

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

All other unsecured receivables; all assets doubtful of collection less any reserves established therefor; the amount by which the market value of securities failed to receive outstanding longer than thirty (30) calendar days exceeds the contract value of such fails to receive; and the funds on deposit in a “segregated trust account” in accordance with 17 CFR 270.27d-1 under the Investment Company Act of 1940, but only to the extent that the amount on deposit in such segregated trust account exceeds the amount of liability reserves established and maintained for refunds of charges required by sections 27(d) and 27(f) of the Investment Company Act of 1940; Provided, That the following need not be deducted:

(1) Any amounts deposited in a Customer Reserve Bank Account or PAB Reserve Bank Account pursuant to § 240.15c3-3(e),

(2) Cash and securities held in a securities account at a carrying broker or dealer (except where the account has been subordinated to the claims of creditors of the carrying broker or dealer), and

(3) Clearing deposits.

/01 Fails to Receive Outstanding More Than 30 Calendar Days

The amount by which the market value of fails to receive outstanding longer than 30 calendar days exceeds the contract value is computed on a contract-by-contract basis.

(SEC Letter to Oppenheim, Appel, Dixon & Co., May 7, 1979)  
(No. 79-10, December 1979)

/011 Syndicate Receivables

Syndicate profits receivable must be deducted (see SEA Rule 15c3-1(c)(2)(iv)(C)) unless the asset:

1. Adequately secures (see definition at SEA Rule 15c3-1(c)(5)) a fixed liability and are the sole recourse of the creditor for nonpayment of the liability, and
2. The loan agreement has been submitted to and found acceptable by the Exchange.

(SEC Staff to NYSE) (No. 88-14, August 1988)

**CUSTOMER PROTECTION – RESERVES AND CUSTODY OF SECURITIES**  
**SEA Rule 15c3-3**

(a) DEFINITIONS

For the purpose of this section:

(1) The term “customer” shall mean any person from whom or on whose behalf a broker or dealer has received or acquired or holds funds or securities for the account of that person. The term shall not include a broker or dealer, a municipal securities dealer, or a government securities broker or government securities dealer. The term shall, however, include another broker or dealer to the extent that broker or dealer maintains an omnibus account for the account of customers with the broker or dealer in compliance with Regulation T (12 CFR 220.1 through 220.12). The term shall not include a general partner or director or principal officer of the broker or dealer or any other person to the extent that person has a claim for property or funds which by contract, agreement or understanding, or by operation of law, is part of the capital of the broker or dealer or is subordinated to the claims of creditors of the broker or dealer. In addition, the term shall not include a person to the extent that the person has a claim for security futures products held in a futures account, or any security futures product and any futures product held in a “proprietary account” as defined by the Commodity Futures Trading Commission in § 1.3(y) of this chapter. The term also shall not include a counterparty who has delivered collateral to an OTC derivatives dealer pursuant to a transaction in an eligible OTC derivative instrument, or pursuant to the OTC derivatives dealer’s cash management securities activities or ancillary portfolio management securities activities, and who has received a prominent written notice from the OTC derivatives dealer that:

(i) Except as otherwise agreed in writing by the OTC derivatives dealer and the counterparty, the dealer may repledge or otherwise use the collateral in its business;

(ii) In the event of the OTC derivatives dealer’s failure, the counterparty will likely be considered an unsecured creditor of the dealer as to that collateral;

(iii) The Securities Investor Protection Act of 1970 (15 U.S.C. 78aaa et seq.) (SIPA) does not protect the counterparty; and

(iv) The collateral will not be subject to the requirements of § 240.8c-1, § 240.15c2-1, § 240.15c3-2, or § 240.15c3-3.

SEA Rule 15c3-3(a)(1)(iv)

(a) DEFINITIONS (continued)

(2) The term “securities carried for the account of a customer” (hereinafter also “customer securities”) shall mean:

(i) Securities received by or on behalf of a broker or dealer for the account of any customer and securities carried long by a broker or dealer for the account of any customer; and

(ii) Securities sold to, or bought for, a customer by a broker or dealer.

(3) The term “fully paid securities” means all securities carried for the account of a customer in a cash account as defined in Regulation T (12 CFR 220.1 et seq.), as well as securities carried for the account of a customer in a margin account or any special account under Regulation T that have no loan value for margin purposes, and all margin equity securities in such accounts if they are fully paid: Provided, however, that the term fully paid securities does not apply to any securities purchased in transactions for which the customer has not made full payment.

(4) The term “margin securities” means those securities carried for the account of a customer in a margin account as defined in section 4 of Regulation T (12 CFR 220.4), as well as securities carried in any other account (such accounts hereinafter referred to as “margin accounts”) other than the securities referred to in paragraph (a)(3) of this section.

(a) DEFINITIONS (continued)

(5) The term “excess margin securities” shall mean those securities referred to in paragraph (a)(4) of this section carried for the account of a customer having a market value in excess of 140 percent of the total of the debit balances in the customer's account or accounts encompassed by paragraph (a)(4) of this section which the broker or dealer identifies as not constituting margin securities.

/01 Amount in Excess of 140% of Customer Debit

This term means those securities carried in a customer's security accounts having a market value in excess of 140% of the customer's net debit balance in such accounts. The net debit balance is determined by combining both debit and credit balances in all of a customer's security accounts exclusive of the credit balance in any bona fide short accounts after marking the short positions contained therein to the market. For these purposes only, when-issued transactions and unsettled security transactions in cash accounts are ignored. Unsettled security transactions are unpaid for security purchases and security sales where securities sold have not been received by the broker-dealer.

(SEC Release 34-9922, January 2, 1973)

(6) The term “qualified security” shall mean a security issued by the United States or a security in respect of which the principal and interest are guaranteed by the United States.

/01 GNMA Participation Certificates and Mortgage-Backed Securities

In addition to securities issued by the United States Treasury, Participation Certificates and Mortgage-Backed securities guaranteed by the Government National Mortgage Association (GNMA) have been deemed acceptable for deposit as a “qualified security”.

(SEC Staff to NYSE) (No. 88-1, February 1988)

/011 U. S. Governments Obtained Through Repo

U.S. Government securities obtained through repurchase agreements initiated by other brokers or dealers may be deposited into Reserve Bank Accounts.

(SEC Letter to NYSE, July 16, 1974)

(a) DEFINITIONS (continued)

(7) The term “bank” means a bank as defined in section 3(a)(6) of the Act and will also mean any building and loan, savings and loan or similar banking institution subject to supervision by a Federal banking authority. With respect to a broker or dealer that maintains its principal place of business in Canada, the term “bank” also means a Canadian bank subject to supervision by a Canadian authority.

(8) The term “free credit balances” means liabilities of a broker or dealer to customers which are subject to immediate cash payment to customers on demand, whether resulting from sales of securities, dividends, interest, deposits or otherwise, excluding, however, funds in commodity accounts which are segregated in accordance with the Commodity Exchange Act or in a similar manner, or which are funds carried in a proprietary account as that term is defined in regulations under the Commodity Exchange Act. The term “free credit balances” also includes, if subject to immediate cash payment to customers on demand, funds carried in a securities account pursuant to a self-regulatory organization portfolio margining rule approved by the Commission under section 19(b) of the Act (15 U.S.C. 78s(b)) (“SRO portfolio margining rule”), including variation margin or initial margin, marks to market, and proceeds resulting from margin paid or released in connection with closing out, settling or exercising futures contracts and options thereon.

(9) The term “other credit balances” means cash liabilities of a broker or dealer to customers other than free credit balances and funds in commodity accounts which are segregated in accordance with the Commodity Exchange Act or in a similar manner, or funds carried in a proprietary account as that term is defined in regulations under the Commodity Exchange Act. The term “other credit balances” also includes funds that are cash liabilities of a broker or dealer to customers other than free credit balances and are carried in a securities account pursuant to an SRO portfolio margining rule, including variation margin or initial margin, marks to market, and proceeds resulting from margin paid or released in connection with closing out, settling or exercising futures contracts and options thereon.

(10) The term “funds carried for the account of any customer” (hereinafter also “customer funds”) shall mean all free credit and other credit balances carried for the account of the customer.

(11) The term “principal officer” shall mean the president, executive vice president, treasurer, secretary or any other person performing a similar function with the broker or dealer.

(12) The term “household members and other persons related to principals” includes husbands or wives, children, sons-in-law or daughters-in-law and any household relative to whose support a principal contributes directly or indirectly. For purposes of this paragraph (a)(12), a principal shall be deemed to be a director, general partner, or principal officer of the broker or dealer.

