

**FEDERAL RESERVE BANK
OF NEW YORK**

[Circular No. 9271
April 9, 1982]

MARGIN REGULATIONS

Proposed Revision of Regulation T

*To All Brokers and Dealers, and Members of National
Securities Exchanges, in the Second Federal Reserve District:*

Following is the text of a statement issued by the Board of Governors of the Federal Reserve System:

The Federal Reserve Board has proposed for public comment a complete overhaul of its Regulation T — extensions of credit on securities by brokers and dealers.

The Board asked for comment by June 25, 1982.

The proposed revision of Regulation T, one of the Board's four regulations concerning margin requirements, is part of the Board's Regulatory Improvement Project in which the Board is reviewing and revising all its regulations to update them, simplify their language, eliminate obsolete or unneeded language or provisions and lighten the burden of compliance.

The revised regulation, as proposed, would be shortened by approximately a third.

It would incorporate amendments adopted by the Board last January that:

- Relax restrictions on the arranging of credit by brokers and dealers to permit investment banking services that may otherwise be prohibited, and
- Remove some restrictions on transactions in highly leveraged margin accounts, to increase the flexibility of holders of such accounts in reallocating portfolios.

The principal proposed changes in Regulation T include:

— Incorporation in provisions affecting customers' cash accounts of a 1973 Board interpretation on permissible use of the cash account for option transactions and an addition facilitating the institutional writing of covered options.

— A change in the provisions of the regulation to permit a clearing agency that issues options to accept any underlying margin security as the required deposit.

— Consolidation of three separate kinds of customer accounts into one margin account. These are accounts for convertible bonds, corporate and government bonds and equity securities.

— A change in terminology throughout the regulation to "equity/margin requirement" instead of "maximum loan value/adjusted debit balance."

— Expansion of the class of brokers and dealers who may make loans to other brokers and dealers and of the ability of brokers and dealers to finance positions with other brokers and dealers.

The language of two previously proposed amendments in the revised regulation is included without change. One would allow brokers and dealers to use letters of credit as collateral when they borrow or lend securities. The other would revise the criteria for inclusion of stocks on the list of over-the-counter (OTC) issues requiring margins.

Enclosed — for institutions subject to Regulation T in this District — is the text of the Board's proposed revision, as published in the *Federal Register* of March 30, 1982. Additional copies will be furnished upon request directed to our Circulars Division (Tel. No. 212-791-5216).

Comments on the proposal should be submitted by June 25, 1982 and may be sent to our Regulations Division.

ANTHONY M. SOLOMON,
President.

Proposed Revision of Regulation T

FEDERAL RESERVE SYSTEM

12 CFR Part 220

[Docket No. R-0389]

Credit by Brokers and Dealers; Complete Revision and Simplification of Regulation T

AGENCY: Board of Governors of the Federal Reserve System.

ACTION: Proposed rule.

SUMMARY: The Board is proposing to completely revise Regulation T, credit by brokers and dealers. The proposed revision is written in simplified language and incorporates structural changes proposed by the Board in June and July 1981 upon which comments were received and considered.

Two proposed changes not previously announced by the Board are also included in this revision. One will permit the purchase of a security in a cash account and the simultaneous writing of an option on the purchased security. This will primarily benefit institutions that are precluded by law from having margin accounts. The other proposed change will expand the existing section on credit for clearance of securities to permit an option clearing corporation, under specified conditions, to accept deposits of hypothecable securities as an additional method of meeting the clearing corporation's daily margin call to clearing members.

DATE: Comments should be received on or before June 25, 1982.

ADDRESS: Comments, which should refer to Docket No. R-0389, may be mailed to the Secretary, Board of Governors of the Federal Reserve System, 20th Street and Constitution Avenue, NW., Washington, D.C. 20551 or delivered to Room B-2223 between 8:45 a.m. and 5:15 p.m. Comments received may also be inspected at Room B-1122 between 8:45 a.m. and 5:15 p.m., except as provided in § 261.6(a) of the Board's Rule Regarding Availability of Information (12 CFR 261.6(a)).

FOR FURTHER INFORMATION: At the Board of Governors of the Federal Reserve System, Washington, D.C.

20551, contact: Laura Homer, Securities Credit Officer or John Kelly, Attorney, Division of Banking Supervision and Regulation (202) 452-2781, or Robert Rewald, Economist, Division of Research and Statistics (202) 452-3637. At the Federal Reserve Bank of New York, contact: Mindy Silverman, Assistant Counsel, (212) 791-5032 or James McNeil, Chief, Regulations Division, (212) 791-5914.

SUPPLEMENTARY INFORMATION: *Initial proposals.* On June 24, 1981 (46 FR 32592) the Board announced its intention to reduce the regulatory burden of its margin rules and rewrite them in simpler language. At the same time the Board proposed for public comment specific substantive changes in Regulation T which would:

1. Eliminate equity building devices.
2. Relax the existing restrictions on the arranging of credit by investment bankers.
3. Consolidate the two bond accounts into the general margin account; and
4. Require transfers from the Special Miscellaneous Account to any highly-leveraged general account.

On July 21, 1981 (46 FR 37516) the Board proposed a second set of substantive changes in Regulation T. These changes would:

1. Reduce the number of accounts and restructure them along functional lines.
2. Change the terminology in the regulation which determines the initial margin required from "maximum loan value/adjusted debit balance" to "margin/equity."
3. Increase the types of firms permitted to offer certain credit services.
4. Permit dealers in OTC margin securities to obtain special credit from other broker/dealers; and
5. Make special provisions for jointly-owned clearing firms.

Subsequent Board Action

At an open meeting on January 13, 1982, the Board adopted, to be effective on February 15, 1982, amendments (1) relaxing the restrictions on the investment banking services of brokers

and dealers and in arranging credit and (2) removing the equity building features in the regulation (47 FR 2981, January 21, 1982). At that meeting, staff was instructed to proceed to rewrite the regulation incorporating these adopted amendments and all the remaining proposed structural changes except the one proposal which would have required a transfer from the Special Miscellaneous Account to any highly leveraged general account.

Intervening Proposals

In November, 1981 the Board published for comment two other amendments to Regulation T. The language of these proposals has also been incorporated in this rewritten regulation. One proposal would allow the use of letters of credit as collateral by brokers or dealers borrowing or lending securities (see 46 FR 55533 November 10, 1981). The other proposal would change the criteria for the Board's List of OTC Margin Stock (see 46 FR 57532 November 24, 1981). Comments have been received on these proposals and the Board may act upon them, after considering the comments, before the expiration of the comment period for this proposed complete revision of Regulation T.

