SATISFACTORY SUBORDINATION AGREEMENTS
SEA Rule 15c3-1d (Appendix D)

(a)(1) INTRODUCTION

This Appendix sets forth minimum and non-exclusive requirements for satisfactory subordination agreements (hereinafter "subordination agreement"). The Examining Authority may require or the broker or dealer may include such other provisions as deemed necessary or appropriate to the extent such provisions do not cause the subordination agreement to fail to meet the minimum requirements of this Appendix (D).

/01 Discretionary Liabilities

See interpretation 15c3-1(c)(2)/02.

/02 Filing

Two copies of any proposed subordination agreement (including non-conforming subordination agreements) shall be filed at least 10 days prior to the execution date of the agreement with the NYSE Coordinator Team, 20 Broad Street, New York, New York 10005. No SEC filing required; the NYSE has consented to file with the SEC periodic reports summarizing the subordination agreements it has approved.

(SEC Staff to NYSE) (No. 83-2, April 1983)

(2) CERTAIN DEFINITIONS

For purposes of 17 CFR 240.15c3-1 and this Appendix (D):

(i) A subordination agreement may be either a subordinated loan agreement or a secured demand note agreement.

(ii) The term "subordinated loan agreement" shall mean the agreement or agreements evidencing or governing a subordinated borrowing of cash.

(iii) The term "Collateral Value" of any securities pledged to secure a secured demand note shall mean the market value of such securities after giving effect to the percentage deductions set forth in paragraph (c)(2)(vi) of § 240.15c3-1 except for paragraph (c)(2)(vi) (J). In lieu of the deduction under (c)(2)(vi)(J), the broker or dealer shall reduce the market value of the securities pledged to secure the secured demand note by 30 percent.

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(a)(2)(iii) CERTAIN DEFINITIONS (continued)

/01 Covered Calls

Listed calls may be sold by a secured demand note contributor on underlying securities in his collateral account. Where this has been done, the collateral value of the account is determined by including the sales proceeds of the call and by deducting from the market value of the underlying securities which are being used to cover calls, the greater of the normal haircut or the in the money amount. If the call is out of the money, the normal haircut is deducted. On all other collateral, normal haircuts are charged.

(SEC Staff to NYSE)

/011 Short Listed Puts

Listed puts may be sold in the collateral account by a secured demand note contributor versus cash or U.S. Treasury bills. The collateral account must contain cash, including the sales proceeds of the put and/or U.S. Treasury bills at market value at least equal to the exercise value of the short put. The capital requirements value of the cash or Treasury bill shall be determined as follows:

- If the put is out of the money, deduct 30% of the market value of the underlying security reduced by the out of the money amount.

- If the put is in the money, deduct 30% of the market value of the underlying security plus the in the money amount.

(SEC Staff to NYSE)

/02 Undue Concentration

Subject to the comments under interpretation 15c3-1d(a)(2)(iii)/021, undue concentration charges are generally disregarded in determining the collateral value of securities pledged to secure a secured demand note. The securities necessary to properly collateralize the note are aggregated with all other positions subject to undue concentration charges (trading and investment accounts, and customers' and non-customers' partly secured accounts) and the charges are applied to the aggregate position in each security.

However, in instances where there is available collateral that would not be subject to undue concentration charges, such collateral may be selected for a lesser impact on the net capital computation as illustrated in the following set of facts and examples.

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(a)(2)(iii) CERTAIN DEFINITIONS (continued)

/02 Undue Concentration (continued)

Facts:

Tentative Net Capital (TNC)		$1,000,000
Secured Demand Note (SDN) Face Amount		70,000
SDN Collateral	1000 XYZ @ 50	50,000
	1000 QRS @ 100	100,000
Trading Account Securities		
Long	2,000 XYZ @ 50	100,000
Short	300 QRS @ 100	30,000

All securities used in example are subject to the haircut requirements of SEA Rule 15c3-1(c)(2)(vi)(J), which requires a 30% charge for SDN collateral.

Examples:	Treatment No.1 Unfavorable		Treatment No.2 Favorable	
	Shares	Value	Shares	Value
SDN Collateral Selection				
XYZ @ 50	1000	$ 50,000		
QRS @ 100	500	50,000	1000	100,000
Total Value		$100,000		100,000
Capital Value		70,000		70,000
Undue Concentration Charge - XYZ				
Trading Account @ 50	2000	100,000	2000	100,000
SDN Collateral @ 50	1000	50,000		
Total		150,000		100,000
Less 10% of TNC		100,000		100,000
Total Subject to Undue Concentration Charge		50,000		-0-
Undue Concentration Charge - QRS				
SDN Collateral @ 100	500	50,000	1000	100,000
Trading Account Sht @ 100	300	(30,000)	300	(30,000)
Total		20,000		70,000
Less 10% of TNC		100,000		100,000
Total subject to Undue Concentration Charge		-0-		-0-

Treatment No. 2 should be used since it is more favorable.

(SEC Staff to NYSE) (No. 76-4, April 1976)

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(a)(2)(iii) CERTAIN DEFINITIONS (continued)

/021 Undue Concentration - Allocation to SDN

Absent specific agreement to the contrary an undue concentration charge may be applied first against secured demand note collateral but only to the extent it is related to the value of the concentrated issue included in the secured demand note collateral (i.e. - under the Basic A. I. Method - concentrated security value x haircut percentage x 150% = total charges including undue concentration charges).

Example:

Secured Demand Note Principal Amount $25,000	
SDN Collateral 1,000 XYZ @ 50 =	$ 50,000
Trading account 2,000 XYZ @ 50 =	100,000
	$150,000
Tentative net capital $900,000 x 10%	90,000
Subject to undue concentration charge	$ 60,000

Charges applied:
SDN collateral ($50,000 x .3 x 1.5) = $ 22,500*
Trading account ($100,000 x .15) + ($10,000 x .15) = $ 16,500

*Note that secured demand note is adequately collateralized.
All securities in example are subject to haircuts pursuant to paragraph (c)(2)(vi)(J).

