

Attachment A

New and Amended Rule Text

New language is underlined; deletions are in brackets.

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FINRA Rules

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0100. GENERAL STANDARDS

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0180. Application of Rules to Security-Based Swaps

[(a) The Rules shall not apply to members' activities and positions with respect to security-based swaps, except for the following:

- (1) FINRA Rule 2010;
- (2) FINRA Rule 2020;
- (3) FINRA Rule 3310; and
- (4) FINRA Rule 4240.]

[(b) The following Rules shall apply to members' activities and positions with respect to security-based swaps only to the extent they would have applied as of July 15, 2011:

- (1) NASD Rule 3110 and all successor FINRA Rules to such NASD Rule;
- (2) the FINRA Rule 4500 Series; and
- (3) the FINRA Rule 4100 Series.]

[(c) The following Rules shall apply as necessary to effectuate members' compliance with paragraphs (a) and (b) of this Rule:

- (1) the FINRA Rule 0100 Series;

(2) the NASD Rule 1000 Series and all successor FINRA Rules to such NASD Rule Series;

(3) the FINRA Rule 1000 and 1100 Series;

(4) NASD Rules 3010 and 3012 and IM-3010-1 and all successor FINRA Rules to such NASD Rules and Interpretive Material;

(5) FINRA Rule 3130;

(6) the FINRA Rule 8000 Series; and

(7) the FINRA Rule 9000 Series.]

[(d) This Rule shall expire on February 6, 2022.]

(a) Except as otherwise provided in this Rule, the Rules shall apply to members' activities and positions with respect to security-based swaps.

(b) The following Rules shall not apply to members' activities and positions with respect to security-based swaps:

(1) the FINRA Rule 6000 Series;

(2) the FINRA Rule 7000 Series; and

(3) the FINRA Rule 11000 Series.

(c) The following Rules shall not apply to members' activities and positions with respect to security-based swaps, to the extent that the member is acting in its capacity as a registered security-based swap dealer or major security-based swap participant or the associated person of the member is acting in his or her capacity as an associated person of a registered security-based swap dealer or major security-based swap participant, as applicable, and that such activities or positions relate to the business of the registered security-based swap dealer or major security-based swap participant within the meaning of SEA Rule 15Fh-3(h)(1):

(1) FINRA Rule 2210(d);

(2) FINRA Rule 2232;

- (3) FINRA Rule 3110;
- (4) FINRA Rule 3120; and
- (5) FINRA Rule 3130.

(d) The following Rules shall not apply to members' activities and positions with respect to security-based swaps, to the extent that the member is acting in its capacity as a registered security-based swap dealer or the associated person of the member is acting in his or her capacity as an associated person of a registered security-based swap dealer, as applicable, and that such activities or positions relate to the business of the registered security-based swap dealer within the meaning of SEA Rule 15Fh-3(h)(1):

- (1) FINRA Rule 2030;
- (2) FINRA Rule 2090; and
- (3) FINRA Rule 2111.

(e) The following Rules shall not apply to members' activities and positions with respect to security-based swaps, to the extent that the member or the associated person of the member, as applicable, is arranging, negotiating or executing security-based swaps on behalf of a non-U.S. affiliate pursuant to, and in compliance with the conditions of, the exception from counting certain security-based swaps under SEA Rule 3a71-3(d)(1):

- (1) FINRA Rule 2111;
- (2) FINRA Rule 2210(d); and
- (3) FINRA Rule 2232.

(f) The following Rules shall not apply to members' activities and positions with respect to security-based swaps, to the extent that the member is acting in its capacity as a registered security-based swap dealer or major security-based swap participant and the customer's account solely holds security-based swaps and collateral posted as margin in connection with such security-based swaps, provided that the member

complies with the portfolio reconciliation requirements of SEA Rule 15Fi-3 with respect to such account and that such portfolio reconciliations include collateral posted as margin in connection with security-based swaps in the account:

(1) FINRA Rule 2231; and

(2) FINRA Rule 4512.

(g) Persons associated with a member whose functions are related solely and exclusively to security-based swaps undertaken in such person's capacity as an associated person of a registered security-based swap dealer or major security-based swap participant are not required to be registered with FINRA.

(h) For purposes of the FINRA Rule 4000 Series, all requirements that apply to a member that clears or carries customer accounts shall also apply to any member that acts as a principal counterparty to a security-based swap, clears or carries a security-based swap, guarantees a security-based swap or otherwise has financial exposure to a security-based swap.

(i) Pursuant to the FINRA Rule 9600 Series, FINRA may, taking into consideration all relevant factors, exempt a person unconditionally or on specified terms from the application of specific FINRA Rules (other than an exemption from the general application of paragraph (a) of this Rule) to the person's security-based swap activities or positions as it deems appropriate consistent with the protection of investors and the public interest.

••• Supplementary Material: -----

No Change.

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4000. FINANCIAL AND OPERATIONAL RULES

4100. FINANCIAL CONDITION

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4120. Regulatory Notification and Business Curtailment

(a) Notification

(1) Each carrying or clearing member shall promptly, but in any event within 24 hours, notify FINRA in writing if its net capital falls below the following percentages:

(A) through (B) No Change.