Detailed Explanation of Changes

Unless otherwise stated, no substantive changes are intended to be made and the intent of each section of Regulation T remains the same despite the use of simpler language and the removal of certain language that was thought to be unnecessary or redundant.

1. General Applicability.
 - a. The titles of the accounts have been changed to titles that are more descriptive of the contents of each account or simply to remove the term "special."

- b. The change in terminology from "adjusted debit balance/maximum loan value" to "margin/equity" is reflected in three sections of the regulation: Definitions (§ 220.2 (a), (d), (f), (g), (h), and (m)), Margin Account, and the Supplement.

2. Definitions, § 220.2.

a. The definition of "creditor" has been changed to conform the language to section 7 of the Securities Exchange Act of 1934 ("the Act") and to identify specific categories of persons coming within the definition.

b. Language that is presently contained in paragraph (3) of the definition of "registered security" has been eliminated from the definition. That language is not necessary in light of the Board's authority, since 1968, to designate any security as marginable, *i.e.*, as having loan value in a margin account.

c. The definition of "exempted security" has been removed from the regulation. The definition in section 3(a) of the Act is sufficient because the only additional language presently in the regulatory definition is no longer necessary for the reason described in paragraph b above.

d. In the definition of "OTC Margin Stock", the word "stock" has been replaced with the words "equity security" to clarify that the term includes convertible bonds and other instruments that are often not considered "stock." The criteria for inclusion on the list of OTC stocks has been moved from the Supplement to the body of the regulation, because it is not the type of requirement that the Board may need to change quickly, as are the margin requirements.

3. General Provisions, § 220.3.

(a) Time of Receipt of Funds or Securities, § 220.3(e)

(i) The language that a creditor may "at his option" treat the various types of noncash payment as receipt of payment was removed; use of the word "may" implies that the creditor has the option to take advantage of the provisions if the creditor so chooses.

(ii) Certain language was removed from the comparable language of § 220.6(f)(1) describing a check, draft or order as drawn on a bank or a savings bank, which "in the ordinary course of business" is payable on presentation, as unnecessary. As long as the instrument is, by its terms or usage, payable on presentation and is accepted by the creditor in good faith, it may be considered receipt of payment, whether it is drawn on a "bank" or on one of the other types of depository institutions that may issue such payment instruments.

• (iii) In subsection (3), the reference to "telegraphic" notice was removed; since the creditor has the right to obtain hard copy of a telegraphic notice, it may be considered to be included in the term "written notice."

(b) Exchange of Securities, § 220.3(f).

The title of the subsection on Reorganizations and certain language of that section was changed. Staff has received inquiries from time to time on the meaning of "reorganization" and "recapitalization," and there has not been a clear understanding of the scope of the section. The new language is intended to clarify that the section covers any exchange offer that is made to all holders of an issue of securities. The new language also clarifies the requirement that the consideration received in the exchange must be deposited in the account.

(c) Variable Annuity Contracts Issued by Insurance Companies, § 220.3(i).

Most of the language from the present § 220.7(f) was eliminated as unnecessary.

(d) Valuing Securities, § 220.3(g)(1).

Language has been added specifying that the computation of the total cost of a purchase or the net proceeds of a sale should include any commission charged. This is a formal statement of the accepted practice of including the cost of a commission when determining the cost of a transaction. Because the treatment of commissions has been addressed in this section, the reference to commissions in the section on service charges (present § 220.6(g)) has been deleted. (See new § 220.4(f)).

4. Margin Account, § 220.4(c)(2).

This paragraph contains a nonsubstantive change from current language on extensions of time. The change codifies current procedure by eliminating reference to a committee.

5. Transfer of Accounts, § 220.5(e).

(a) The description of the statement of be obtained by the transferee in present § 220.6(d) was rephrased to state simply that any margin call issued under Regulation T has been satisfied.

(b) In subsection (2), the term "*bona fide*" was removed as unnecessary. Since the transaction must be one that is not undertaken to avoid Regulation T and the creditor is required to accept in good faith the statement describing the circumstances giving rise to the transfer, the creditor may not accept a statement that indicates that the transfer was not a legitimate incident to the transaction.

6. Cash Account, § 220.7.

(a) The statement that *bona fide* cash transactions may be effected in the cash account has been removed as unnecessary. The description of permissible transactions includes only those that are *bona fide* cash transactions. Use of the term "*bona fide*" is redundant since permissible transactions must be done in good faith. The reference in the present § 220.4(c)(6)

to "*bona fide* cash transactions" was removed for the same reason.

(b) A substantive change has been added in paragraph (a)(3)(i) concerning the issuance of a call option before payment is made for the purchase of a security. This will permit customers who cannot or do not maintain a margin account to take advantage of the investment strategy of taking a position in an option at the same time that they take a position in the underlying security.

(c) Language has been added in § 220.7(b)(2) to clarify that the extension of time in a delivery against payment transaction is permitted if delivery of the security is delayed due to market conditions. See ¶ 5-501 in Securities Credit Transactions Handbook. The phrase "delivery against payment" is defined in the Definitions Section rather than in the Cash Account Section.

7. The Special Memorandum Account, § 220.6.

As described in the proposal (46 FR 37517 (1981)), the account is a renamed version of section 6 of the Special Miscellaneous Account. The types of deposit permitted in the Special Miscellaneous Account are now listed in the regulation.

8. Broker Dealer Credit Account, § 220.10.

(a) As noted in the proposal (46 FR 37517 (1981)), this account contains the provisions that are presently in sections 1, 2 and 3 of the Special Miscellaneous Account and adds a provision to cover jointly owned clearing firms.

(b) There is new language that approval for emergency credit, credit for capital contributions and subordinated credit for capital purposes should be obtained from the appropriate Examining Authority, rather than from a committee of a national securities exchange. This reflects the fact that all creditors may not be members of a national securities exchange; it does not change the requirement for members of exchanges for whom the appropriate Examining Authority would be the exchange.

9. The Non-Securities Credit Account, § 220.8.

(a) As described in the proposal (46 FR 37517 (1981)), this account contains provisions that are presently in the Special Commodity Account and sections 7 and 8 of the Special Miscellaneous Account.

(b) In the language comparable to present § 220.7(c) the phrase "on a margin security (other than an exempted security)" has been removed. The revised language will clarify that the required nonpurpose statement applies

to unsecured credit as well as secured credit.

10. The Market Functions Account, § 220.11.

As described in the proposal (46 FR 37517 (1981)), this account combines the Specialist Account, Special Arbitrage Account and two sections of the Special Miscellaneous Account for credit to odd-lot dealers and to finance the underwriting or distribution of securities. There is a substantive addition, which provides for credit to OTC marketmakers and third-marketmakers similar to the provisions for bank loans to such marketmakers in present § 221.3(w) and (y) of Regulation U.

