October 3, 2000

Ms. Katherine A. England
Assistant Director
Division of Market Regulation
Securities and Exchange Commission
450 Fifth Street, N.W.0
Washington, D.C. 20549-1001

Re: File No. SR-NASD-00-03 Margin Requirements for Day-Trading Customers; Response to Comments

Dear Ms. England:

NASD Regulation, Inc. ("NASD Regulation") hereby responds to the comment letters received by the Securities and Exchange Commission ("Commission" or "SEC") in response to the publication in the *Federal Register* of Notice of Filing of SR-NASD-00-03, regarding margin requirements for day-trading customers.[1]

Background

The proposed rule change in SR-NASD-00-03 would address the perceived deficiencies that have been identified with existing rules relating to day-trading margin activities. The proposed rule change would:

(1) Revise the definition of "pattern day trader" to include any customer who (a) the firm knows or has a reasonable basis to believe will engage in or resume pattern day trading, or (b) day trades four or more times in five business days, unless his or her day-trading activities do not exceed 6% of his or her total trading activity for that time period.

(2) Require minimum equity of $25,000 to be in an account on any day in which the customer day trades. Funds deposited into a day trader's account to meet the minimum

[1] Exchange Act Release No. 42418, File No. SR-NASD-00-03 (February 18, 2000). The public comment period announced in the *Federal Register* expired on March 10, 2000. The New York Stock Exchange ("NYSE") proposed a substantially similar rule change to its day-trading margin requirements in SR-NYSE-99-47 (Exchange Act Release No. 42343, 65 Fed. Reg. 4005 (Jan. 25, 2000)). NASD Regulation is responding to the comment letters received by the SEC to both SR-NASD-00-03 and SR-NYSE-99-47.

equity requirement would have to remain in the account for a minimum of two business days following the close of business on any day the deposit was required;

(3) Permit day-trading buying power of up to four times maintenance margin excess;

(4) Impose a day-trading margin call on any customer who exceeds his or her day-trading buying power and limit the customer to two times maintenance margin excess based on daily total trading commitment until the call is met. If the call is not met by the fifth business day, the day trader would be limited to trading on a cash available basis for 90 days or until the call is met;

(5) Prohibit the use of cross-guarantees to meet day-trading minimum equity requirements or day-trading margin calls; and

(6) Revise the current interpretation that requires the sale and repurchase on the same day of a position held from the previous day to be treated as a day trade. Instead, the sale of the position would be treated as a liquidation of the existing position and the subsequent repurchase as the establishment of a new position not subject to the rules affecting day trades.

Response to Comment Letters

The Commission received 162 comment letters in response to the *Federal Register* publications of SR-NASD-00-03 and SR-NYSE-99-47. Of the 162 comment letters, 150 generally opposed the proposal, 3 supported the proposal, and 9 supported certain proposed provisions and opposed others. The comments submitted to the Commission are summarized by issue below. Incorporated in the summary of comments below are the recommendations of the Day-Trading Margin Advisory Task Force ("Task Force").[2] In addition, attached in chart form is a brief summary of the comments received from each commenter.

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[2] In authorizing the filing of SR-NASD-00-03 with the SEC, the Board of Directors of NASD Regulation ("Board") recommended the formation of the Task Force to review and evaluate the proposed rule change, and if appropriate, recommend changes to the Board. The Task Force was formed in January 2000 and was comprised of representatives from the following member firms: Advanced Clearing, Inc., All-Tech Direct, Inc., Ameritrade, Inc., Charles Schwab & Co., Inc., EDGETRADE.com, Inc., E-Trade Group, Inc., iClearing Corporation, Momentum Securities, NexTrend, Inc., On-Line Investments Services, Inc., Southwest Securities, Inc., Spear, Leeds & Kellogg, Terra Nova Trading LLC, Tradescape LLC, and US Clearing (Div. Of Fleet Securities). The Board considered the Task Force's recommendations, but determined that the current day-trading margin proposal appropriately addressed the concerns in this area. Both Momentum Securities and Datek Online Holding Corp., the parent of iClearing Corporation, submitted comment letters in response to SR-NASD-00-03. These letters referenced and generally supported the Task Force recommendations.

Minimum Equity Requirement

The vast majority of comment letters were from individual day traders opposing the $25,000 minimum equity requirement. In this regard, many commenters thought that the proposed minimum equity requirement was unfair and discriminatory against small investors. Commenters expressed concern that the minimum equity requirement would preclude the average investor from accessing the market and would force day traders to put more funds at risk. Moreover, commenters noted that the minimum equity requirement would result in investors borrowing funds from other sources, such as a credit card or second mortgage, to meet the minimum equity requirement.

In addition, several commenters indicated that the amount of capital in a customer's account is not an indicator of whether the customer will be a successful day trader. Many commenters recommended that the proposal focus on increasing the knowledge of traders through training and education, not on the amount of capital in an investor's account. Some recommended requiring a course or examination prior to allowing a customer to day trade.

NASD Regulation believes that the current minimum equity requirement of $2,000 is not adequate to address the additional risks inherent in leveraged pattern day trading. Given the speculative nature of day trading, an increase in the minimum equity to $25,000 will provide the firm a better "cushion" to protect it from losses that may exceed the customer's ability to pay. In addition, by requiring that a pattern day trader meet the minimum equity requirement on any day in which he or she day trades, a customer will be required to cover losses that result in the account equity falling below $25,000, prior to continuing to day trade.

