

4210. Margin Requirements (Continued)(f) Other Provisions (Continued)(8) Special Initial and Maintenance Margin Requirements (Continued)

member at which a customer seeks to open an account or to resume day trading knows or has a reasonable basis to believe that the customer will engage in pattern day trading, then the special requirements under paragraph (f)(8)(B)(iv) of this Rule will apply.

/01 Multiple Purchases and Sales

If a customer enters an order to purchase a security and sells the same security within the same day, but for reasons beyond the customer's control e.g., price, the purchase was executed in smaller blocks, it will be considered as one day trade. However, the member must be able to demonstrate that it was the customer's intent to execute one day trade. This will also apply to when a customer enters a sale order and buys the same security within the same day. In addition, the trades would have to have been executed in sequential order.

One purchase and several subsequent sale transactions of the same security, where the sales were executed in sequential order within the same day, shall constitute one day trade. One sale and several subsequent purchases of the same security, where the purchases were executed in sequential order within the same day, shall also constitute one day trade.

/02 Multiple Purchases and Sales – Alternative Method

Rather than counting day trades based on the number of transactions a customer executes to establish or increase a position that is liquidated on the same day (as set out in Interpretation /01 above) a firm may instead count day trades based on the number of times during the day that the day trading customer changes its trading direction (*i.e.*, changes from buying a particular security to selling it, or changes from selling a particular security to buying it).

Example A:

09:30 Buy 250 ABC

09:31 Buy 250 ABC

13:00 Sell 500 ABC

The customer has executed one day trade.

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(f) Other Provisions (Continued)

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Example B:

09:30 Buy 100 ABC

09:31 Sell 100 ABC

09:32 Buy 100 ABC

13:00 Sell 100 ABC

The customer has executed two day trades.

Example C:

09:30 Buy 500 ABC

13:00 Sell 100 ABC

13:01 Sell 100 ABC

13:03 Sell 300 ABC

The customer has executed one day trade.

Example D:

09:30 Buy 250 ABC

09:31 Buy 300 ABC

13:01 Buy 100 ABC

13:02 Sell 150 ABC

13:03 Sell 175 ABC

The customer has executed one day trade.

Example E:

09:30 Buy 199 ABC

09:31 Buy 142 ABC

13:00 Sell 1 ABC

13:01 Buy 45 ABC

13:02 Sell 100 ABC

13:03 Sell 200 ABC

The customer has executed two day trades.

Example F:

09:30 Buy 200 ABC

09:30 Buy 100 XYZ

13:00 Sell 100 ABC

13:00 Sell 100 XYZ

The customer has executed two day trades

4210. Margin Requirements (Continued)(f) Other Provisions (Continued)(8) Special Initial and Maintenance Margin Requirements (Continued)/03 Terminating Pattern Day Trader Status

A customer that has been classified as a pattern day trader under paragraph (f)(8)(B)(ii) of this Rule is presumed to remain a pattern day trader. However, if a customer seeks to terminate its pattern day trader classification, a member may so accommodate such request after the member determines in good faith, as defined in Section 220.2 of Regulation T, that the customer will no longer engage in pattern day trading.

A member may, for example, base its good faith determination on providing the definition of pattern day trader to the customer and receiving a written certification from the customer that (1) the customer understands the definition of pattern day trading and (2) the customer will not engage in future pattern day trading.

As an alternative, a good faith determination that a customer will not engage in future pattern day trading may be based on the member's application of technological restrictions on such customer's trading activity that effectively prevent the customer from engaging in pattern day trading.

If, after a termination of pattern day trader status, a customer again engages in pattern day trading, such customer's pattern day trader status may not be terminated absent extraordinary circumstances.

(iii) The term "day-trading buying power" means the equity in a customer's account at the close of business of the previous day, less any maintenance margin requirement as prescribed in paragraph (c) of this Rule, multiplied by four for equity securities.

/01 Day-Trading Buying Power

For a proprietary account of a registered broker-dealer subject to SEA Rule 15c3-1, "day-trading buying power" means the equity in the account at the close of business of the previous day, less any haircut requirement as prescribed in SEA Rule 15c3-1, multiplied by six, for equity securities.

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4210. Margin Requirements (Continued)(f) Other Provisions (Continued)(8) Special Initial and Maintenance Margin Requirements (Continued)

The day-trading buying power for non-equity securities may be computed using the applicable special maintenance margin requirements pursuant to other provisions of this Rule.

Whenever day trading occurs in a customer's margin account, the special maintenance margin required for the day trades in equity securities shall be 25 percent of the cost of all the day trades made during the day. For non-equity securities, the special maintenance margin shall be as required pursuant to the other provisions of this Rule. Alternatively, when two or more day trades occur on the same day in the same customer's account, the margin required may be computed utilizing the highest (dollar amount) open position during that day. To utilize the highest open position computation method, a record showing the "time and tick" of each trade must be maintained to document the sequence in which each day trade was completed.

/02 Option Day Trade

Option day trades are subject to this paragraph (f)(8)(B). For day trades executed in accounts of customers not deemed pattern day traders, the margin requirement is 100% of the premium received on the "long" or "short" transaction, whichever occurred first.