11. Borrowing By Creditors, § 220.14.

(a) The statutory prohibition in section 8 of the Act was rephrased to make it clear that borrowing "on" a security means using that security as collateral for a loan. Staff has received questions from time to time concerning the precise meaning of the term "on" in the prohibition in present § 220.5(a).

(b) The last sentence of present § 220.5(b) was removed as unnecessary. Blank forms and information regarding filing or termination of forms are always available from any Federal Reserve Bank.

(c) The provision for loans from other creditors has been shortened considerably. The substance of present § 220.5(a)(3) and (c) are contained in paragraph (a)(3) of the revised version. The revised version does not specifically refer to loans from other creditors to meet emergency needs or to the fact that credit from another creditor would be subject to any other applicable provisions of law. The former provision is included in the list of permissible loans by creditors under provision (a)(1) of the Broker Dealer Credit Account; the latter provision applies to all activities of a creditor, i.e., a creditor is always subject to any other applicable provisions of law in addition to those provisions contained in Regulation T.

12. Credit for Clearance of Securities, § 220.13.

a. The terminology was changed from a "fraction of a day" to not more than one day because it is simpler and does not actually expand the permissible time period from that defined in present § 220.6(i). Since § 220.6(i) places no limit on the fraction of a day during which the credit may be extended, it could apply to credit outstanding for an entire day (minus one minute, for example). Recognizing that that is the case, staff decided it was less confusing and less wordy to simply permit the credit for no more than one day. Also, the term "association" (referring to a national

securities association) was added in recognition of the fact that creditors may be members of a national securities exchange or association.

b. A provision was added to permit a clearing broker to acquire an option position from an option clearing agency, such as the Options Clearing Corporation, by depositing securities other than the particular securities underlying the option. Under the present provisions, only cash, government securities, letters of credit or the particular securities may be used for the required deposit.

13. Reports.

The subsection entitled "Reports" (§ 220.7(d)) in the present Regulation was removed as unnecessary; section 17 of the Securities Exchange Act of 1934 requires persons subject to the margin regulations to file reports required by the Board.

Regulatory Flexibility Analysis

The Federal Register documents published in June and July of 1981 (46 FR 32592 and 46 FR 37516) by the Board contained Initial Regulatory Flexibility Analysis for the complete revision of Regulation T. Comments received on the proposals appear to agree with the Board's analysis. The two new items in this proposal concerning options clearing firms and option writing in the cash account should not have any substantial impact on small businesses.

Accordingly, pursuant to sections 3, 7, 8 and 23 of the Securities Exchange Act of 1934, as amended (15 U.S.C. 78c, g, h and w) the Board proposes to completely revise Regulation T, 12 CFR Part 220, to read as follows:

PART 220—CREDIT BY BROKERS AND DEALERS

| | |
|--------|---|
| Sec. | |
| 220.1 | Authority, purpose and scope. |
| 220.2 | Definitions. |
| 220.3 | General provisions. |
| 220.4 | Margin account. |
| 220.5 | Margin account exceptions and special provisions. |
| 220.6 | Special memorandum account. |
| 220.7 | Cash account. |
| 220.8 | Nonsecurities credit account. |
| 220.9 | Omnibus account. |
| 220.10 | Broker-dealer credit account. |
| 220.11 | Market function account. |
| 220.12 | Arranging for loans by others. |
| 220.13 | Clearance of securities. |
| 220.14 | Borrowing by creditors. |
| 220.15 | Borrowing and lending securities. |
| 220.16 | Requirements for OTC margin stock list. |
| 220.17 | Supplement to regulation T margin requirements. |

Authority: Secs. 3, 7, 8 and 23 of the Securities and Exchange Act of 1934, as amended (15 U.S.C. 78 c, g, h and w)

§ 220.1 Authority, purpose and scope.

(a) *Authority and purpose.* Regulation T ("this part"), is issued by the Board of Governors of the Federal Reserve System (the "Board") pursuant to the Securities Exchange Act of 1934 (the "Act") (15 U.S.C. 78a et seq.). Its principal purpose is to regulate extensions of credit, by and to brokers and dealers; it also covers related transactions within the Board's authority under the Act. It imposes, among other obligations, initial margin requirements and payment rules on securities transactions.

(b) *Scope.* (1) This part provides a margin account and six special purpose accounts in which to record all financial relations between a customer and a creditor. Any transaction not specifically permitted in a special account shall be recorded in a customer's margin account.

(2) This part does not preclude any exchange, national securities association, or creditor from imposing additional requirements or taking action for its own protection.

§ 220.2 Definitions.

The terms used in this part have the meanings given them in section 3(a) of the Act or as defined in this section.

(a) *Credit balance.* The cash amount due the customer in a margin account after recognizing amounts transferred to the special memorandum account.

(b) *Creditor.* Any broker or dealer (as defined in sections 3(a)(4) and 3(a)(5) of the Act), any member of a national securities exchange, or any person associated with a broker or dealer as defined in section 3(a)(18) of the Act, with the exception of corporations controlling or under common control with the creditor.

(c) *Customer.* (1) Includes any person, or any group of persons acting jointly: (i) to or for whom a creditor is extending, arranging, or maintaining any credit; or (ii) who would be considered a customer of the creditor according to the ordinary usage of the trade;

(2) Includes but is not limited to: (i) in case the creditor is a firm, any partner in the firm who would be considered a customer of the firm absent the partnership relationship; and (ii) any joint venture in which a creditor participates and which would be considered a customer of the creditor if the creditor were not a participant.

(d) *Debit balance.* The cash amount owed to the creditor in a margin account after recognizing amounts transferred to the special memorandum account.

(e) *Delivery against payment.* Any arrangement under which a creditor and a customer agree that the creditor will

deliver to the customer, or the customer's agent, a security against full payment of the purchase price. This arrangement is also known as "payment against delivery" or a "C.O.D." transaction.

(f) *Equity*. The total current market value of security positions held in the margin account plus the credit balance, if any, less the debit balance in the margin account.

(g) *Equity deficiency*. The amount by which the margin required exceeds the equity in the margin account.

(h) *Equity excess*. The amount by which the equity in the margin account exceeds the margin required.

(i) *Escrow receipt*. Any agreement issued in connection with a call or put option under which a bank, holding the underlying security or required cash, is obligated to deliver to the creditor (in the case of a call option) or accept from the creditor (in the case of a put option) the underlying securities against payment of the exercise price upon exercise of the call or put.

(j) *Examining authority*. (1) The national security exchange or other self-regulatory organization of which a creditor is a member;

(2) if not a member of any such self-regulatory organization, the Regional Office of the Securities and Exchange Commission (SEC) where the creditor has its principal place of business; or

(3) if a member of more than one such self-regulatory organization, the organization designated by the SEC as the examining authority for the creditor.

