

4210. Margin Requirements (Continued)(e) Exceptions to Rule (Continued)(8) Shelf-Registered and Other Control and Restricted Securities (Continued)(A) Shelf-Registered Securities (Continued)

days after the date it arises, until collected. (See SEA Rule 15c3-1(c)(2)(xii))

(B) Other Control and Restricted Securities — Except as provided in subparagraph (D) below, the equity in accounts of customers for other control and restricted securities of issuers that are subject to Securities Act Rule 144 or 145(c), shall be 40 percent of the current market value of such securities “long” in the account, provided the member:

(i) in computing net capital under SEA Rule 15c3-1 and, if applicable, FINRA Rule 4110(a), deducts any margin deficiencies in customers’ accounts based upon a margin requirement as specified in subparagraph (C)(iv) below for such securities and values only that amount of such securities which are then saleable under Securities Act Rule 144(b)(2) or 145(d)(2)(i) in conformity with all of the applicable terms and conditions thereof, for purposes of determining such deficiencies; and

/01 “Saleable” — (Rescinded, RN 20-22, July 2020)

/011 "Saleable"

The term “saleable,” as used in this paragraph (e)(8)(B)(i) and in paragraphs (e)(8)(D)(i) and (ii), refers to those specified and quantifiable securities where all the terms and conditions of Securities Act Rule 144 have been completely satisfied, including any applicable holding period, and thus are immediately saleable pursuant to Securities Act Rules 144 and 145(d) by the member without restriction in the event the customer fails to meet a margin call or otherwise defaults.

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(ii) makes volume computations necessary to determine the amount of securities then saleable under Securities Act Rule 144(b)(2) or 145(d)(2)(i) on a weekly basis or at such frequency as the member and/or FINRA may deem appropriate under the circumstances. See also subparagraph (C) below.

/01 Reduction of Marginable Shares for Margin and Capital Charge Computations

Members may wish to consider, where practicable, a requirement that customers deposit with them all control or restricted securities of the class on which credit is being

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4210. Margin Requirements (Continued)(e) Exceptions to Rule (Continued)(8) Shelf-Registered and Other Control and Restricted Securities (Continued)(C) Additional Requirements on Shelf-Registered Securities and Other Control and Restricted Securities (Continued)

(e)(8)(C) shall not exceed 100 percent of the aggregate credit extended reduced by any amount deducted in computing net capital under SEA Rule 15c3-1 and, if applicable, FINRA Rule 4110(a).

(D) Certain Restricted Securities — Securities either:

- (i) then saleable pursuant to the terms and conditions of Securities Act Rule 144(b)(1), or
- (ii) then saleable pursuant to the terms and conditions of Securities Act Rule 145(d)(2), shall not be subject to the provisions of paragraph (e)(8) of this Rule.

/01 Non-Affiliate Exemption — (Rescinded, RN 20-22, July 2020)/011 Scope of Exemption

Paragraph (e)(8)(D) exempts from Rule 4210(e)(8) all securities that the member could sell immediately without restriction in the event the customer fails to meet a margin call or otherwise defaults, regardless of whether the customer is an affiliate or non-affiliate. For example, SEC Division of Corporate Finance's Compliance and Disclosure Interpretation (CD&I) 532.01 provides:

A pledgor who is an affiliate defaults on a loan that is secured, either with or without recourse, by a bona fide pledge of company stock acquired in the open market (i.e., these securities are not "restricted securities" in the pledgor's hands). In the pledgee's hands, these securities are "restricted securities" because they have been "acquired directly or indirectly from the issuer, or from an affiliate of the issuer, in a transaction or chain of transactions not involving any public offering." If the pledgee is a non-affiliate and has not been an affiliate during the preceding three months, the pledgee may resell such securities pursuant to Rule 144(b)(1) without regard to the holding period requirement in Rule 144(d) but subject to the current public information requirement in Rule 144(c)(1), as applicable. No other requirements in Rule 144 are applicable to the pledgee's resale. [May 16, 2013]

To rely on CD&I 532.01 to treat non-restricted securities deposited in a margin account by an affiliate of their issuer as exempt from Rule

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4210(e)(8)(B), a member must determine that each of the conditions of CD&I 532.01 (including that the securities are the subject of a bona fide pledge) are satisfied and document its basis for that determination.

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/02 Continuing Requirement for Non-Affiliate Exemption
— (Rescinded, RN 20-22, July 2020)/03 Optional Member Procedures

The provisions of Rule 4210(e)(8)(D) do not restrict members from imposing such higher maintenance requirements as they may deem appropriate. Moreover, members may wish to establish special supervisory procedures to consider the desirability of and to monitor loan transactions entered into pursuant to Rule 4210.

/04 Concentration Evaluation

Any member extending or maintaining credit on any securities exempted from Rule 4210(e)(8) under paragraph (e)(8)(D) is still required by paragraph (f)(1) to require “substantial additional margin” if there is a concentration in those securities (whether in the particular customer’s account, or in all margin accounts carried by the firm) that may not be liquidated promptly due to its size.