This treatment is appropriate even though the SDN collateral agreement does not specifically provide for it. However, in the absence of such a provision, application of charges would be limited to the amount of excess collateral which could absorb the charge.

(SEC Staff to NYSE) (No. 77-44, December 1977)

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(a)(2)(iii) CERTAIN DEFINITIONS (continued)

/03 Foreign Currency – Rescinded (FINRA Regulatory Notice 13-44)

/031 Haircut Deduction on Foreign Currency Contributed as Collateral to a Secured Demand Note

Foreign currency contributed as collateral to a Secured Demand Note is subject to a haircut deduction of 6% if it is in any of the five major foreign currencies (Euro, British pound, Swiss franc, Canadian dollar and Japanese yen). All other foreign currencies contributed as collateral to a Secured Demand Note are subject to a haircut deduction of 20%.

(SEC Staff to FINRA) (FINRA Regulatory Notice 13-44)

/04 Restricted Stock

Restricted stock, even though marginable under NYSE Rule 431, is not good collateral for a secured demand note.

(SEC Staff to NYSE) (No. 90-4, June 1990)

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(a)(2) CERTAIN DEFINITIONS (continued)

(iv) The term “Payment Obligation” shall mean the obligation of a broker or dealer in respect of any subordination agreement (A) to repay cash loaned to the broker or dealer pursuant to a subordinated loan agreement or (B) to return a secured demand note contributed to the broker or dealer or reduce the unpaid principal amount thereof and to return cash or securities pledged as collateral to secure the secured demand note and (C) "Payment" shall mean the performance by a broker or dealer of a Payment Obligation.

(v)(A) The term “secured demand note agreement” shall mean an agreement (including the related secured demand note) evidencing or governing the contribution of a secured demand note to a broker or dealer and the pledge of securities and/or cash with the broker or dealer as collateral to secure payment of such secured demand note. The secured demand note agreement may provide that neither the lender, his heirs, executors, administrators or assigns shall be personally liable on such note and that in the event of default the broker or dealer shall look for payment of such note solely to the collateral then pledged to secure the same.

(B) The secured demand note shall be a promissory note executed by the lender and shall be payable on the demand of the broker or dealer to which it is contributed; provided, however, that the making of such demand may be conditioned upon the occurrence of any of certain events which are acceptable to the Commission and to the Examining Authority for such broker or dealer.

(C) If such note is not paid upon presentment and demand as provided for therein, the broker or dealer shall have the right to liquidate all or any part of the securities then pledged as collateral to secure payment of the same and to apply the net proceeds of such liquidation, together with any cash then included in the collateral, in payment of such note. Subject to the prior rights of the broker or dealer as pledgee, the lender, as defined herein, may retain ownership of the collateral and have the benefit of any increases and bear the risks of any decreases in the value of the collateral and may retain the right to vote securities contained within the collateral and any right to income therefrom or distributions thereon, except the broker or dealer shall have the right to receive and hold as pledgee all dividends payable in securities and all partial and complete liquidating dividends.

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(a)(2)(v) CERTAIN DEFINITIONS (continued)

(D) Subject to the prior rights of the broker or dealer as pledgee, the lender may have the right to direct the sale of any securities included in the collateral, to direct the purchase of securities with any cash included therein, to withdraw excess collateral or to substitute cash or other securities as collateral, provided that the net proceeds of any such sale and the cash so substituted and the securities so purchased or substituted are held by the broker or dealer, as pledgee, and are included within the collateral to secure payment of the secured demand note, and provided further that no such transaction shall be permitted if, after giving effect thereto, the sum of the amount of any cash, plus the Collateral Value of the securities, then pledged as collateral to secure the secured demand note would be less than the unpaid principal amount of the secured demand note.

(E) Upon payment by the lender, as distinguished from a reduction by the lender which is provided for in (b)(6)(iii) or reduction by the broker or dealer as provided for in subparagraph (b)(7) of this Appendix (D), of all or any part of the unpaid principal amount of the secured demand note, a broker or dealer shall issue to the lender a subordinated loan agreement in the amount of such payment (or in the case of a broker or dealer that is a partnership credit a capital account of the lender) or issue preferred or common stock of the broker or dealer in the amount of such payment, or any combination of the foregoing, as provided for in the secured demand note agreement.

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(a)(2)(v) CERTAIN DEFINITIONS (continued)

(F) The term "lender" shall mean the person who lends cash to a broker or dealer pursuant to a subordinated loan agreement and the person who contributes a secured demand note to a broker or dealer pursuant to a secured demand note agreement.

/01 Qualified Lenders For Revolving Subordinated Loan Agreements

At the time subparagraph (c)(5)(ii) of Appendix D to SEA Rule 15c3-1 was adopted, the underlying assumption was that a lender would have the financial ability to fund a revolving subordinated loan agreement for its duration. Consequently, to approve a revolving subordinated loan agreement, a broker-dealer's designated examining authority must determine that the lender has this ability. A lender will be deemed to have this ability and is referred herein as a "Qualified Lender" if it is any one of the following nine entities:

1. A bank as defined in Section 3(a)(6) of the Securities Exchange Act of 1934;

2. A bank holding company as defined in Section 2(a)(1) of the Bank Holding Company Act of 1956 or a financial holding company as defined in Section 2(p) of the Bank Holding Company Act of 1956;

