFR 240.17a–4.

<sup>14</sup> 79 FR 1522 (January 8, 2014).

nonprofit public interest organization.<sup>15</sup> The commenter believes the proposed rule “is a commendable effort to implement Section 939A of the Dodd-Frank Act and to ensure that the liquid capital rule for government securities brokers and dealers includes appropriate standards of creditworthiness . . .” The commenter, however, advocated strengthening the proposed rule in several areas.

The commenter asserted that the proposed rule must establish an explicit and detailed list of mandatory factors that government securities brokers and dealers are required to apply in the credit analysis of commercial paper and that those factors must be set forth in the text of the rule itself. Merely providing a suggested list of optional factors that might be considered, “is an exceedingly vague concept that allows for a wide range of interpretations,” the commenter wrote. The minimal amount of credit risk standard we are adopting is intended, in part, to promote a heightened level of internal due diligence among government securities brokers and dealers. The standard therefore provides an appropriate degree of flexibility by allowing government securities brokers and dealers to use and evaluate a variety of factors in assessing the credit and liquidity risks associated with commercial paper for liquid capital. In addition, the factors relevant to a credit risk determination may vary in significance over time. For these reasons, we do not believe the specific factors described above should be included in the rule itself.

The commenter also asserted that the rule should expand the list of factors used to assess creditworthiness. The commenter argued that the list must be more comprehensive, and must contain a catchall provision that requires government securities brokers and dealers to consider all material factors that bear on the creditworthiness of the commercial paper being evaluated, including the nature of the issuer, the terms of the security, and the financial and regulatory context in which the issuer is operating. We agree that a government securities broker or dealer might want to consider additional factors in evaluating the creditworthiness of commercial paper. Upon consideration of the comment, however, we determined that other factors should not be added to the list because it is not meant to be exhaustive and government securities brokers and

dealers should tailor their written policies and procedures for assessing credit risk to their particular circumstances and consider those factors they deem appropriate, including factors that are not described above.

The commenter further asserted that the rule must fully eliminate continued reliance on credit ratings, claiming that the factor referring to internal or external credit risk assessments would conflict with section 939A of the Dodd-Frank Act. We considered this comment, but determined that the minimal amount of credit risk standard that we are adopting is consistent with section 939A because it replaces the requirement that commercial paper must be “rated in one of the three highest categories by at least two nationally recognized statistical rating organizations” in order to receive the more favorable haircut treatment of Treasury market risk instruments. In place of that requirement, the minimal amount of credit risk standard provides flexibility to government securities brokers and dealers by allowing them to use and evaluate a variety of factors, which could include external credit risk assessments, in assessing the credit and liquidity risks of commercial paper.

Finally, the commenter stated that the rule must require “each government securities broker or dealer to create and maintain a record of each creditworthiness determination that it makes” in order to promote compliance by government securities brokers and dealers and to increase the regulators’ ability to monitor and enforce compliance with the liquid capital rule. As discussed above, through incorporation of SEC Rule 17a-4, as recently amended by the SEC,<sup>16</sup> each government securities broker or dealer is required to preserve for a period of not less than three years, the first two years in an easily accessible place, the written policies and procedures that it establishes, maintains, and enforces for assessing credit risk for commercial paper. Although not required to maintain a record of each of its credit risk determinations for purposes of the liquid capital rule, a government securities broker or dealer should be able to support each of its credit risk determinations both for internal risk management purposes and in the context of an SEC or self-regulatory organization (SRO) examination. A government securities broker or dealer should maintain documentation of its credit risk determinations for this purpose. However, we believe that

requiring government securities brokers and dealers to create and maintain a record of every creditworthiness determination could be overly burdensome.

#### IV. Final Rule

##### A. Liquid Capital Rule

We are adopting amendments to Treasury’s liquid capital rule (17 CFR 402.2) to remove references to NRSRO credit ratings and to substitute a standard of creditworthiness based on a minimal amount of credit risk as determined by the government securities broker or dealer pursuant to reasonably designed written policies and procedures. The final rule amendments include several modifications to the proposed rule text in regard to the policies and procedures adopted by the government securities broker or dealer for assessing creditworthiness, as described below.