Several U.S. Senators jointly submitted a comment letter on the proposed rule change ("Senate Letter").[3] The Senate Letter recommended that the proposed minimum equity requirement be increased from $25,000 to $50,000. NASD Regulation, however, believes that $25,000 will provide a sufficient cushion to prevent day traders from continuing to generate losses in their accounts, while not overly restricting day traders with limited capital. Broker/dealers have the option of increasing this minimum equity requirement based on internal policies and procedures.

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[3] In 1999, the Permanent Subcommittee on Investigations of the Committee on Governmental Affairs of the United States Senate ("Subcommittee") conducted a comprehensive investigation into day-trading activities. The Subcommittee held hearings and conducted an eight-month investigation of the day-trading industry. On March 17, 2000, the SEC received a comment letter on this proposed rule change from Senators Collins, Levin and Durbin. Senator Collins is the Chairman of the Subcommittee; Senator Levin is the Ranking Minority Member of the Subcommittee; and Senator Durbin is a member of the Subcommittee. The Senators' letter is based on the findings and evidence gathered by the Subcommittee.

Failure to Meet Minimum Equity Requirement

Several commenters opposed the proposed requirement that day traders be restricted from day trading on any day in which the minimum equity requirement is not met. Commenters believed that customers should be provided five days to reestablish this minimum equity requirement before any limitations are placed on their account.

NASD Regulation believes the minimum equity requirement of $25,000 should be maintained in the customer's account on any day in which the customer intends to day trade. NASD Regulation believes that, by allowing the customer to continue to day trade for five days without maintaining the $25,000 minimum requirement, the risk to the customer and the broker/dealer could further increase, particularly if the customer continues to generate losses in the account.

The Senate Letter recommended that day traders who do not meet the minimum equity requirement be restricted from trading on margin, whether the transaction is a day trade or an overnight position. Under the recommendation in the Senate Letter, day traders would be limited to trading on a "cash available basis only" until the minimum equity requirement is met. NASD Regulation does not believe that a day trader should be restricted from margin trading entirely if he or she does not meet the minimum equity requirements for day trading. Under the proposed requirements, a broker/dealer would be expected to impose such a restriction if a day trader continues to day trade in his or her margin account while not maintaining the minimum equity requirement. Under such circumstances, the broker/dealer clearly would be on notice that the day trader is using his or her margin account for day trading in violation of the minimum equity requirements, and therefore, would be expected to restrict the account to trading on a cash available basis only.

Definition of Pattern Day Trader

Commenters opposed the proposed definition of day trader, which is based on the number of day trades during a specified period of time. Instead, several commenters recommended that the $25,000 minimum equity requirement apply only if the customer is provided increased leverage. Under this scenario, a customer could day trade continuously with day-trading buying power of two times maintenance margin excess without being required to meet the $25,000 minimum equity requirement.

NASD Regulation believes an objective standard based on the level of day-trading activity, which can be applied uniformly to all customers, is an important component of regulation in this area. In this regard, the frequency of day trading is a relevant indicator of intra-day risk, which in turn is important in determining whether additional requirements, such as the minimum equity requirement of $25,000, are necessary.

One commenter, the Discount Brokerage Committee and the Adhoc Committee on Technology & Regulation of the Securities Industry Association ("Discount Brokerage Committee") stated that the 6% exception to the definition of day trader is not sufficient to exclude institutional activities. In addition, the commenter stated that programming and monitoring of the 6% guidelines will be burdensome for most institutions.

NASD Regulation believes that the proposed 6% exception adequately addresses institutional activities. The 6% exception was not intended to exempt institutions that frequently day trade, only those that conducted a limited amount of day-trading activities compared to their overall trading activity. With respect to programming concerns, NASD Regulation staff consulted with the 431 Committee,[4] which indicated that the programming and monitoring of the 6% exception would not be overly burdensome. In addition, NASD Regulation has proposed a 6 month implementation period to provide members adequate time for any necessary programming changes.

One commenter opposed the requirement that a pattern day trader include a customer who the broker/dealer knows or has a reasonable belief will engage in pattern day-trading activity. The commenter indicated that this standard would require a firm to subjectively consider the manner of trading that it anticipates a new customer will pursue. NASD Regulation disagrees. This standard is based on the broker/dealers knowledge or reasonable belief only and would not require a firm to anticipate a new customer's activities unless the firm has knowledge or a reasonable belief that the customer will day trade. For example, if the broker/dealer provided the customer training on day trading in anticipation of opening an account with the broker/dealer, the broker/dealer could reasonably conclude that the customer will day trade in his or her account.

Consequences Relating to Day-Trading Margin Call

Several commenters opposed the consequences that are imposed if day-trading buying power is exceeded. Commenters noted that a customer could inadvertently exceed buying power due to technological errors such as systems or computer problems that are not within the customer's control. Commenters also noted that Regulation T and NASD/NYSE margin calls provide the customer several days before "penalizing" the customer. Some commenters indicated that the consequences are too punitive and that such a requirement would be difficult to monitor and program. NASD Regulation believes that immediate

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4 After the Board of Governors of the Federal Reserve System extensively amended Regulation T, an informal ad hoc committee (the "431 Committee") was formed to consider changes to the NYSE's and NASD's margin rules (NYSE Rule 431 and NASD Rule 2520, respectively). The 431 Committee is composed of NYSE staff, attorneys from the NYSE's outside counsel, NASD staff, Federal Reserve staff, and representatives from several clearing firms and broker/dealers.

consequences or restrictions resulting from exceeding day-trading buying power are necessary to deter customers from exceeding their day-trading buying power. Without immediate consequences, customers would be more likely to trade well beyond their permissible buying power.