3. A foreign banking institution or trust company that is regulated as such by the country's government or an agency of the country's government and that either (i) has investment grade ratings for senior unsecured long-term debt by at least two nationally recognized statistical rating organizations ("NRSROs") or (ii) has shareholders' equity of at least US$1.5 billion;

4. A savings association as defined in Section 3(b) of the Federal Deposit Insurance Act, the deposits of which are insured by the Federal Deposit Insurance Corporation;

5. An insurance company as defined in Section 2(a)(17) of the Investment Company Act of 1940;

6. An entity that provides financing for other businesses in the ordinary course of its business provided that it issues commercial paper which is rated in one of the three highest categories by at least two NRSROs;

7. A broker-dealer holding company that issues commercial paper which is rated in one of the three highest categories by at least two NRSROs;

8. An investment bank holding company supervised by the Securities and Exchange Commission under Section 17(i) of the Securities Exchange Act of 1934; and

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(a)(2)(v)(F) CERTAIN DEFINITIONS (continued)

/01 Qualified Lenders For Revolving Subordinated Loan Agreements (continued)

9. A broker-dealer if:

- it takes a charge to net capital for the full amount of the loan commitment whether or not drawn down by the borrower, from the effective date of the revolving subordinated loan agreement through the maturity date of the loans thereunder; and

- at the time it enters into the revolving subordinated loan agreement, after taking the charge to net capital set forth above, its aggregate indebtedness does not exceed 1000% of its net capital nor is its net capital less than 120% of the minimum dollar amount required by SEA Rule 15c3-1 or, in the case of a broker-dealer operating pursuant to paragraph (a)(1)(ii) of SEA Rule 15c3-1, its net capital would not be less than 5 percent of its aggregate debit items computed in accordance with SEA Rule 15c3-3a, or if registered as a futures commission merchant, its net capital would not be less than 7 percent of the funds required to be segregated pursuant to the Commodity Exchange Act and the regulations thereunder, if greater.

A revolving subordinated loan agreement currently approved by a broker-dealer's designated examining authority prior to this interpretation remains effective notwithstanding that the lender may not be a Qualified Lender. However, the term of the agreement may not be extended unless the lender is a Qualified Lender under this interpretation. See also interpretation 15c3-1(c)(2)/015.

(SEC Staff to NYSE) (No. 01-4, April 2001)

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(b) MINIMUM REQUIREMENTS FOR SUBORDINATION AGREEMENTS

(1) Subject to paragraph (a) above, a subordination agreement shall mean a written agreement between the broker or dealer and the lender, which (i) has a minimum term of one year, except for temporary subordination agreements provided for in paragraph (c)(5) of this Appendix (D), and (ii) is a valid and binding obligation enforceable in accordance with its terms (subject as to enforcement to applicable bankruptcy, insolvency, reorganization, moratorium and other similar laws) against the broker or dealer and the lender and their respective heirs, executors, administrators, successors and assigns.

/01 Firm's Assets Pledged as Collateral for Subordinated Loans

If lenders are given assets of a broker-dealer either directly or indirectly to collateralize subordinated loans, the loans do not qualify as satisfactory subordination agreements pursuant to Appendix D of SEA Rule 15c3-1 and cannot be considered part of a firm's capital.

(SEC Staff of DMR to NASD)

(2) Specific Amount

All subordination agreements shall be for a specific dollar amount which shall not be reduced for the duration of the agreement except by installments as specifically provided for therein and except as otherwise provided in this Appendix (D).

/01 Subordinated Loan Interest

Subordinated loan interest may be added to net worth in arriving at net capital without a new subordination agreement as to any accrued interest provided:

1. The total interest amount is ascertainable from the subordination agreement with an initial maturity of one year or longer;

2. The accrued amount cannot be paid until one year after the date that the payment is due, and

3. If this treatment is elected as to any accrued interest payments, it must be elected as to all interest payments, except for those which are accrued in the last year of the agreement.

The designated self-regulatory organization may determine a minimum amount of interest which may be accorded this treatment in determining net capital.

(SEC Letter to NYSE, January 15, 1986) (No. 90-4, June 1990)

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(b)(2) MINIMUM REQUIREMENTS FOR SUBORDINATION AGREEMENTS (continued)

/02 Funding a Subordinated Loan with Foreign Currency

Under Appendix D(b)(2) of SEA Rule 15c3-1, a subordinated loan may be funded with foreign currency provided the following conditions are met:

1. The broker-dealer must continually mark-to-market the outstanding principal amount of the borrowing; and

2. In computing net capital, only the lesser of the U.S. dollar equivalent of the principal amount on the effective date of the borrowing, or the mark-to-market U.S. dollar equivalent at the time of the net capital computation, may be added back to net worth; and

3. The full amount of the subordinated borrowing may be excluded from aggregate indebtedness pursuant to subparagraph (c)(1)(xi) of SEA Rule 15c3-1.

(SEC Staff of DMR Letter to Grieveson, Grant International Limited, June 18, 1984)

(3) Effective Subordination

The subordination agreement shall effectively subordinate any right of the lender to receive any Payment with respect thereto, together with accrued interest or compensation, to the prior payment or provision for payment in full of all claims of all present and future creditors of the broker or dealer arising out of any matter occurring prior to the date on which the related Payment Obligation matures consistent with the provisions of 17 CFR 240.15c3-1 and 240.15c3-1d, except for claims which are the subject of subordination agreements which rank on the same priority as or junior to the claim of the lender under such subordination agreements.

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(b) MINIMUM REQUIREMENTS FOR SUBORDINATION AGREEMENTS (continued)

(4) Proceeds of Subordinated Loan Agreements

The subordinated loan agreement shall provide that the cash proceeds thereof shall be used and dealt with by the broker or dealer as part of its capital and shall be subject to the risks of the business.