(k) *In or at the money*. With respect to a call option, the current market price of the underlying security is not more than one standard exercise interval below the exercise price of the option; with respect to a put option, the current market price of the underlying security is not more than one standard exercise interval above the exercise price of the option.

(l) *In the money*. With respect to a call option, the current market price of the underlying security is not below the exercise price of the option; with respect to a put option, the current market price of the underlying security is not above the exercise price of the option.

(m) *Margin call*. Demand by a creditor to a customer for a deposit of additional cash or securities to eliminate or reduce an equity deficiency as required under this part.

(n) *Margin security*. Any registered security, OTC margin stock, OTC margin bond, or any security issued by an open-end investment company or unit investment trust registered under section 8 of the Investment Company Act of 1940 (15 U.S.C. 80a-8).

(o) *Nonequity security*. Any security other than an equity security (as defined in section 3(a)(11) of the Act).

(p) *Nonexempted security*. Any security other than an exempted security (as defined in section 3(a)(12) of the Act).

(q) *Nonmember bank*. A bank that is not a member of the Federal Reserve System.

(r) *OTC margin bond*. A debt security not traded on a national securities exchange which meets all of the following requirements:

(1) At the time credit is extended, a principal amount of not less than \$25,000,000 of the issue is outstanding;

(2) The issue was registered under section 5 of the Securities Act of 1933 (15 U.S.C. 77a et. seq.) and the issuer either files periodic reports pursuant to section 13(a) or 15(d) of the Act or is an insurance company that meets all of the conditions specified in section 12(g)(2)(G) of the Act; and

(3) At the time of the extension of credit, the creditor has a reasonable basis for believing that the issuer is not in default on interest or principal payments.

(s) *OTC margin stock*. Any equity security not traded on a national securities exchange which has the degree of national investor interest, the depth and breadth of market, the availability of information respecting the stock and its issuer, and the character and permanence of the issuer to warrant treating such stock like an equity security traded on a national securities exchange and which the Board has determined meets the criteria set forth in § 220.16. The Board will from time to time publish a list of these OTC margin stocks.

(t) *Overlying option*. (1) A put option purchased or a call option written against a long position in an underlying security in the specialist record in § 220.11(b); or

(2) A call option purchased or a put option written against a short position in an underlying security in the specialist record in § 220.11(b).

(u) *Purpose credit*. (1) Credit for the purpose of buying, carrying or trading in securities. All other credit is non-purpose credit.

(2) Credit for the purpose of buying or carrying any part of an investment contract security shall be deemed credit for the purpose of buying or carrying the entire security.

(v) *Registered security*. Any security that (1) is registered on a national securities exchange; or (2) has unlisted trading privileges on a national securities exchange.

(w) *Short call or short put*. A call option or a put option that is issued, endorsed or guaranteed in or for an account.

(x) *Specialist joint account*. An account, which, by written agreement, provides for the commingling of the security positions of the participants and provides for a sharing of profits and losses from the account on some predetermined ratio.

(y) *Underlying security*. The security that will be delivered upon exercise of an option, but not including a security convertible into the underlying security.

§ 220.3 General provisions.

(a) *Records*. The creditor shall maintain a record for each account showing the full details of all transactions.

(b) *Segregation of accounts*. Except as provided for in the margin account and the special memorandum account, the requirements of an account may not be met by considering items in any other account.

(c) *Maintenance of credit*. Except as otherwise specifically prohibited by this part, any credit initially extended in compliance with this part may be maintained regardless of: (1) Reductions in the customer's equity resulting from changes in market prices; (2) any security in an account ceasing to be margin or exempted; or (3) any change in the margin requirements prescribed under this part.

(d) *Guaranteed accounts*.—No guarantee of a customer's account shall be given any effect for purposes of this part.

(e) *Time of receipt of funds or securities*. (1) A creditor may accept as payment:

(i) Any check, draft, or order payable on presentation that is accepted in good faith;

(ii) Any security with sight draft attached that is accepted in good faith.

(2) A creditor may treat as receipt of a security, check or draft written notice from another creditor, accepted in good faith, that a specified security, check or draft has been sent to the creditor.

(3) Upon notification that a check, draft, or order has been dishonored or when securities have not been received within a reasonable time, the creditor shall take the action required by this part when payment or securities are not received on time.

(f) *Exchange of securities*. To enable a customer to participate in an offer to exchange securities which is made to all holders of an issue of securities, a creditor may submit for exchange any securities held in a margin account, without regard to the other provisions of

this part, provided the consideration received is deposited into the account. If a nonmargin, nonexempted security is acquired in exchange for a margin security, its retention, withdrawal, or sale within 60 days following its acquisition shall be treated as if the security is a margin security.

(g) *Valuing securities.* The current market value of a security shall be determined as follows:

(1) Throughout the day of the purchase or sale of a security, the creditor shall use the security's total cost of purchase or the net proceeds of its sale. Computation of total cost and net proceeds shall include any commissions charged.

(2) At any other time, the creditor shall use the closing sale price of the security on the preceding business day, as shown by any regularly published reporting or quotation service. If there is no closing price, the creditor may use any reasonable estimate of the market value of the security as of the close of business on the preceding business day.

(h) *Innocent mistakes.* If any failure to comply with this part results from a mechanical mistake made in good faith in executing a transaction or calculating the amount of margin, the creditor shall not be deemed in violation of this part if, promptly after the discovery of the mistake, the creditor takes appropriate corrective action.

(i) *Variable annuity contracts issued by insurance companies.* Any insurance company that issues or sells variable annuity contracts or engages in a general securities business as a broker or dealer shall be subject to this part only for transactions in connection with those activities. Extensions of credit associated with conventional lending practices of insurance companies are subject to Regulation G (12 CFR Part 207).

§ 220.4 Margin account

(a) *Margin transactions.* All transactions not specifically authorized for inclusion in any other account shall be recorded in the margin account.

(b) *Computation of margin required.* The margin required for each position in securities is set forth in § 220.17 (the Supplement) and is subject to the exceptions and special provisions contained in § 220.5 (Margin Account Exceptions and Special Provisions).

(c) *When additional margin is required.* (1) All transactions on the same day shall be combined to determine whether additional margin is required by the creditor. Additional margin is required on any day when there are transactions in the account and the day's transactions create or

increase an equity deficiency in the account and shall be for the amount of the equity deficiency created or increased, whichever is less. The additional margin required may be satisfied by a transfer from the special memorandum account or by a deposit made in satisfaction of a margin call. The deposit may consist of cash, margin securities, exempted securities, or any combination thereof.