(C) the member elects to use the alternative method of computing net capital pursuant to SEA Rule 15c3-1(a)(1)(ii), and its net capital is less than the level specified in SEA Rule 17a-11([c]b)(2);

(D) the member is approved to use the alternative method of computing net capital pursuant to SEA Rule 15c3-1e, and

(i) its tentative net capital as defined in SEA Rule 15c3-1(c)(15) is less than [50 percent of the early warning notification] 150 percent of the minimum tentative net capital amount required by SEA Rule 15c3-1(a)(7)(i)(i)(A), [or]

(ii) [its net capital is less than \$1.25 billion;] the member is subject to the aggregate indebtedness requirement of SEA Rule 15c3-1, and its net capital is less than the sum of 1/10th of its aggregate indebtedness and 150 percent of the amount required under SEA Rule 15c3-1(a)(7)(i)(A)(1), (2), or (3), or

(iii) the member elects to use the alternative method of computing net capital pursuant to SEA Rule 15c3-1(a)(1)(ii), and its net capital is less than the sum of the level specified in SEA Rule 17a-11(b)(2) and 150 percent of the amount required under SEA Rule 15c3-1(a)(7)(i)(A)(1), (2), or (3);

(E) the member is registered as a security-based swap dealer operating pursuant to SEA Rule 15c3-1(a)(10), and

(i) the member is subject to the aggregate indebtedness requirement of SEA Rule 15c3-1, and its net capital is less than the sum of 1/10th of its aggregate indebtedness and 150 percent of the amount required under SEA Rule 15c3-1(a)(10)(i)(A)(1), (2), or (3), or

(ii) the member elects to use the alternative method of computing net capital pursuant to SEA Rule 15c3-1(a)(1)(ii), and its net capital is less than the sum of the level specified in SEA Rule 17a-11(b)(2) and 150 percent of the amount required under SEA Rule 15c3-1(a)(10)(i)(A)(1), (2), or (3);

([E]E) the member is registered as a Futures Commission Merchant pursuant to the Commodity Exchange Act, and its net capital is less than 120 percent[%] of the minimum risk-based capital requirements of Commodity Exchange Act Rule 1.17; or

([F]G) the member's deduction of capital withdrawals, which it anticipates making, whether voluntarily or as a result of a commitment, including maturities of subordinated liabilities entered into pursuant to Appendix D of SEA Rule 15c3-1, during the next six months, and/or special deductions from net capital set forth in Rule 4210(e)(8)(C), would result in any one of the conditions described in paragraph (a)(1)(A) through ([E]E) of this Rule.

(b) Restrictions on Business Expansion

(1) Except as otherwise permitted by FINRA in writing, a member that carries customer accounts or clears transactions shall not expand its business

during any period in which any of the conditions described in paragraph (a)(1) of this Rule continue to exist for more than 15 consecutive business days, provided that such condition(s) has been known to FINRA or the member for at least five consecutive business days. FINRA may issue a notice pursuant to Rule 9557 directing any such member not to expand its business; however, FINRA's authority to issue such notice does not negate the member's obligation not to expand its business in accordance with this paragraph (b)(1).

(2) through (3) No Change.

(c) Reduction of Business

(1) Except as otherwise permitted by FINRA in writing, a member that carries customer accounts or clears transactions is obligated to reduce its business to a point enabling its available capital to exceed the standards set forth in paragraph (a)(1)(A) through ([F]G) of this Rule, when any of the following conditions continue to exist for more than 15 consecutive business days, provided that such condition(s) has been known to FINRA or the member for at least five consecutive business days:

(A) through (B) No Change.

(C) the member elects to use the alternative method of computing net capital pursuant to SEA Rule 15c3-1(a)(1)(ii), and its net capital is less than one percentage point below the level specified in SEA Rule 17a-11([c]b)(2);

(D) the member is approved to use the alternative method of computing net capital pursuant to SEA Rule 15c3-1e, and

(i) its tentative net capital as defined in SEA Rule 15c3-1(c)(15) is less than [40 percent of] the [early warning notification]

amount [required by] specified under SEA Rule 15c3-1(a)(7)(ii),
[or]

(ii) [its net capital is less than \$1 billion] the member is subject to the aggregate indebtedness requirement of SEA Rule 15c3-1, and its net capital is less than the sum of 1/12th of its aggregate indebtedness and 125 percent of the amount required under SEA Rule 15c3-1(a)(7)(i)(A)(1), (2), or (3), or

(iii) the member elects to use the alternative method of computing net capital pursuant to SEA Rule 15c3-1(a)(1)(ii), and its net capital is less than the sum of one percentage point below the level specified in SEA Rule 17a-11(b)(2) and 125 percent of the amount required under SEA Rule 15c3-1(a)(7)(i)(A)(1), (2), or (3);

(E) the member is registered as a security-based swap dealer operating pursuant to SEA Rule 15c3-1(a)(10), and