Numerous commenters opposed the re-calculation of day-trading buying power based on total commitment on the trade date that day-trading buying power is exceeded. These commenters believed that the calculation of a day-trading margin call would be based on total commitment instead of largest open position for any day that day-trading buying power was exceeded. As a result, the day-trading margin call could be very high if several positions were opened and closed throughout the trading day. These commenters misunderstood the intended application of the proposed day-trading margin call. If day-trading buying power is exceeded, day-trading buying power will be calculated based on "total commitment" on the following trade date. The proposed rule change does not require that day-trading buying power be recalculated based on total commitment for the trade date on which buying power was exceeded.

Two-Business Holding Requirement

Several commenters opposed the requirement that funds used to meet day-trading margin requirements be held for two business days as unfair and punitive. Commenters noted that this requirement is not necessary because positions are not held overnight and therefore, the funds are not at risk.

NASD Regulation believes that by requiring that funds used to meet day-trading margin requirements be in the account for two full business days, lenders will be discouraged from lending funds to customers that may be a credit risk, since the funds will be held in the customer account for two business days. As a result, many day traders will be required to rely on their own funds and assets more frequently to meet day-trading margin calls. This, in turn, will better protect the safety and soundness of the broker/dealer by providing the broker/dealer a better indicator of the financial wherewithal of the customer, and enabling the broker/dealer to better determine whether trading on margin is appropriate for the customer.

The Credit Division of the Securities Industry Association ("SIA Credit Division") opposed the requirement that funds used to meet day-trading margin requirements remain in the account for two business days. The SIA Credit Division believed that the proposed requirement is overly restrictive and that customers should have use of available funds in their accounts unless a pattern of activity occurs demonstrating that the client does not have the financial wherewithal to engage in day trading. The SIA Credit Division recommended that broker/dealers withdraw day-trading privileges if a customer displays a pattern of immediate withdrawals of funds that are used to meet day trading margin requirements. A pattern could be defined as two occurrences within a month. NASD Regulation believes that it would be difficult for firms to monitor for and implement such a requirement. Moreover, permitting a customer to immediately withdraw funds on even a limited number of occasions may allow the customer to trade beyond his or her own financial means.

Increased Day-Trading Buying Power

A small number of commenters opposed the increase in buying power because it results in more risk exposure to the customer and the firm. These commenters noted that the increased buying power seemed to contradict the intended purpose of the minimum equity requirement, which is to protect smaller investors. NASD Regulation, however, disagrees and believes that day-trading buying power of four-times maintenance margin excess is appropriate because it is equivalent to the NASD and NYSE maintenance margin requirement, which currently is 25%. Moreover, when considered together with other changes that are part of the proposal, such as the minimum equity requirement of $25,000, the immediate consequences imposed if day-trading buying power is exceeded and the two-day holding period for funds used to meet day-trading margin requirements, the proposed rule change overall should reduce risk exposure.

Commenters recommended that a broker/dealer not provide day-trading buying power of four times maintenance margin excess to a customer if, based on a credit risk assessment of the customer, the broker/dealer determines increased buying power is not appropriate. NASD Regulation agrees, and its rules provide that broker/dealer margin policies may be more restrictive than NASD margin requirements.

Prohibition on Cross-Guarantees

Several commenters opposed the prohibition on the use of cross-guarantees to meet day-trading margin requirements. Commenters indicated that cross-guarantees are useful in the event a customer inadvertently exceeds the day-trading margin requirements. NASD Regulation believes the proposed prohibition on the use of cross-guarantees to meet day-trading margin requirements is necessary to address concerns relating to whether a customer has the financial resources to day trade and to ensure the separate evaluation of a customer's financial resources and wherewithal.

Other Comments

The SIA Discount Brokerage Committee comment letter indicated that the proposed rule should only apply to broker/dealers that promote a day-trading strategy, similar to the recently approved day-trading appropriateness rules.[5] NASD Regulation disagrees. Margin requirements relate to the extension of credit to a customer and are important to ensure the safety and soundness of all broker/dealers that extend such credit, not just those that promote a day-trading strategy.

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NASD Regulation believes that the proposed rule change on day-trading margin fairly balances two public interests: promoting the safety and soundness of member firms and protecting investors. Accordingly, NASD Regulation continues to believe that the proposal is an appropriate and reasonable resolution of the issues. If you have any questions, please feel free to contact Stephanie Dumont, Office of General Counsel, NASD Regulation, at (202) 728-8176.

Very truly yours,

Alden S. Adkins
Senior Vice President
and General Counsel

Attachment

[5] See Exchange Act Release No. 43021 (July 10, 2000); File No. SR-NASD-99-42; 65 FR 44082 (July 17, 2000).

