

(c)(2)(iv)(E) DEFINITIONS; NET CAPITAL; ASSETS NOT READILY CONVERTIBLE INTO CASH (continued)

/09 Collateral to Receivable Must be in Physical Possession or Control

Under the law of a particular state, it may be possible to establish a “security interest” in collateral for a receivable without obtaining physical possession or control of the collateral and be “secured” under the state law.

This subparagraph requires that the receivable be considered unsecured and deducted due to the lack of physical possession or control of the collateral.

(SEC Letter to CBOE, August 21, 1981) (No. 88-14, August 1988)

/10 Letter of Credit Not Acceptable as Collateral

Any asset that relies upon a letter of credit as its collateral must be considered unsecured and deducted under the provisions of this subparagraph.

(SEC Letter to NASD, August 17, 1981) (No. 88-14, August 1988)

/11 Foreign Issued, Foreign Settled Securities - Haircut Alternative to Buy-In for Aged Items

Broker-dealers may, in lieu of the buy-in requirements of paragraph (d)(2) (fail to receive over 30 calendar days old) and of paragraph (m) (securities due from customer on long sales over 10 days old) of SEA Rule 15c3-3, apply alternative procedures regarding foreign issued, foreign settled securities.

In the event such alternative procedures are used (see interpretation 15c3-3(d)(2)/01), the following treatment pursuant to SEA Rule 15c3-1 shall apply:

- Thirty days after settlement date, a proprietary haircut charge shall be taken for foreign issued, foreign settled securities failed to receive or on those due from a customer, reduced by the equity (or increased by the deficit) in the transaction on a mark-to-market basis. In those countries where settlement is on a seller’ option basis rather than on a customary settlement cycle, the settlement date for purposes of this alternative will be considered to be a day not more than 30 days from the trade date.

Broker-dealers electing to use this alternative procedure should be aware that the deficit deductions provided under SEA Rule 15c3-1 paragraph (c)(2)(iv)(E) and (c)(2)(ix) (i.e., fails to receive aged over 30 calendar days and haircuts on fails to deliver outstanding 5 business days or longer) will continue to be based on the settlement date of the transaction as determined by the settlement cycle specified under SEA Rule 15c6-1(a).

(SEC Letter to SIA, June 16, 1988) (No. 88-14, August 1988)
(SEC Staff to FINRA) (FINRA Regulatory Notice 18-03)

SEA Rule 15c3-1(c)(2)(iv)(E)/11

(d) REQUIREMENT TO REDUCE SECURITIES TO POSSESSION OR CONTROL

Not later than the next business day, a broker or dealer, as of the close of the preceding business day, shall determine from its books or records the quantity of fully paid securities and excess margin securities in its possession or control and the quantity of fully paid securities and excess margin securities not in its possession or control. In making this daily determination inactive margin accounts (accounts having no activity by reason of purchase or sale of securities, receipt or delivery of cash or securities or similar type events) may be computed not less than once weekly. If such books or records indicate, as of such close of the business day, that such broker or dealer has not obtained physical possession or control of all fully paid and excess margin securities as required by this section and there are securities of the same issue and class in any of the following noncontrol locations:

(1) Securities subject to a lien securing moneys borrowed by the broker or dealer or securities loaned to another broker or dealer or a clearing corporation, then the broker or dealer shall, not later than the business day following the day on which such determination is made, issue instructions for the release of such securities from the lien or return of such loaned securities and shall obtain physical possession or control of such securities within two business days following the date of issuance of the instructions in the case of securities subject to lien securing borrowed moneys and within five business days following the date of issuance of instructions in the case of securities loaned; or

(d)(1) REQUIREMENT TO REDUCE SECURITIES TO POSSESSION OR CONTROL
(continued)

/01 Margin Section

The time at which instructions must be issued by the margin section to the cashiering section to acquire possession or control or the time at which such instructions may be released to the cashiering section are as follows:

1. In the case of purchases of securities by customers; on or before the business day following settlement date or the business day following actual date of receipt of payment whichever is later.
2. In the case of sales of securities by customers; not earlier than the morning of business on settlement date minus one business day, which is deemed to allow adequate time for processing securities for pending deliveries. However, such securities cannot be used for securities loans or bank loans.

A deficiency in a given security required for possession or control may be eliminated by revising the selection of securities in margin accounts (market value not in excess of 140% of the total of the debit balance in the customer's account or accounts) representing collateral for customers' indebtedness. In every instance where a determination as to which securities within the permissible limits constitute margin securities and which securities constitute excess margin securities of customers has been made or revised, it should be clearly reflected in the records of the broker-dealer.

(SEC Release 34-9922, January 2, 1973; Amended August 1994)
(SEC Staff to NYSE) (No. 95-3, May 1995)
(SEC Staff to FINRA) (FINRA Regulatory Notice 18-03)

/011 Early Release of Customers' Foreign Issued Securities From Possession or Control

Customers' foreign issued securities which have been sold for foreign settlement may be released on the day following execution of the sale, solely to facilitate its delivery. The security may not be used for any other purpose prior to settlement date.