We have added the words “and monitor” to the minimal amount of credit risk standard to clarify that, after the initial creditworthiness determination, a commercial paper position must continue to have only a minimal amount of credit risk to remain qualified for the lower haircut and that monitoring must be done in accordance with the firm’s policies and procedures.<sup>17</sup> Government securities brokers and dealers may not permit their liquid capital to be below an amount equal to 120 percent of total haircuts.<sup>18</sup> Therefore, a government securities broker or dealer must monitor its commercial paper position to ensure that it is applying the appropriate haircut. A government securities broker’s or dealer’s written policies and procedures for assessing whether an issuance of commercial paper has only a minimal amount of credit risk must include a process that is reasonably designed to ensure that its credit determinations are current, and address the frequency with which it reviews and reassesses its credit determinations. We expect that a government securities broker’s or dealer’s process for monitoring its credit determinations will be customized to the size and activities of the firm to ensure that it maintains the required amount of liquid capital at “all times.”<sup>19</sup>

<sup>17</sup> See § 402.2(e)(1)(v), § 402.2a(c)—Instructions to Schedule A—Liquid Capital Requirement Summary Computation, Line 3—Haircuts on credit exposure, paragraph c, and § 402.2a(c)—Instructions to Schedule B—Calculation of Net Immediate Position in Securities and Financings, Columns 3 and 4, paragraph (5), as amended.

<sup>18</sup> See § 402.2(a) and (g).

<sup>19</sup> See 17 CFR 240.15c3-1(a).

<sup>15</sup> Treasury’s proposed rule amendment and Better Markets, Inc.’s comment letter, dated November 28, 2011, are available at <http://www.treasurydirect.gov/instit/statreg/gsareg/gsareg.htm>.

<sup>16</sup> 79 FR 1522 (January 8, 2014).

Compared with reliance on NRSRO credit ratings, the minimal amount of credit risk standard is a more subjective approach to determining whether a lower haircut can be applied to commercial paper. Moreover, this standard provides flexibility to government securities brokers and dealers by allowing them to use and evaluate a variety of factors, both objective and subjective, in assessing the credit and liquidity risks associated with their commercial paper positions. However, we do not intend for the minimal amount of credit risk standard to result in a more liberal requirement that broadens the scope of the rule by allowing more positions to qualify for the lower haircuts. We note that credit ratings and market data (such as credit spreads and yields) can serve as useful benchmarks for evaluating whether the written policies and procedures of a government securities broker or dealer, as applied to the minimal amount of credit risk standard, are increasing the types of commercial paper to which it applies the lower haircuts as compared to the eliminated NRSRO credit rating standard.

To reduce the potential subjectivity of the proposed minimal amount of credit risk standard, we modified the final rule to add new text that provides that reasonably designed, written policies and procedures should result in assessments of creditworthiness that typically are consistent with market data.<sup>20</sup> In particular, this standard for evaluating the reasonableness of the policies and procedures of a government securities broker or dealer will require examiners under the SEC's rule<sup>21</sup> to compare market data (e.g., external factors such as credit spreads) with the broker's or dealer's determinations that a commercial paper instrument has only a minimal amount of credit risk.

Under Treasury's Rule 404, the written policies and procedures of a government securities broker or dealer for assessing credit risk for commercial paper are subject to review in regulatory examinations by the SEC and SROs. Although not required to maintain a record of each credit risk determination for purposes of the liquid capital rule, the written policies and procedures of a government securities broker or dealer should specify with sufficient detail the steps the government securities broker or dealer will take in performing a credit

assessment so that the SEC and SRO examiners can evaluate them.

#### B. Technical Amendments

In addition, as part of our review of our Federal regulations required by Executive Order 13563, we are updating the GSA regulations by deleting certain requirements. Specifically, we are deleting the sections in our reporting requirements that refer to year 2000 (Y2K) readiness reports because they are no longer needed.<sup>22</sup> We are also deleting references to various other requirements in the GSA regulations that are contingent on actions to be taken by specific dates in the past and therefore are no longer applicable. We are also replacing references to the Bureau of the Public Debt with references to the Bureau of the Fiscal Service,<sup>23</sup> as well as updating the addresses for the Bureau and the Treasury Department Library. Finally, we are deleting references to the Office of Thrift Supervision because that agency no longer exists.

#### V. Special Analysis

Executive Orders 13563 and 12866 direct agencies to assess costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety effects, distributive impacts, and equity). Executive Order 13563 emphasizes the importance of quantifying both costs and benefits, of reducing costs, of harmonizing rules, and of promoting flexibility. This rule has been designated a "significant regulatory action," although not economically significant, under section 3(f) of Executive Order 12866. Accordingly, the rule has been reviewed by the Office of Management and Budget.

This final amendment would potentially affect three registered government securities brokers or dealers, none of which currently or routinely holds commercial paper. For that reason, the amendment would not have a significant economic impact on a substantial number of small entities. Therefore, a regulatory flexibility analysis is not required under the Regulatory Flexibility Act (5 U.S.C. 601, *et seq.*).