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4210. Margin Requirements (Continued)(f) Other Provisions (Continued)**(5) Consolidation of Accounts**

When two or more accounts are carried for a customer, the margin to be maintained may be determined on the net position of said accounts, provided the customer has consented that the money and securities in each of such accounts may be used to carry or pay any deficit in all such accounts.

/01 Foreign Currency Sub-Accounts

FINRA will permit the consolidation of margin accounts and sub-accounts for maintenance purposes without requiring conversion of the foreign currency or foreign denominated security into U.S. dollars. Members must recognize the possibility that fluctuations between foreign currencies and the U.S. dollar may have an adverse effect on the total equity in a margin account. Additional margin should generally be required to compensate for potential losses in equity that may occur due to such currency fluctuations.

/02 Separate Margin Accounts

Separate margin accounts may be carried for the same customer only as provided in Section 220.4(a)(2) of Regulation T. If the customer has consented that the money and securities in each of such accounts may be used to carry or pay any deficit in all such accounts, the margin to be maintained under this Rule may be determined on the net position of said accounts even though they are separate margin accounts for purposes of Regulation T.

This limitation does not apply to sub-accounts of a single margin account. See Interpretation /03 below.

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/021 Portfolio Margin Accounts

Section 220.1(b)(3)(i) of Regulation T excludes portfolio margin accounts maintained in accordance with paragraph (g) of this Rule from the scope of Regulation T. Accordingly, a portfolio margin account may be maintained as a separate margin account without regard to the limitation on separate margin accounts under Section 220.4(a)(2) of Regulation T. The consolidation of portfolio margin accounts is addressed by Rule 4210(g)(6).

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4210. Margin Requirements (Continued)(f) Other Provisions (Continued)(5) Consolidation of Accounts (Continued)/03 Margin Sub-Accounts

Although Regulation T limits the circumstances in which members may carry multiple margin accounts for the same customer (see Interpretation /02 above), a member may maintain separate sub-accounts of a single customer margin account, provided that:

- the customer has consented that the money and securities in each of such sub-accounts may be used to carry or pay any deficit in all such sub-accounts; and
- the member complies with the margin regulations (Regulation T and Rule 4210) as applied to the single margin account (i.e., to the combination of the separate sub-accounts).

A member that maintains multiple sub-accounts of a single customer margin account must implement procedures to combine positions and transactions in all of the sub-accounts where necessary to ensure compliance with Regulation T and Rule 4210, including, without limitation, in connection with:

- the determination of whether substantial additional margin must be required under Rule 4210(f)(1) and FINRA Interpretation /01 thereunder when the account contains a concentrated position in a security that, due to its size, may not be liquidated promptly; and
- the determination of whether a customer is a “pattern day trader” under Rule 4210(f)(8)(B)(ii) and the application of the other provisions of Rule 4210(f)(8)(B) in the event the customer is so classified.

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(6) Time Within Which Margin or “Mark to Market” Must Be Obtained

The amount of margin or “mark to market” required by any provision of this Rule shall be obtained as promptly as possible and in any event within 15 business days from the date such deficiency occurred, unless FINRA has specifically granted the member additional time.

/01 Fifteen Day Period

The fifteen day period begins on the first business day that follows the date on which the margin deficiency occurred, not the day the member may have so notified the customer nor the fifth business day when net capital charges were required.

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4210. Margin Requirements (Continued)(f) Other Provisions (Continued)(6) Time Within Which Margin or “Mark to Market” Must Be Obtained (Continued)/02 FINRA-Approved Additional Time

FINRA will only grant additional time upon written request, which must fully explain the reason for the request, description of the security and total positions involved.

In general, FINRA will only consider those situations involving concentrations of a security which is difficult to liquidate, large volatile positions that would affect the market or price of the security and other similar conditions as the basis for approving a request for additional time.

/03 FINRA Oversight

As part of FINRA’s regular examination process, every carrying member will be monitored to determine compliance with the fifteen (15) business day limit.

(7) Practice of Meeting Regulation T Margin Calls by Liquidation Prohibited

When a “margin call,” as defined in Section 220.2 of Regulation T, is required in a customer’s account, no member shall permit a customer to make a practice of either deferring the deposit of cash or securities beyond the time when such transactions would ordinarily be settled or cleared, or meeting the margin required by the liquidation of the same or other commitments in the account.

This prohibition on liquidations shall not apply:

(i) to those accounts that, at the time of liquidation, are in compliance with the equity to be maintained pursuant to the provisions of this Rule or

(ii) to any account carried on an omnibus basis as prescribed by Regulation T.

/01 Liquidation

Members should have a complete understanding of how the customer intends to finance a margin transaction prior to execution of the transaction. If funds are not available in the account, margin is to be furnished by the deposit of cash or securities. If the customer intends to liquidate other securities to finance the transaction, that sale should take place at or before the time of the new commitment.

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