Summary of Comment Letters
SR-NASD-00-03 and SR-NYSE-99-47

	SEC	Commenter	Date	General	Summary of Comment
1.	1	Tim Collins	12/10/99	Oppose	Opposes increase in minimum equity (ME) - precludes the average investor from enjoying personal financial freedom; do not protect us from ourselves.
2.	2	Lainie Hinnant	12/13/99	Oppose	ME forces a new trader to risk more money. Real motive is to reduce number of day traders to allow market making firms to return to their position of omnipotence. Opposes 4 to 1 because it encourages traders to take larger positions and increase their risk.
3.	3	Jeffrey Mermelstein	12/12/99	Oppose	Same as comment letter 2
4.	4	Calum O'Keeffe	12/13/99	Oppose	Same as comment letter 2
5.	5	LMC Inc. (?)	12/14/99	Oppose	Same as comment letter 2
6.	6	Susie Brown	12/13/99	Oppose	Substantially same as comment letter 2
7.	7	Phil Weaver	01/31/00	Oppose	ME denies a person with limited risk capital investment and speculative opportunities. Increase in DTBP will only increase speculation and risk to trader.
8.	8	David McCoy	12/13/99	Oppose	Day traders should not be treated any differently than any other traders. Little guy with limited capital should be able to put it at risk if he or she so chooses.
9.	9*	Lagrover Bolton	1/12/00	Oppose	Same as comment letter 2
10.	10	Keith Boyle	01/28/00	Oppose	ME would put him out of business (has been a day trader since 4/99).
11.	11	Xia Chiem	01/27/00	Oppose	People lose money because of lack of knowledge not lack of capital. Recommends that brokerage firms be required to provide some type of training to their customers before allowing them to day trade.
12.	12	Sameh Sabry Zaky	02/01/00	Oppose	ME is unfair (should only be 6k or 8k if must increase). Definition of DT should be more than 2 day trades in one day.
13.	12	Jeanette Szwec	01/27/00	Oppose	Only market makers will benefit and it will hurt the "little guy." Best way to day trade is to start small; ME will encourage new traders to start big. You can not buy and sell the same stock in the same day. Will force traders to trade different stocks which may be more dangerous. Also, can not short a stock in a cash account.
14.	13	Unidentified	02/01/00	Oppose	Will handicap small day traders; many will play the 3 trade game (to not meet the definition of DT) which will force them into bad decisions.
15.	14	Joel Bogeberg	02/07/00	Oppose	ME puts middle income investors at an unfair disadvantage.

	SEC	Commenter	Date	General	Summary of Comment
16.	**15**	Paul Hackney	01/27/00	Oppose	Same as comment letter #11.
17.	**16**	Sondra Becchetti	01/28/00	Oppose	ME is unfair and discriminatory.
18.	**16***	Connie and Robert Morrow	02/02/00	Oppose	Increase in ME to $25K is too fast. Should be a scale such as $5k or below can trade at 2 to 1, etc. The reality of the rule is to restrict free entry into the capital markets and allow concentration in a select few. Education and suitability is the proper method to protect investors.
19.	**17**	James O. Blankenship	01/28/00	Oppose	ME provides unfair trading advantage to institutions and large investors. Lack of proper public notice and inadequate comment period. Attempt by Wall Street insiders to further deprive the small investor of a level playing field.
20.	**18**	William Grenier, Rockmont Management Partners, forwarded by Senator Bob Smith (New Hampshire)	02/22/00	Oppose	Proposed rules need to differentiate between sophisticated and non-sophisticated investors. Proposals could negatively impact sophisticated investors because of the strict penalties on those who exceed margin requirements unintentionally (cites examples of problems that could arise with respect to PBA and institutional accounts such as miscommunication b/w customer and broker, system or computer problems that cause the account to appear as if it holds positions it does not). Institutions should be exempt from cross guarantee prohibition so that such accounts can use CGs in cases of unintentional problems. Exempt all prime broker and institutions.
21.	**19**	Mark Peckman, Broadway Trading	02/28/99	Oppose and Support	Penalties for exceeding DTBP are too punitive and unfairly target day traders. Opposes 2 business day requirement; believes it will cause the market to be less liquid and does nothing more than provide that a trader can endure 2 additional days of not having those funds. Punitive. Supports the minimum equity and maintenance requirements.
22.	**20**	Joe David Wheeler	02/01/00	Oppose	Should be a firm's decision to provide margin privileges. Would remove his opportunity to trade freely. Discriminatory and allows market makers and people with over $25,000 to control their risk.
23.	**20**	William J. Sullivan, Jr., Navillus Securities	02/15/00	Oppose	Opposes the draconian penalties on customers who exceed their DTBP. Arbitrary, capricious, unfair and not in the public interest.
24.	**21**	Douglas E. Shand	02/01/00	Oppose	Puts the public at the mercy of those that can afford the margin and gives them the ability to 'short' the public out of the market.
25.	**21**	Bradley W. Skolnik, NASAA	03/10/00	Supports	Supports ME of 25K, the "reasonable belief" standard, the margin call if DTBP is exceeded, 2

	SEC	Commenter	Date	General	Summary of Comment
					business day requirement and prohibition of cross guarantees.
26.	**22**	Charles Bailey	02/01/00	Oppose	Severely limits the small guy and allows brokerages and institutions to gain.
27.	**23**	John Cope	02/01/00	Oppose	Restricts opportunities for small traders, broker automatically reduces position if he drops below minimum margin requirements so rule change not necessary.
28.	**24**	Cheryl Bagster	02/01/00	Oppose	Opposes ME requirements. Would recommend a requirement to take a certain number of courses before being allowed to trade or open a margin account.
29.	**24***	Robert Christopher Anderson Cornerstone Securities	02/14/00	Oppose	Unfairly penalizes professional traders. Letter provides examples of how ridiculous the rules are and how it can jeopardize the livelihood of many traders (same examples as comment letter #166 also from Cornerstone).
30.	**25**	Chad Miller	02/01/00	Oppose	Opposes ME b/c the size of the person's account does not make him or her a good or bad day trader. Just squeezes out the small traders. Problem is lack of education. Recommends a test that people have to pass before they trade.
31.	**25**	Senator Susan Collins, Permanent Subcommittee on Investigations	03/17/00	Supports and Opposes	Increase ME to 50K, reduce buying power to 2x, and prohibit B/D facilitation of customer loans to meet margin calls.
32.	**26**	Rich Stucky	02/01/00	Oppose	Discriminatory to the small investor and encourages them to put more at risk.
33.	**27**	James M. Harkey	02/01/00	Oppose	Legislating morality has never worked.
34.	**27**	Brent T. Lennick	12/15/99	Oppose	Would completely stop his ability to trade since he normally uses a much smaller amount to trade than the proposed ME.
35.	**28**	Robert Meany	02/01/00	Oppose	Does not want to tie up 25K in his day trading account. Recommends a test/license requirement.
36.	**29**	Brent Aston	02/01/00	Oppose	ME requirement too high, would recommend 4K and increased warnings and educational materials for inexperienced investors.
37.	**30**	Mark Shepard	02/01/00	Oppose	ME will put him out of business. Wants the same opportunities as big accounts.
38.	**31**	Brent (or Trent) Johnson	02/01/00	Oppose	Wrong to exclude the middle class from making money in the stock market. He personally trades in his cash account.
39.	**32**	Linda Swope	02/01/00	Oppose	Proposed rule would not have protected her, she started with 180K. Recommends basing it on trading experience, i.e. restricting margin until a trader has a year of experience.