#### List of Subjects

##### 17 CFR Part 400

Administrative practice and procedure, Banks, banking, Brokers, Government securities, Reporting and recordkeeping requirements.

##### 17 CFR Part 401

Banks, banking, Brokers, Government securities.

##### 17 CFR Part 402

Brokers, Government securities.

##### 17 CFR Part 403

Banks, banking, Brokers, Government securities.

##### 17 CFR Part 405

Brokers, Government securities, Reporting and recordkeeping requirements.

##### 17 CFR Part 420

Banks, banking, Brokers, Government securities, Reporting and recordkeeping requirements.

##### 17 CFR Part 449

Banks, banking, Brokers, Government securities, Reporting and recordkeeping requirements.

##### 17 CFR Part 450

Banks, banking, Government securities, Reporting and recordkeeping requirements.

For the reasons set out in the preamble, 17 CFR chapter IV is amended as follows:

#### PART 400—RULES OF GENERAL APPLICATION

■ 1. The authority citation for part 400 continues to read as follows:

**Authority:** 15 U.S.C. 78o–5.

■ 2. In § 400.2, revise the last sentence of paragraph (a), the first sentence of paragraph (c)(3)(vi), and the last sentence of paragraph (c)(7)(i) to read as follows:

##### § 400.2 Office responsible for regulations; filing of requests for exemption, for interpretations and of other materials.

(a) \* \* \* The office responsible for implementing the regulations, including interpretations and action on requests for exemption, classification, or modification, is the Office of the Commissioner, Bureau of the Fiscal Service.

\* \* \* \* \*

(c) \* \* \*

(3) \* \* \*

(vi) An original and two copies of each request letter shall be submitted to

<sup>20</sup> See § 402.2a(c)—Instructions to Schedule A—Liquid Capital Requirement Summary Computation, Line 3—Haircuts on credit exposure, paragraph c, as amended.

<sup>21</sup> See 17 CFR 240.15c3–1(c)(2)(vi)(I) of Rule, as amended.

<sup>22</sup> See § 405.2(a)(11) through (14).

<sup>23</sup> The Bureau of the Public Debt and the Financial Management Service were consolidated and redesignated as the Bureau of the Fiscal Service by Treasury Order 136–01 on October 7, 2012. 78 FR 31629 (May 24, 2013).

the Office of the Commissioner, Government Securities Regulations Staff, Bureau of the Fiscal Service, 5th Floor, 401 14th Street SW., Washington, DC 20227. \* \* \*

(7)(i) \* \* \* These documents will be made available at the following location: Treasury Department Library, 1500 Pennsylvania Avenue NW., Annex, Room 1020, Washington, DC 20220.

\* \* \* \* \*

■ 3. In § 400.3, revise the definition of *Treasury* to read as follows:

**§ 400.3 Definitions.**

\* \* \* \* \*

*Treasury or Department* means the Department of the Treasury, including in particular the Bureau of the Fiscal Service.

**PART 401—EXEMPTIONS**

■ 4. The authority citation for part 401 continues to read as follows:

**Authority:** Sec. 101, Pub. L. 99–571, 100 Stat. 3209 (15 U.S.C. 78o–5(a)(4)).

**§§ 401.7 and 401.8 [Removed]**

■ 5. Remove §§ 401.7 and 401.8.

**§ 401.9 [Redesignated as § 401.7]**

■ 6. Redesignate § 401.9 as § 401.7.

**PART 402—FINANCIAL RESPONSIBILITY**

■ 7. The authority citation for part 402 is revised to read as follows:

**Authority:** 15 U.S.C. 78o–5(b)(1)(A), (b)(4), Pub. L. 111–203, 124 Stat. 1376.

■ 8. In § 402.1, revise paragraph (f) to read as follows:

**§ 402.1 Application of part to registered brokers and dealers and financial institutions; special rules for futures commission merchants and government securities interdealer brokers; effective date.**

\* \* \* \* \*

(f) This part shall be effective July 25, 1987.

■ 9. In § 402.2, revise paragraphs (b), (c), and (e)(1)(v) to read as follows:

**§ 402.2 Capital requirements for registered government securities brokers and dealers.**

\* \* \* \* \*

(b)(1) *Minimum liquid capital for brokers or dealers that carry customer accounts.* Notwithstanding the provisions of paragraph (a) of this section, a government securities broker or dealer that carries customer or broker or dealer accounts and receives or holds funds or securities for those persons within the meaning of § 240.15c3–1(a)(2)(i) of this title, shall have and

maintain liquid capital in an amount not less than \$250,000, after deducting total haircuts as defined in paragraph (g) of this section.

