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[Page 452-455]

TITLE 17--COMMODITY AND SECURITIES EXCHANGES

CHAPTER II--SECURITIES AND EXCHANGE COMMISSION (CONTINUED)

PART 240_GENERAL RULES AND REGULATIONS, SECURITIES EXCHANGE ACT OF 1934--Table of Contents

Subpart A_Rules and Regulations Under the Securities Exchange Act of 1934

Sec. 240.17f-1 Requirements for reporting and inquiry with respect to missing, lost, counterfeit or stolen securities.

(a) Definitions. For purposes of this section:

(1) The term reporting institution shall include every national securities exchange, member thereof, registered securities association, broker, dealer, municipal securities dealer, government securities broker, government securities dealer, registered transfer agent, registered clearing agency, participant therein, member of the Federal Reserve System and bank whose deposits are insured by the Federal Deposit Insurance Corporation;

(2) The term uncertificated security shall mean a security not represented by an instrument and the transfer of which is registered upon books maintained for that purpose by or on behalf of the issuer;

(3) The term global certificate securities issue shall mean a securities issue for which a single master certificate representing the entire issue is registered in the nominee name of a registered clearing agency and for which beneficial owners cannot receive negotiable securities certificates;

(4) The term customer shall mean any person with whom the reporting institution has entered into at least one prior securities-related transaction; and

(5) The term securities-related transaction shall mean a purchase, sale or pledge of investment securities, or a custodial arrangement for investment securities.

(6) The term securities certificate means any physical instrument that represents or purports to represent ownership in a security that was printed by or on behalf of the issuer thereof and shall include any such instrument that is or was:

(i) Printed but not issued;

(ii) Issued and outstanding, including treasury securities;

(iii) Cancelled, which for this purpose means either or both of the procedures set forth in Sec. 240.17Ad-19(a)(1); or

(iv) Counterfeit or reasonably believed to be counterfeit.

(7) The term issuer shall include an issuer's:

(i) Transfer agent(s), paying agent(s), tender agent(s), and

person(s) providing similar services; and

(ii) Corporate predecessor(s) and successor(s).

(8) The term missing shall include any securities certificate that:

(i) Cannot be located or accounted for, but is not believed to be lost or stolen; or

(ii) A transfer agent claims or believes was destroyed in any manner other than by the transfer agent's own certificate destruction procedures as provided in Sec. 240.17Ad-19.

(b) Every reporting institution shall register with the Commission or its designee in accordance with instructions issued by the Commission except:

(1) A member of a national securities exchange who effects securities transactions through the trading facilities of the exchange and has not received or held customer securities within the last six months;

(2) A reporting institution that, within the last six months, limited its securities activities exclusively to uncertificated securities, global securities issues or any securities issue for which neither record nor beneficial owners can obtain a negotiable securities certificate; or

(3) A reporting institution whose business activities, within the last six months, did not involve the handling of securities certificates.

(c) Reporting requirements--(1) Stolen securities.

(i) Every reporting institution shall report to the Commission or its designee, and to a registered transfer agent for the issue, the discovery of the theft or loss of any securities certificates where there is substantial basis

[[Page 453]]

for believing that criminal activity was involved. Such report shall be made within one business day of the discovery and, if the certificate numbers of the securities cannot be ascertained at that time, they shall be reported as soon thereafter as possible.

(ii) Every reporting institution shall promptly report to the Federal Bureau of Investigation upon the discovery of the theft or loss of any securities certificate where there is substantial basis for believing that criminal activity was involved.

(2) Missing or lost securities. Every reporting institution shall report to the Commission or its designee, and to a registered transfer agent for the issue, the discovery of the loss of any securities certificate where criminal actions are not suspected when the securities certificate has been missing or lost for a period of two business days. Such report shall be made within one business day of the end of such period except that:

(i) Securities certificates lost, missing, or stolen while in transit to customers, transfer agents, banks, brokers or dealers shall be reported by the delivering institution by the later of two business days after notice of non-receipt or as soon after such notice as the certificate numbers of the securities can be ascertained.

(ii) Where a shipment of retired securities certificates is in transit between any transfer agents, banks, brokers, dealers, or other reporting institutions, with no affiliation existing between such entities, and the delivering institution fails to receive notice of receipt or non-receipt of the certificates, the delivering institution shall act to determine the facts. In the event of non-delivery where the

certificates are not recovered by the delivering institution, the delivering institution shall report the certificates as lost, stolen, or missing to the Commission or its designee within a reasonable time under the circumstances but in any event within twenty business days from the date of shipment.

(iii) Securities certificates considered lost or missing as a result of securities counts or verifications required by rule, regulation or otherwise (e.g., dividend record date verification made as a result of firm policy or internal audit function report) shall be reported by the later of ten business days after completion of such securities count or verification or as soon after such count or verification as the certificate numbers of the securities can be ascertained.