	SEC	Commenter	Date	General	Summary of Comment
40.	**33**	Jon Grider	02/01/00	Oppose	ME is discriminatory.
41.	**34**	Larry Buck	01/31/00	Oppose	ME allows the larger investors to manipulate the market.
42.	**35**	Robby Lee Feldman	01/31/00	Oppose	Recommends requiring a certain level of education in day trading before being able to trade.
43.	**36**	Rick May	01/31/00	Oppose	It's the trader's responsibility, not the regulators. ME will make it impossible for him to keep trading.
44.	**38**	Alex Mervis	02/01/00	Oppose	Education will do a better job of protecting than legislation.
45.	**40**	Sally Lunstrom	12/10/99	Oppose	Opposes ME. Do not attempt to protect investors from themselves.
46.	**40**	P. Gibbons	02/01/00	Oppose	Would just borrow from credit card or remortgage home to meet ME.
47.	**41**	George Brunelle, Brunelle & Hadjikow	04/14/00	Oppose	Proposal is too punitive if investor exceeds day-trading buying power. Should be adjusted to provide an exception for innocent mistakes as provided in 220.3 of Regulation T. Also, proposal should permit a creditor to evaluate the overall credit risk when day trading is part of an options strategy. Proposal should not apply to activities of professional or institutional investors who have a minimum net equity of $500,000 (prime brokerage requirement), or for accredited investors as used in Regulation D.
48.	**42**	James H. Lee, Momentum Securities, LLC	05/11/00	Generally Oppose	Rules should reflect risks of increased leverage used by all customers, not just "pattern day traders": if customer approved for 2-to-1, then ME should be 2K, if customer approved for 4-to-1, then ME should be 25K. Opposes "pattern day trader" definition. Proposed "special maintenance deficiency" is burdensome and punitive. Let firms determine adequate holding period for customer funds. Partially supports prohibiting firms from using guaranteed accounts to meet ME requirements, but it should apply to all customers, not just "pattern day traders."
49.	**44**	Edward J. Nicoll, Datek Online	06/07/00	Oppose	Proposals are misdirected and fundamentally flawed. Recommendations of the NASDR Advisory Task Force are superior to this proposal. Customer should apply and be approved for 4-to-1 leverage, then have 25K. Customers should have 5 days to meet call before restrictions apply. Treat withdrawals as being done at 12:01am and hold deposits overnight. Cross-guarantee should be allowed for non-day-trading accounts. Certain options trading activities should be exempt from

	SEC	Commenter	Date	General	Summary of Comment
					day-trading requirements.
50.	**45**	Albert J. Tylka, A.G. Edwards & Sons, Inc.	07/31/00	Support and Oppose	Supports comments submitted by SIA (comment letters 168, 195 and letter dated 3/14/00).
51.	**51**	Stephen J. Beers	02/01/00	Oppose	ME limits competition in the market.
52.	**53**	Peter James Del Bene	01/31/00	Oppose	Money does not indicate a smarter or better prepared trader. SEC should educate traders to the risks instead of limiting the participants.
53.	**54**	David A. Winters	01/31/00	Oppose	Unfair and arbitrary. Margin rules should be applied equally to all parties regardless of the size of their trading account.
54.	**55**	Marc Bertetta	01/31/00	Oppose	Will eliminate the small "mom and pop" day trader.
55.	**56**	Jane B. Caldwell	01/31/00	Oppose	Recommends an examination and have every day trader take the test before they can continue instead of a ME.
56.	**57**	Mike Aston	01/31/00	Oppose	ME hinders and slows the ability of one to advance in the financial field. Recommends an education platform.
57.	**58**	Tony Clark	01/31/00	Oppose	Favors large investors by limiting the amount of players.
58.	**59**	James B. Smith	01/31/00	Oppose	Bias against the little guy. Frequency of trading should not be an issue.
59.	**60**	Serg Palanov	01/31/00	Oppose	ME would hinder many traders. Sounds like a move by the specialists and big firms to hinder the trading of the little guy.
60.	**61**	John K. Kotsonis	01/31/00	Oppose	Jeopardizes the freedom of investors to act independently on their own behalf
61.	**64**	Bruce Matyas	02/01/00	Oppose	Discrimination under the guise of protecting people from themselves. It's not the government's job to regulate how people choose to invest their money and the method by which they do it.
62.	**65**	Elmer Rauckman	01/31/00	Oppose	ME is unfair and discriminatory to small investors.
63.	**66**	Robert M. Vockrodt	01/31/00	Oppose	Oppose ME to 25K, would support increase to 10K.
64.	**68**	Jim Justin	02/01/00	Oppose	Experience, not the amount of money in the account determines risk. ME will hurt small investor.
65.	**69**	Todd Kibbe	01/31/00	Oppose	Would discriminate against the poor trader.
66.	**70**	Armen Hovsepian	01/31/00	Oppose	ME will limit the chance and access of people like him who do not have the ME.
67.	**71**	Tim Janke	01/31/00	Oppose	Trading education and experience are what is important.
68.	**72**	Pete Srira	01/31/00	Oppose	ME is unfair and discriminatory to small investor.
69.	**73**	Don Douglas	01/31/00	Oppose	ME may limit newer traders from entering the field.