(2) A margin call shall be satisfied within 7 business days after the equity deficiency was created or increased. Upon application by the creditor to a self-regulatory organization or national securities association, the 7-day period may be extended one or more limited periods when the organization or association is satisfied that the creditor is acting in good faith and that exceptional circumstances warrant such action. Applications shall be filed and acted upon prior to the end of the 7-day period or the expiration of any subsequent extensions. However, an application filed from firms having no direct electronic access to the organization or association may be accepted as timely filed if it is postmarked no later than midnight of the last day of the 7-day period or any subsequent extension.

(3) If the equity deficiency created or increased is \$500 or less, no action need be taken by the creditor.

(4) Any transaction, position, or deposit that is used to satisfy one requirement under this part shall be unavailable to satisfy any other requirement.

(5) The sale of the same security (even though not the same certificate) shall be deemed to be a long sale rather than a short sale.

(d) *Liquidation in lieu of deposit.* If any margin call is not met in full within the time required, the creditor shall liquidate securities sufficient to meet the margin call or to eliminate any equity deficiency existing on that day, whichever is less.

(e) *Withdrawals of cash or securities.*

(1) Cash or securities may be withdrawn from an account, except if:

(i) cash or securities are required to be deposited into the account for a transaction on the same or a previous day; or (ii) the withdrawal, together with other transactions, deposits, and withdrawals on the same day, would create or increase an equity deficiency.

(2) If a creditor does not receive any cash or securities on the day on which a distribution is payable with respect to any security in a margin account and withdrawal would not be permitted under paragraph (e)(1)(i) or (ii) of this

section, a transaction shall be deemed to have occurred on the day on which the distribution is payable.

(3) Equity excess may be transferred to the special memorandum account by making a single entry to that account which will represent a debit to the margin account and a credit to the special memorandum account.

(f) *Interest, service charges, etc.* (1) The creditor in its usual practice may debit the following items to a margin account if they are taken into consideration in calculating the balance of such account.

(i) Interest on credit maintained in the margin account;

(ii) Communication or shipping charges with respect to transactions in the margin account;

(iii) Premiums on securities borrowed in connection with short sales or to effect delivery;

(iv) Dividends, interest, or other distributions due on borrowed securities; and

(v) Any service charges which the creditor may impose.

(2) A creditor may permit interest, dividends, or other distributions credited to a margin account to be withdrawn from the account if:

(i) The withdrawal does not create or increase an equity deficiency in the account; or

(ii) The current market value of any securities withdrawn does not exceed 10 percent of the current market value of the security with respect to which they were distributed.

§ 220.5 Margin account exceptions and special provisions.

(a) *Unissued securities.* (1) The margin required on a net long or net short position in an unissued security is the margin that would be required if the security were an issued margin security, plus any unrealized loss on the commitment or less any unrealized gain.

(2) Margin is not required on a net short position in unissued securities when the account contains the related issued securities, nor for any net short or net long position in unissued exempted securities.

(b) *Options.*—(1) *Margin for options on exempted debt securities.* The margin required for each transaction involving any short put or short call on an exempted debt security shall be the amount set forth in § 220.17 (the Supplement).

(2) *Margin for options on equity securities.* The margin required for each transaction involving any short put or short call on an equity security shall be the amount set forth in § 220.17 (the Supplement), plus any unrealized loss

on the commitment or minus any unrealized gain. However, the margin required shall not exceed the current market value of the underlying security.

(3) *Cover or positions in lieu of margin.* No margin is required for an option written on an equity security position when the account holds any of the following:

(i) The underlying security in the case of a short call, or a short position in the underlying security in the case of a short put;

(ii) Securities immediately convertible into or exchangeable for the underlying security without restriction or the payment of money in the case of a short call, provided that the right to convert or exchange does not expire on or before the expiration date of the short call;

(iii) An escrow receipt for the underlying security in the case of a short call or cash in the case of a short put;

(iv) A long call on the same number of shares of the same underlying security if the long call does not expire before the expiration date of the short call, and if the amount, if any, by which the exercise price of the long call exceeds the exercise price of the short call is added to the margin required;

(v) A long put on the same number of shares of the same underlying security if the long put does not expire before the expiration date of the short put, and if the amount, if any, by which the exercise price of the short put exceeds the exercise price of the long put is added to the margin required;

(vi) A warrant to purchase the underlying security, in the case of a short call, if the warrant does not expire on or before the expiration date of the short call, and if the amount, if any, by which the exercise price of the warrant exceeds the exercise price of the short call is added to the margin required. A warrant used in lieu of the required margin under this provision shall contribute no equity to the account.

(4) *Adjustments.*—(i) When a short position held in the account serves in lieu of the margin required for a short put, the amount prescribed by paragraph (b)(2) of this section as the amount to be added to the margin required in respect of short sales shall be increased by any unrealized loss on the position.

(ii) When a security held in the account serves in lieu of the margin required for a short call, the security shall be valued at no greater than the exercise price of the short call.

(5) *Straddles.* When both a short put and a short call are in a margin account on the same number of shares of the same underlying security, the margin required shall be the margin on either the short put or the short call, whichever

is greater, plus any unrealized loss on the other option.

(6) *Exclusive designation.* The customer may either designate at the time the option order is entered which security position held in the account is to serve in lieu of the margin required or have a standing agreement with the creditor as to the method to be used for making the determination on any given day as to which security position will be used in lieu of the margin to support an option transaction. Any security held in the account which serves in lieu of the margin required for a short put or a short call shall be unavailable to support any other option transaction in the account.

(c) *Accounts of partners.* If a partner of the creditor has a margin account with the creditor, the creditor shall disregard the partner's financial relations with the firm (as shown in the partner's capital and ordinary drawing accounts) in calculating the margin or equity of the partner's margin account.

(d) *Contribution to joint venture.* If a margin account is the account of a joint venture in which the creditor participates, any interest of the creditor in the joint account in excess of the interest which the creditor would have on the basis of its right to share in the profits shall be treated as an extension of credit to the joint account and shall be margined as such.

(e) *Transfer of accounts.* (1) If a margin account is transferred from one creditor to another, the account may be treated as if it had been maintained by the transferee from the date of its origin, *provided* that the transferee accepts in good faith a signed statement of the transferor, or if that is not practicable, of the customer, that any margin call issued under this part has been satisfied.

(2) If a margin account is transferred from one customer to another as part of a transaction that is not undertaken for the purpose of avoiding the requirements of this part, the account may be treated as if it had been maintained for the transferee from the date of its origin, *provided* that the creditor accepts in good faith and keeps with such transferee account a signed statement of the transferor describing the circumstances for the transfer.

