

RG 93-44

**DATE:** August 12, 1993  
**TO:** Selected Member Organizations  
**FROM:** The Department of Financial Compliance  
**RE:** Amendments to SEC Rule 17a-11 - Early Warning Rule

The Securities and Exchange Commission's ("SEC") Early Warning Rule 17a-11 ("Rule"), originally adopted in 1971, imposes a duty on broker-dealers to report net capital and other operational problems and to file additional FOCUS reports regarding those problems within certain time periods. In its first comprehensive review of the Rule since the Rule's inception, the SEC has determined to amend certain provisions. Attached is a summary in outline form of the substantive amendments to the Rule along with a copy of the published amendments. These amendments become effective on August 12, 1993.

In general, the amendments eliminate the FOCUS Part II or Part IIA filing requirements triggered either under paragraph (a) of the Rule when net capital falls below the minimum requirement, or under paragraph (b) of the Rule when net capital falls below the "early warning level". However, the SEC or the Exchange may require any information they deem necessary to monitor the condition of the broker-dealer.

While broker-dealers remain obligated to transmit same-day notice requirement of a net capital deficiency, the amendments permit same-day notice to be given via facsimile or by telegraph. The notice must now specify the broker-dealer's net capital requirement and its current amount of net capital.

Finally, the amendments eliminate both the same-day notice requirement and the FOCUS filing requirement which applied under the Rule to broker-dealers whose total outstanding principal amounts of satisfactory subordination agreements exceed the allowable limit (debt/debt-equity ratio greater than 70%) for more than 90 days. Broker-dealers will continue to be required to give notice under SEC Rule 15c3-1d(c)(2).

Please contact Richard Lewandowski at (312) 786-7183 or Eric Schuermann at (312) 786-7726 if you have any questions.

**RULE 17a-11 - EARLY WARNING RULE  
AMENDMENTS EFFECTIVE AUGUST 12, 1993**

	<u><b>Current Requirement</b></u>	<u><b>Amended Requirement</b></u>
<b><u>Rule paragraph (a)</u></b>		
Net capital less or than the minimum on requirement.	<ol style="list-style-type: none"> <li>1. Send telegraphic notice on same day.</li> <li>2. Within 24 hours, file FOCUS Part II or IIA.</li> <li>3. File monthly FOCUS Part II or IIA within 15 days of month end for 3 consecutive months after problem is resolved.</li> </ol>	<ol style="list-style-type: none"> <li>1. Send telegraphic facsimile notice same day and specify net capital requirement and current net capital.</li> <li>2. If SEC or DEA requires notice be sent, but the B/D disagrees, the B/D may state why it disagrees with the SEC or DEA.</li> <li>3. No requirement to send FOCUS Part</li> </ol>
II		or Part IIA in 24 hours or for 3 consecutive
months		upon resolution.
Outstanding sub-loans exceeds allowable limit (debt/debt-equity ratio greater than required 70%) in excess of 1d(c)(2) 90 days.	Same requirement as above.	<ol style="list-style-type: none"> <li>1. Eliminate notice.</li> <li>2. Eliminate FOCUS filing requirements.</li> <li>3. See notice under 15c3-</li> </ol>
<b><u>Rule paragraph (b)</u></b>		
Net capital falls or below early warn-	<ol style="list-style-type: none"> <li>1. File month end FOCUS Part II</li> </ol>	<ol style="list-style-type: none"> <li>1. Send telegraphic facsimile notice</li> </ol>

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