SEA Rule 15c3-3(a)(12)

(a) DEFINITIONS (continued)

(13) The term “affiliated person” includes any person who directly or indirectly controls a broker or dealer or any person who is directly or indirectly controlled by or under common control with the broker or dealer. Ownership of 10% or more of the common stock of the relevant entity will be deemed prima facie control of that entity for purposes of this paragraph.

/01 Securities Accounts With Affiliates

Accounts which except for the affiliation would be classified as securities customers must be carried individually, by affiliate in accordance with SEA Rules 15c3-3 and 15c3-3a subject to Notes E(1) and E(6).

(SEC Staff to NYSE) (No. 91-9, July 1991)

(14) The term “securities account” shall mean an account that is maintained in accordance with the requirements of section 15(c)(3) of the Act (15 U.S.C. 78o(c)(3)) and §240.15c3-3.

(15) The term “futures account” (also referred to as “commodity account”) shall mean an account that is maintained in accordance with the segregation requirements of section 4d of the Commodity Exchange Act (7 U.S.C. 6d) and the rules thereunder.

(16) The term “PAB account” means a proprietary securities account of a broker or dealer (which includes a foreign broker or dealer, or a foreign bank acting as a broker or dealer) other than a delivery-versus-payment account or a receipt-versus-payment account. The term does not include an account that has been subordinated to the claims of creditors of the carrying broker or dealer.

(17) The term “Sweep Program” means a service provided by a broker or dealer where it offers to its customer the option to automatically transfer free credit balances in the securities account of the customer to either a money market mutual fund product as described in § 270.2a-7 of this chapter or an account at a bank whose deposits are insured by the Federal Deposit Insurance Corporation.

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SEA Rule 15c3-3(a)(17)

(b) PHYSICAL POSSESSION OR CONTROL OF SECURITIES (continued)

(2) A broker or dealer shall not be deemed to be in violation of the provisions of paragraph (b)(1) of this section regarding physical possession or control of customers' securities if, solely as the result of normal business operations, temporary lags occur between the time when a security is required to be in the possession or control of the broker or dealer and the time that it is placed in the broker's or dealer's physical possession or under its control, provided that the broker or dealer takes timely steps in good faith to establish prompt physical possession or control. The burden of proof shall be on the broker or dealer to establish that the failure to obtain physical possession or control of securities carried for the account of customers as required by paragraph (b)(1) of this section is merely temporary and solely the result of normal business operations including same day receipt and redelivery (turnaround), and to establish that it has taken timely steps in good faith to place them in its physical possession or control.

/01 Turnarounds – Allowability

Same day receipt and redelivery (turnaround) of a security which is received as a result of the settlement of a transaction is permitted even if such security of such class and issuer are required for possession or control, provided that the turnaround does not create or increase a deficiency. Same day receipt and redelivery does not include securities received as a recall from bank or stock loan, from safekeeping or from any control location.

It should be noted, however, that a broker-dealer must exercise due diligence to promptly obtain possession or control of fully paid and excess margin securities, including the taking of other steps prescribed by the rule for reducing or eliminating any deficiency.

(SEC Release 34-9922, January 2, 1973)

/02 Turnarounds - Availability

The same day turnaround rule is available only when the redelivery of the securities received is in satisfaction of a securities transaction that has reached settlement on the day of its receipt, is settling on the day of its receipt, or will reach settlement on the day following its receipt. Further, in order to qualify for the same day turnaround, such securities must be placed beyond the control of the broker-dealer on the same day such securities are received (receipt of a stock power on previously non-negotiable securities does not qualify as a turnaround).

(SEC Letter to Goldman, Sachs & Co., September 21, 1973)

(b)(3)(iii) PHYSICAL POSSESSION OR CONTROL OF SECURITIES (continued)/04 Other Acceptable Collateral (continued)

9. Non-governmental debt securities may be pledged when borrowing any securities, provided that, in the relevant cash market they are not traded flat or in default as to principal or interest, and are rated in one of the two highest rating categories by at least one NRSRO. If such securities are not denominated in U.S. dollars or in the currency of the securities being borrowed, the broker-dealer shall provide collateral in an amount that exceeds the minimum collateralization requirement in paragraph (b)(3) of Rule 15c3-3 by 1% when the securities pledged are denominated in the Euro, British pound, Swiss franc, Canadian dollar or Japanese yen, or by 5% when they are denominated in any other currency.

The categories of permissible collateral identified above do not include securities that (i) have no principal component, or (ii) accrue interest at the time of the pledge at a stated rate equal to or greater than 100% per annum (expressed as a percentage of the actual principal amount of the security).

Broker-dealers pledging any of the securities set forth above must, in addition to satisfying the notice requirements already contained in paragraph (b)(3) of Rule 15c3-3, include in the written agreement with the customer a notice that some of the securities being provided by the borrower as collateral under the agreement may not be guaranteed by the United States.

(SEA Release 34-47683, April 16, 2003) (No. 03-4, May 2003)

/05 Amendment to the Written Agreement

A mere modification of the written agreement with the customer will not permit the use of any collateral other than cash or U.S. Treasury bills and notes or an irrevocable letter of credit as stipulated in the text of subparagraph (b)(3)(iii) and the other acceptable collateral permitted under interpretation 15c3-3(b)(3)(iii)/04.

(SEC Staff to NYSE) (No. 03-4, May 2003)

(iv) Contains a prominent notice that the provisions of SIPA may not protect the lender with respect to the securities loan transaction and that, therefore, the collateral delivered to the lender may constitute the only source of satisfaction of the broker's or dealer's obligation in the event the broker or dealer fails to return the securities.

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SEA Rule 15c3-3(b)(3)(iv)

(b) PHYSICAL POSSESSION OR CONTROL OF SECURITIES (continued)

(4)(i) Notwithstanding paragraph (k)(2)(i) of this section, a broker or dealer that retains custody of securities that are the subject of a repurchase agreement between the broker or dealer and a counterparty shall:

(A) Obtain the repurchase agreement in writing;

/01 Written Agreement for Hold in Custody Repurchase Transactions

The Department of the Treasury interprets the provisions of 17 CFR 403.1, 403.4(e), and 403.5(d) to require registered broker-dealers transacting a business in government securities to obtain executed written agreements with their counterparties prior to entering into hold-in-custody repurchase transactions.

Note: 17 CFR 403.1 and 403.4(e) are Treasury Regulations that incorporate and/or modify SEA Rules 8c-1, 15c2-1, 15c3-2 and 15c3-3.

(Department of Treasury Letter to NYSE, August 2, 1990) (No. 90-8, September 1990)

(B) Confirm in writing the specific securities that are the subject of a repurchase transaction pursuant to such agreement at the end of the trading day on which the transaction is initiated and at the end of any other day during which other securities are substituted if the substitution results in a change to issuer, maturity date, par amount or coupon rate as specified in the previous confirmation;

(C) Advise the counterparty in the repurchase agreement that the Securities Investor Protection Corporation has taken the position that the provisions of SIPA do not protect the counterparty with respect to the repurchase agreement; and

(D) Maintain possession or control of securities that are the subject of the agreement.

(b)(4) PHYSICAL POSSESSION OR CONTROL OF SECURITIES (continued)

(ii) For purposes of this paragraph (4), securities are in the broker's or dealer's control only if they are in the control of the broker or dealer within the meaning of § 240.15c3-3(c)(1), (c)(3), (c)(5) or (c)(6) of this title.

/01 Hold-In Custody Repos - Foreign Securities

The SEC staff has issued a no action letter that permits foreign securities which are the subjects of hold-in custody repurchase agreements to be in control to the same extent it could deem fully-paid customer foreign securities to be in control pursuant to interpretations 15c3-3(c)(4)/01 and 15c3-3(c)(7)/01.

(SEC Letter to The First Boston Corporation, June 17, 1988) (No. 89-7, June 1989)

/02 Hold-In Custody Repos - FNMA or FHLMC Securities

When a broker-dealer delivers proprietary FNMA or FHLMC securities to Federal National Mortgage Association or Federal Home Loan Mortgage Corporation to be exchanged for newly issued FHLMC OR FNMA REMICS or other derivative securities, in the event the securities are the subject of a repurchase agreement the Federal Home Loan Mortgage Corporation and the Federal National Mortgage Association may be considered as control locations for the securities submitted for not more than five business days.