(i) the member is subject to the aggregate indebtedness requirement of SEA Rule 15c3-1, and its net capital is less than the sum of 1/12th of its aggregate indebtedness and 125 percent of the amount required under SEA Rule 15c3-1(a)(10)(i)(A)(1), (2), or (3), or

(ii) the member elects to use the alternative method of computing net capital pursuant to SEA Rule 15c3-1(a)(1)(ii), and its net capital is less than the sum of one percentage point below the level specified in SEA Rule 17a-11(b)(2) and 125 percent of the amount required under SEA Rule 15c3-1(a)(10)(i)(A)(1), (2), or (3);

([E]E) the member is registered as a Futures Commission Merchant pursuant to the Commodity Exchange Act, and its net capital is less than 110 percent[%] of the minimum risk-based capital requirements of Commodity Exchange Act Rule 1.17; or

([F]G) the member's deduction of capital withdrawals, including maturities of subordinated liabilities entered into pursuant to Appendix D of SEA Rule 15c3-1, scheduled during the next six months, and/or special deductions from net capital set forth in Rule 4210(e)(8)(C), would result in any one of the conditions described in paragraph (c)(1)(A) through ([E]E) of this Rule.

FINRA may issue a notice pursuant to Rule 9557 directing any such member to reduce its business to a point enabling its available capital to exceed the standards set forth in paragraph (a)(1)(A) through ([F]G) of this Rule; however, FINRA's authority to issue such notice does not negate the member's obligation to reduce its business in accordance with this paragraph (c)(1).

(2) through (3) No Change.

••• **Supplementary Material:** -----

.01 Exercise of Discretion by FINRA. The following are examples of the conditions under which FINRA may exercise its discretion pursuant to paragraphs (b)(2) or (c)(2) of this Rule[above]:

(a) through (e) No Change.

(f) The member's overall business operations are in such condition, given the nature of its business that, notwithstanding the absence of any of the conditions enumerated in paragraphs (a) through (e) of this Supplementary Material, a determination of financial or operational difficulty should be made.

.02 through .03 No Change.

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4200. MARGIN

4210. Margin Requirements

(a) through (d) No Change.

(e) Exceptions to Rule

The foregoing requirements of this Rule are subject to the following exceptions:

(1) through (8) No Change.

(9) Security-Based Swaps; SBS Offsets

Except for SBS carried by a member in a portfolio margin account subject to the requirements of Rule 4210(g), margin requirements on SBS and positions in Uncleared SBS Accounts are determined by Rule 4240, rather than Rule 4210. When one or more securities or options positions in a customer's margin account are included in a combination of SBS, securities or options positions on which an Initial Margin Requirement is computed under paragraph (b)(2)(A)(i) or (b)(2)(A)(ii) of Rule 4240, and the Initial Margin Requirement computed on the combination is less than the aggregate margin requirement on such securities or options positions under other provisions of this Rule, the aggregate margin requirement on such margin account positions shall be reduced to the Initial Margin Requirement computed on the combination. For purposes of this paragraph (e)(9), the terms "SBS," "Uncleared SBS Account," and "Initial Margin Requirement" have the meanings given them in Rule 4240.

(f) No Change.

(g) Portfolio Margin

As an alternative to the "strategy-based" margin requirements set forth in paragraphs (a) through (f) of this Rule, members may elect to apply the portfolio margin requirements set forth in this paragraph (g) to all margin equity securities,¹ listed options,

security futures products (as defined in Section 3(a)(56) of the Exchange Act), unlisted derivatives, warrants, stock index warrants, and related instruments (as defined in paragraph (g)(2)(D)), provided that the requirements of paragraph (g)(6)(B)(i) of this Rule are met.

In addition, a member, provided that it is a Futures Commission Merchant ("FCM") and is either a clearing member of a futures clearing organization or has an affiliate that is a clearing member of a futures clearing organization, is permitted under this paragraph (g) to combine an eligible participant's related instruments with listed index options, unlisted derivatives, options on exchange traded funds ("ETF"), stock index warrants and underlying instruments and compute a margin requirement for such combined products on a portfolio margin basis.

The portfolio margin provisions of this Rule shall not apply to Individual Retirement Accounts ("IRAs").

(1) No Change.

(2) Definitions — For purposes of this paragraph (g), the following terms shall have the meanings specified below:

(A) through (G) No Change.

(H) The term "unlisted derivative" means any equity-based or equity index-based option, forward contract, or security-based swap that can be valued by a theoretical pricing model approved by the SEC for valuing that type of option, forward contract, or security-based swap, and that is neither traded on a national securities exchange, nor issued and guaranteed by a registered clearing agency and shall not include an OCC Cleared OTC Option (as defined in Rule 2360).

(3) through (15) No Change.

(h) No Change.

••• **Supplementary Material:** -----

.01 through .05 No Change.

.06 Good Faith Account. A Regulation T good faith account, other than a non-securities account, is a margin account for purposes of Rule 4210.

