

## *Brokers and Dealers*

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### **[.01] Reserved**

### **[.02] Reserved**

**.03 Review of Exemption Report Prepared by Security-Based Swap Dealer** *Inquiry* — SEC Rule 18a-7(c)(4) requires the security-based swap dealer (SBSD) to engage an independent public accountant to review the statements in the SBSB's exemption report in accordance with generally accepted auditing standards<sup>fn 1</sup> in the United States or the standards of the PCAOB. If the engagement is not within the jurisdiction of the PCAOB, can the practitioner perform a review engagement in accordance with attestation standards established by the AICPA, specifically [AT-C section 210, Review Engagements](#),<sup>fn 2</sup> considering the prohibition in [paragraph .07c](#) of AT-C section 210 on reviews of compliance with requirements of specified laws, regulations, rules, contracts, or grants?

*Reply* — Yes, [exhibit 1](#) demonstrates how the independent public accountant (practitioner) may report in accordance with the attestation standards established by the AICPA. In these specific circumstances, the subject matter of the engagement is assertions made by the SBSB in its exemption report, rather than the SBSB's compliance with laws and regulations. [Exhibit 2](#) illustrates an example of management's exemption report (to be used in connection with [exhibit 1](#)); [exhibit 2](#) includes an appendix A, containing management's assertions.

In performing a review engagement, [AT-C section 210](#) requires the practitioner to obtain limited assurance by obtaining sufficient appropriate review evidence to reduce attestation risk to a level that is acceptable in the circumstances of the engagement. The review evidence obtained provides the basis for expressing a conclusion about whether the practitioner is aware of any material modifications that should be made to the statements in the SBSB's exemption report (assertions) in order for those assertions to be fairly stated.<sup>fn 3</sup> [AT-C section 210](#) provides for significant practitioner judgment in determining the specific procedures to be performed in order to obtain limited assurance to support the practitioner's conclusion. Therefore, in a review engagement performed to comply with SEC Rule 18a-7, the practitioner may perform the procedures included in PCAOB [Attestation Standard No. 2, Review Engagements Regarding Exemption Reports of Brokers and Dealers](#),<sup>fn 4</sup> as long as the practitioner

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<sup>fn 1</sup> Although the SEC Rule refers to "generally accepted auditing standards," in accordance with professional standards, the engagement would be performed in accordance with Statements on Standards for Attestation Engagements (attestation standards established by the AICPA).

<sup>fn 2</sup> All AT-C sections can be found in AICPA [Professional Standards](#).

<sup>fn 3</sup> [Paragraph .17](#) of AT-C section 210, *Review Engagements*.

<sup>fn 4</sup> PCAOB Attestation Standards can be found in [PCAOB Standards and Related Rules](#).

concludes that sufficient appropriate review evidence has been obtained from the procedures performed. If not, in accordance with [AT-C section 210](#), the practitioner is required to perform additional procedures based on the practitioner's professional judgment to be necessary in the circumstances to be able to form a conclusion about whether the SBSB's assertions are fairly stated.<sup>fn 5</sup>

## Exhibit 1

### Illustrative Example — Review of an Exemption Report Required by SEC Rule 18a-7; Unmodified Conclusion on Management's Assertions

#### Independent Accountant's Report

*[Appropriate Addressee]*

*[If no exceptions are identified in management's assertions]*

We have reviewed management's statements, included in the accompanying [*TITLE of the Exemption Report; see [exhibit 2](#)*], including Appendix A, (the "Exemption Report") in which XYZ Company (the "Company") stated (1) that the Company claimed an exemption from 17 C.F.R. § 240.18a-4 under the provision of 17 C.F.R. § 240.18a-4(f), and (2) the Company met the conditions described within the Assertions column in Appendix A of the Exemption Report throughout the year ended December 31, 20X5, without exception ("management's assertions").

*[If management assertion includes exceptions]*

We have reviewed management's statements, included in the accompanying [*TITLE of the Exemption Report*], including Appendix A, (the "Exemption Report") in which XYZ Company (the "Company") stated that (1) the Company claimed an exemption from 17 C.F.R. § 240.18a-4 under the provision of 17 C.F.R. § 240.18a-4(f) and (2) the Company met the conditions described within the Assertions column in Appendix A of the Exemption Report throughout the year ended December 31, 20X5, except as described in its exemption report ("management's assertions").

XYZ Company's management is responsible for its assertions. Our responsibility is to express a conclusion on management's assertions based on our review.

