



1           (4) by inserting after paragraph (4) the fol-  
2           lowing:

3           “(5) IN GOOD STANDING.—The term ‘in good  
4           standing’ means, with respect to a broker or dealer  
5           (as those terms are defined in section 3(a) of the Se-  
6           curities Exchange Act of 1934 (15 U.S.C. 78c(a))),  
7           that, as of the last day of the most recently com-  
8           pleted fiscal year of the broker or dealer, as applica-  
9           ble, the broker or dealer—

10                   “(A) was registered with the Commission;

11                   “(B) was a member of a registered securi-  
12           ties association (as defined under section 15A  
13           of the Securities Exchange Act of 1934 (15  
14           U.S.C. 78o-3));

15                   “(C) was compliant with the minimum dol-  
16           lar net capital requirements under section  
17           240.15c3–1 of title 17, Code of Federal Regula-  
18           tions, or any successor regulation;

19                   “(D) had not, during the 10-year period  
20           preceding that date, been convicted of a felony  
21           under Federal or State law;

22                   “(E) does not have an associated person  
23           (as that term is defined in section 3(a) of the  
24           Securities Exchange Act of 1934 (15 U.S.C.  
25           78c(a))) who, during the 10-year period pre-

1 ceding that date, was convicted of a felony  
2 under Federal or State laws for fraudulent con-  
3 duct; and

4 “(F) was not, as provided by section  
5 3(a)(39) of the Securities Exchange Act of  
6 1934 (15 U.S.C. 78c(a))—

7 “(i) expelled or suspended from mem-  
8 bership or participation in any self-regu-  
9 latory organization (as provided in section  
10 3(a)(26) of the Securities Exchange Act of  
11 1934 (15 U.S.C. 78c(a)(26))) or a reg-  
12 istered futures association (as provided in  
13 section 17 of the Commodity Exchange Act  
14 (7 U.S.C. 21));

15 “(ii) subject to an order of the Com-  
16 mission, or other appropriate regulatory  
17 agency, denying, suspending, or revoking  
18 its registration as any regulated entity; or

19 “(iii) subject to an order of the Com-  
20 modity Futures Trading Commission, or  
21 other appropriate regulatory agency, deny-  
22 ing, suspending, or revoking its registra-  
23 tion under the Commodity Exchange Act  
24 (7 U.S.C. 1 et seq.) or its authority to en-  
25 gage in any transactions.

1           “(6) NON-CUSTODY BROKER OR DEALER.—The  
2 term ‘non-custody broker or dealer’ means a broker  
3 or dealer (as those terms are defined in section 3(a)  
4 of the Securities Exchange Act of 1934 (15 U.S.C.  
5 78c(a))), as applicable, that—

6           “(A) as of the last day of the most recently  
7 completed fiscal year of the broker or dealer  
8 had not less than 1 and not more than 150 as-  
9 sociated persons (as that term is defined in sec-  
10 tion 3(a) of the Securities Exchange Act of  
11 1934 (15 U.S.C. 78c(a))) registered with a self-  
12 regulatory organization (as provided in section  
13 3(a)(26) of the Securities Exchange Act (15  
14 U.S.C. 78c(a)(26)) of which the broker or deal-  
15 er is a member; and

16           “(B) throughout the most recently com-  
17 pleted fiscal year of the broker or dealer—

18           “(i) did not, as a matter of ordinary  
19 business practice in connection with the ac-  
20 tivities of the broker or dealer, receive cus-  
21 tomer checks, drafts, or other evidence of  
22 indebtedness made payable to the broker  
23 or dealer;

24           “(ii) promptly forwarded customer se-  
25 curities and customer checks, drafts, or

1 other evidence of indebtedness payable to a  
2 third party, including a clearing broker or  
3 dealer, in compliance with section  
4 240.15c3-3 of title 17, Code of Federal  
5 Regulations, or any successor regulation;

6 “(iii) did not otherwise hold customer  
7 securities or cash;

8 “(iv) if required under section 3(a)(2)  
9 of the Securities Investor Protection Act of  
10 1970 (15 U.S.C. 78ccc(a)(2)), was a mem-  
11 ber of the Securities Investor Protection  
12 Corporation; and

13 “(v) either—

14 “(I) claimed exemption from sec-  
15 tion 240.15c3-3 of title 17, Code of  
16 Federal Regulations, or any successor  
17 regulation; or

18 “(II) claimed no exemption from  
19 such section 240.15c3-3, or any suc-  
20 cessor regulation, or was not other-  
21 wise subject to such, because the  
22 broker or dealer did not maintain cus-  
23 tody over any customer securities or  
24 cash.

1           “(7) PRIVATELY HELD.—The term ‘privately  
2 held’ means, with respect to a broker or dealer (as  
3 those terms are defined in section 3(a) of the Securi-  
4 ties Exchange Act of 1934 (15 U.S.C. 78c(a))), that  
5 the broker or dealer, as applicable, is not an  
6 issuer.”.

7           (b) AMENDMENTS TO REGULATIONS.—Not later  
8 than 180 days after the date of enactment of this Act,  
9 the Securities and Exchange Commission shall make any  
10 necessary amendments to regulations of the Commission  
11 that are in effect as of the date of enactment of this Act  
12 in order to—

13           (1) carry out this Act and the amendments  
14 made by this Act; and

15           (2) to exclude the auditors of non-custody bro-  
16 kers and dealers that are privately held and in good  
17 standing (as such terms are defined under section  
18 110 of the Sarbanes-Oxley Act of 2002) from the  
19 audit requirements of the Public Company Account-  
20 ing Oversight Board.

21           (c) EFFECTIVE DATE.—This Act, and the amend-  
22 ments made by this Act, shall take effect on the date that  
23 is 180 days after the date of enactment of this Act.

Amend the title so as to read: “A bill to amend the  
Sarbanes-Oxley Act of 2002 to exclude the audits of pri-  
vately held, non-custody brokers and dealers that are in

good standing from certain requirements under title I of that Act, and for other purposes.”.