(SEC Letter to PSA, January 4, 1990) (No. 90-11, December 1990)

(b)(4) PHYSICAL POSSESSION OR CONTROL OF SECURITIES (continued)

(iii) A broker or dealer shall not be in violation of the requirement to maintain possession or control pursuant to paragraph (b)(4)(i)(D) during the trading day if:

(A) In the written repurchase agreement, the counterparty grants the broker or dealer the right to substitute other securities for those subject to the agreement; and

(B) The provision in the written repurchase agreement governing the right, if any, to substitute is immediately preceded by the following disclosure statement, which must be prominently displayed:

REQUIRED DISCLOSURE

The [seller] is not permitted to substitute other securities for those subject to this agreement and therefore must keep the [buyer's] securities segregated at all times, unless in this agreement the [buyer] grants the [seller] the right to substitute other securities. If the [buyer] grants the right to substitute, this means that the [buyer's] securities will likely be commingled with the [seller's] own securities during the trading day. The [buyer] is advised that, during any trading day that the [buyer's] securities are commingled with the [seller's] securities, they will be subject to liens granted by the [seller] to its clearing bank and may be used by the [seller] for deliveries on other securities transactions. Whenever the securities are commingled, the [seller's] ability to resegment substitute securities for the [buyer] will be subject to the [seller's] ability to satisfy the clearing lien or to obtain substitute securities.

(iv) A confirmation issued in accordance with paragraph (b)(4)(i)(B) of this section shall specify the issuer, maturity date, coupon rate, par amount and market value of the security and shall further identify a CUSIP or mortgage-backed security pool number, as appropriate, except that a CUSIP or a pool number is not required on the confirmation if it is identified in internal records of the broker or dealer that designate the specific security of the counterparty. For purposes of this paragraph (b)(4)(iv), the market value of any security that is the subject of the repurchase transaction shall be the most recently available bid price plus accrued interest, obtained by any reasonable and consistent methodology.

(v) This paragraph (b)(4) shall not apply to a repurchase agreement between the broker or dealer and another broker or dealer (including a government securities broker or dealer), a registered municipal securities dealer, or a general partner or director or principal officer of the broker or dealer or any person to the extent that the person's claim is explicitly subordinated to the claims of creditors of the broker or dealer.

(b) PHYSICAL POSSESSION OR CONTROL OF SECURITIES (continued)

(5) A broker or dealer is required to obtain and thereafter maintain the physical possession or control of securities carried for a PAB account, unless the broker or dealer has provided written notice to the account holder that the securities may be used in the ordinary course of its securities business, and has provided an opportunity for the account holder to object.

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(c) CONTROL OF SECURITIES

Securities under the control of a broker or dealer shall be deemed to be securities which:

(1) Are represented by one or more certificates in the custody or control of a clearing corporation or other subsidiary organization of either national securities exchanges or of a registered national securities association, or of a custodian bank in accordance with a system for the central handling of securities complying with the provisions of §§ 240.8c-1(g) and 240.15c2-1(g) the delivery of which certificates to the broker or dealer does not require the payment of money or value, and if the books or records of the broker or dealer identify the customers entitled to receive specified quantities or units of the securities so held for such customers collectively; or

/01 Specific Deposit with OCC

When customers secure their obligations as writers of call options with fully-paid or excess margin underlying securities and such securities are placed on “Specific Deposit” with OCC they are considered to be under the control of the broker-dealer.

(SEC Letter to CBOE, February 11, 1975)

/02 Bulk Deposit With OCC to Cover Short Call – Rescinded (No. 04-3, June 2004)/020 Bulk Deposit With OCC to Cover Short Call

A customer’s fully-paid or excess margin securities, other than underlying securities, securing his obligations as a writer of a call option, generally may not be subjected to a lien by OCC and therefore may not be placed on a “bulk deposit” with OCC since this is not a control location for broker-dealers.

However, where a customer writes a call option, the proceeds of his writing transaction are included in the “customer” account at OCC. The broker or dealer will be required to deposit additional margin to secure the customer’s writing obligation, and to this extent, fully-paid or excess margin securities held by the broker or dealer to margin such customer’s writing obligations, may be used to the extent of 140% of the amount derived by adding to the customer’s net debit balance the amount of margin required by OCC from the clearing member or the amount of margin required by the broker or dealer’s Designated Examining Authority. Customers’ securities with a market value in excess of 140% of that amount must be maintained in the possession or control of the broker or dealer.

(SEC Letter to CBOE, February 11, 1975)

(SEC Staff to NYSE) (No. 04-3, June 2004)

(c) CONTROL OF SECURITIES (continued)

(2) Are carried for the account of any customer by a broker or dealer and are carried in an omnibus credit account in the name of such broker or dealer with another broker or dealer in compliance with the requirements of section 7(f) of Regulation T (12 CFR 220.7(f)), such securities being deemed to be under the control of such broker or dealer to the extent that it has instructed such carrying broker or dealer to maintain physical possession or control of them free of any charge, lien, or claim of any kind in favor of such carrying broker or dealer or any persons claiming through such carrying broker or dealer; or

(3) Are the subject of bona fide items of transfer; provided that securities shall be deemed not to be the subject of bona fide items of transfer if, within 40 calendar days after they have been transmitted for transfer by the broker or dealer to the issuer or its transfer agent, new certificates conforming to the instructions of the broker or dealer have not been received by the broker or dealer, the broker or dealer has not received a written statement by the issuer or its transfer agent acknowledging the transfer instructions and the possession of the securities or the broker or dealer has not obtained a revalidation of a window ticket from a transfer agent with respect to the certificate delivered for transfer; or

/01 Securities Depository Position Report of Transfer Items

A broker-dealer's position report prepared by a securities industry depository company which list securities sent to transfer will serve as a written statement for bona fide items of transfer. The depository company must, however, have received within the 40 calendar days prescribed, a confirmation or a revalidation of the window ticket from the transfer agent.

(SEC Letter to Pacific Securities Depository Trust Company, July 29, 1986)  
(No. 88-6, April 1988)

/02 Canadian Transfer Items via a Securities Depository Company

The receipt for transfer items signed by the Vancouver Stock Exchange for items sent by a securities industry depository company for redelivery to Canadian transfer agents does not satisfy the requirements of SEA Rule 15c3-3(c)(3).

The written statement of acknowledgment must be issued by the issuer or the transfer agent.

The SEC has no agreement with the government of Canada or any of its Provinces regarding transfer agents.

(SEC Letter to Pacific Securities Depository Trust Company, July 29, 1986)  
(No. 88-6, April 1988)

(c)(3) CONTROL OF SECURITIES (continued)/03 Legal Box/ Unsigned Certificates

Securities in physical possession of the broker or dealer which are unsigned awaiting customers' signed stock powers and/or are pending legal papers needed to effect transfer are considered a good control location even though the securities are not acceptable to facilitate a good delivery. However, when the customer has been paid on the proceeds of the sale, these securities are only considered as good control for a period of ten (10) business days past settlement date.

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

(4) Are in the custody of a foreign depository, foreign clearing agency or foreign custodian bank which the Commission upon application from a broker or dealer, a registered national securities exchange, or a registered national securities association, or upon its own motion shall designate as a satisfactory control location for securities; or

/01 Custody of Foreign Securities

Foreign securities lodged abroad are considered to be in control of the broker-dealer for whom they are held pursuant to SEA Rule 15c3-3(c)(4) to the extent that:

1. The broker-dealer whose customers' securities are lodged abroad, applies to the SEC and has not had his application rejected within 90 days of the SEC's receipt of the application;
2. Such securities are not subject to any right, charge, security interest, lien or claim of any kind in favor of the foreign entity except for their safe custody or administration; and
3. Beneficial ownership of such securities is freely transferable without the payment of money or value other than for safe custody or administration (where it is the practice in foreign countries for the foreign entity to maintain a lien, claim, or other charge on customers' foreign securities for custody and administration charges, it is the broker-dealer's responsibility to pay charges, claims, etc., promptly and to be certain that the amount of such charges, claims, etc., remain at all times minimal).

(SEC Release 34-10429, October 12, 1973)

(c) CONTROL OF SECURITIES (continued)

(5) Are in the custody or control of a bank as defined in section 3(a)(6) of the Act, the delivery of which securities to the broker or dealer does not require the payment of money or value and the bank having acknowledged in writing that the securities in its custody or control are not subject to any right, charge, security interest, lien or claim of any kind in favor of a bank or any person claiming through the bank; or

/01 Savings and Loan Association

Federal Chartered Savings and Loan Association cannot be considered a good control location. It does not meet the definition of a bank under Section 3(a)(6) of the 1934 Act.

(SEC Letter to Bowman & Co., December 13, 1985) (No. 86-8, August 1986)

/011 Certificates of Deposit (Pooled CD's)

Where a broker-dealer is holding divided interests in jumbo certificates of deposit for its customers the certificates will not be considered to be in a good control location unless:

- The jumbo certificate is issued in the broker's name and is in the possession of the broker-dealer, or
- If the deposit is held in an account by the bank, the account must be in the name of the broker-dealer and the bank must have acknowledged to the broker-dealer in writing that the deposit is being held for the benefit of customers of the broker-dealer and is not subject to any right, charge, security interest, lien or claim of any kind in favor of the bank or any person claiming through the bank.