(5) Certain Rights of the Broker or Dealer

The subordination agreement shall provide that the broker or dealer shall have the right to:

(i) Deposit any cash proceeds of a subordinated loan agreement and any cash pledged as collateral to secure a secured demand note in an account or accounts in its own name in any bank or trust company;

(ii) Pledge, repledge, hypothecate and rehypothecate, any or all of the securities pledged as collateral to secure a secured demand note, without notice, separately or in common with other securities or property for the purpose of securing any indebtedness of the broker or dealer; and

(iii) Lend to itself or others any or all of the securities and cash pledged as collateral to secure a secured demand note.

(6) Collateral for Secured Demand Notes

Only cash and securities which are fully paid for and which may be publicly offered or sold without registration under the Securities Act of 1933, and the offer, sale and transfer of which are not otherwise restricted, may be pledged as collateral to secure a secured demand note. The secured demand note agreement shall provide that if at any time the sum of the amount of any cash, plus the Collateral Value of any securities, then pledged as collateral to secure the secured demand note is less than the unpaid principal amount of the secured demand note, the broker or dealer must immediately transmit written notice to that effect to the lender and the Examining Authority for such broker or dealer. The secured demand note agreement shall also require that following such transmittal:

(i) The lender, prior to noon of the business day next succeeding the transmittal of such notice, may pledge as collateral additional cash or securities sufficient, after giving effect to such pledge, to bring the sum of the amount of any cash plus the Collateral Value of any securities, then pledged as collateral to secure the secured demand note, up to an amount not less than the unpaid principal amount of the secured demand note; and

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(b)(6) MINIMUM REQUIREMENTS FOR SUBORDINATION AGREEMENTS (continued)

(ii) Unless additional cash or securities are pledged by the lender as provided in paragraph (b)(6)(i) of this section, the broker or dealer at noon on the business day next succeeding the transmittal of notice to the lender must commence sale, for the account of the lender, of such of the securities then pledged as collateral to secure the secured demand note and apply so much of the net proceeds thereof, together with such of the cash then pledged as collateral to secure the secured demand note as may be necessary to eliminate the unpaid principal amount of the secured demand note; Provided, however, That the unpaid principal amount of the secured demand note need not be reduced below the sum of the amount of any remaining cash, plus the Collateral Value of the remaining securities, then pledged as collateral to secure the secured demand note. The broker or dealer may not purchase for its own account any securities subject to such a sale.

(iii) The secured demand note agreement also may provide that, in lieu of the procedures specified in the provisions required by paragraph (b)(6)(ii) of this section, the lender with the prior written consent of the broker or dealer and the Examining Authority for the broker or dealer may reduce the unpaid principal amount of the secured demand note. After giving effect to such reduction, the aggregate indebtedness of the broker or dealer may not exceed 1000 percent of its net capital or, in the case of a broker or dealer operating pursuant to paragraph (a)(1)(ii) of § 240.15c3-1, net capital may not be less than 5 percent of aggregate debit items computed in accordance with § 240.15c3-3a, or, if registered as a futures commission merchant, 7 percent of the funds required to be segregated pursuant to the Commodity Exchange Act and the regulations thereunder (less the market value of commodity options purchased by option customers subject to the rules of a contract market, each such deduction not to exceed the amount of funds in the option customer's account), if greater. No single secured demand note shall be permitted to be reduced by more than 15 percent of its original principal amount and after such reduction no excess collateral may be withdrawn. No Examining Authority shall consent to a reduction of the principal amount of a secured demand note if, after giving effect to such reduction, net capital would be less than 120 percent of the minimum dollar amount required by § 240.15c3-1.

/01 Gold and Silver

Gold and silver warehouse receipts and/or futures contracts are not good collateral. Only cash and securities which are fully paid and may be sold without restriction are acceptable under the rule.

(SEC Letter to Boettcher Company, May 23, 1978) (No. 79-4, March 1979)

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(b)(6) MINIMUM REQUIREMENTS FOR SUBORDINATION AGREEMENTS (continued)

/02 Limited Partnership Interests

While such partnerships have been registered as securities under the Securities Exchange Act of 1933, they are not good collateral because a ready market does not exist.

(SEC Staff to NYSE) (No. 83-2, April 1983)

/03 Reverse-Repurchase Agreement Securities

Securities acquired under a reverse-repurchase agreement may not be used as collateral for a Secured Demand Note.

(SEC Staff to NYSE) (No. 90-4, June 1990)

(7) Permissive Prepayments

A broker or dealer at its option but not at the option of the lender may, if the subordination agreement so provides, make a Payment of all or any portion of the Payment Obligation thereunder prior to the scheduled maturity date of such Payment Obligation (hereinafter referred to as a "Prepayment"), but in no event may any Prepayment be made before the expiration of one year from the date such subordination agreement became effective. This restriction shall not apply to temporary subordination agreements that comply with the provisions of paragraph (c)(5) of this Appendix D. No Prepayment shall be made, if, after giving effect thereto (and to all Payments of Payment Obligations under any other subordinated agreements then outstanding the maturity or accelerated maturities of which are scheduled of fall due within six months after the date such Prepayment is to occur pursuant to this provision or on or prior to the date on which the payment Obligation in respect of such Prepayment is scheduled to mature disregarding this provision, whichever date is earlier) without reference to any projected profit or loss of the broker or dealer, either aggregate indebtedness of the broker or dealer would exceed 1000 percent of its net capital or its net capital would be less than 120 percent of the minimum dollar amount required by § 240.15c3-1 or, in the case of a broker or dealer operating pursuant to paragraph (a)(1)(ii) of § 240.15c3-1, its net capital would be less than 5 percent of its aggregate debit items computed in accordance with § 240.15c3-3a, or if registered as a futures commission merchant, 7 percent of the funds required to be segregated pursuant to the Commodity Exchange Act and the regulations thereunder (less the market value of commodity options purchased by option customers subject to the rules of a contract market, each such deduction not to exceed the amount of funds in the option customer's account), if greater, or its net capital would be less than 120 percent of the minimum dollar amount required by paragraph (a)(1)(ii) of § 240.15c3-1. Notwithstanding the above, no Prepayment shall occur without the prior written approval of the Examining Authority for such broker or dealer.