(SEC Staff to NYSE) (No. 92-13, December 1992)

(n) EXTENSION OF TIME (continued)/04 Date Extensions Due

Member organizations should only recognize Exchange holidays in determining the due date for extensions of time. This procedure will eliminate the confusion created due to bank holidays on which the Exchange is open for business.

In order to allow the Exchange's computerized extension system to properly process extensions permitted under SEA Rule 15c-3 all requests must be received on the due dates listed below. Adherence to this procedure will reduce the number of denied requests for improper dates and establish uniformity within member organizations.

<u>Subparagraph</u>		<u>Date Due</u>
(d)(2)	-	on 30th calendar day after settlement date
(d)(3)	-	on 45th calendar day after settlement date
(h)	-	on 45th calendar day after settlement date
(m)	-	on 10th business day after settlement date

(SEC Staff to FINRA) (FINRA Regulatory Notice 18-03)

/05 Buy-Ins

SEA Rule 15c3-3 requires member organizations to take prompt steps to obtain physical possession or control of securities pursuant to paragraphs (d)(2), (d)(3), (h) and (m) through a buy-in procedure or otherwise. The Rule, under paragraph (n), further provides for extensions of time when the Exchange is satisfied that the member organization is acting in good faith in making an application and has determined that exceptional circumstances warrant such action.

The fact that a buy-in has been instituted does not eliminate the need for an extension of time on the due date if possession and control is still required. Even if a member organization has been granted an extension of time, it may be bought-in under NYSE Rules 282 and 284 by the member organization with which the contract is open.

/06 Expired extensions

Member organizations are required to promptly close the transaction by purchasing securities of like quantity or other appropriate action upon the expiration of extension periods, when the security has not been received or an additional extension of time obtained, if appropriate.

(n) EXTENSION OF TIME (continued)/13 Reason for Extension Under Paragraph (m)

A list of reasons and their code numbers follows.

The inclusion of a list of reasons is not itself a finding by the Exchange that these reasons represent an “exceptional circumstance.” It is the responsibility of each firm to determine that the reason cited actually applied and that the request is bona fide. See interpretation 15c3-3(n)/133 for limits.

- 40 Security has been placed in transfer by a bank for the customer in order to obtain certificate(s) for the amount of shares sold.
- 41 Customer died on or after trade date. Awaiting appointment of executor or administrator of deceased customer’s account.
- 42 Broker failed in attempting to buy-in because security is in short supply. Broker has open order to buy-in and trying to complete transaction. [Requires that an open order be maintained until the buy-in of the position is accomplished or otherwise resolved.]
- 43 Security dividend sold before payable date or short position created in customer account due to dividend received directly by customer upon which broker has a claim. Requests for extensions under this code should be made on the tenth (10th) business day after settlement date. The payable date is deemed to be the trade date. If a dividend claim is processed against an account after payable date, then the date the charge is made to the account will be trade date and an extension request, if necessary, would be due ten (10) business days after settlement date.
- 44 Security is held in a foreign depository where settlement procedures or delivery terms are incompatible with the Rule.
- 45 Security is in for exchange as a result of a merger, consolidation, transfer of assets, exchange offer, recapitalization or other similar transaction or conversion. (Reason established to cover situations where an exchange of securities or similar event is being undertaken by customer or delivering agent to accomplish receipt of the security sold.)

(n) EXTENSION OF TIME (continued)/13 Reason for Extension Under Paragraph (m) (continued)

- 46 Certificate delayed in mail during Christmas season or due to a postal strike. (Exchange staff will specifically establish the time periods when this reason may be used.)
- 47 Customer's account coming from another broker and Exchange Rule 412 being complied with. (Available when the transfer of an account between member organizations is being accomplished in accordance with Exchange Rule 412 and fails, if necessary, will be created to complete the transfer.)
- 48 Customer has been unexpectedly hospitalized or taken seriously ill and is incapable of delivering security. (Illness or hospitalization of customer should be of a nature that makes it impossible for client to deliver security. Condition must occur after the transaction was made. If condition existed prior to trade date, then reason may not be used.)
- 49 Lost certificate - Broker lost and is replacing or customer lost and has already commenced proceedings for replacement. If customer lost, broker must obtain proof customer is replacing by obtaining copy of any required bond or other appropriate proof.
- 50 Any other exceptional circumstances not covered by designated codes. (Use of this Code for reasons represented by another code will result in an automatic denial of the extension request.)
- 51 Acts of God or other abnormal conditions. (Reason may only be used when Exchange staff authorizes it and then solely for the time period and condition specified by staff.)
- 52 Foreign security sold in a foreign securities market based on foreign settlement procedures. (Available only for sales of foreign securities in a foreign market and the security has not been received within ten (10) business days after settlement date as established by the foreign market.)

(SEC Staff to FINRA) (FINRA Regulatory Notice 18-03)