A balanced stock record position should be maintained for each CD describing the certificate and detailing the interests of each customer.

A savings and loan association may be treated as a good control location for this specific interpretation if the pooled certificates of deposit are handled in the manner specified.

(SEC Letter to Hunton & Williams, September 22, 1988) (No. 92-13, December 1992)

(c)(5) CONTROL OF SECURITIES (continued)

/02 Credit Unions

A credit union cannot be considered a good control location. It does not meet the definition of a bank under Section 3(a)(6) of the 1934 Act.

(SEC Letter to Olde & Co., Inc., May 26, 1986) (No. 88-1, February 1988)  
(SEC Staff to NYSE) (No. 92-13, December 1992)

/03 Commingled Securities Under Custody Agreements

When security custody agreements contain the appropriate language of SEA Rule 15c3-3(c)(5) and the securities are in fact not pledged or subject to any lien or claim by or through the bank, firm and customer securities may be commingled in the account.

(SEC Staff to NYSE) (No. 90-11, December 1990)

(6)(i) Are held in or are in transit between offices of the broker or dealer; or (ii) are held by a corporate subsidiary if the broker or dealer owns and exercises a majority of the voting rights of all of the voting securities of such subsidiary, assumes or guarantees all of the subsidiary's obligations and liabilities, operates the subsidiary as a branch office of the broker or dealer, and assumes full responsibility for compliance by the subsidiary and all of its associated persons with the provisions of the Federal securities laws as well as for all of the other acts of the subsidiary and such associated persons; or

/01 In-Transit Over Five Days - Not Control

Securities in transit for five business days or less between the broker-dealer and control locations are also deemed to be under control. The books and records of the broker-dealer shall clearly account for such items. An "in-transit" account may be used for this purpose.

(SEC Release 34-9922, January 2, 1973)

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(c) CONTROL OF SECURITIES (continued)

(7) Are held in such other locations as the Commission shall upon application from a broker or dealer find and designate to be adequate for the protection of customer securities.

/01 Foreign Securities

Foreign securities carried by broker-dealers for the account of customers of other broker-dealers are deemed in satisfactory control locations provided that:

1. The broker-dealer whose customers' securities are being carried elsewhere, applies to the SEC and has not had his application rejected within 90 days of the SEC's receipt of the application;
2. The securities are carried by the carrying broker-dealer in an account to be designated as a "Special Custody Account for the Exclusive Benefit of Customers of (name of the broker-dealer)" pursuant to SEA Rule 15c3-3(c)(7);
3. The account contains only the securities of customers of that particular broker-dealer; and
4. The particular broker-dealer for whose customers those securities are carried instructs the carrying broker-dealer to maintain physical possession or control of such securities free of any charge, lien, or claim of any kind in favor of the carrying broker-dealer.

Additionally, security transactions may not be effected through the account; its purpose being exclusively for the custody of customers' foreign securities. The carrying broker or dealer must also comply with the conditions set forth in interpretation 15c3-3(c)(4)/01.

(SEC Release 34-10429, October 12, 1973)

(d) REQUIREMENT TO REDUCE SECURITIES TO POSSESSION OR CONTROL

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

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

/01 Margin Section

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

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

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

(2) Securities included on the broker's or dealer's books or records as failed to receive more than 30 calendar days, then the broker or dealer shall, not later than the business day following the day on which such determination is made, take prompt steps to obtain physical possession or control of securities so failed to receive through a buy-in procedure or otherwise; or

/01 Foreign Issued, Foreign Settled Securities

Broker-dealers may, in lieu of the buy-in requirement of paragraphs (d)(2) and (m) for foreign issued, foreign settled securities apply the following alternative procedures.

1. File a written notice with its designated examining authority of its intention to apply this alternative;
2. Thirty days after settlement date, take a proprietary haircut charge for the securities failed to receive or those due from a customer pursuant to SEA Rule 15c3-1, reduced by the equity (or increased by the deficit) in the transaction on a mark-to-market basis. In those countries where settlement is on a seller's option basis rather than on a customary settlement cycle, the settlement date for the purposes of this alternative will be considered to be a day not more than 30 days from trade date;
3. Maintain in its records a schedule of the current settlement cycle of each country in which it trades; and
4. Maintain and preserve separate records, in whatever form appropriate, detailing, by country, the total number of failed to receive contracts, the total number of long sale transactions with customers when possession of the securities has not been obtained pursuant to paragraph (m) and the total contractual value of those contracts and transactions.

All other no-action letters relating to this subject should be considered withdrawn and may no longer be relied upon.

(SEC Letter to SIA, June 16, 1988) (No. 88-20, November 1988)

/02 Fail to Receive Buy-In

When buy-in procedures are required to obtain securities located in fail to receive, such procedures must be initiated not later than the business day following the 30th calendar day.

(SEC Letter to J. B. Hanauer, February 22, 1988) (No. 89-7, June 1989)

SEA 15c3-3(d)(2)/02

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

(3) Securities receivable by the broker or dealer as a security dividend receivable, stock split or similar distribution for more than 45 calendar days, then the broker or dealer shall, not later than the business day following the day on which such determination is made, take prompt steps to obtain physical possession or control of securities so receivable through buy-in procedure or otherwise; or

/01 Extensions of Time

See paragraph (n) of this section for information regarding time periods and processing of extensions of time.

(SEC Staff to NYSE)

(4) Securities included on the broker's or dealer's books or records that allocate to a short position of the broker or dealer or a short position for another person, excluding positions covered by paragraph (m) of this section, for more than 30 calendar days, then the broker or dealer must, not later than the business day following the day on which the determination is made, take prompt steps to obtain physical possession or control of such securities. For the purposes of this paragraph (d)(4), the 30 day time period will not begin to run with respect to a syndicate short position established in connection with an offering of securities until the completion of the underwriter's participation in the distribution as determined pursuant to § 242.100(b) of Regulation M of this chapter (17 CFR 242.100 through 242.105); or

(5) A broker or dealer which is subject to the requirements of § 240.15c3-3 with respect to physical possession or control of fully paid and excess margin securities shall prepare and maintain a current and detailed description of the procedures which it utilizes to comply with the possession or control requirements set forth in this section. The records required herein shall be made available upon request to the Commission and to the designated examining authority for such broker or dealer.

(e) SPECIAL RESERVE BANK ACCOUNT FOR THE EXCLUSIVE BENEFIT OF CUSTOMERS AND PAB ACCOUNTS

(1) Every broker or dealer must maintain with a bank or banks at all times when deposits are required or hereinafter specified a “Special Reserve Bank Account for the Exclusive Benefit of Customers” (hereinafter referred to as the “Customer Reserve Bank Account”) and a “Special Reserve Bank Account for Brokers and Dealers” (hereinafter referred to as the “PAB Reserve Bank Account”), each of which will be separate from the other and from any other bank account of the broker or dealer. Such broker or dealer must at all times maintain in the Customer Reserve Bank Account and the PAB Reserve Bank Account, through deposits made therein, cash and/or qualified securities in amounts computed in accordance with the formula attached as Exhibit A (17 CFR 240.15c3-3a), as applied to customer and PAB accounts respectively.

/01 Money Market Deposit Account (MMDA)

Special reserve bank account deposits required under SEA Rule 15c3-3(e) may be made in Money Market Deposit Accounts as defined under Regulation D of the Federal Reserve System provided that:

1. The deposit is with a bank as defined by paragraph (a)(7) of this rule in accordance with the requirements of SEA Rule 15c3-3(e) and (f), and
2. The total deposit with any one bank does not exceed 50% of the broker-dealers' excess net capital and is not greater than 10% of the bank's equity capital.

(SEC Staff to NYSE) (No. 88-1, February 1988)

/010 Money Market Deposits – Aggregate Concentration Calculation

Reserve Bank Accounts maintained at the same bank which contain money market deposits, certificates of deposit (issued by the applicable bank) and time deposits must be aggregated in determining the “total deposit” when computing the concentration calculation pursuant to interpretation 15c3-3(e)(1)/01.

Also, see interpretations 15c3-3(a)(6)/0121 (Certificates of Deposit – Aggregate Concentration Calculation) and 15c3-3(e)(1)/012 (Time Deposits – Aggregate Concentration Calculation).

(SEC Staff to NYSE) (No. 05-2, January 2005)

(e)(1) SPECIAL RESERVE BANK ACCOUNT FOR THE EXCLUSIVE BENEFIT OF CUSTOMERS AND PAB ACCOUNTS (continued)

/011 Time Deposits

Special reserve bank account deposits may include Time Deposits provided the broker-dealer receives the following written confirmation from the bank:

1. The funds are payable upon demand;
2. The funds are held free of any restrictions; and
3. If prematurely withdrawn, the funds are subject only to the forfeiture of interest.