4220. Daily Record of Required Margin

Each member carrying securities margin accounts for customers (as such term is defined in Rule 4210(a)(3)) or subject to Rule 4240 shall make a record each day of every case in which, pursuant to FINRA rules or Regulation T of the Board of Governors of the Federal Reserve System, initial or additional margin must be obtained in a customer's account in such format as FINRA may require. The record shall show, for each account, the amount of margin so required and the date when and manner in which cash or securities are deposited or the margin requirements were otherwise complied with. Individual entries will be deemed a "record," and such entries need not be combined and kept as a separate record.

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[4240. Margin Requirements for Credit Default Swaps]

[(a) Effective Period of Interim Pilot Program]

Entire text deleted.

[(b) Central Counterparty Clearing Arrangements]

Entire text deleted.

[(c) Margin Requirements]

Entire text deleted.

[(d) Risk Monitoring Procedures and Guidelines]

Entire text deleted.

[(e) Concentrations]

Entire text deleted.

[••• Supplementary Material: -----]

[Entire text deleted.]

4240. Security-Based Swap Margin Requirements

Every member that is a party to a security-based swap with a customer, broker or dealer, or other Counterparty, or who has guaranteed or otherwise become responsible for any other person's SBS obligations, shall comply with the following requirements, except that a member that is registered as a security-based swap dealer under Exchange Act section 15F shall instead comply with SEA Rule 18a-3.

(a) Cleared SBS Margin Requirements

Except as provided in paragraph (b)(5) of this Rule, the margin to be maintained on any Cleared SBS is the margin on such Cleared SBS required by the Clearing Agency through which such SBS is Cleared.

(b) Uncleared SBS Margin Requirements

(1) Current Exposure Computation

As of the close of business on each business day, the member shall calculate with respect to each Uncleared SBS Account an amount equal to:

(A) The net Value (which may be negative) of all Uncleared SBS in the Uncleared SBS Account; plus

(B) The Value of all Variation Margin collected from the Counterparty that has not been returned or applied to an obligation of the Counterparty; minus

(C) The Value of all Variation Margin delivered to the Counterparty that has not been returned or applied to an obligation of the member.

If this amount is positive, it is the Counterparty's "Current Exposure" to the member; if it is negative, then its absolute value is the member's "Current Exposure" to the Counterparty.

(2) Initial Margin Computation

As of the close of business on each business day, the member shall compute an amount (the "Initial Margin Requirement") for each Uncleared SBS Account equal to the sum of the following Initial Margin Requirements on the Uncleared SBS and securities positions in that Uncleared SBS Account.

(A) Initial Margin Requirements

For purposes of the computation of an Initial Margin Requirement for an Uncleared SBS Account and subject to paragraph (b)(2)(B) of this Rule:

(i) The "Initial Margin Requirement" on an Uncleared Basic CDS is an amount equal to the "haircut" on that position under SEA Rule 15c3-1(c)(2)(vi)(P)(1); provided, however, that if the member has a netting or collateral agreement that is legally enforceable against the Counterparty and covers any combination of Uncleared Basic CDS or securities specified in clause (iii), (iv) or (v) of SEA Rule 15c3-1(c)(2)(vi)(P)(1), the member may compute an Initial Margin Requirement on such combination of positions equal to the "haircut" on that combination under SEA Rule 15c3-1(c)(2)(vi)(P)(1);

(ii) The "Initial Margin Requirement" on an Uncleared Basic SBS is the margin that Rule 4210 would require to be maintained on the Equivalent Margin Account; provided, however, that if the member has a netting or collateral agreement that is

legally enforceable against the Counterparty and covers any combination of Uncleared Basic SBS, securities or options positions, the member may compute an Initial Margin Requirement on the combination of such positions equal to the margin that Rule 4210 would require to be maintained on the combination of Equivalent Margin Accounts for such Uncleared Basic SBS and securities or options positions;

(iii) Subject to the foregoing, the “**Initial Margin Requirement**” on long or short securities positions in an Uncleared SBS Account is the margin that Rule 4210 would require to be maintained on those positions in the Counterparty’s margin account; provided, however, that there shall be no Initial Margin Requirement on securities that the member has chosen to haircut pursuant to paragraph (d)(20)(B)(ii) of this Rule;

(iv) The “**Initial Margin Requirement**” on any Uncleared SBS other than a Basic CDS or Basic SBS shall be determined in a manner approved by FINRA pursuant to paragraph (b)(2)(C) of this Rule; provided, however, that the Initial Margin Requirement for any Legacy SBS, other than a Basic CDS, Basic SBS, or other SBS for which FINRA has approved the use of specific margin requirements by the member pursuant to paragraph (b)(2)(C) of this Rule, shall be computed using the applicable method specified in SEA Rule 15c3-1(c)(2)(vi)(P).

