

the customer by purchasing, or otherwise obtaining, securities of like kind and quantity.

(h) The appropriate regulatory agency of a financial institution that is a government securities broker or dealer may extend the period specified in paragraphs (c)(1)(iii) and (g) of this section on application of the financial institution for one or more limited periods commensurate with the circumstances, provided the appropriate regulatory agency is satisfied that the financial institution is acting in good faith in making the application and that exceptional circumstances warrant such action. Each appropriate regulatory agency should make and preserve for a period of not less than three years a record of each extension granted pursuant to this paragraph, which contains a summary of the justification for the granting of the extension.

(Approved by the Office of Management and Budget under control number 1535-0089)

[52 FR 27947, July 24, 1987, as amended at 53 FR 28986, Aug. 1, 1988; 55 FR 6604, Feb. 26, 1990; 59 FR 9406, Feb. 28, 1994; 60 FR 11026, Mar. 1, 1995]

§ 403.6 Compliance with part by futures commission merchants.

A registered government securities broker or dealer that is also a futures commission merchant registered with the CFTC shall comply with the provisions of this part with respect to all customer funds and securities except those that are incidental to the broker's or dealer's futures-related business, as defined in § 240.3a43-1(b) of this title. For purposes of the preceding sentence, the term "customer" shall have the meaning set forth in § 240.15c3-3(a)(1) of this title.

§ 403.7 Effective dates.

(a) *General.* Except as provided in paragraphs (b) through (e) of this section, this part shall be effective on the last business day in October 1987.

(b) *Confirmations.* The requirements of §§ 403.4 and 403.5(d) to describe the specific securities that are the subject of a repurchase transaction, including the market value of such securities, on a confirmation at the initiation of a repurchase transaction or on substi-

tution of other securities shall be effective January 31, 1988.

(c) *Written repurchase agreements.* The requirement to obtain a repurchase agreement in writing with the provisions described in §§ 403.4 and 403.5(d) shall be effective October 31, 1987, in the case of new customers of a government securities broker or dealer and shall be effective January 31, 1988, in the case of existing customers of a government securities broker or dealer. For purposes of this paragraph, an "existing customer" of a government securities broker or dealer is any counterparty with whom the government securities broker or dealer has entered into a repurchase transaction on or after January 1, 1986, but before July 25, 1987. For purposes of this paragraph, a "new customer" of a government securities broker or dealer is any counterparty other than an existing customer.

(d) *Disclosures.* (1) For hold-in-custody repurchase transactions entered into before the effective date for obtaining a written repurchase agreement in accordance with paragraph (c) of this section, a government securities broker or dealer that is subject to § 403.4 shall furnish the counterparty with a separate interim disclosure document containing: (i) The disclosure referred to in § 403.4 concerning the Securities Investor Protection Act of 1970, and (ii) if applicable, the following disclosure:

"REQUIRED DISCLOSURE

Unless the [buyer] and the [seller] have agreed to the contrary, the [buyer's] securities are likely to be commingled with the [seller's] own securities during the trading day. The [buyer] is advised that, during any trading day that the [buyer's] securities are commingled with the [seller's] securities, they will be subject to liens granted by the [seller] to its clearing bank and may be used by the [seller] for deliveries on other securities transactions. Whenever the securities are commingled, the [seller's] ability to segregate substitute securities for the [buyer] will be subject to the [seller's] ability to satisfy the clearing lien or to obtain substitute securities."

(2) For hold-in-custody repurchase transactions entered into before the effective date for obtaining a written repurchase agreement in accordance with