

§ 240.3b-1

would not be a narrow-based security index if a futures contract on such index were traded on a designated contract market or registered derivatives transaction execution facility.

[66 FR 44514, Aug. 23, 2001]

DEFINITIONS

§ 240.3b-1 Definition of “listed”.

The term *listed* means admitted to full trading privileges upon application by the issuer or its fiscal agent or, in the case of the securities of a foreign corporation, upon application by a banker engaged in distributing them; and includes securities for which authority to add to the list on official notice of issuance has been granted.

(Sec. 3, 48 Stat. 884; 15 U.S.C. 78c)

[13 FR 8179, Dec. 22, 1948]

§ 240.3b-2 Definition of “officer”.

The term *officer* means a president, vice president, secretary, treasury or principal financial officer, comptroller or principal accounting officer, and any person routinely performing corresponding functions with respect to any organization whether incorporated or unincorporated.

[47 FR 11464, Mar. 16, 1982; 47 FR 11819, Mar. 19, 1982]

§ 240.3b-3 Definition of “short sale”.

The term *short sale* means any sale of a security which the seller does not own or any sale which is consummated by the delivery of a security borrowed by, or for the account of, the seller. A person shall be deemed to own a security if (a) he or his agent has the title to it; or (b) he has purchased, or has entered into an unconditional contract, binding on both parties thereto, to purchase it but has not yet received it; or (c) he owns a security convertible into or exchangeable for it and has tendered such security for conversion or exchange; or (d) he has an option to purchase or acquire it and has exercised such option; or (e) he has rights or warrants to subscribe to it and has exercised such rights or warrants: *Provided, however,* That a person shall be deemed to own securities only to the extent that he has a net long position in such securities.

17 CFR Ch. II (4-1-03 Edition)

CROSS REFERENCE: For regulations relating to “short sale”, see §§ 240.10a-1, and 240.10a-2.

[40 FR 25444, June 16, 1975]

§ 240.3b-4 Definition of “foreign government,” “foreign issuer” and “foreign private issuer”.

(a) The term *foreign government* means the government of any foreign country or of any political subdivision of a foreign country.

(b) The term *foreign issuer* means any issuer which is a foreign government, a national of any foreign country or a corporation or other organization incorporated or organized under the laws of any foreign country.

(c) The term *foreign private issuer* means any foreign issuer other than a foreign government except an issuer meeting the following conditions:

(1) More than 50 percent of the issuer’s outstanding voting securities are directly or indirectly held of record by residents of the United States; and

(2) Any of the following:

(i) The majority of the executive officers or directors are United States citizens or residents;

(ii) More than 50 percent of the assets of the issuer are located in the United States; or

(iii) The business of the issuer is administered principally in the United States.

Instruction to paragraph (c)(1): To determine the percentage of outstanding voting securities held by U.S. residents:

A. Use the method of calculating record ownership in Rule 12g3-2(a) under the Act (§240.12g3-2(a)), except that your inquiry as to the amount of shares represented by accounts of customers resident in the United States may be limited to brokers, dealers, banks and other nominees located in:

(1) The United States,

(2) Your jurisdiction of incorporation, and

(3) The jurisdiction that is the primary trading market for your voting securities, if different than your jurisdiction of incorporation.

B. If, after reasonable inquiry, you are unable to obtain information about the amount of shares represented by accounts of customers resident in the United States, you may assume, for purposes of this definition, that the customers are residents of the jurisdiction in which the nominee has its principal place of business.

C. Count shares of voting securities beneficially owned by residents of the United States as reported on reports of beneficial