In addition, the bank where the deposit is held must meet the definition of a “bank” pursuant to SEA Rule 15c3-3(a)(7).

(SEC Staff to NYSE) (No. 96-3, April 1996)

The total time deposits with any one bank may not exceed 50% of the broker-dealer’s excess net capital or may not be greater than 10% of the bank’s equity capital.

(SEC Staff to NYSE) (No. 02-7, August 2002)

Time deposits issued by a parent or an affiliated bank of a broker-dealer are not qualified for deposit into a Reserve Bank Account.

(SEC Staff to NYSE) (No. 07-4, April 2007)

/012 Time Deposits – Aggregate Concentration Calculation

Reserve Bank Accounts maintained at the same bank which contain time deposits, certificates of deposit (issued by the applicable bank) and money market deposits must be aggregated in determining the “total deposit” when computing the concentration calculation pursuant to interpretation 15c3-3(e)(1)/011.

Also, see interpretations 15c3-3(a)(6)/0121 (Certificates of Deposit – Aggregate Concentration Calculation) and 15c3-3(e)(1)/010 (Money Market Deposits – Aggregate Concentration Calculation).

(SEC Staff to NYSE) (No. 05-2, January 2005)

SEA Rule 15c3-3(e)(1)/012

(e)(1) SPECIAL RESERVE BANK ACCOUNT FOR THE EXCLUSIVE BENEFIT OF CUSTOMERS AND PAB ACCOUNTS (continued)

/02 IRA and ERISA Contribution Account

A separate Reserve Bank Account may be established to be used exclusively to deposit IRA and ERISA contributions pending purchase of mutual fund shares or other qualified investment for IRA and other qualifying retirement plans.

(SEC Letter to PaineWebber Incorporated, April 17, 1986) (No. 88-1, February 1988)

/03 Offshore Deposits

Offshore deposits (Eurodollars, etc.) whether representing demand deposits, time deposits or certificates of deposit are not good for special reserve bank account deposits under SEA Rule 15c3-3(e).

(SEC Staff to NYSE) (No. 86-8, August 1986)

/04 Borrowed Treasury Securities

A “qualified security” as defined by SEA Rule 15c3-3(a)(6), which has been borrowed may be deposited into a Reserve Bank Account provided the broker-dealer is a Primary Dealer. Borrowed qualified securities must be secured by cash or other qualified securities to be acceptable for 15c3-3 deposits.

The value allowed for the deposit is the lesser of the contract or market value of the securities borrowed. In lieu of valuing the securities at the lesser of contract or market broker-dealers can take a 2% reduction to the market value in valuing these securities for reserve formula deposit purposes.

(SEC Staff to NYSE) (No. 92-3, January 1992)

It is acceptable for a broker-dealer that is not a Primary Dealer to borrow qualified securities as defined by SEA Rule 15c3-3(a)(6) for deposit into a Reserve Bank Account.

(SEC Staff to NYSE) (No. 03-2, March 2003)

(e)(1) SPECIAL RESERVE BANK ACCOUNT FOR THE EXCLUSIVE BENEFIT OF CUSTOMERS AND PAB ACCOUNTS (continued)

/05 Conditions for Deposit of Qualified Securities

The SEC has prescribed the following conditions for holding “Qualified Securities” on deposit in a Rule 15c3-3 Special Reserve Account for the Exclusive Benefit of Customers:

Physical Certificates: The bank actually holding the certificates must acknowledge to the broker-dealer in writing that the certificates are identified on the bank’s books as being held free of lien in a special account for the exclusive benefit of customers of the broker-dealer.

Uncertificated Securities: The bank having the direct access to the Federal Reserve Bank book entry system must acknowledge in writing to the broker-dealer that the securities are held free of any lien in a special reserve account for the exclusive benefit of customers of the broker-dealer.

Reverse Repurchase Agreement Securities: Possession or control must be established as in the appropriate paragraph above.

Identification: The securities deposited must be clearly identified as to class or series of the issuer, interest rate and maturity.

Clearance Procedure: Where a purchase or sale involves funds or securities already held in the special reserve account, the values removed must be replaced with equal or greater value. Reductions to the special reserve account may only be made in conformity and compliance with SEA Rule 15c3-3(g) and supported by a reserve formula computation as required. The payment for the purchase and receipt of the securities or delivery of securities and deposit of proceeds in the special reserve account must take place simultaneously.

Correspondent Banks: Where purchase of the securities is made through a correspondent bank, the broker-dealer must be notified by the bank holding the qualified securities or having the direct contact with the Federal Reserve book entry system that:

1. The securities it is carrying for the correspondent bank are identified on its books as being held free of lien in a separate special account for the exclusive benefit of customers of the broker-dealer.
2. The securities are clearly identified as to class or series of the issuer, interest rate and maturity.

(NYSE Interpretation Memo No. 89-13, November 27, 1989)  
(SEC Staff to NYSE) (No. 90-1, February 1990)

SEA Rule 15c3-3(e)(1)/05

(e)(1) SPECIAL RESERVE BANK ACCOUNT FOR THE EXCLUSIVE BENEFIT OF CUSTOMERS AND PAB ACCOUNTS (continued)

/051 Valuation of Reserve Deposits

If the market value of securities deposited falls below the reserve requirement an additional deposit should be made to maintain an amount not less than the amount computed in the prior reserve computation.

Qualified securities should be valued at the lesser of contract value or market value when the securities are obtained through reverse repurchase agreements or securities borrowed.

In lieu of valuing the securities at the lesser of contract value or market value, broker-dealers can take a 2% reduction to the market value in valuing these securities for reserve formula deposit purposes.

(SEC Staff to NYSE) (No. 92-3, January 1992)

/06 Reserve Deposit Made From Overdrawn Account

Checks deposited or funds wired to a Reserve Bank Account that create overdrafts or increase existing overdrafts in other bank accounts do not qualify as bona fide deposits. Consequently, a broker-dealer cannot meet its deposit requirements by utilizing such overdrawn funds.

(SEC Staff to NYSE and NASD) (No. 90-10, December 1990)

In order for a deposit to be considered bona-fide, the bank account from which the funds were wired must have had funds on deposit per the books of the broker-dealer in excess of the wired amount at the time the wire was sent.

A deposit made from an overdrawn account can only be considered an unsecured loan if the bank acknowledges in writing that the overdrawn amount is an unsecured loan and the bank agrees to only look toward the overdrawn account for payment (no cross liens).

(SEC Staff to NYSE) (No. 91-5, June 1991)

(SEC Staff to NYSE) (No. 92-3, January 1992)

(e)(1) SPECIAL RESERVE BANK ACCOUNT FOR THE EXCLUSIVE BENEFIT OF CUSTOMERS AND PAB ACCOUNTS (continued)

/061 Cash Deposits into Reserve Bank Account

Cash deposited into a Reserve Bank Account must have originated directly from wire transfers of fed funds or certified checks and be in the account by 10 A.M.

Clearing house checks are not acceptable for direct deposit into the reserve bank account unless the checks are received directly from customers.

(SEC Staff to NYSE) (No. 99-5, May 1999)

Drafts, notes, or ACH deposits are not acceptable for direct deposit into the Reserve Bank Account.

(SEC Staff to NYSE) (No. 03-2, March 2003)

/062 Timeliness of Reserve Deposit

A broker-dealer may utilize a reserve bank account located outside of its normal home office (main headquarter) time zone. Funds and/or securities must be deposited into that account no later than one hour after the opening of its home office (but never later than 10 A.M. local time) provided prior written justification has been given to the DEA regarding using a reserve bank account located outside of the broker-dealer's home office time zone.

(SEC Staff to NYSE) (No. 99-5, May 1999)

/07 Foreign Currency Deposits

A firm may deposit foreign currency in a Special Reserve Bank Account, provided there is an offsetting customer credit balance in the same foreign currency in the Reserve Formula.

In addition, the bank where the deposit is held must meet the definition of a "bank" pursuant to SEA Rule 15c3-3(a)(7), and the account must be established and maintained pursuant to SEA Rule 15c3-3(f).