If a customer is a pattern day trader, the day-trading transactions are treated as having created a naked short option position and, therefore, subject to the margin requirements as prescribed in paragraph (f)(2)(E) of this Rule. However, if the member can substantiate that the purchase side of the day trade took place prior to the sell side of the day trade, the margin required will be 100% of the premium on the "long" option. A written record of the time of each executed option transaction must be maintained to demonstrate that the purchase was prior to the sale. In addition, in a margin account that is not a portfolio margin account, if the option that was day traded was part of an intra-day hedge strategy currently recognized under Rule 4210(f), then the margin required will be 100% of the premium of the option transaction that was executed first. A written record of the time of each executed transaction must be maintained to demonstrate that an intra-day hedge strategy was created first.

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When the equity in a customer's account, after giving consideration to the other provisions of this Rule, is not sufficient to meet the day trading requirements of this paragraph, additional cash or securities must be received into the account to meet any deficiency within five business days of the trade date.

/04 Multiple Day-Trade Calls

When a customer of a member has multiple day-trade calls outstanding and the due date of the first day-trade call is still within the five business days, then the customer can meet the highest day-trade call amount. This will satisfy the remaining day-trade calls that are outstanding. However, once a call is aged past the 5th business day, the customer will be required to satisfy that call separately.

Members should not allow customers to make a practice of meeting multiple day-trade calls in this manner.

/05 Liquidation to Meet a Day-Trade Call

A customer may liquidate securities to satisfy a day-trade call, but only the maintenance margin requirement of the liquidated securities will be released. However, FINRA discourages such practice because the member should consider the customer's ability to meet its commitments.

## (iv) Special Requirements for Pattern Day Traders

a. Minimum Equity Requirement for Pattern Day Traders — The minimum equity required for the accounts of customers deemed to be pattern day traders shall be \$25,000. This minimum equity must be deposited in the account before such customer may continue day trading and must be maintained in the customer's account at all times.

/01 Minimum Equity Requirement

Members may use any settled and available funds, or any available market value from fully paid for securities, including option market value, money market mutual funds, held long in the customer's cash account to satisfy the \$25,000 minimum equity requirement, without moving the funds or securities to the margin account. The member must have adequate 4210. Margin Requirements (Continued)

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procedures in place in order to prevent the funds in the cash account from being used for other withdrawal purposes such as debit card and check withdrawals. Any funds, securities or money market mutual funds held in the cash account cannot be used for the calculation of day-trading buying power unless they have been moved to the margin account one business day prior to calculating the day-trading buying power. In the event money market mutual funds are to be moved to the margin account, members must adhere to Exchange Act Section 11(d)(1). In addition, for both minimum equity and day-trading buying power, members may use money market mutual funds provided the member has custody of the fund shares and the exclusive ability to liquidate the fund shares. Members shall not allow a pattern day trader to day trade until the minimum equity of \$25,000 has been satisfied. When a pattern day trader's account falls below the \$25,000 minimum equity requirement, based on the previous business day's close, the member must have procedures in place in order to prevent the pattern day trader from day trading. In addition, the \$25,000 must be in the margin account or cash account one business day prior to resuming any day trading.

b. In the event that the member at which a customer seeks to open an account or resume day trading in an existing account, knows or has a reasonable basis to believe that the customer will engage in pattern day trading, then the minimum equity required under subparagraph (iv)a. above (\$25,000) must be deposited in the account prior to commencement of day trading.

c. Pattern day traders cannot trade in excess of their day-trading buying power as defined in paragraph (f)(8)(B)(iii) above. In the event a pattern day trader exceeds its day-trading buying power, which creates a special maintenance margin deficiency, the following actions will be taken by the member:

1. The account will be margined based on the cost of all the day trades made during the day,

2. The customer's day-trading buying power will be limited to the equity in the customer's account at the close of business of the previous day, less the maintenance margin required in paragraph (c) of this Rule, multiplied by two for equity securities, and

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3. “time and tick” (i.e., calculating margin using each trade in the sequence that it is executed, using the highest open position during the day) may not be used.

d. Pattern day traders who fail to meet their special maintenance margin calls as required within five business days from the date the margin deficiency occurs will be permitted to execute transactions only on a cash available basis for 90 days or until the special maintenance margin call is met.

/01 Cash Available

Cash available means 100% of the maintenance excess (equity after maintenance margin is met). No “time and tick” calculations will be allowed for accounts on a 90- day day trading restriction.

e. Pattern day traders are restricted from using the guaranteed account provision pursuant to paragraph (f)(4) of this Rule for meeting the requirements of paragraph (f)(8)(B).

f. Funds deposited into a pattern day trader’s account to meet the minimum equity or maintenance margin requirements of paragraph (f)(8)(B) of this Rule cannot be withdrawn for a minimum of two business days following the close of business on the day of deposit.

4210. Margin Requirements (Continued)(f) Other Provisions (Continued)(8) Special Initial and Maintenance Margin Requirements (Continued)/01 Deposit of Funds

Members may look to funds in a customer's cash account to satisfy a day-trade call without moving the funds to the margin account. This exception will only be permitted if the member has adequate procedures in place to prevent the circumvention of the two (2) day hold requirement on funds deposited into or held in that account i.e., the customer must be prohibited from using the funds for other withdrawal purposes such as debit card and check withdrawals relative to this balance while it is being used to satisfy the day-trade margin call. Funds deposited into the cash account within two business days prior to the creation of a daytrade call, which the member can utilize to satisfy the day-trade call, are subject to the two day holding period following the close of business on the day of deposit.

(v) In the event a customer does not meet a special margin maintenance call by the fifth business day, then on the sixth business day only, members are required to deduct from net capital the amount of the unmet special margin maintenance call pursuant to SEA Rule 15c3-1 and, if applicable, FINRA Rule 4110(a).

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