§ 220.6 Special memorandum account

(a) A special memorandum account (SMA) may be maintained in conjunction with a margin account. A single entry amount may be used to represent both a credit to this account and a debit to the margin account. A transfer between the two accounts may

be effected by an increase or reduction in the entry. When computing the equity in a margin account, the single entry amount must be considered as a debit to the margin account.

(b) The SMA may contain the following entries;

(1) Dividend and interest payments;

(2) Cash deposited to meet a maintenance margin call or to meet any requirement of a self-regulatory organization that is not imposed by this part;

(3) Proceeds of a sale of securities from the margin account that may be withdrawn under § 220.4(e) of this part; and

(4) equity excess transferred from the margin account under section 220.4(e)(3) of this part.

(c) Any payment to the customer or on the customer's behalf or transfer to any of the customer's other accounts from this account reduces the single entry amount.

§ 220.7 Cash account.

(a) *Permissible transactions.* In a cash account, a creditor may:

(1) buy for or sell to any customer any security if: (i) there are sufficient funds in the account; or (ii) the creditor accepts in good faith the customer's agreement that the customer will promptly make full cash payment for the security before selling it and does not contemplate selling it prior to making such payment;

(2) buy from or sell for any customer any security if: (i) the security is held in the account; or (ii) the creditor accepts in good faith the customer's statement that the security is owned by the customer or the customer's principal, and that it will be promptly deposited in the account;

(3) issue, endorse, or guarantee an option for any customer if:

(i) in the case of a call option, the underlying security is held in or purchased for the account on the same day, and the option premium is held in the account until cash payment for the underlying security is received;

(ii) in the case of a put option, the creditor obtains cash in an amount equal to the exercise price of the put option; or

(iii) in the case of a call or a put, the creditor is advised by the customer that the required securities or cash are held by a bank and the creditor independently verifies that an appropriate escrow receipt will be delivered by the bank promptly but no later than 7 business days after the option is written.

(b) *Time periods for payment; cancellation or liquidation.*

(1) *Full cash payment.* A creditor shall obtain full cash payment for customer purchases within 7 business days of the date:

- (i) any nonexempted security was purchased;
- (ii) any unissued security was made available by the issuer for delivery to purchasers;
- (iii) any "when distributed" security was distributed under a published plan;
- (iv) a security owned by the customer has matured or has been redeemed and a new refunding security of the same issuer has been purchased by the customer, provided:

(A) the customer purchased the new security no more than 35 calendar days prior to the date of maturity or redemption of the old security;

(B) the customer is entitled to the proceeds of the redemption; and

(C) the delayed payment does not exceed 103 percent of the proceeds of the old security.

(2) *Delivery against payment.* If a creditor purchases for or sells to a customer a security in a delivery against payment transaction, the creditor shall have up to 35 calendar days to obtain payment if delivery of the security is delayed due to the mechanics of the transaction and not related to the customer's willingness or ability to pay.

(3) *Shipment of securities, extension.* If any shipment of securities is incidental to consummation of a transaction, a creditor may extend the 7 business day period by the number of days required for shipment, but not by more than 7 business days.

(4) *Cancellation; liquidation; minimum amount.* A creditor shall promptly cancel or otherwise liquidate a transaction or any part of a transaction for which the customer has not made full cash payment within the required time. A creditor may, at its option, disregard any sum due from the customer not exceeding \$500.

(c) *90-Day Freeze.* (1) If a security in the account is sold or delivered out to another broker or dealer without having been previously paid for in full by the customer, the privilege of delaying payment beyond the trade date shall be withdrawn for 90 calendar days following the date of sale of the security. Cancellation of the transaction other than to correct an error shall constitute a sale.

(2) The 90-day freeze shall not apply if: (i) within 7 business days of the trade date full payment is received and any check or draft in payment has cleared and the proceeds from the sale are not withdrawn prior to such payment or check clearance or (ii) if the purchased security was delivered to another broker

or dealer for deposit in a cash account which holds sufficient funds to pay for the security. The creditor may rely on a written statement accepted in good faith from the other broker or dealer that sufficient funds are held in the other cash account.

(d) *Extension of time periods; transfers.* On application of a creditor, a self-regulatory organization or association may: (1) extend any period specified in paragraph (b) of this section; (2) authorize transfer to another account of any transaction involving the purchase of a margin or exempted security; or (3) grant a waiver from the 90-day freeze if it is satisfied that the creditor is acting in good faith and that exceptional circumstances warrant such action. Applications shall be filed and acted upon prior to the end of the 7-day period or the expiration of any subsequent extension. However, an application filed from firms having no direct electronic access to the exchange or association may be accepted as timely filed if it is postmarked no later than midnight of the last day of the 7-day period or any subsequent extension.

§ 220.8 Nonsecurities credit account.

(a) In a nonsecurities credit account a creditor may:

(1) Effect and carry transactions in commodities;

(2) Effect and carry transactions in foreign exchange;

(3) Extend and maintain nonpurpose credit, either secured or unsecured, subject to the requirements of paragraph (b) of this section.

(b) Every extension of credit, except as provided in paragraphs (a)(1) and (2) of this section, shall be deemed to be purpose credit unless, prior to extending the credit, the creditor accepts in good faith from the customer a written statement that it is not purpose credit. The statement shall conform to the requirements of Form F.R.T.-4 and shall be retained by the creditor for at least three years after the credit is extinguished. To accept the customer's statement in good faith, the creditor shall be aware of the circumstances surrounding the extension of credit and shall be satisfied that the statement is truthful.

§ 220.9 Omnibus account.

(a) In an omnibus account, a creditor may effect and finance transactions for a broker or dealer who is registered with the SEC under section 15 of the Act and who gives the creditor written notice that:

(1) all securities will be for the account of customers of the broker or dealer; and

(2) any short sales effected will be short sales made in behalf of the customers of the broker or dealer other than partners.

(b) The written notice required by paragraph (a) shall conform to any SEC rule on the hypothecation of customers' securities by brokers or dealers.

§ 220.10 Broker-dealer credit account.

(a) *Permissible transactions.* In a broker-dealer credit account, a creditor may:

(1) Purchase any security from or sell any security to another creditor under a good faith agreement to promptly deliver the security against full payment of the purchase price.

(2) Effect and finance transactions of any of its owners if the creditor is a clearing and servicing broker or dealer owned jointly or individually by other creditors.

(3) Extend and maintain credit to any partner or stockholder of the creditor for the purpose of making a capital contribution to, or purchasing stock of, the creditor or an affiliated corporation.