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(b)(7) MINIMUM REQUIREMENTS FOR SUBORDINATION AGREEMENTS (continued)

/01 Effective Date – Extensions

The one-year limitation on permissive prepayments runs from the original effective date of agreements modified in accordance with interpretation 15c3-1d(c)(1)/01.

(SEC Letter to NYSE, November 11, 1976) (No. 77-2, June 1977)

/02 Effective Date - Principal Increases

With respect to incremental increases (see interpretation 15c3-1d(c)(1)/02), the one-year limitation on permissive prepayments runs from the date of the increase.

(SEC Letter to NYSE, November 11, 1976) (No. 77-2, June 1977)

/03 Conversion from Debt to Equity

When a subordination agreement has been in effect for less than one year, the designated examining authority for a broker-dealer may approve a prepayment under conditions consistent with the objectives of the rule, provided:

1. The prepayment is for the purpose of converting debt to equity;

2. It results in no significant lessening of net capital;

3. The conversion to equity is simultaneous with the prepayment; and

4. The subordinated lender agrees before the prepayment that the prepaid funds (equity capital) will not be withdrawn from the firm for the entire period that the subordination agreement would have been in force.

The provisions of paragraph (e) of SEA Rule 15c3-1 (i.e., Limitation on Withdrawal of Equity Capital), will of course apply to this equity capital.

(SEC Staff to NYSE) (No. 90-4, June 1990)

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(b) MINIMUM REQUIREMENTS FOR SUBORDINATION AGREEMENTS (continued)

(8) Suspended Repayment

(i) The Payment Obligation of the broker or dealer in respect of any subordination agreement shall be suspended and shall not mature if, after giving effect to Payment of such Payment Obligation (and to all Payments of Payment Obligations of such broker or dealer under any other subordination agreement(s) then outstanding that are scheduled to mature on or before such Payment Obligation) either (A) the aggregate indebtedness of the broker or dealer would exceed 1200 percent of its net capital, or in the case of a broker or dealer operating pursuant to paragraph (a)(1)(ii) of § 240.15c3-1, its net capital would be less than 5 percent of aggregate debit items computed in accordance with § 240.15c3-3a or, if registered as a futures commission merchant, 6 percent of the funds required to be segregated pursuant to the Commodity Exchange Act and the regulations thereunder (less the market value of commodity options purchased by option customers on or subject to the rules of a contract market, each such deduction not to exceed the amount of funds in the option customer's account), if greater, or (B) its net capital would be less than 120 percent of the minimum dollar amount required by § 240.15c3-1 including paragraph (a)(1)(ii), if applicable. The subordination agreement may provide that if the Payment Obligation of the broker or dealer thereunder does not mature and is suspended as a result of the requirement of this paragraph (b)(8) for a period of not less than six months, the broker or dealer shall thereupon commence the rapid and orderly liquidation of its business, but the right of the lender to receive Payment, together with accrued interest or compensation, shall remain subordinate as required by the provisions of § 240.15c3-1 and § 240.15c3-1d.

(ii) Whenever a subordination agreement provides that a broker or dealer shall commence a rapid and orderly liquidation, as permitted in (i) above, the date on which the liquidation commences shall be the maturity date for each subordination agreement of the broker or dealer then outstanding, but the rights of the respective lenders to receive Payment, together with accrued interest or compensation, shall remain subordinate as required by the provisions of 17 CFR 240.15c3-1 and 240.15c3-1d.

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(b) MINIMUM REQUIREMENTS FOR SUBORDINATION AGREEMENTS (continued)

(9) Accelerated Maturity-Obligation to Repay to Remain Subordinate

(i) Subject to the provisions of paragraph (b)(8) of this appendix, a subordination agreement may provide that the lender may, upon prior written notice to the broker or dealer and the Examining Authority given not earlier than six months after the effective date of such subordination agreement, accelerate the date on which the Payment Obligation of the broker or dealer, together with accrued interest or compensation, is scheduled to mature to a date not earlier than six months after the giving of such notice, but the right of the lender to receive Payment, together with accrued interest or compensation, shall remain subordinate as required by the provisions of 17 CFR 240.15c3-1 and 240.15c3-1d.

(ii) Notwithstanding the provisions of paragraph (b)(8) of this appendix, the Payment Obligation of the broker or dealer with respect to a subordination agreement, together with accrued interest and compensation, shall mature in the event of any receivership, insolvency, liquidation pursuant to the Securities Investor Protection Act of 1970 or otherwise, bankruptcy, assignment for the benefit of creditors, reorganization whether or not pursuant to the bankruptcy laws, or any other marshalling of the assets and liabilities of the broker or dealer but the right of the lender to receive Payment, together with accrued interest or compensation, shall remain subordinate as required by the provisions of 17 CFR 240.15c3-1 and 240.15c3-1d.