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70.	**74**	Jens Kristianson	01/31/00	Oppose	There are many inexperienced investors that can afford the ME and giving them 4 times leverage is risky. Some may even take a bank loan to be able to have 25k. Recommends introducing an examination for investors/traders who want to trade with margin.
71.	**75**	Charley Akins	01/31/00	Oppose	No ME. It should be up to the broker.
72.	**76**	Brian (?) Hines	01/31/00	Oppose	Instead of ME, recommends education prior to making trades.
73.	**77**	Larry G. Yori	02/01/00	Oppose	ME is not the solution, education is.
74.	**79**	Jeff Nadel	02/01/00	Oppose	Unfair and discriminatory
75.	**80**	Tom Wilkes	02/01/00	Oppose	ME will put him out of work. Should allow the small investor to compete. Recommends self-education.
76.	**81**	Michael A. Johnson	02/01/00	Oppose	Issue should be about education. Does not see how a higher ME will protect traders from their own ignorance.
77.	**82**	Gary Swartz	02/01/00	Oppose	ME will just give inexperienced traders more to lose.
78.	**83**	Michael W. Lovy, Sr.	02/01/00	Oppose	Small investors will borrow to get the ME and will lose even more.
79.	**84**	Daniel T. Clark	02/01/00	Oppose	Proposed definition of DT is capricious with no public discussion about it. Did not provide enough time for discussion.
80.	**85**	Levent Erbora	02/03/00	Oppose	ME is ridiculous, unfair, discriminatory, unnecessary and counterproductive. More money to blow. Why are day traders singled out, those that buy and hold should be subject to more stringent margin rules.
81.	**86**	Paul Chhabra	02/04/00	Oppose	ME is unfair.
82.	**87**	David Pittman	02/03/00	Oppose	ME is discriminatory and pointless. Answer is education.
83.	**88**	John C. Burke	02/07/00	Oppose	ME makes it a rich man's club where the little man is not allowed. The daring individual will just mortgage his house to meet the ME.
84.	**89**	Michael Pahl	02/03/00	Oppose	Proposal poses a serious threat to his business. Arbitrary and capricious.
85.	**90**	Lucia Stern	02/03/00	Oppose	No evidence that day traders with small accounts manage risk worse than investors. Imposing arbitrary restrictions and favoring large brokerages.
86.	**91**	Laneta Robillard	02/01/00	Oppose	Unfair to the small investor and un-American. ME does not mean that the day trader is more educated or responsible.
87.	**92**	Alan Kamalsky	02/03/00	Oppose	ME is unfair and discriminatory
88.	**93**	Fred A. McKenzie	02/03/00	Oppose	The implication from the ME that a trader with

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					25K knows more about risk/money management makes no sense. $5K minimum. Education is the final answer.
89.	**94**	Ketayun Rustom	02/03/00	Oppose	ME punishes the trader with 20K and 3 years experience. Should restrict new traders, not little traders.
90.	**95**	Dwight D. Becker	02/1/00	Oppose	ME increases risk to DTs and is discriminatory. Will force those in the lower socio-economic groups to take out second mortgages. Their homes, their children's college education and other important funds will be lost because they had to place too much at risk. Recommends making education more readily available, not increasing the amount of capital.
91.	**96**	Pedro G. Pardo	02/03/00	Oppose	Amount of money in an account does not indicate competence to trade. Recommends test that demonstrates expertise of the subject.
92.	**97**	Rick Peters	02/03/00	Oppose	Don't penalize the small trader.
93.	**98**	Candace Biggerstaff	02/03/00	Oppose	Unfair, discriminatory.
94.	**100**	Andy Reames	02/01/00	Oppose	Prevents learning small.
95.	**101**	Rob Svitok	02/01/00	Oppose	Unfair to small investors.
96.	**102**	Jerald Hayes	02/10/00	Support	Traders do not have much of a chance of profiting in the day trading business without substantial capital -- $25,000 or more. Raising the limit will create a hopefully smarter and more savvy investor.
97.	**103**	David Birkenstock	02/10/00	Oppose	Proposal is destabilizing and unconstitutional. Federal Government should not be restricting US citizens participation in an open market.
98.	**104**	Jesse S. A. Bridgewater	02/14/00	Oppose	Concerted effort to bring intraday trading to an end. Will harm liquidity of the market.
99.	**105**	Randy Hamilton	02/13/00	Oppose	Unfair to the small citizens. Rich exchanges and brokerages intend to limit access to the American Dream to their selected few.
100.	**106**	Ron Jackson	02/15/00	Oppose	Cornerstone customer. Will increase risk b/c will hold positions overnight to avoid DT margin calls.
101.	**107**	Richard Saunders	02/14/00	Oppose	Cornerstone customer. Penalizes a trader for creating one margin call by giving them a call on the entire day's trades.
102.	**108**	**Elliot Kim (See also #161)**	02/15/00	Oppose	Cornerstone customer. Penalty for a margin call is too harsh. Suggest the penalty only if a trader generates a certain number of calls in a given time frame, such as 5 calls in 20 days.
103.	**109**	Drew Scott	02/15/00	Oppose	Cornerstone customer. ME is unreasonable.
104.	**110**	Mark Mat	02/15/00	Oppose	Undermines the essence of the free market