(4) With the approval of the appropriate examining authority:

(i) Extend and maintain credit to meet the emergency needs of any creditor;

(ii) Extend and maintain subordinated credit to another creditor for capital purposes, if the other creditor:

(A) is an affiliated corporation; or

(B) will not use the proceeds of the loan to increase the amount of dealing in securities for the account of the creditor, its firm or corporation or an affiliated corporation.

(b) For purposes of paragraph (a)(3) and (4) of this section "affiliated corporation" means a corporation all the common stock of which is owned directly or indirectly by the firm or general partners and employees of the firm, or by the corporation or holders of the controlling stock and employees of the corporation and the affiliation has been approved by the creditor's examining authority.

§ 220.11 Market functions account.

(a) *Requirements.* In a market functions account, a creditor may effect and finance the transactions of market participants in accordance with the following provisions. A separate record shall be kept for the transactions specified for each category described in paragraphs (b) through (f) of this section. Any position in a separate record shall not be used to meet the requirements of any other category.

(b) *Specialists.*

(1) *Applicability.* A creditor may clear and finance specialist transactions for any specialist, or any specialist joint account, in which all participants, or all participants other than the creditor, are registered as specialists on a national securities exchange that submits to the Board reports supplying current information on the use of specialist credit.

(3) *Permitted offset positions.* A specialist in options may establish, on a share-for-share basis, a long or short position in the securities underlying the options in which the specialist makes a market, and a specialist in securities other than options may purchase or write options overlying the securities in which the specialist makes a market, if the account holds the following permitted offset positions:

(i) a short option position which is "in or at the money" and is not offset by a long or short option position for an equal or greater number of shares of the same underlying security which is "in the money";

(ii) a long option position which is "in or at the money" and is not offset by a long or short option position for an equal or greater number of shares of the same underlying security which is "in the money";

(iii) a short option position against which an exercise notice was tendered;

(iv) a long option position which was exercised;

(v) a net long position in a security (other than an option) in which the specialist makes a market; or

(vi) a net short position in a security (other than an option) in which the specialist makes a market.

(4) *Margin required.* The margin required for a specialist's transactions shall be:

(i) Zero for any long position in a security in which the specialist makes a market or a wholly-owned margin security;

(ii) 25 percent of the current market value of any underlying security or overlying option purchased and held long in the account as a permitted offset position;

(iii) The margin prescribed by section 220.17 (the Supplement) when a security purchased and held in the account does not qualify as a specialist or permitted offset position;

(iv) 100 percent of the current market value of either a security sold short or an option written where such position qualifies as a specialist position;

(v) 125 percent of the current market value of any security sold short or any option written and held in the account as a permitted offset position;

(vi) The margin prescribed by section 220.17 (the Supplement) when a security sold does not qualify as a specialist or permitted offset position.

(5) *Additional margin; restriction of "free-riding."* (i) Except as required by subparagraph (6) of this section, the creditor shall issue a margin call on any day when additional margin is required as a result of specialist transactions. The creditor may allow the specialist a maximum of five business days to satisfy a margin call.

(ii) If a specialist fails to satisfy a margin call within the period specified in this paragraph (and the creditor is required to liquidate securities to satisfy the call), the creditor shall be prohibited for a 15 calendar day period from extending any further credit to the specialist to finance transactions in nonspecialty securities.

(iii) The restriction on free-riding shall not apply to:

(A) any specialist on a national securities exchange that has an SEC-approved rule on "free-riding" by specialists; or (B) the acquisition or liquidation of a permitted offset position.

(6) *Deficit status.* On any day when a specialist's separate record would liquidate to a deficit, the creditor shall not extend any further specialist credit in the account and shall issue a margin call at least as large as the deficit. If the call is not met by noon of the following business day the creditor shall liquidate positions in the specialist's account.

(7) *Withdrawals.* Withdrawals may be permitted to the extent that the equity exceeds the margin requirements specified in paragraph (b)(4) of this section.

(c) *Arbitrage.* A creditor may effect and finance for any customer *bona fide* arbitrage transactions. For the purpose of this subsection, the term "*bona fide* arbitrage" means:

(1) a purchase or sale of a security in one market together with an offsetting sale or purchase of the same security in a different market at as nearly the same time as practicable for the purpose of taking advantage of a difference in prices in the two markets; or

(2) a purchase of a security which is, without restriction other than the payment of money, exchangeable or convertible within 90 calendar days of the purchase into a second security together with an offsetting sale of the second security, at or about the same time, for the purpose of taking advantage of a concurrent disparity in the prices of the two securities.

(d) *Underwritings and distributions.* A creditor may effect and finance for any dealer or group of dealers transactions

for the purpose of facilitating the underwriting or distribution of all or a part of an issue of securities.

(e) *OTC Marketmakers and Third Marketmakers.* (1) A creditor may clear and finance marketmaking transactions for an OTC marketmaker or a third marketmaker who:

(i) is in compliance with any applicable SEC rule, including minimum net capital rules;

(ii) regularly submits *bona fide* competitive bid and offer quotations to a recognized inter-dealer quotation system;

(iii) is ready, willing, and able to effect transactions in reasonable amounts with other brokers and dealers at the quoted prices; and

(iv) has a reasonable average rate of inventory turnover.

(2) If the credit extended to a marketmaker ceases to be for the purpose of marketmaking, or the dealer ceases to be a marketmaker for an issue of securities for which credit was extended, the credit shall be subject to the margin specified in section 220.17 (the Supplement).

(f) *Odd-lot dealers.* A creditor may clear and finance odd-lot transactions for any creditor who is registered as an odd-lot dealer on a national securities exchange.

§ 220.12 Arranging for loans by others.

(a) A creditor may not arrange for the extension or maintenance of credit to or for any customer by any person upon terms and conditions other than those upon which the creditor may itself extend or maintain credit under the provisions of this part, except that this limitation shall not apply to credit arranged for a customer which does not violate Parts 207 and 221 of this Chapter and results solely from:

(1) investment banking services, provided by the creditor to the customer, including, but not limited to, underwritings, private placements, and advice and other services in connection with exchange offers, mergers or acquisitions, except for underwritings that involve the public distribution of an equity security with installment or other deferred payment provisions; or

(2) the sale of non-margin securities with installment or other deferred payment provisions if the sale is exempted from the registration requirements of the Securities Act of 1933 under section 4(2) or section 4(6) of the Act (15 U.S.C. 77(d) (2) and (6)).

§ 220.13 Clearance of securities.

(a) *Credit for clearance of securities.* The provisions of this part shall not apply to the extension or maintenance

of any credit that is not for more than one day if it is incidental to the clearance of transactions in securities directly between members of a national securities exchange or association or through any clearing agency registered with the SEC.