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(b) MINIMUM REQUIREMENTS FOR SUBORDINATION AGREEMENTS (continued)

(10) Accelerated Maturity of Subordination Agreements on Event of Default and Event of Acceleration - Obligation to Repay to Remain Subordinated

(i) A subordination agreement may provide that the lender may, upon prior written notice to the broker or dealer and the Examining Authority of the broker or dealer of the occurrence of any Event of Acceleration (as hereinafter defined) given no sooner than six months after the effective date of such subordination agreement, accelerate the date on which the Payment Obligation of the broker or dealer, together with accrued interest or compensation, is scheduled to mature, to the last business day of a calendar month which is not less than six months after notice of acceleration is received by the broker or dealer and the Examining Authority for the broker or dealer. Any subordination agreement containing such Events of Acceleration may also provide, that if upon such accelerated maturity date the Payment Obligation of the broker or dealer is suspended as required by paragraph (b)(8) of this Appendix (D) and liquidation of the broker or dealer has not commenced on or prior to such accelerated maturity date, then notwithstanding paragraph (b)(8) of this appendix the Payment Obligation of the broker or dealer with respect to such subordination agreement shall mature on the day immediately following such accelerated maturity date and in any such event the Payment Obligations of the broker or dealer with respect to all other subordination agreements then outstanding shall also mature at the same time but the rights of the respective lenders to receive Payment, together with accrued interest or compensation, shall remain subordinate as required by the provisions of this Appendix (D). Events of Acceleration which may be included in a subordination agreement complying with this paragraph (b)(10) shall be limited to:

(A) Failure to pay interest or any installment of principal on a subordination agreement as scheduled;

(B) Failure to pay when due other money obligations of a specified material amount;

(C) Discovery that any material, specified representation or warranty of the broker or dealer which is included in the subordination agreement and on which the subordination agreement was based or continued was inaccurate in a material respect at the time made;

(D) Any specified and clearly measurable event which is included in the subordination agreement and which the lender and the broker or dealer agree (1) is a significant indication that the financial position of the broker or dealer has changed materially and adversely from agreed upon specified norms or (2) could materially and adversely affect the ability of the broker or dealer to conduct its business as conducted on the date the subordination agreement was made; or (3) is a significant change in the senior management of the broker or dealer or in the general business conducted by the broker or dealer from that which obtained on the date the subordination agreement became effective;

(E) Any continued failure to perform agreed covenants included in the subordination agreement relating to the conduct of the business of the broker or dealer or relating to the maintenance and reporting of its financial position; and

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(b)(10) MINIMUM REQUIREMENTS FOR SUBORDINATION AGREEMENTS (continued)

(ii) Notwithstanding the provisions of paragraph (b)(8) of this appendix, a subordination agreement may provide that, if liquidation of the business of the broker or dealer has not already commenced, the Payment Obligation of the broker or dealer shall mature, together with accrued interest or compensation, upon the occurrence of an Event of Default (as hereinafter defined). Such agreement may also provide that, if liquidation of the business of the broker or dealer has not already commenced, the rapid and orderly liquidation of the business of the broker or dealer shall then commence upon the happening of an Event of Default. Any subordination agreement which so provides for maturity of the Payment Obligation upon the occurrence of an Event of Default shall also provide that the date on which such Event of Default occurs shall, if liquidation of the broker or dealer has not already commenced, be the date on which the Payment Obligations of the broker or dealer with respect to all other subordination agreements then outstanding shall mature but the rights of the respective lenders to receive Payment, together with accrued interest or compensation, shall remain subordinate as required by the provisions of this Appendix (D). Events of Default which may be included in a subordination agreement shall be limited to:

(A) The making of an application by the Securities Investor Protection Corporation for a decree adjudicating that customers of the broker or dealer are in need of protection under the Securities Investor Protection Act of 1970 and the failure of the broker or dealer to obtain the dismissal of such application within 30 days;

(B) The aggregate indebtedness of the broker or dealer exceeding 1500 percent of its net capital or, in the case of a broker or dealer that has elected to operate under paragraph (a)(1)(ii) of § 240.15c3-1, its net capital computed in accordance therewith is less than 2 percent of its aggregate debit items computed in accordance with § 240.15c3-3a or, if registered as a futures commission merchant, 4 percent of the funds required to be segregated pursuant to the Commodity Exchange Act and the regulations thereunder (less the market value of commodity options purchased by option customers on or subject to the rules of a contract market, each such deduction not to exceed the amount of funds in the option customer's account), if greater, throughout a period of 15 consecutive business days, commencing on the day the broker or dealer first determines and notifies the Examining Authority for the broker or dealer, or the Examining Authority or the Commission first determines and notifies the broker or dealer of such fact;

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(b)(10)(ii) MINIMUM REQUIREMENTS FOR SUBORDINATION AGREEMENTS (continued)

(C) The Commission shall revoke the registration of the broker or dealer;

(D) The Examining Authority shall suspend (and not reinstate within 10 days) or revoke the broker's or dealer's status as a member thereof;

(E) Any receivership, insolvency, liquidation pursuant to the Securities Investor Protection Act of 1970 or otherwise, bankruptcy, assignment for the benefit of creditors, reorganization whether or not pursuant to bankruptcy laws, or any other marshalling of the assets and liabilities of the broker or dealer. A subordination agreement which contains any of the provisions permitted by this paragraph (b)(10) shall not contain the provision otherwise permitted by clause (i) of paragraph (b)(9).

(11) Brokers and Dealers Carrying the Accounts of Specialists and Market Makers in Listed Options

A subordination agreement which becomes effective on or after August 1, 1977 in favor of a broker or dealer who guarantees, endorses, carries or clears specialist or market maker transactions in options listed on a national securities exchange or facility of a national securities association shall provide that reduction, prepayment or repayment of the unpaid principal amount thereof, pursuant to those terms of the agreement required or permitted by paragraphs (b)(6)(iii), (b)(7), or (b)(8)(i) of this section, shall not occur in contravention of paragraphs (a)(6)(v), (a)(7)(iv), or (c)(2)(x)(B)(1) of section 240.15c3-1 insofar as they apply to such broker or dealer.

