

Securities and Exchange Commission

§ 240.15b9-2

(D) Based on inquiries and to the best of the chief executive officer's knowledge, you do not anticipate that the existence of the material Year 2000 problem in your mission critical systems will impair your ability, depending on the nature of your business, to ensure prompt and accurate processing of securities transactions, including order entry, execution, comparison, allocation, clearance and settlement of securities transactions, the maintenance of customer accounts, or the delivery of funds and securities; and you anticipate that the steps referred to in paragraphs (e)(1)(i)(A) through (C) of this section will result in remedying the material Year 2000 problem on or before November 15, 1999.

(ii) If the information contained in any certificate provided to the Commission pursuant to paragraph (e) of this section is or becomes misleading or inaccurate for any reason, you must promptly file an updated certificate correcting such information. In addition to the information contained in the certificate, you may provide the Commission with any other information necessary to establish that your mission critical systems will not have material Year 2000 problems on or after November 15, 1999.

(2) If you have submitted a certificate pursuant to paragraph (e)(1) of this section, you must submit a certificate to the Commission and your designated examining authority signed by your chief executive officer (or an individual with similar authority) on or before November 15, 1999, stating that, based on inquiries and to the best of the chief executive officer's knowledge, you have remediated your Year 2000 problem or that you will cease operations. This certificate must be sent to the Commission by overnight delivery to the Division of Market Regulation, U.S. Securities and Exchange Commission, 450 Fifth Street, NW, Washington, DC 20549-1002 Attention: Y2K Compliance.

(f) Notwithstanding paragraph (d)(2) of this section, you must comply with the requirements of paragraph (d)(1) of this section if you have been so ordered by the Commission or by a court.

(g) For the purposes of this section:

(1) The term *mission critical system* means any system that is necessary, depending on the nature of your business, to ensure prompt and accurate processing of securities transactions, including order entry, execution, comparison, allocation, clearance and settlement of securities transactions, the maintenance of customer accounts, and the delivery of funds and securities; and

(2) The term *customer* includes a broker or dealer.

(h) This temporary section will expire on July 1, 2001.

[64 FR 42028, Aug. 3, 1999]

§ 240.15b9-1 Exemption for certain exchange members.

(a) Any broker or dealer required by section 15(b)(8) of the Act to become a member of a registered national securities association shall be exempt from such requirement if it: (1) Is a member of a national securities exchange, (2) carries no customer accounts, and (3) has annual gross income derived from purchases and sales of securities otherwise than on a national securities exchange of which it is a member in an amount no greater than \$1,000.

(b) The gross income limitation contained in paragraph (a) of this section, shall not apply to income derived from transactions (1) for the dealer's own account with or through another registered broker or dealer or (2) through the Intermarket Trading System.

(c) For purposes of this section, the term *Intermarket Trading System* shall mean the intermarket communications linkage operated jointly by certain self-regulatory organizations pursuant to a plan filed with, and approved by, the Commission pursuant to § 240.11Aa3-2 (Rule 11Aa3-2 under the Act).

(15 U.S.C. 78a *et seq.*, as amended by Pub. L. 84-29 (June 4, 1975) and by Pub. L. 98-38 (June 6, 1983), particularly secs. 11A, 15, 19 and 23 thereof (15 U.S.C. 78k-1, 78o, 78s and 78w))

[48 FR 53691, Nov. 29, 1983]

§ 240.15b9-2 Exemption from SRO membership for OTC derivatives dealers.

An OTC derivatives dealer, as defined in § 240.3b-12, shall be exempt from any