(b) *Deposit of securities with options clearing agency.* The provisions of this part shall not apply to the deposit of securities with an options clearing agency for the purpose of meeting its deposit requirements if:

- (1) the clearing agency issues options on securities;
- (2) the clearing agency is registered with the SEC;
- (3) the deposit consists of any underlying securities for classes of option contracts outstanding at the time of the deposit; and
- (4) the deposit complies with the rules of the clearing agency which have been approved by the SEC.

§ 220.14 Borrowing by creditors.

(a) *Restrictions on borrowing.* A creditor may not borrow in the ordinary course of business as a broker or dealer using as collateral any registered nonexempted security, except:

- (1) From or through a member bank of the Federal Reserve System;
- (2) From any nonmember bank that has filed with the Board an agreement as prescribed in paragraph (b) of this section, which agreement is still in effect; or

(3) From another creditor if the loan is permissible under this part.

(b) *Agreements of nonmember banks.*

(1) A nonmember bank shall file an agreement that conforms to the requirements of Form F.R.T.-2 if:

(i) Its principal place of business is in a territory or insular possession of the United States; or

(ii) It has an office or agency in the United States and its principal place of business is outside the United States.

(2) Any other nonmember bank shall file an agreement that conforms to the requirements of Form F.R.T.-1.

(3) Any nonmember bank may terminate its agreement if it obtains the written consent of the Board.

§ 220.15 Borrowing and lending securities.

Without regard to the other provisions of this part, a creditor may borrow or lend securities for the purpose of making delivery of the securities in the case of short sales, failure to receive securities required to be delivered, or other similar situations. Each borrowing shall be secured by a deposit of cash, U.S. government securities, or an irrevocable letter of credit issued by a bank insured by the Federal Deposit Insurance

Corporation. Such deposit made with the lender of the securities shall have at all times a value at least equal to 100 percent of the market value of the securities borrowed.

§ 220.16 Requirements for OTC margin stock list.

(a) *Requirements for inclusion on the list of OTC margin stocks.* Except as provided in subsection (d) below, OTC margin stock shall meet the requirements that:

(1) The stock is registered under section 12 of the Act, or is an American Depositary Receipt ("ADR") of a foreign issuer whose securities are registered under section 12 of the Act, or is a stock of a foreign issuer required to file reports under section 15(d) of the Act;

(2) Four or more dealers stand willing to, and do in fact, make a market in such stock and regularly submit bona fide bids and offers to an automated quotations system for their own accounts;

(3) There are 1,200 or more holders of record, as defined in SEC Rule 12g5-1 (17 CFR 240.12g5-1), of the stock who are not officers, directors or beneficial owners of 10 percent or more of the stock, or the average daily trading volume of such stock as determined by the Board, is at least 500 shares;

(4) The issuer has been in existence for at least three years;

(5) The stock has been publicly traded for at least six months;

(6) Daily quotations for both bid and asked prices for the stock are continuously available to the general public;

(7) There are 400,000 or more shares of such stock outstanding in addition to shares held beneficially by officers, directors or beneficial owners of more than 10 percent of the stock;

(8) The minimum average bid price of such stock, as determined by the Board, is at least \$5 per share; and

(9) The issuer had at least \$4 million of capital, surplus, and undivided profits.

(b) *Requirements for continued inclusion on the list of OTC margin stocks.* Except as provided in subsection (d) below, OTC margin stock shall meet the requirements that:

(1) The stock is registered under section 12 of the Act or is an ADR of a foreign issuer whose securities are registered under section 12 of the Act, or is a stock of a foreign issuer required to file reports under section 15(d) of the Act;

(2) Three or more dealers stand willing to and do in fact, make a market

in such stock and regularly submit bona fide bids and offers to an automated quotations system for their own accounts;

(3) There continue to be 800 or more holders of record, as defined in SEC Rule 12g5-1 (17 CFR 240.12g5-1), of the stock who are not officers, directors, or beneficial owners of 10 percent or more of the stock, or the average daily trading volume of such stock, as determined by the Board, is at least 300 shares;

(4) Daily quotations for both bid and asked prices for the stock are continuously available to the general public;

(5) There are 300,000 or more shares of such stock outstanding in addition to shares held beneficially by officers, directors, or beneficial owners of more than 10 percent of the stock;

(6) The minimum average bid price of such stocks, as determined by the Board, is at least \$1 per share; and

(7) The issuer has at least \$1 million of capital, surplus, and undivided profits.

(c) *Removal from the list of OTC margin stocks.* The Board shall from time to time remove from the OTC margin stock list stocks that cease to:

(1) exist or of which the issuer ceases to exist; or

(2) meet substantially the provisions of paragraph (b) of this section or section 220.2(n)

(d) *Discretionary authority of Board.* The foregoing notwithstanding, the Board may omit or remove any stock that is not traded on a national securities exchange from or add any such stock to such list of OTC margin stocks, if in the judgment of the Board, such action is necessary or appropriate in the public interest.

(e) *Unlawful Representations.* It shall be unlawful for any creditor to make, or cause to be made, any representation to the effect that the inclusion of a security on the list of OTC margin stocks is evidence that the Board or the SEC has in any way passed upon the merits of, or given approval to, such security or any transactions therein. Any statement in an advertisement or other similar communication containing a reference to the Board in connection with the list or stocks on that list shall be an unlawful representation.

§ 220.17 Supplement to Regulation T Margin Requirements.

The margin required for each security position held in a margin account shall be as follows:

(a) *Registered equity security or OTC margin stock:* 50 percent of the current market value of the security.

(b) *Registered convertible debt security*: 50 percent of the current market value of the security.

(c) *Exempted security, registered non-convertible debt security or OTC margin bond*: the margin required by the creditor in good faith.

(d) *Short put or short call on an equity security written in the account*: 30 percent of the current market value of the underlying security, but not less than \$250, adjusted or waived in accordance with section 220.5(b).

(e) *Short sale of non-exempted security*: 150 percent of the current market value of the security.

(f) *Short sale of an exempted security*: 100 percent of the current market value of the security plus the margin required by the creditor in good faith.

(g) *Nonmargin, nonexempted equity security, including a convertible debt security, or a long position in any option*: 100 percent of the current market value.

(h) *Short put or short call on an exempted debt security written in the account or the security position to be held in lieu of margin*:

(1) the amount specified by the rules of the national securities exchange on which the option is traded provided that

all such rules have been approved or amended by the SEC; or

(2) in the case of an option on an exempted debt security which is not traded on an exchange an amount or security position which the creditor in good faith deems to be equivalent to the margin or cover on comparable exchange-traded options.

By order of the Board of Governors of the Federal Reserve System, March 24, 1982.

William W. Wiles,

Secretary of the Board.

[FR Doc. 82-9431 Filed 3-29-82; 8:45 am]