(B) Combining Positions in the Computation of Initial Margin Requirements

To be included in a combination referred to in paragraph (b)(2)(A)(i) or (A)(ii) of this Rule, securities positions must be in the Counterparty's Uncleared SBS Account or margin account at the member. Securities may not be included in a combination referred to in paragraph (b)(2)(A)(i) or (A)(ii) if the member has chosen to haircut them pursuant to paragraph (d)(20)(B)(ii) of this Rule. To be included in a combination referred to in paragraph (b)(2)(A)(ii), option positions must be in the Counterparty's margin account at the member. No SBS, security or option position may be included in more than one combination referred to in paragraph (b)(2)(A)(i) or (A)(ii), nor may such combinations include any securities or options positions for which reduced margin requirements are computed under paragraphs (e)(1) or (f)(2)(F)(ii) through (f)(2)(I) of Rule 4210. When an Initial Margin Requirement is computed on a combination referred to in paragraph (b)(2)(A)(i) or (A)(ii) that includes securities or options positions in the Counterparty's margin account, the Initial Margin Requirement on the Uncleared SBS included in that combination shall be equal to such Initial Margin Requirement computed on the combination, reduced (but not below zero) by the aggregate Rule 4210 maintenance margin requirements applicable to such margin account positions.

(C) Initial Margin Requirements for SBS Other Than Basic CDS and Basic SBS

Any member may apply to FINRA for the approval of an Initial Margin Requirement for a type of SBS other than Basic CDS and Basic SBS. Any such application must:

- (i) define the specific type of SBS covered by the application;

(ii) describe the purpose(s) that the member and its Counterparties would have for entering that type of SBS;

(iii) identify all variables that influence the value of that type of SBS;

(iv) explain all risks of that type of SBS;

(v) propose a specific Initial Margin Requirement (not a margin model) for that type of SBS;

(vi) explain how the proposed specific Initial Margin Requirement would adequately protect a member and its capital against each of those risks;

(vii) attach copies of the member's SBS risk management procedures and describe the application of those procedures to that type of SBS; and

(viii) provide the results of backtesting of the proposed specific Initial Margin Requirement over periods of significant volatility in the variables influencing the value of that type of SBS.

If FINRA approves any such application, such approval: (a) may be unconditional or conditional, including in the form of a time-limited pilot program; (b) may approve the use of the specific Initial Margin Requirement only by the applicant; or (c) may take the form of a regulatory notice or other communication approving the use of the specific margin requirements by members generally. No member shall become a party to an SBS other than a Basic CDS or Basic SBS unless FINRA has approved an Initial Margin Requirement for such member's use with respect to that type of SBS.

(3) Collection or Delivery of Variation and Initial Margin

Subject to paragraph (b)(5) of this Rule:

(A) Variation Margin

Each member shall deliver or return to each Counterparty cash or margin securities with a Value equal to the Counterparty's Current Exposure (if any) to the member; or collect or retrieve from the Counterparty cash or margin securities with a Value equal to the member's Current Exposure (if any) to the Counterparty;

(B) Initial Margin

Each member shall collect from each Counterparty cash or margin securities with a Value at least equal to any Initial Margin Deficit; and

(C) SBS Guarantees

Each member that guarantees, or otherwise becomes responsible for, the obligations under one or more Uncleared SBS that one party (the "Primary Obligor") has to the other party (the "Beneficiary"), shall be required to collect Variation Margin and Initial Margin from the Primary Obligor to the extent such collection would be required if those Uncleared SBS were between the Primary Obligor and the member (rather than the Beneficiary), unless the member can establish that such margin has been delivered by or on behalf of the Primary Obligor to the Beneficiary (and not returned or applied).

(4) Manner and Time of Collection or Delivery of Variation and Initial Margin; Prohibited Returns and Withdrawals

(A) Variation Margin or Initial Margin is deemed collected from a Counterparty, or returned to the member, when it is received by the member for the Counterparty's Uncleared SBS Account, or when it is

transferred to the Counterparty's Uncleared SBS Account from another account at the member.

(B) Variation Margin is deemed delivered to a Counterparty, and Variation Margin or Initial Margin is deemed returned to the Counterparty, when it is transferred from the Counterparty's Uncleared SBS Account in a manner consistent with the Counterparty's instructions or agreement with the member, including when it is transferred to another account of the Counterparty carried by the member if that is consistent with the Counterparty's instructions or agreement with the member.

(C) Margin required to be collected or delivered by paragraph (b)(3) of this Rule shall be collected or delivered as promptly as possible and no later than the close of business on the business day after the date as of which the relevant Current Exposure or Initial Margin Requirement was required to be computed. Unless FINRA has specifically granted the member additional time, any member that has not collected any Initial Margin or Variation Margin required to be collected under paragraph (b)(3) by the close of business on the third business day after the date as of which the relevant Current Exposure or Initial Margin Requirement was required to be computed, shall take prompt steps to liquidate positions in such Counterparty's Uncleared SBS Account to the extent necessary to eliminate the margin deficiency.

(D) If member is required by paragraph (b)(3)(A) of this Rule to deliver or return Variation Margin to the Counterparty and is also required by paragraph (b)(3)(B) of this Rule to collect Initial Margin from the Counterparty, the member shall net the delivery or return of Variation Margin against the collection of Initial Margin. If a member is required by

paragraph (b)(3)(A) to collect or retrieve Variation Margin from the Counterparty and, giving effect to such collection or retrieval, would be permitted to return Initial Margin to the Counterparty, the member may net the return of Initial Margin against the collection or retrieval of Variation Margin.