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(c) MISCELLANEOUS PROVISIONS

(1) Prohibited Cancellation

The subordination agreement shall not be subject to cancellation by either party; no Payment shall be made with respect thereto and the agreement shall not be terminated, rescinded or modified by mutual consent or otherwise if the effect thereof would be inconsistent with the requirements of 17 CFR 240.15c3-1 and 240.15c3-1d.

/01 Maturity Date - Extensions

Existing satisfactory subordination agreements may be modified to extend their maturity dates by using either of the following methods:

Amend an existing agreement to postpone its scheduled maturity date until a time mutually agreeable to the parties thereto.

Bilaterally terminate the existing agreement and execute a new agreement embodying a later scheduled maturity date and terms otherwise identical to those of the former agreement. Under this method, the parties are to simultaneously execute a rider to the new agreement which recites:

- Their intent to merely reflect a renewal of the existing agreement, and
- That the new agreement involves no transfer of funds or securities between the parties.

Under either method, filing with the SEC under subparagraph (c)(6) of Appendix D to SEA Rule 15c3-1 is not required; however, the modifications should be filed with the designated examining authority.

Note that any extension of a satisfactory subordination agreement grandfathered pursuant to SEA Rule 15c3-1(g)(1), must be conformed to Appendix D no later than September 1, 1980.

See interpretation 15c3-1d(b)(7)/01 for effective date of extended subordination.

(SEC Letter to NYSE, November 11, 1976) (No. 77-2, June 1977)

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(c)(1) MISCELLANEOUS PROVISIONS (continued)

/011 Extensions - Minimum Time Period

Under either of the methods for extending the maturity date of satisfactory subordination agreements, it must be extended for a period of not less than one year.

(SEC Staff to NYSE) (No. 90-4, June 1990)

/02 Principal Amount Increases

Parties wishing to increase the principal amount of a subordination agreement should subject the incremental amount to a new agreement conforming in all respects to Appendix D. Filing under SEA Rule 15c3-1d(c)(6) is required for the new subordination.

(SEC Letter to NYSE, November 11, 1976) (No. 77-2, June 1977)

(2) Notice of Maturity or Accelerated Maturity

Every broker or dealer shall immediately notify the Examining Authority for such broker or dealer if, after giving effect to all Payments of Payment Obligations under subordination agreements then outstanding that are then due or mature within the following six months without reference to any projected profit or loss of the broker or dealer either the aggregate indebtedness of the broker or dealer would exceed 1200 percent of its net capital or its net capital would be less than 120 percent of the minimum dollar amount required by § 240.15c3-1, or, in the case of a broker or dealer operating pursuant to paragraph (a)(1)(ii) of § 240.15c3-1, its net capital would be less than 5 percent of aggregate debit items computed in accordance with § 240.15c3-3a, or, if registered as a futures commission merchant, 6 percent of the funds required to be segregated pursuant to the Commodity Exchange Act and the regulations thereunder (less the market value of commodity options purchased by option customers on or subject to the rules of a contract market, each such deduction not to exceed the amount of funds in the option customer's account), if greater, or less than 120 percent of the minimum dollar amount required by paragraph (a)(1)(ii) or § 240.15c3-1.

(3) Certain Legends

If all the provisions of a satisfactory subordination agreement do not appear in a single instrument, then the debenture or other evidence of indebtedness shall bear on its face an appropriate legend stating that it is issued subject to the provisions of a satisfactory subordination agreement which shall be adequately referred to and incorporated by reference.

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(c) MISCELLANEOUS PROVISIONS (continued)

(4) Legal Title to Securities

All securities pledged as collateral to secure a secured demand note must be in bearer form, or registered in the name of the broker or dealer or the name of its nominee or custodian.

/01 Registration of Collateral

A secured demand note contributor may not maintain control over the disposition of his securities held to collateralize his obligation to the broker-dealer. For this reason, title must not be in the lender's name or his nominee's name even if the lender is a partner or officer. The collateral may be registered in the name of another broker-dealer, a bank, the borrowing broker-dealer or its custodian, or their nominees, as might be the case if the securities were in bank loan, stock loaned, fail to receive or various other locations.

(SEC Staff to NYSE) (No. 76-4, April 1976)

/02 Bearer Form

The phrase in bearer form as it applies to securities collateralizing a secured demand note (SEA Rule 15c3-1d(c)(4)) possesses no specialized definition; a security is in bearer form for purposes of Appendix D when it runs to bearer according to its terms and not by reason of any endorsement.

(SEC Release No. 34-13565, May 18, 1977) (No. 77-2, June 1977)

(5) Temporary and Revolving Subordination Agreements

(i) For the purpose of enabling a broker or dealer to participate as an underwriter of securities or other extraordinary activities in compliance with the net capital requirements of § 240.15c3-1, a broker or dealer shall be permitted, no more than three occasions in any 12 month period, to enter into a subordination agreement on a temporary basis that has a stated term of no more than 45 days from the date such subordination agreement became effective. This temporary relief shall not apply to a broker or dealer if, within the preceding thirty calendar days, it has given notice pursuant to § 240.17a-11, or if immediately prior to entering into such subordination agreement, either:

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(c)(5)(i) MISCELLANEOUS PROVISIONS (continued)

(A) The aggregate indebtedness of the broker or dealer exceeds 1000 percent of its net capital or its net capital is less than 120 percent of the minimum dollar amount required by § 240.15c3-1, or

(B) In the case of a broker or dealer operating pursuant to paragraph (a)(1)(ii) of § 240.15c3-1, its net capital is less than 5 percent of aggregate debits computed in accordance with § 240.15c3-3a, or, if registered as a futures commission merchant, less than 7 percent of the funds required to be segregated pursuant to the Commodity Exchange Act and the regulations thereunder (less the market value of commodity options purchased by option customers on or subject to the rules of a contract market, each such deduction not to exceed the amount of funds in the option customer's account), if greater, or less than 120 percent of the minimum dollar amount required by paragraph (a)(1)(ii) of this section, or

(C) The amount of its then outstanding subordination agreements exceeds the limits specified in paragraph (d) of § 240.15c3-1. Such temporary subordination agreement shall be subject to all other provisions of this Appendix D.