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					system.
105.	111	Dennis Colburn	02/14/00	Oppose	Cornerstone customer. Recommends suspending trading for 90 days for anyone who loses 50% of his account value. This will give the investor time to study his investment problems.
106.	112	Ed Naylor	02/14/00	Oppose	Discriminates against a small group. Does not understand the margin call rules. Believes that if you exceed DTBP, margined for all your trades that day. Disagrees with penalty for margin call the next day. Reg T and maintenance margin calls give the trader three days before penalizing. Opposes the two business day requirement b/c there is no risk since there is no overnight positions.
107.	114	Brian J. Groh	02/15/00	Oppose	Cornerstone customer. Current system works fine and day traders are being singled out.
108.	115	Graydon W. Trusler	02/15/00	Oppose	Particularly opposed to the consequences of exceeding DTBP. Is not related to the actual risk incurred by the day trader at any one time and seems like an arbitrary punishment.
109.	116	William Spearman	02/11/00	Oppose	Unfair and discriminatory and un-American.
110.	117	Jason White	02/15/00	Oppose	Cornerstone network administrator. Rule proposal will force customers to hold positions overnight rather than exceed day trading buying power and incur a call. This will expose the trader to more risk.
111.	118	Scot Albert	02/15/00	Oppose	Real intent is to discourage day trading. Margin call seems an arbitrary penalty that is in no way related to the actual risk incurred by the day trader. Day traders are being singled out because they are being forced to meet margin calls on the same day rather than the standard three days.
112.	119	Jeff Landau	02/15/00	Oppose	Cornerstone customer. Consequences for exceeding day trading buying power do not make sense. May encourage traders to not close out an unprofitable position.
113.	120	Ralph D. Sowder	02/15/00	Oppose	Cornerstone customer. Promotes unnecessary risk in holding overnight positions.
114.	121	Craig Zender	02/15/00	Oppose	More punitive than regulatory.
115.	122	Scott T. Burrows	02/15/00	Oppose	Cornerstone customer. Penalized for trading.
116.	123	(?)-Peter Clever	02/13/00	Oppose	Increasing buying power will increase risk. Most people don’t have $25K to put in their account. Customers need to be made aware of the risks.
117.	124	Kenny D. Locke	01/27/00	Oppose	ME implies that someone with $25K has the wisdom that those with less money don’t have.
118.	125	M. Spetman	01/31/00	Oppose	Will tie the hands of small investors with less than

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					the ME.
119.	**126**	John P. Gaughan, Jr.	(?)	Oppose	Hurts small traders. Also, should be allowed to day trade in a cash account.
120.	**127**	Amabel Sarmiento	02/03/00	Oppose	ME is not necessary. Education and reducing the ability of market makers to manipulate the market will go a long way to protecting the small investor.
121.	**128**	Joe Montemayor	01/31/00	Oppose	ME will cause people to go and borrow more and risk more.
122.	**129**	Howard D. Medlin	01/31/00	Oppose	Discriminates against smaller investors.
123.	**131**	John Val	01/31/00	Oppose	Bad for small investors
124.	**132**	Kidatheart (e-mail address)	01/31/00	Oppose	Benefiting the rich.
125.	**133**	Mike	02/01/00	Oppose	Unfair and discriminatory to small investors.
126.	**134**	Bruce Tauber	02/07/00	Oppose	Unfair and discriminatory to small investors.
127.	**135**	certachem@lisco.net	02/07/00	Oppose	Restrictions are not needed. Emphasis should be placed on explaining the risks and rewards of using margin.
128.	**136**	Elly Hereth	02/01/00	Oppose	ME is unfair and education is far more important. Could put small accounts out of business.
129.	**137**	Hien Nguyen	01/28/00	Oppose	Killing small investors. Full time day trader and relies on margin to make his business.
130.	**138**	David Batey	02/07/00	Oppose	Misdirected. Should focus on the “day trading rooms” that provide lines of credit that can quickly spin out of control and ruin the participants’ life. Should not give increased margin. $2k is too low, but $25k is too high. Do a survey to find a middle ground that is both responsible and fair to the small investor.
131.	**140**	Everett J. Alphonse	02/03/00	Oppose	Don’t put restraints on members of a free democracy…
132.	**142**	Steven R. Petrizzi	(?)	Oppose and Support	Cornerstone customer. Unjust and excessively penalize the day trader. Supports the increase in buying power.
133.	**143**	Jay Marting	02/15/00	Oppose and Support	Cornerstone customer. Consequences of exceeding buying power make no sense. Agrees with the 4 to 1 margin.
134.	**144**	Paka	02/15/00	Oppose	4 to 1 actually increases risk to the customer. For experienced traders, the rule is punitive because of margin call consequences. Not realistic because traders need time to arrange for money transfers to cover calls.
135.	**145**	Julie K. Matthews	02/16/00	Oppose	Undermines free market system.
136.	**146**	Marty Smith	02/08/00	Oppose	Will put small day trader out of business.
137.	**147**	Shawn Miller	02/09/00	Oppose	Doesn’t make sense.
138.	**148**	Shane C. Farren	02/01/00	Oppose	Education is the key. Consider seminars, classes, etc.