(E) A member may not return Initial Margin to a Counterparty, nor permit a Counterparty to make a withdrawal from the Counterparty's margin account at the member, if such return or withdrawal, together with all other transactions, transfers, deposits and withdrawals on the same day, would create or increase an Initial Margin Deficit.

(5) Exceptions

(A) Clearing Agencies

A member is not required to deliver Variation Margin to, or collect Initial Margin or Variation Margin from, any Clearing Agency, and is not required to deduct otherwise required Variation Margin or Initial Margin in the computation of its net capital under SEA Rule 15c3-1 or, if applicable, FINRA Rule 4110(a).

(B) Legacy SBS

A member may omit all (but not less than all) Legacy SBS with a Counterparty from the Counterparty's Uncleared SBS Account when computing Current Exposure under paragraph (b)(1) of this Rule and the Initial Margin Requirement under paragraph (b)(2) of this Rule, provided that (i) it collects and delivers margin on Legacy SBS to the extent of its contractual rights or obligations to do so and (ii) in the computation of its net capital under SEA Rule 15c3-1 or, if applicable, FINRA Rule 4110(a), it deducts the amount of any additional Variation Margin and Initial Margin

it would have been required to collect under paragraph (b)(3) of this Rule if the Legacy SBS had been included in the Counterparty's Uncleared SBS Account.

(C) Multilateral Organizations

A member is not required to deliver Variation Margin to, or collect Initial Margin or Variation Margin from, any Multilateral Organization, provided that, in the computation of its net capital under SEA Rule 15c3-1 or, if applicable, FINRA Rule 4110(a), it deducts the amount of any Variation Margin and Initial Margin it would otherwise be required to collect under paragraph (b)(3) of this Rule.

(D) Financial Market Intermediaries

A member must deliver Variation Margin to, and collect Variation Margin from, a Counterparty that is a Financial Market Intermediary as required by paragraph (b)(3)(A) of this Rule. However, it is not required to collect Initial Margin from such a Counterparty provided that, in the computation of its net capital under SEA Rule 15c3-1 or, if applicable, FINRA Rule 4110(a), it deducts the amount of any Initial Margin it would otherwise be required to collect under paragraph (b)(3)(B) of this Rule.

(E) Sovereign Counterparties

A member must deliver Variation Margin to, and collect Variation Margin from, a Sovereign Counterparty as required by paragraph (b)(3)(A) of this Rule. However, if the member has determined pursuant to policies and procedures or credit risk models established pursuant to SEA Rule 15c3-1(c)(2)(vi)(I) that the Sovereign Counterparty has only a minimal amount of credit risk, the member is not required to collect Initial Margin from such Sovereign Counterparty provided that, in the

computation of its net capital under SEA Rule 15c3-1 or, if applicable, FINRA Rule 4110(a), it deducts the amount of any Initial Margin it would otherwise be required to collect under paragraph (b)(3)(B) of this Rule.

(F) Majority Owners

A member must deliver Variation Margin to, and collect Variation Margin from, a Counterparty that is a direct or indirect owner of a majority of the equity and voting interests in the member as required by paragraph (b)(3)(A). However, it is not required to collect Initial Margin from such a Counterparty provided that, in the computation of its net capital under SEA Rule 15c3-1 or, if applicable, FINRA Rule 4110(a), it deducts the amount of any Initial Margin it would otherwise be required to collect under paragraph (b)(3)(B).

(G) ANC Firms Transacting with Majority Owners or Registered or Foreign SBS Dealers under Common Ownership

A member approved to use the alternative method of computing net capital pursuant to SEA Rule 15c3-1e must deliver Variation Margin to, and collect Variation Margin from, a Counterparty that is either (i) a direct or indirect owner of a majority of the equity and voting interests in the member, or (ii) a Registered or Foreign SBS Dealer a majority of whose equity and voting interests are directly or indirectly owned by such a direct or indirect owner of the member, in each case as required by paragraph (b)(3)(A). However, it is not required to collect Initial Margin from such a Counterparty provided that, in the computation of its net capital under SEA Rule 15c3-1 or, if applicable, FINRA Rule 4110(a), it takes a deduction for credit risk on transactions with such Counterparty computed in accordance with SEA Rule 15c3-1e(c).

(H) Portfolio Margin

This Rule 4240 shall not apply to any unlisted derivative, as defined in Rule 4210(g)(2)(H), carried by a member in a portfolio margin account subject to the requirements of Rule 4210(g) if such unlisted derivative is of a type addressed in the comprehensive written risk analysis methodology filed by the member with FINRA in compliance with Rule 4210(g)(1). This Rule 4240 also shall not apply to any SBS carried in a commodity account or other account under the jurisdiction of the Commodity Futures Trading Commission in accordance with an SEC rule, order, or no-action letter permitting SBS and swaps to be carried and portfolio margined together in such an account.