(SEC Staff to NYSE) (No. 96-3, April 1996)

(e)(1) SPECIAL RESERVE BANK ACCOUNT FOR THE EXCLUSIVE BENEFIT OF CUSTOMERS AND PAB ACCOUNTS (continued)

/08 Tri-Party Repurchase Arrangement for Special Reserve Bank Account Deposits

A broker-dealer that elects to maintain its Special Reserve Bank Account (“the Account”) pursuant to a tri-party repurchase agreement arrangement where the bank agrees to act as the broker-dealer’s agent for the substitution of securities and funds on deposit, must comply with the following requirements:

1. The broker-dealer is responsible for any violation of SEA Rule 15c3-3 resulting from this arrangement.
2. Both the broker-dealer and the counterparty to the transaction must maintain accounts with the same bank.
3. The bank must have equity capital in excess of \$500,000,000.
4. The bank cannot be the counterparty, or be affiliated with the counterparty, to the transactions.
5. Daily confirmations must be provided by the bank to the broker-dealer disclosing the specific securities that were deposited into and withdrawn from the broker-dealer’s Account. The term “various” or other similar terms, cannot be used to identify the securities on the confirmations.
6. The bank must prepare monthly statements for the Account disclosing all money movements and securities activity. The specific securities deposited into and withdrawn from the Account must be disclosed and the time stamps for these movements must be made available upon request of the SEC or other SRO. The term “various” or other similar terms, cannot be used to identify the securities on the statements. In lieu of a separate monthly statement, the bank can provide daily activity reports as long as all activity is shown for each day of the month, and on days where no activity occur a statement is provided that states there were no money or securities movements in the account(s).
7. In lieu of recording the specific securities deposited into and withdrawn from the Account on its stock record, the broker-dealer may elect to produce a subsidiary listing or record which must clearly identify the specific securities deposited into and withdrawn from the Account. This subsidiary record must be maintained in accordance with the recordkeeping requirements of SEA Rules 17a-3 and 17a-4.

(e)(1) SPECIAL RESERVE BANK ACCOUNT FOR THE EXCLUSIVE BENEFIT OF CUSTOMERS AND PAB ACCOUNTS (continued)

/08 Tri-Party Repurchase Arrangement for Special Reserve Bank Account Deposits (continued)

8. Accurate pricing of securities must be performed by the bank. In addition, qualified securities used in these tri-party repurchase arrangements for deposit into the Account must have readily available market prices.
9. The broker-dealer will be responsible for verifying that appropriate qualified securities were deposited into the Account.
10. The bank must represent that it will at all times maintain funds or securities in the Account at least equivalent to the aggregate amount(s) deposited by the broker-dealer.
11. The bank must represent that it will not place a lien on funds or securities it moves as part of the tri-party repurchase arrangement prior to their deposit into the Account.

(SEC Staff to NYSE) (No. 97-6, October 1997)

**(NEXT PAGE IS 2421)**

(e) SPECIAL RESERVE BANK ACCOUNT FOR THE EXCLUSIVE BENEFIT OF CUSTOMERS AND PAB ACCOUNTS (continued)

(2) With respect to each computation required pursuant to paragraph (e)(1) of this section, a broker or dealer must not accept or use any of the amounts under items comprising Total Credits under the formula referred to in paragraph (e)(1) of this section except for the specified purposes indicated under items comprising Total Debits under the formula, and, to the extent Total Credits exceed Total Debits, at least the net amount thereof must be maintained in the Customer Reserve Bank Account and PAB Reserve Bank Account pursuant to paragraph (e)(1) of this section.

/01 Substitution of Firm Bank Loans for Customer Bank Loans

The SEC has censured a broker-dealer for violating SEA Rule 15c3-3(e)(2) by substituting proprietary bank loans for customer bank loans prior to making the formula computation and reinstating the customer loans shortly thereafter.

The SEC advised that the intent and objective of SEA Rule 15c3-3, as indicated in SEC Release No. 34-9775 dated September 14, 1972, is...”to perfect the objective of the elimination of the use by broker-dealers of customer funds and securities to finance firm overhead and such firm activities as trading and underwriting through the separation of customer related activities from other broker-dealer operations”.

The SEC staff advised that broker-dealers that would otherwise have had a higher reserve deposit requirement should be aware that substitution of proprietary or non-customer bank loans for customer bank loans only for the week-end or on the day of the formula computation may be regarded as an intentional circumvention of the rule if the customer loans are reinstated shortly thereafter.

(NYSE Interpretation Memo No. 89-10, August 23, 1989)  
(SEC Staff to NYSE) (No. 89-11, October 1989)

(e)(2) SPECIAL RESERVE BANK ACCOUNT FOR THE EXCLUSIVE BENEFIT OF CUSTOMERS AND PAB ACCOUNTS (continued)

/02 Circumvention of the Rule's Requirement

The SEC staff advises that the following activities by broker-dealers may be considered as a circumvention of the requirement of SEA Rule 15c3-3(e)(2) and an avoidance of the deposit requirement of SEA Rule 15c3-3(e)(1).

1. During periods between formula computations funds are obtained by loaning customer securities. Immediately before a formula computation is made, securities are borrowed which are returned after the formula computation date and for purposes of the formula computation a presumption is made, through the application of an allocation system or otherwise, that the securities it borrowed - and not customer securities - were on loan on the formula computation date.
2. Any other device, window dressing or restructuring of transactions made solely to reduce an excess of credits over debits in the formula computation and not otherwise a normal business transaction.

The staff of the SEC further stated that such techniques may be in violation of the requirements of the rule in that customer derived funds are used during the period between computations "...in areas of the firm's business such as underwriting, trading and overhead" contrary to the purpose of the rule.

(NYSE Interpretation Memo No. 89-10, August 23, 1989)  
(SEC Staff to NYSE) (No. 89-11, October 1989)

**(NEXT PAGE IS 2431)**

SEA Rule 15c3-3(e)(2)/02

(e) SPECIAL RESERVE BANK ACCOUNT FOR THE EXCLUSIVE BENEFIT OF CUSTOMERS AND PAB ACCOUNTS (continued)

(3) RESERVE BANK ACCOUNT COMPUTATIONS

(i) Computations necessary to determine the amount required to be deposited in the Customer Reserve Bank Account and PAB Reserve Bank Account as specified in paragraph (e)(1) of this section must be made weekly, as of the close of the last business day of the week, and the deposit so computed must be made no later than one hour after the opening of banking business on the second following business day; provided, however, a broker or dealer which has aggregate indebtedness not exceeding 800 percent of net capital (as defined in § 240.15c3-1) and which carries aggregate customer funds (as defined in paragraph (a)(10) of this section), as computed at the last required computation pursuant to this section, not exceeding \$1,000,000, may in the alternative make the Customer Reserve Bank Account computation monthly, as of the close of the last business day of the month, and, in such event, must deposit not less than 105 percent of the amount so computed no later than one hour after the opening of banking business on the second following business day.

(ii) If a broker or dealer, computing on a monthly basis, has, at the time of any required computation, aggregate indebtedness in excess of 800 percent of net capital, such broker or dealer must thereafter compute weekly as aforesaid until four successive weekly Customer Reserve Bank Account computations are made, none of which were made at a time when its aggregate indebtedness exceeded 800 percent of its net capital.

(iii) A broker or dealer that does not carry the accounts of a “customer” as defined by this section or conduct a proprietary trading business may make the computation to be performed with respect to PAB accounts under paragraph (e)(1) of this section monthly rather than weekly. If a broker or dealer performing the computation with respect to PAB accounts under paragraph (e)(1) of this section on a monthly basis is, at the time of any required computation, required to deposit additional cash or qualified securities in the PAB Reserve Bank Account, the broker or dealer must thereafter perform the computation required with respect to PAB accounts under paragraph (e)(1) of this section weekly until four successive weekly computations are made, none of which is made at a time when the broker or dealer was required to deposit additional cash or qualified securities in the PAB Reserve Bank Account.

(iv) Computations in addition to the computations required in this paragraph (e)(3), may be made as of the close of any business day, and the deposits so computed must be made no later than one hour after the opening of banking business on the second following business day.

(v) The broker or dealer must make and maintain a record of each such computation made pursuant to this paragraph (e)(3) or otherwise and preserve each such record in accordance with § 240.17a-4.

(e)(3) SPECIAL RESERVE BANK ACCOUNT FOR THE EXCLUSIVE BENEFIT OF CUSTOMERS AND PAB ACCOUNTS (continued)

/01 Weekly Computations

If the normal month-ending day is other than that as of which a weekly computation would be made, only one computation will be required during that week, as of the month-ending day. In any case, a complete computation must be made as of the month end date.

See interpretation 15c3-3(Exhibit A)/01 for special rules covering the weekly determination of various Reserve Formula items.

(SEC Release 34-9922, January 2, 1973) (No. 83-2, April 1983)

If the normal month-end closing date is other than the last business day of the calendar month, the next weekly computation is required as of the close of the last business day of the following week. No computation is required as of the last business day of the calendar month.

(SEC Release 34-9922, January 2, 1973) (No. 89-7, June 1989)

/02 Recomputations

If broker-dealers compute the reserve requirement as of Friday and have a deposit requirement, and recompute on Tuesday as of Monday night and do not have a deposit requirement, they must make a deposit on Tuesday based on Friday's computation but then can immediately make a withdrawal based on Monday's determination.