(iv) Securities certificates not received during the completion of delivery, deposit or withdrawal shall be reported in the following manner:

(A) Where delivery of the securities certificates is through a clearing agency, the delivering institution shall supply to the receiving institution the certificate number of the security within two business days from the date of request from the receiving institution. The receiving institution shall report within one business day of notification of the certificate number;

(B) Where the delivery of securities certificates is in person and where the delivering institution has a receipt, the delivering institution shall supply the receiving institution the certificate numbers of the securities within two business days from the date of request from the receiving institution. The receiving institution shall report within one business day of notification of the certificate number;

(C) Where the delivery of securities certificates is in person and where the delivering institution has no receipt, the delivering institution shall report within two business days of notification of non-receipt by the receiving institution; or

(D) Where delivery of securities certificates is made by mail or via draft, if payment is not received within ten business days, the delivering institution shall confirm with the receiving institution the failure to receive such delivery; if confirmation shows non-receipt, the delivering institution shall report within two business days of such confirmation.

(3) Counterfeit securities. Every reporting institution shall report the discovery of any counterfeit securities certificate to the Commission or its designee, to a registered transfer agent for the issue, and to the Federal Bureau of Investigation within one business day of such discovery.

[[Page 454]]

(4) Transfer agent reporting obligations. Every transfer agent shall make the reports required above only if it receives notification of the loss, theft or counterfeiting from a non-reporting institution or if it receives notification other than on a Form X-17F-1A or if the certificate was in its possession at the time of the loss.

(5) Recovery. Every reporting institution that originally reported a lost, missing or stolen securities certificate pursuant to this Section shall report recovery of that securities certificate to the Commission or its designee and to a registered transfer agent for the issue within one business day of such recovery or finding. Every reporting institution that originally made a report in which criminality was

indicated also shall notify the Federal Bureau of Investigation that the securities certificate has been recovered.

(6) Information to be reported. All reports made pursuant to this Section shall include, if applicable or available, the following information with respect to each securities certificate:

- (i) Issuer;
- (ii) Type of security and series;
- (iii) Date of issue;
- (iv) Maturity date;
- (v) Denomination;
- (vi) Interest rate;
- (vii) Certificate number, including alphabetical prefix or suffix;
- (viii) Name in which registered;
- (ix) Distinguishing characteristics, if counterfeit;
- (x) Date of discovery of loss or recovery;
- (xi) CUSIP number;
- (xii) Financial Industry Numbering System ('`FINS'') Number; and
- (xiii) Type of loss.

(7) Forms. Reporting institutions shall make all reports to the Commission or its designee and to a registered transfer agent for the issue pursuant to this section on Form X-17F-1A. Reporting institutions shall make reports to the Federal Bureau of Investigation pursuant to this Section on Form X-17F-1A, unless the reporting institution is a member of the Federal Reserve System or a bank whose deposits are insured by the Federal Deposit Insurance Corporation, in which case reports may be made on the form required by the institution's appropriate regulatory agency for reports to the Federal Bureau of Investigation.

(d) Required inquiries. (1) Every reporting institution (except a reporting institution that, acting in its capacity as transfer agent, paying agent, exchange agent or tender agent for an equity issue, or registrar for a bond or other debt issue, compares all transactions against a shareholder or bondholder list and a current list of stop transfers) shall inquire of the Commission or its designee with respect to every securities certificate which comes into its possession or keeping, whether by pledge, transfer or otherwise, to ascertain whether such securities certificate has been reported as missing, lost, counterfeit or stolen, unless:

(i) The securities certificate is received directly from the issuer or issuing agent at issuance;

(ii) The securities certificate is received from another reporting institution or from a Federal Reserve Bank or Branch;

(iii) The securities certificate is received from a customer of the reporting institution; and

(A) Is registered in the name of such customer or its nominee; or

(B) Was previously sold to such customer, as verified by the internal records of the reporting institution;

(iv) The securities certificate is received as part of a transaction which has an aggregate face value of \$10,000 or less in the case of bonds, or market value of \$10,000 or less in the case of stocks; or

(v) The securities certificate is received directly from a drop which is affiliated with a reporting institution for the purposes of receiving or delivering certificates on behalf of the reporting institution.

(2) Form of inquiry. Inquiries shall be made in such manner as prescribed by the Commission or its designee.

(3) A reporting institution shall make required inquiries by the end

of the fifth business day after a securities certificate comes into its possession or keeping, provided that such inquiries shall be made before the certificate is sold, used as collateral, or sent to another reporting institution.

[[Page 455]]

(e) Permissive reports and inquiries. Every reporting institution may report to or inquire of the Commission or its designee with respect to any securities certificate not otherwise required by this section to be the subject of a report or inquiry. The Commission on written request or upon its own motion may permit reports to and inquiries of the system by any other person or entity upon such terms and conditions as it deems appropriate and necessary in the public interest and for the protection of investors.

(f) Exemptions. The following types of securities are not subject to paragraphs (c) and (d) of this section:

- (1) Security issues not assigned CUSIP numbers;
- (2) Bond coupons;
- (3) Uncertificated securities;
- (4) Global securities issues; and

(5) Any securities issue for which neither record nor beneficial owners can obtain a negotiable securities certificate.

(g) Recordkeeping. Every reporting institution shall maintain and preserve in an easily accessible place for three years copies of all Forms X-17F-1A filed pursuant to this section, all agreements between reporting institutions regarding registration or other aspects of this section, and all confirmations or other information received from the Commission or its designee as a result of inquiry.

(Secs. 2, 17, and 23, 15 U.S.C. 78b, 78q, 78w)

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