(c) Risk Monitoring Procedures and Guidelines

Members shall monitor the risk of any Uncleared SBS Accounts and shall maintain a comprehensive written risk analysis methodology for assessing the potential risk to the member's capital over a specified range of possible market movements over a specified time period. For purposes of this Rule, members must employ the risk monitoring procedures and guidelines set forth in paragraphs (c)(1) to (13). The member must review, in accordance with the member's written procedures, at reasonable periodic intervals, the member's SBS activities for consistency with the risk monitoring procedures and guidelines set forth in this Rule, and must determine whether the data necessary to apply the risk monitoring procedures and guidelines is accessible on a timely basis and information systems are available to adequately capture, monitor, analyze and report relevant data, including:

(1) obtaining and reviewing the required documentation and financial information necessary for assessing the amount of credit to be extended to SBS Counterparties;

(2) determining and documenting the legal enforceability of netting or collateral agreements, including enforceability in the event a Counterparty becomes subject to bankruptcy or other insolvency proceedings;

(3) assessing the determination, review and approval of credit limits to each Counterparty, and across all Counterparties;

(4) monitoring credit risk exposure to the member from SBS, including the type, scope and frequency of reporting to senior management;

(5) the use of stress testing of accounts containing SBS contracts in order to monitor market risk exposure from individual accounts and in the aggregate;

(6) managing the impact of credit extended related to SBS contracts on the member's overall risk exposure;

(7) determining the need to collect additional margin from a particular customer or broker or dealer, including whether that determination was based upon the creditworthiness of the customer or broker or dealer and/or the risk of the specific contracts;

(8) determining the need for higher margin requirements than required by this Rule and formulating the member's own margin requirements, including procedures for identifying unusually volatile positions, concentrated positions (with a particular Counterparty and across all Counterparties and customers), or positions that cannot be liquidated promptly;

(9) monitoring the credit exposure resulting from concentrated positions with a single Counterparty and across all Counterparties, and during periods of extreme volatility;

(10) identifying any Uncleared SBS Accounts with intraday risk exposures that are not reflected in their end of day positions (e.g., Uncleared

SBS Accounts that frequently establish positions and then trade out of, or hedge, those positions by the end of the day) and collecting appropriate margin to address those intraday risk exposures;

(11) identifying any Uncleared SBS Account that, in light of current market conditions, could not be promptly liquidated for an amount corresponding to the Current Exposure computed with respect to such account and determining the need for higher margin requirements on such accounts or the positions therein;

(12) maintaining sufficient Initial Margin in the accounts of each Counterparty to protect against the largest individual potential future exposure of an Uncleared SBS in such Counterparty's Uncleared SBS Account, as measured by computing the largest maximum possible loss that could result from the exposure; and

(13) increasing the frequency of calculations of Current Exposure and Initial Margin Requirements during periods of extreme volatility and for accounts with concentrated positions.

(d) Definitions

For purposes of this Rule, the following terms shall have the meanings specified below:

(1) The term “**Basic CDS**” means a Basic Single-Name Credit Default Swap or a Basic Narrow-Based Index Credit Default Swap. For this purpose:

(A) The term “**Basic Narrow-Based Index Credit Default Swap**” means an SBS consisting of multiple component Basic Single-Name Credit Default Swaps; and

(B) The term “**Basic Single-Name Credit Default Swap**” means an SBS in which one party pays either a single fixed amount or periodic

fixed amounts or floating amounts determined by reference to a specified notional amount, and the other party pays either a fixed amount or an amount determined by reference to the value of one or more loans, debt securities or other financial instruments issued, guaranteed or otherwise entered into by a third party (the “**Reference Entity**”) upon the occurrence of one or more specified credit events with respect to the Reference Entity (for example, bankruptcy or payment default). The term “**Basic Single-Name Credit Default Swap**” also includes a swap that, upon the occurrence of one or more specified credit events with respect to the Reference Entity, is physically settled by payment of a specified fixed amount by one party against delivery by the other party of eligible obligations of the Reference Entity.

(2) The term “**Basic SBS**” means an SBS, other than a credit default swap, under which each party is contractually obligated to provide the other the economic equivalent of a margin account containing a portfolio of long or short positions in securities or options (the “**Equivalent Margin Account**”).

(3) An SBS is “**Cleared**” if it is cleared through a Clearing Agency by or on behalf of the member.

(4) The term “**Clearing Agency**” means a clearing agency registered pursuant to Exchange Act section 17A or exempted by the SEC from such registration by a rule or order pursuant to Exchange Act section 17A.

(5) The term “**Counterparty**” means a person with whom a member has entered into an Uncleared SBS.

(6) The term “**Current Exposure**” has the meaning given it in paragraph (b)(1) of this Rule.

(7) The term “**Equivalent Margin Account**” with respect to a Basic SBS has the meaning given such term in the definition of “Basic SBS” in paragraph (d)(2) of this Rule.

(8) The term “**Financial Market Intermediary**” means a security-based swap dealer, swap dealer, broker or dealer, futures commission merchant, bank, foreign bank, or foreign broker or dealer.

(9) The term “**Initial Margin**” means all cash or margin securities, excluding Variation Margin, received by the member for a Counterparty’s Uncleared SBS Account or transferred to the Counterparty’s Uncleared SBS Account from another account at the member, including margin collected from a Counterparty in accordance with paragraph (b)(3)(B) of this Rule, that in each case have not been returned to the Counterparty or applied to an obligation of the Counterparty.