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139.	**149**	Sammy Chua	01/27/00	Oppose	ME does not mean someone makes better trading decisions. People fail because of lack of knowledge.
140.	**150**	Leon E. Tozo	02/01/00	Oppose	Economically discriminatory.
141.	**151**	Renato Sagues	02/01/00	Oppose	Will block or limit people who would otherwise day trade.
142.	**152**	Mario Febles	02/01/00	Oppose	ME is unjust.
143.	**155**	David M. Battan, Interactive Brokers	02/15/00	Oppose	ME discriminates against small investors, while the 4 to 1 allows more risk exposure. Definition of pattern day trader is overly broad. Customers may open and close position for a variety of reasons, due to changing market conditions or because the trade was done to take advantage of an available arbitrage opportunity. The 25K should be associated to actual risk, such as requiring the increased equity requirement when a customer has a pattern of trading in excess of their buying power or who have failed to meet margin calls. Superior systems allow for intraday credit controls – these people should be exempt from ME since firm can ensure they do not exceed buying power.
144.	**156**	Peni Gardner	02/16/00	Oppose	Discriminates against day traders.
145.	**157**	A.G. Bradford	02/16/00	Oppose	Cornerstone customer. Pattern day trader formula should include experience, average number of traders per day, equity in the account, securities firm's experience with the trader, etc. DTM Calls are draconian. Could be due to a computer error.
146.	**158**	Cristi M. Ray	02/16/00	Oppose	Discriminate unfairly against the public. Penalties for exceeding DTBP are unfair (misunderstand the rule).
147.	**159**	Matthew Panza	02/16/00	Oppose	Margin calls are unnecessarily punitive.
148.	**160**	David W. Lipman	02/16/00	Oppose	Cornerstone customer. 4 to 1 will encourage traders to take on more risk. Not a level playing field. Opposes having to have the money in prior to trading and the two day holding period.
149.	**161**	**Elliot Kim (See #108)**	02/16/00	Oppose	Cornerstone customer. Penalty for a DTMC has no logical basis and is unreasonable.
150.	**162**	Christopher J. Noone	02/08/00	Oppose	ME is discriminatory toward the smaller trader. Recommends education, money/risk management and discipline. 4 to 1 seems to contradict the desire to protect the small trader.
151.	**164**	Richard Faidley	02/14/00	Oppose	Cornerstone customer. Opposes margin calls on a cumulative basis (misunderstands the rule). Should allow 3 days to meet calls. Why 2 day requirement when there is no overnight position/securities at

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					risk.
152.	**165**	C. Mark Matthews	02/16/00	Oppose	Thwarts efforts of small investors. Exceeding DTBP could result in huge call. Rule may force investors to hold a position overnight. 2 day holding period for funds is unfair.
153.	**166**	Joel Christie, Margin Manager for Cornerstone Securities	02/15/00	Oppose	Opposes the requirement that calls be met immediately otherwise a penalty if day trading buying power is exceeded. Reg T and maintenance give the customer 3 days. In those situations, the account is actually at more risk, since it holds the securities. May motivate the customer to hold a security overnight rather than sell it. Opposes penalty for exceeding buying power. Opposes 2 business day holding requirement for funds. Opposes having to have the money in the account prior to trading. Thinks the liquidation of an overnight position should increase buying power.
154.	**168**	George Ruth, SIA Credit Division	02/11/00	Support and Oppose	Opposes 2 day holding requirement. Customer should have use of available funds unless a pattern of activity occurs demonstration that the client does not have the financial wherewithal to engage in that type of trading. B/d should withdraw day trading privileges if a pattern develops of immediate withdrawals of funds utilized to meet a day trade equity deficiency. A pattern could be defined as two occurrences within monthly customer statement or account period. Supports the other rule changes – will contribute to safety and soundness of the industry while furthering investor protection.
155.	**172**	Paul Cymbala	02/28/00	Oppose	Supports Interactive Brokers comment (see comment #155).
156.	**173**	Terry Laughlin	02/25/00	Opposes	Cornerstone customer. Opposes reducing DTMC from 7 to 5 days, against 2 day requirement, huge trading calls if DTBP is exceeded.
157.	**174**	Todd McCown	02/25/00	Oppose	Not government's job to protect people from themselves. Everyone who day trades is aware of the risks.
158.	**175**	Barry Rudd	02/25/00	Opposes	Against consequences if DTBP is exceeded.
159.	**176**	R. Allan Martin, Empire Programs, Inc.	03/09/00	Supports and Opposes	Supports 4 to 1. Opposes the penalties for exceeding DTBP b/c can happen due to out-of-sequence fills, mechanical failures, overwhelmed systems, use of baskets, can cause a violation. Proposes allowing 4 violations per year.
160.	**195**	George Ruth, SIA, Credit	03/23/00	*Support	In addition to comments repeated from #168, also

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		Division (slightly different than #168)		and Oppose	believes that day trader should be able to shed the day trader classification immediately upon notification to the broker/dealer. B/d should restrict the account to funds available if the customer demonstrates a lack of good faith by shedding the classification twice in a 90 day period.
161.	**197**	Kevin T. Begley	04/04/00	Support	Rule does not go far enough. Day traders are unaware of many of the practices within the industry.
162.	**N/A**	SIA, Discount Brokerage Committee and the Adhoc Committee on Technology & Regulation	3/14/00	Supports and Oppose	Unfair burden on firms that do not promote day trading – should use same logic as appropriateness rules. Need exemption for institutions. Recommends applying rule only to non-institutions as defined in 3110(c)(4). No objection to 4 to 1 or minimum equity. Restrictions for exceeding DTBP should be streamlined.