/01 Underwriting Participation

Temporary subordinations are for the purpose of enabling a broker-dealer to participate in an underwriting or in other extraordinary activities. In this regard, the term "extraordinary activities" is defined narrowly.

(SEC Staff to NYSE)

/02 Equity Requirement

A broker-dealer may enter into temporary subordinations even if it creates an excess of debt over equity requirements as specified in paragraph (d) of the rule so long as such condition did not already exist.

(SEC Staff to NYSE)

(ii) A broker or dealer shall be permitted to enter into a revolving subordinated loan agreement which provides for prepayment within less than one year of all or any portion of the Payment Obligation thereunder at the option of the broker or dealer upon the prior written approval of the Examining Authority for the broker or dealer. The Examining Authority, however, shall not approve any prepayment if:

/01 Qualified Lenders for Revolving Subordinated Loan Agreements

See interpretations 15c3-1(c)(2)/015 and 15c3-1d(a)(2)(v)(F)/01.

(SEC Staff to NYSE) (No. 01-4, April 2001)

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(c)(5)(ii) MISCELLANEOUS PROVISIONS (continued)

(A) After giving effect thereto (and to all Payments of Payment Obligations under any other subordinated agreements then outstanding, the maturity or accelerated maturities of which are scheduled to fall due within six months after the date such prepayment is to occur pursuant to this provision or on or prior to the date on which the Payment Obligation in respect of such prepayment is scheduled to mature disregarding this provision, whichever date is earlier) without reference to any projected profit or loss of the broker or dealer, either aggregate indebtedness of the broker or dealer would exceed 900 percent of its net capital or its net capital would be less than 200 percent of the minimum dollar amount required by paragraph § 240.15c3-1 or, in the case of a broker or dealer operating pursuant to paragraph (a)(1)(ii) of § 240.15c3-1, its net capital would be less than 6 percent of aggregate debit items computed in accordance with § 240.15c3-3a, or, if registered as a futures commission merchant, 10 percent of the funds required to be segregated pursuant to the Commodity Exchange Act and the regulations thereunder (less the market value of commodity options purchased by option customers on or subject to the rules of a contract market, each such deduction not to exceed the amount of funds in the option customer's account), is greater or its net capital would be less than 200 percent of the minimum dollar amount required by paragraph (a)(1)(ii) of this section or

(B) Pre-tax losses during the latest three-month period equaled more than 15% of current excess net capital.

Any subordination agreement entered into pursuant to this paragraph (c)(5)(ii) shall be subject to all the other provisions of this Appendix D. Any such subordination agreement shall not be considered equity for purposes of subsection (d) of Section 15c3-1, despite the length of the initial term of the loan.

/01 Loan Agreement Conditions

May be activated or increased for any purpose.

Maturity for purposes of SEA Rule 15c3-1(e) will be the maturity date of the underlying agreement unless notice has been given or Exchange approval requested for an earlier prepayment date.

All subordination agreements entered into pursuant to this subsection (c)(5)(ii) shall be subject to all the other provisions of Appendix D. Any such subordination agreement shall not be considered equity for purposes of SEA Rule 15c3-1(d), despite the length of the initial term of the loan.

(SEC Staff to NYSE) (No. 83-2, April 1983)

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(c) MISCELLANEOUS PROVISIONS (continued)

(6) Filing

(i) Two copies of any proposed subordination agreement (including non-conforming subordination agreements) shall be filed at least 10 days prior to the proposed execution date of the agreement with the Commission's Regional Office for the region in which the broker or dealer maintains its principal place of business or at such other time as the Regional Office for good cause shall accept such filing. Copies of the proposed agreement shall also be filed with the Examining Authority in such quantities and at such time as the Examining Authority may require. The broker or dealer shall also file with said parties a statement setting forth the name and address of the lender, the business relationship of the lender to the broker or dealer, and whether the broker or dealer carried funds or securities for the lender at or about the time the proposed agreement was so filed. All agreements shall be examined by the Commission's Regional Office or the Examining Authority with whom such agreement is required to be filed prior to their becoming effective. No proposed agreement shall be a satisfactory subordination agreement for the purposes of this section unless and until the Examining Authority has found the agreement acceptable and such agreement has become effective in the form found acceptable.

(ii) The broker or dealer need not file with the Regional Office for the region in which the broker or dealer maintains its principal place of business (if a Regional Office is not its Examining Authority) copies of any proposed subordination agreement or the statement described above if the Examining Authority for that broker or dealer has consented to file with the Commission periodic reports (not less than monthly) summarizing for the period, on a firm-by-firm basis, the subordination agreements it has approved for that period. Such reports should include at the minimum, the amount of the loan and its duration, the name of the lender and the business relationship of the lender to the broker or dealer.

(7) Subordination Agreements in Effect Prior to Adoption

Any subordination agreement which has been entered into prior to December 20, 1978 and which has been deemed to be satisfactorily subordinated pursuant to 17 CFR 240.15c3-1 as in effect prior to December 20, 1978, shall continue to be deemed a satisfactory subordination agreement until the maturity of such agreement. Provided, That no renewal of an agreement which provides for automatic or optional renewal by the broker or dealer or lender shall be deemed to be a satisfactory subordination agreement unless such renewed agreement meets the requirements of this Appendix within 6 months from December 20, 1978. Provided, further, That all subordination agreements must meet the requirements of this Appendix within 5 years of December 20, 1978.

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