(SEC Staff to NYSE)

/021 Reserve Deposits Focusing Around Bank Holidays

Deposits into the reserve bank account can be made on Wednesday in lieu of Tuesday when securities exchanges are open on the preceding Monday but it is considered a bank holiday.

(SEC Staff to NYSE) (No. 99-5, May 1999)

(e)(3) SPECIAL RESERVE BANK ACCOUNT FOR THE EXCLUSIVE BENEFIT OF CUSTOMERS AND PAB ACCOUNTS (continued)/03 Required Weekly Computations For Monthly Computers

When a broker-dealer who calculates the Reserve Formula on a monthly basis finds that customer credits exceed \$1,000,000 or Aggregate Indebtedness exceeds 800 per centum of net capital, the Reserve Formula computation must be made weekly until customer credits (free credit and other credit balances carried for customers) are less than \$1,000,000 as reflected in four weekly computations, or aggregate indebtedness does not exceed 800 per centum of net capital whereupon the broker-dealer can return to a monthly calculation.

(SEC Staff to NYSE) (78-1, May 1978)

/04 Reducing Credits to Avoid Deposit - Prohibited

Once a deposit requirement is established, it may not be negated by using the proceeds of an unsecured or firm collateralized borrowing to reduce credit balances contained in the formula. The rule requires a deposit to be made.

(SEC Staff to NYSE) (No. 88-1, February 1988)

/05 Excess Reserve Account Deposits Into Affiliated Banks – Rescinded (No. 03-3, April 2003)/051 Reserve Bank Account Cash Deposits with Parent and/or Affiliated Bank

A broker-dealer may maintain a reserve bank account cash deposit(s) with a parent and/or affiliated bank(s) provided that:

1. The cash deposit(s) is with a bank that meets the definition of a “bank” pursuant to SEA Rule 15c3-3(a)(7), and
2. The greater of the amount of the excess cash deposit, if any, resulting from the following two calculations, will not be counted towards the 15c3-3 deposit:
  - a) The aggregate cash deposit(s) with the parent and/or affiliated bank(s) in excess of 50% of the broker-dealer’s excess net capital based on the most recently filed FOCUS Report, or
  - b) In aggregate, the cash deposit with the parent and/or any affiliated bank(s) in excess of 10% of each respective bank’s equity capital.

(SEC Staff to NYSE) (No. 03-3, April 2003)

SEA Rule 15c3-3(e)(3)/051

(e) SPECIAL RESERVE BANK ACCOUNT FOR THE EXCLUSIVE BENEFIT OF CUSTOMERS AND PAB ACCOUNTS (continued)

(4) If the computation performed under paragraph (e)(3) of this section with respect to PAB accounts results in a deposit requirement, the requirement may be satisfied to the extent of any excess debit in the computation performed under paragraph (e)(3) of this section with respect to customer accounts of the same date. However, a deposit requirement resulting from the computation performed under paragraph (e)(3) of this section with respect to customer accounts cannot be satisfied with excess debits from the computation performed under paragraph (e)(3) of this section with respect to PAB accounts.

(5) In determining whether a broker or dealer maintains the minimum deposits required under this section, the broker or dealer must exclude the total amount of any cash deposited with an affiliated bank. The broker or dealer also must exclude cash deposited with a non-affiliated bank to the extent that the amount of the deposit exceeds 15% of the bank's equity capital as reported by the bank in its most recent Call Report or any successor form the bank is required to file by its appropriate Federal banking agency (as defined by section 3 of the Federal Deposit Insurance Act (12 U.S.C. 1813)).

**(NEXT PAGE IS 2451)**

SEA Rule 15c3-3(e)(5)

(f) NOTIFICATION OF BANKS

A broker or dealer required to maintain a Customer Reserve Bank Account and PAB Reserve Bank Account prescribed by paragraph (e)(1) of this section or who maintains a Special Account referred to in paragraph (k) of this section must obtain and preserve in accordance with § 240.17a-4 a written notification from each bank with which it maintains a Customer Reserve Bank Account, a PAB Reserve Bank Account, or a Special Account that the bank was informed that all cash and/or qualified securities deposited therein are being held by the bank for the exclusive benefit of the customers and account holders of the broker or dealer in accordance with the regulations of the Commission, and are being kept separate from any other accounts maintained by the broker or dealer with the bank, and the broker or dealer must have a written contract with the bank which provides that the cash and/or qualified securities will at no time be used directly or indirectly as security for a loan to the broker or dealer by the bank and will not be subject to any right, charge, security interest, lien, or claim of any kind in favor of the bank or any person claiming through the bank.

/01 Reserve Account Notification Letter

The notification letter required from the bank where the Reserve Account is established and maintained as required by SEA Rule 15c3-3(f) must be on bank stationary and signed by an authorized officer of the bank.

In addition, the letter must clearly state that said account "...shall be subject to no right, charge, security interest, lien or claim of any kind in favor of the bank or any person claiming through the bank."

There must be no exceptions, either directly or indirectly, to this provision.

(SEC Staff to NASD) (No. 90-10, December 1990)

(f) NOTIFICATION OF BANKS (continued)/02 Amendment to Reserve Account Notification Letter

If the notification letter required from the bank, where the Reserve Account is established and maintained, contains language similar to the following:

[bank] may and is hereby authorized to obey the order, judgment, decree, or levy of any court which order, judgment, decree, or levy relates in whole or in part to the [Reserve] Account.

then the notification letter must be amended to also include the following provisions:

1. [bank] shall not assert any claim against the [Reserve] Account.
2. [bank] shall immediately notify the United States Securities and Exchange Commission (“SEC”), the Securities Investor Protection Corporation (“SIPC”), and the designated examining authority of the broker or dealer that maintains the [Reserve] Account at [bank] if a legal action is initiated asserting any claim against the [Reserve] Account or if a court order is entered relating to the [Reserve] Account.
3. In the event that any legal action in any court is initiated asserting any claim against the [Reserve] Account, [bank] shall inform the court that the [Reserve] Account is an account maintained at [bank] by a broker or dealer, that the [Reserve] Account was established pursuant to Securities Exchange Act of 1934 Rule 15c3-3, that all cash and/or qualified securities deposited in the [Reserve] Account are being held by [bank] for the exclusive benefit of customers and/or proprietary accounts of introducing brokers (“PAIB”) of the broker or dealer in accordance with the regulations of the SEC, and that [bank] has agreed in writing with the broker or dealer that the [Reserve] Account shall be subject to no right, charge, security interest, lien, or claim of any kind in favor of [bank] or any person claiming through [bank].

(SEC Staff to NYSE) (No. 02-5, May 2002)

**(NEXT PAGE IS 2461)**

SEA Rule 15c3-3(f)/02

(g) WITHDRAWALS FROM THE RESERVE BANK ACCOUNTS

A broker or dealer may make withdrawals from a Customer Reserve Bank Account and a PAB Reserve Bank Account if and to the extent that at the time of the withdrawal the amount remaining in the Customer Reserve Bank Account and PAB Reserve Bank Account is not less than the amount then required by paragraph (e) of this section. A bank may presume that any request for withdrawal from a Reserve Bank Account is in conformity and compliance with this paragraph (g). On any business day on which a withdrawal is made, the broker or dealer shall make a record of the computation on the basis of which he makes such withdrawal, and he shall preserve such computation in accordance with § 240.17a-4.

/01 Federal Funds Sale or Loan

The sale or loan of Federal Funds on deposit in a Special Reserve Bank account whether made overnight or for an extended period are considered to be withdrawals without the computation required under SEA Rule 15c3-3(g).

(SEC Letter to Holland & Holland, August 20, 1984) (No. 84-9, November 1984)

/02 Reserve Computation Not Required - Substitution

A Reserve Account computation is not required when qualified securities are withdrawn provided that federal funds or other qualified securities have been deposited prior to or at the same time as the withdrawal.

Market appreciation and/or accrued interest on a deposit cannot be withdrawn without preparing a current reserve computation.

(SEC Letter to Olde & Co., Inc., April 1, 1986) (No. 88-1, February 1988)

(SEC Staff to NYSE) (No. 92-3, January 1992)

/021 Reserve Computation Not Required - Funds Received and Remitted by Mutual Fund Sponsor

No computation is required to withdraw funds from a separate Reserve Bank Account established to be used exclusively to deposit immediately upon receipt from customers for remittance to a specific mutual fund sponsor, provided:

- The funds are withdrawn only for remittance to the mutual fund sponsor no later than noon of the next business day following deposit; and
- The amount on deposit shall always equal the credits contained in the formula for the related customers.