(2) *Minimum liquid capital for brokers or dealers that carry customer accounts, but do not generally hold customer funds or securities.* Notwithstanding the provisions of paragraphs (a) and (b)(1) of this section, a government securities broker or dealer that carries customer or broker or dealer accounts and is exempt from the provisions of § 240.15c3–3 of this title, as made applicable to government securities brokers and dealers by § 403.4 of this part, pursuant to paragraph (k)(2)(i) thereof (17 CFR 240.15c3–3(k)(2)(i)), shall have and maintain liquid capital in an amount not less than \$100,000, after deducting total haircuts as defined in paragraph (g) of this section.

(c)(1) *Minimum liquid capital for introducing brokers that receive securities.* Notwithstanding the provisions of paragraphs (a) and (b) of this section, a government securities broker or dealer that introduces on a fully disclosed basis transactions and accounts of customers to another registered or noticed government securities broker or dealer but does not receive, directly or indirectly, funds from or for, or owe funds to, customers, and does not carry the accounts of, or for, customers shall have and maintain liquid capital in an amount not less than \$50,000, after deducting total haircuts as defined in paragraph (g) of this section. A government securities broker or dealer operating pursuant to this paragraph (c)(1) may receive, but shall not hold customer or other broker or dealer securities.

(2) *Minimum liquid capital for introducing brokers that do not receive or handle customer funds or securities.* Notwithstanding the provisions of paragraphs (a), (b), and (c)(1) of this section, a government securities broker or dealer that does not receive, directly or indirectly, or hold funds or securities for, or owe funds or securities to, customers, and does not carry accounts of, or for, customers and that effects ten or fewer transactions in securities in any one calendar year for its own investment account shall have and maintain liquid capital in an amount not less than \$25,000, after deducting total haircuts as defined in paragraph (g) of this section.

\* \* \* \* \*

(e) \* \* \*

(1) \* \* \*

(v) Commercial paper of no more than one year to maturity and which has only

a minimal amount of credit risk as determined by the government securities broker or dealer pursuant to reasonably designed written policies and procedures the government securities broker or dealer establishes, maintains, and enforces to assess and monitor creditworthiness. These policies and procedures should result in creditworthiness assessments that typically are consistent with market data;

\* \* \* \* \*

■ 10. In § 402.2a, revise the Instructions to Schedule A—Liquid Capital Requirement Summary Computation, Line 3, paragraph c., and Instructions to Schedule B—Calculation of Net Immediate Position in Securities and Financing, Columns 3 and 4, paragraph (5) to read as follows:

**§ 402.2a Appendix A—Calculation of market risk haircut for purposes of § 402.2(g)(2).**

\* \* \* \* \*

**Instructions to Schedules A Through E**

\* \* \* \* \*

**Schedule A—Liquid Capital Requirement Summary Computation**

\* \* \* \* \*

Line 3—Haircuts on credit exposure:

\* \* \* \* \*

c. Enter the credit volatility haircut which equals a factor of 0.15 percent applied to the larger of the gross long or gross short position in money market instruments qualifying as Treasury market risk instruments which mature in 45 days or more, in futures and forwards on these instruments that are settled on a cash or delivery basis, and in futures and forwards on time deposits described in § 402.2(e)(1)(vii), that mature in 45 days or more, settled on a cash or delivery basis. Money market instruments qualifying as Treasury market risk instruments are (1) marketable certificates of deposit with no more than one year to maturity, (2) bankers acceptances, and (3) commercial paper of no more than one year to maturity and which has only a minimal amount of credit risk as determined by the government securities broker or dealer pursuant to reasonably designed written policies and procedures the government securities broker or government securities dealer establishes, maintains, and enforces to assess and monitor creditworthiness. These policies and procedures should result in creditworthiness assessments that

typically are consistent with market data.

\* \* \* \* \*

*Schedule B—Calculation of Net Immediate Position in Securities and Financings*

\* \* \* \* \*

(5) Commercial paper of no more than one year to maturity and which has only a minimal amount of credit risk as determined by the government securities broker or dealer pursuant to reasonably designed written policies and procedures the government securities broker or dealer establishes, maintains, and enforces to assess and monitor creditworthiness. These policies and procedures should result in creditworthiness assessments that typically are consistent with market data; and

\* \* \* \* \*

**§ 402.2e [Removed]**

- 11. Remove § 402.2e.

**PART 403—PROTECTION OF CUSTOMER SECURITIES AND BALANCES**

- 12. The authority citation for part 403 is revised to read as follows:

**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)).

**§ 403.7 [Amended]**

- 13. In § 403.7, remove paragraphs (d) and (e).