Our review was conducted in accordance with attestation standards established by the AICPA. Those standards require that we plan and perform the review to obtain limited assurance about whether any material modifications should be made to management's assertions in order for them to be fairly stated. The procedures performed in a review vary in nature and timing from and are substantially less in extent than an examination, the objective of which is to obtain reasonable assurance about whether management's assertions are fairly stated, in all material respects, in order to express an opinion. Accordingly, we do not express such an opinion. Because of the limited nature of the engagement, the level of assurance obtained in a review is substantially lower than the assurance that would have been obtained had an examination been

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<sup>fn 5</sup> [Paragraph .29](#) of AT-C section 210.

performed. We believe that the review evidence obtained is sufficient and appropriate to provide a reasonable basis for our conclusion.

We are required to be independent and to meet our other ethical responsibilities in accordance with relevant ethical requirements related to the engagement.

*[Include a description of the work performed as a basis for the practitioner's conclusion.]*<sup>fn 6</sup>

*[Include a description of significant inherent limitations, if any, associated with the measurement or evaluation of the subject matter against the criteria.]*

*[Additional paragraphs may be added to emphasize certain matters relating to the attestation engagement or the subject matter.]*

Based on our review, we are not aware of any material modifications that should be made to management of XYZ Company's assertions in order for them to be fairly stated.

This report is intended solely for the information and use of *[identify the specified parties]*,<sup>fn 7</sup> and is not intended to be, and should not be, used by anyone other than the specified parties.

*[Practitioner's signature]*

*[City and state where the practitioner's report is issued]*

*[Date of practitioner's report]*

## **Exhibit 2**

### **Illustrative Example — Exemption Report Required by SEC Rule 18a-7 (Prepared by the Securities-Based Swap Dealer Entity, With Appendix A)**

#### ***[Company]*'s Exemption Report**

*[Name of Company]* (the "Company") is a registered security-based swap dealer subject to Rule 18a-7 promulgated by the Securities and Exchange Commission (17 CFR § 240.18a-7, "Reports to be made by certain security-based swap dealers and major security-based swap participants"). This Exemption Report was prepared as required by 17 CFR § 240.18a-7(c)(1) and (4). The Company claimed an exemption from 17 C.F.R. § 240.18a-4 under the provision of 17 C.F.R. § 240.18a-4(f). To the best of its knowledge and belief, the Company asserts the following:

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<sup>fn 6</sup> For example, "As a basis for our conclusion, we performed the following procedures: *(select what applies)*

- a. Reading the exemption report to determine the exemption provisions under which the securities-based swap dealer asserts its exemption and the identified exceptions to the exemption provisions
- b. Performing inquiries and other review procedures
- c. Evaluating whether the evidence indicates that there should be modifications to the securities-based swap dealer's assertions based on the results of the procedures performed"

<sup>fn 7</sup> For example, the Financial Industry Regulatory Authority (FINRA) and SEC.

(1) The Company met the conditions described within the Assertions column of Appendix A throughout the most recent fiscal year without exception.

or

(2) The Company met the conditions described within the Assertions column of Appendix A throughout the most recent fiscal year except as described below.

*[If applicable, identify each exception during the most recent fiscal year and briefly describe the nature of each exception and the approximate date or dates on which the exception existed.]*

[Name of Company]

I, \_\_\_\_\_, swear (or affirm) that, to my best knowledge and belief, this Exemption Report is true and correct.

**By: [Signature line]**

Title:

**[Date of report]**

## Appendix A

Rule Reference	Assertions
17 CFR § 240.18a-4(f)(1)	1. The security-based swap dealer does not: <b>(i)</b> Effect transactions in cleared security-based swaps for or on behalf of another person; <b>(ii)</b> Have any open transactions in cleared security-based swaps executed for or on behalf of another person; and <b>(iii)</b> Hold or control any money, securities, or other property to margin, guarantee, or secure a cleared security-based swap transaction executed for or on behalf of another person (including money, securities, or other property accruing to another person as a result of a cleared security-based swap transaction);
17 CFR § 240.18a-4(f)(2)	2. The security-based swap dealer provided written notice to a duly authorized individual prior to the execution of the first non-cleared security-based swap transaction with each counterparty; and
17 CFR § 240.18a-4(f)(3)	3. The security-based swap dealer disclosed in writing to each counterparty before engaging in the first non-cleared security-based swap transaction with that counterparty that: a. any margin collateral received and held by the security-based swap

<b>Rule Reference</b>	<b>Assertions</b>
	dealer will not be subject to a segregation requirement and b. how a claim of a counterparty for the collateral would be treated in a bankruptcy or other formal liquidation proceeding of the security-based swap dealer.

[Issue Date: June 2022.]