(10) The term “**Initial Margin Deficit**” means the amount, if any, by which (A) the sum of the Value of the Initial Margin in an Uncleared SBS Account and the Counterparty’s Rule 4210 Excess is less than (B) the Initial Margin Requirement for the Uncleared SBS Account.

(11) The term “**Initial Margin Requirement**” has the meaning given it in paragraph (b)(2)(A) of this Rule.

(12) The term “**Legacy SBS**” means an Uncleared SBS entered into before April 6, 2022.

(13) The term “**Multilateral Organization**” means the Bank for International Settlements, the European Stability Mechanism, the International Bank for Reconstruction and Development, the Multilateral Investment Guarantee Agency, the International Finance Corporation, the Inter-American Development Bank, the Asian Development Bank, the African Development

Bank, the European Bank for Reconstruction and Development, the European Investment Bank, the European Investment Fund, the Nordic Investment Bank, the Caribbean Development Bank, the Islamic Development Bank, the Council of Europe Development Bank, or any other multilateral development bank that provides financing for national or regional development in which the U.S. government is a shareholder or contributing member.

(14) The term “**Registered or Foreign SBS Dealer**” means (A) any person registered with the Commission as a security-based swap dealer, or (B) any foreign person if the Commission has made a substituted compliance determination under SEA Rule 3a71-6(a)(1) that compliance by a registered security-based swap dealer or class thereof with specified requirements of a foreign regulatory system that are applicable to such foreign person may satisfy the capital requirements of Exchange Act section 15F(e) and SEA Rule 18a-1 that would otherwise apply to such security-based swap dealer or class thereof.

(15) A Counterparty’s “**Rule 4210 Excess**” is the amount, if any, by which the equity (as defined in Rule 4210(a)(5)) in the Counterparty’s margin account at the member exceeds the amount required by Rule 4210.

(16) The term “**SBS**” or “**security-based swap**” means a “security-based swap” as defined in Exchange Act section 3(a)(68).

(17) The term “**Sovereign Counterparty**” means Counterparty that is a central government (including the U.S. government) or an agency, department, ministry, or central bank of a central government.

(18) An SBS is “**Uncleared**” if it is not Cleared.

(19) The term “Uncleared SBS Account” means an account with respect to a Counterparty consisting of:

(A) All Uncleared SBS between the member and the Counterparty;

(B) Long positions for all Variation Margin in the form of securities, and a credit balance for all Variation Margin in the form of cash, in each case collected from the Counterparty and not returned to, or applied to an obligation of, the Counterparty;

(C) Short positions for all Variation Margin in the form of securities, and a debit balance for all Variation Margin in the form of cash, in each case delivered to the Counterparty and not returned to, or applied to an obligation of, the member; and

(D) Long positions for all Initial Margin in the form of securities, and a credit balance for all Initial Margin in the form of cash, in each case collected from the Counterparty and not returned to, or applied to an obligation of, the Counterparty.

(20) The term “Value” means:

(A) With respect to one or more outstanding SBS with a Counterparty, a reasonable estimate of the amount of U.S. dollars that the member would receive (expressed as a positive amount) or pay (expressed as a negative amount) to enter at mid-market prices into one or more replacement SBS collectively providing the equivalent of the material terms of such existing SBS;

(B) With respect to a security position:

(i) the current market value of those margin securities, as defined in Rule 4210(a)(2), determined in accordance with Rule 4210(f)(1); or

(ii) at the member's option with respect to any margin securities collected as Variation Margin or Initial Margin, means the current market value of those margin securities, as defined in Rule 4210(a)(2) and determined in accordance with Rule 4210(f)(1), reduced ("haircut") by the margin requirement that would be applicable to such securities under Rule 4210 if they were held in the Counterparty's margin account;

(C) With respect to cash in U.S. dollars, the amount of such cash;

and

(D) With respect to a freely convertible foreign currency, the amount of U.S. dollars into which such currency could be converted, provided the currency is marked-to-market daily.

(21) The term "Variation Margin" means cash or margin securities collected from, or delivered to, a Counterparty in accordance with paragraph (b)(3)(A) of this Rule.

••• Supplementary Material: -----

.01 Good Faith Account. A Regulation T good faith account, other than a non-securities account, is a margin account for purposes of Rule 4240.

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9600. PROCEDURES FOR EXEMPTIONS

9610. Application

(a) Where to File

A member seeking exemptive relief as permitted under Rules 0180, 1210, 1220, 2030, 2114, 2210, 2231, 2241, 2242, 2310, 2359, 2360, 3170, 4210, 4311, 4320, 4360, 4540, 5110, 5121, 5122, 5123, 5130, 5131, 6183, 6625, 6731, 6732, 7470, 8211, 8213, 11870, or 11900, or Municipal Securities Rulemaking Board Rule G-37 shall file a written application with the appropriate department or staff of FINRA.

(b) through (c) No Change.

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