**PART 405—REPORTS AND AUDIT**

- 14. The authority citation for part 405 continues to read as follows:

**Authority:** 15 U.S.C. 78o–5 (b)(1)(B), (b)(1)(C), (b)(2), (b)(4).

**§ 405.2 [Amended]**

- 15. In § 405.2, remove paragraphs (a)(11) through (14) and redesignate paragraphs (a)(15) and (16) as paragraphs (a)(11) and (12), respectively.

**§ 405.5 [Amended]**

- 16. In § 405.5, remove paragraph (a)(7).

**PART 420—LARGE POSITION REPORTING**

- 17. The authority citation for part 420 continues to read as follows:

**Authority:** 15 U.S.C. 78o–5(f).

- 18. In § 420.4, revise paragraph (a) to read as follows:

**§ 420.4 Recordkeeping.**

(a) An aggregating entity that controls a portion of its reporting entity's reportable position in a recently-issued Treasury security, when such reportable position of the reporting entity equals or exceeds the minimum large position threshold, shall be responsible for making and maintaining the records prescribed in this section.

\* \* \* \* \*

**PART 449—FORMS, SECTION 15C OF THE SECURITIES EXCHANGE ACT OF 1934**

- 19. The authority citation for part 449 continues to read as follows:

**Authority:** 15 U.S.C. 78o–5(a), (b)(1)(B), (b)(4).

- 20. In § 449.1, revise the last sentence to read as follows:

**§ 449.1 Form G–FIN, notification by financial institutions of status as government securities broker or dealer pursuant to section 15C(a)(1)(B)(i) of the Securities Exchange Act of 1934.**

\* \* \* The form is promulgated by the Board of Governors of the Federal Reserve System and is available from the Board of Governors of the Federal Reserve System, the Comptroller of the Currency, the Federal Deposit Insurance Corporation, and the SEC.

- 21. In § 449.2, revise the last sentence to read as follows:

**§ 449.2 Form G–FINW, notification by financial institutions of cessation of status as government securities broker or dealer pursuant to section 15C(a)(1)(B)(i) of the Securities Exchange Act of 1934 and § 400.6 of this chapter.**

\* \* \* The form is promulgated by the Board of Governors of the Federal Reserve System and is available from the Board of Governors of the Federal Reserve System, the Comptroller of the Currency, the Federal Deposit Insurance Corporation, and the SEC.

- 22. In § 449.3, revise the last sentence to read as follows:

**§ 449.3 Form G–FIN–4, notification by persons associated with financial institutions that are government securities brokers and dealers pursuant to section 15C(a)(1)(B)(i) of the Securities Exchange Act of 1934 and § 400.4 of this chapter.**

\* \* \* The form is promulgated by the Department of the Treasury and is available from the Board of Governors of the Federal Reserve System, the Comptroller of the Currency, the Federal Deposit Insurance Corporation, and the SEC.

- 23. In § 449.4, revise the last sentence to read as follows:

**§ 449.4 Form G–FIN–5, notification of termination of association with a financial institution that is a government securities broker or dealer pursuant to section 15C(a)(1)(B)(i) of the Securities Exchange Act of 1934 and § 400.4 of this chapter.**

\* \* \* The form is promulgated by the Department of the Treasury and is available from the Board of Governors of the Federal Reserve System, the Comptroller of the Currency, the Federal Deposit Insurance Corporation, and the SEC.

**PART 450—CUSTODIAL HOLDINGS OF GOVERNMENT SECURITIES BY DEPOSITORY INSTITUTIONS**

- 24. The authority citation for part 450 continues to read as follows:

**Authority:** Sec. 201, Pub. L. 99–571, 100 Stat. 3222–23 (31 U.S.C. 3121, 9110); Sec. 101, Pub. L. 99–571, 100 Stat. 3208 (15 U.S.C. 78o–5(b)(1)(A), (b)(4), (b)(5)(B)).

- 25. In § 450.1, revise the second sentence of paragraph (b) to read as follows:

**§ 450.1 Scope of regulations; office responsible.**

\* \* \* \* \*

(b) \* \* \* The office responsible for the regulations is the Office of the Commissioner, Bureau of the Fiscal Service.

- 26. In § 450.3, revise the first sentence of paragraph (a) to read as follows:

**§ 450.3 Exemption for holdings subject to fiduciary standards.**

(a) The Secretary has determined that the rules and standards of the Comptroller of the Currency, the Board of Governors of the Federal Reserve System, and the Federal Deposit Insurance Corporation governing the holding of government securities in a fiduciary capacity by depository institutions subject thereto are adequate.

\* \* \*

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