(SEC Letter to The Ohio Company, March 21, 1985) (No. 88-1, February 1988)

(g) WITHDRAWALS FROM THE RESERVE BANK ACCOUNTS (continued)/03 Reserve Computation Not Required - IRA and ERISA Contributions

No computation is required to withdraw funds from a separate Reserve Bank Account established to be used exclusively to deposit immediately upon receipt for customers' IRA and ERISA contributions, provided:

- The amount on deposit is maintained in cash and is withdrawn only to purchase mutual fund shares or other qualified investments for IRA and other qualifying retirement plans for the customers whose funds were deposited into the separate account; and
- The amount on deposit shall always equal the credits contained in the formula for the related customers.

(SEC Letter to PaineWebber Inc., April 17, 1986) (No. 88-1, February 1988)

/04 Timeframe for Withdrawal

Excess funds may be withdrawn from the Reserve Bank Account no later than one hour after the opening of banking business on the second business day following the computation.

(SEC Letter to Wall Street Clearing Co., April 11, 1984) (No. 88-1, February 1988)

/041 Multiple Withdrawals

Multiple withdrawals from the Reserve Bank Account are not specifically prohibited as long as they are done within the permissible time frame from the completion of the reserve computation until no later than one hour after the opening of banking business on the second business day following the computation date. Furthermore, the sum of the withdrawals cannot exceed the amount computed to be in excess of the requirement.

Broker-dealers should not make a practice of multiple withdrawals.

(SEC Staff to NYSE) (No. 03-2, March 2003)

(g) WITHDRAWALS FROM THE RESERVE BANK ACCOUNT (continued)/05 Reserve Computation Not Required - Substantial Deposits For Specific Current Purpose

No computation is required to withdraw customer funds from a Reserve Bank Account when received in the following three circumstances and conditions:

- In anticipation of a securities transaction on behalf of that customer;
- In order to satisfy a customer's request in connection with a sale of the customer's securities which generates proceeds; or
- In order to pay an issuer for a customer transaction resulting from a firm contractual commitment.

The following conditions apply to each of the above circumstances:

1. The customer funds received in connection with a specific securities purchase or sale creating the free credit item are deposited directly into a separate Reserve Bank Account established in conformity with SEA Rule 15c3-3(f) when the funds are received. This account would be in addition to any other of the broker-dealer's customary Reserve Bank Accounts. (Each underwriting will be deemed to be a single purchase regardless of the number of the broker-dealer's customers purchasing securities pursuant to the underwriting.) The receipt and disbursement of the customer funds must be separately identified on a broker-dealer's records. The credit items may not be netted against any debit items;
2. The amount received per transaction or with respect to a particular customer is equal to at least 25% of the total of the credit items in the most recent Reserve Requirement computation required by SEA Rule 15c3-3(e);
3. If a broker-dealer is required to segregate customer funds pursuant to more than one transaction at any particular time, the funds of each transaction should not be commingled with those of any other transaction; and
4. The broker-dealer has net capital equal to at least \$250,000 at the time of receipt of the customer monies.

(SEC Letter to NYSE, April 25, 1990) (No. 90-6, September 1990)

(h) BUY-IN OF SHORT SECURITY DIFFERENCES

A broker or dealer shall within 45 calendar days after the date of the examination, count, verification and comparison of securities pursuant to § 240.17a-13 or otherwise or to the annual report of financial condition in accordance with § 240.17a-5 or 240.17a-12, buy-in all short security differences which are not resolved during the 45-day period.

/01 Extensions of Time

See paragraph (n) of this section for information regarding time periods and processing of extensions of time.

(SEC Staff to NYSE)

(i) NOTIFICATION IN THE EVENT OF FAILURE TO MAKE A REQUIRED DEPOSIT

If a broker or dealer shall fail to make in its Customer Reserve Bank Account, PAB Reserve Bank Account or special account a deposit, as required by this section, the broker or dealer shall by telegram immediately notify the Commission and the regulatory authority for the broker or dealer, which examines such broker or dealer as to financial responsibility and shall promptly thereafter confirm such notification in writing.

/01 Hindsight Deficiency

If a broker-dealer which is presently in compliance with the cash reserve provisions of the rule, discovers by hindsight that a cash reserve deficiency existed as a result of an error in the determination of a required deposit, the broker-dealer would still be required to make notification to the bodies indicated in the rule. This notification shall be made by telegraphic or other appropriate means (registered letter) promptly after discovery with a representation that the broker-dealer is presently in compliance with the cash reserve provisions of the rule. It is suggested that the notification include an explanation as to the reason for the error and action taken to prevent a recurrence in the future.

(SEC Staff to NYSE) (No. 80-4, March 1980)

(j) TREATMENT OF FREE CREDIT BALANCES

(1) A broker or dealer must not accept or use any free credit balance carried for the account of any customer of the broker or dealer unless such broker or dealer has established adequate procedures pursuant to which each customer for whom a free credit balance is carried will be given or sent, together with or as part of the customer's statement of account, whenever sent but not less frequently than once every three months, a written statement informing the customer of the amount due to the customer by the broker or dealer on the date of the statement, and that the funds are payable on demand of the customer.

(2) A broker or dealer must not convert, invest, or transfer to another account or institution, credit balances held in a customer's account except as provided in paragraphs (j)(2)(i) and (ii) of this section.

(i) A broker or dealer is permitted to invest or transfer to another account or institution, free credit balances in a customer's account only upon a specific order, authorization, or draft from the customer, and only in the manner, and under the terms and conditions, specified in the order, authorization, or draft.

(ii) A broker or dealer is permitted to transfer free credit balances held in a customer's securities account to a product in its Sweep Program or to transfer a customer's interest in one product in a Sweep Program to another product in a Sweep Program, provided:

(A) For an account opened on or after the effective date of this paragraph (j)(2)(ii), the customer gives prior written affirmative consent to having free credit balances in the customer's securities account included in the Sweep Program after being notified:

(1) Of the general terms and conditions of the products available through the Sweep Program; and

(2) That the broker or dealer may change the products available under the Sweep Program.

(j)(2)(ii) TREATMENT OF FREE CREDIT BALANCES

(B) For any account:

(1) The broker or dealer provides the customer with the disclosures and notices regarding the Sweep Program required by each self-regulatory organization of which the broker or dealer is a member;

(2) The broker or dealer provides notice to the customer, as part of the customer's quarterly statement of account, that the balance in the bank deposit account or shares of the money market mutual fund in which the customer has a beneficial interest can be liquidated on the customer's order and the proceeds returned to the securities account or remitted to the customer; and

(3)(i) The broker or dealer provides the customer with written notice at least 30 calendar days before:

(A) Making changes to the terms and conditions of the Sweep Program;

(B) Making changes to the terms and conditions of a product currently available through the Sweep Program;

(C) Changing, adding or deleting products available through the Sweep Program; or

(D) Changing the customer's investment through the Sweep Program from one product to another.

(ii) The notice must describe the new terms and conditions of the Sweep Program or product or the new product, and the options available to the customer if the customer does not accept the new terms and conditions or product.

**(NEXT PAGE IS 2501)**

SEA Rule 15c3-3(j)(2)(ii)(B)(3)(ii)

(k) EXEMPTIONS

(1) The provisions of this rule shall not be applicable to a broker or dealer meeting all of the following conditions:

(i) The broker's or dealer's transactions as dealer (as principal for its own account) are limited to the purchase, sale and redemption of redeemable securities of registered investment companies or of interests or participations in an insurance company separate account, whether or not registered as an investment company; except that a broker or dealer transacting business as a sole proprietor may also effect occasional transactions in other securities for its own account with or through another registered broker or dealer;

(ii) The broker's or dealer's transactions as broker (agent) are limited to: (a) the sale and redemption of redeemable securities of registered investment companies or of interests or participations in an insurance company separate account, whether or not registered as an investment company; (b) the solicitation of share accounts for savings and loan associations insured by an instrumentality of the United States; and (c) the sale of securities for the account of a customer to obtain funds for immediate reinvestment in redeemable securities of registered investment companies; and

(iii) The broker or dealer promptly transmits all funds and delivers all securities received in connection with its activities as a broker or dealer, and does not otherwise hold funds or securities for, or owe money or securities to, customers.

(iv) Notwithstanding the foregoing, this rule shall not apply to any insurance company which is a registered broker-dealer, and which otherwise meets all of the conditions in paragraphs (k)(1) (i), (ii) and (iii) of this section, solely by reason of its participation in transactions that are a part of the business of insurance, including the purchasing, selling or holding of securities for or on behalf of such company's general and separate accounts.

**(NEXT PAGE IS 2511)**

SEA Rule 15c3-3(k)(1)(iv)

(k) EXEMPTIONS (continued)

(2) The provisions of this rule shall not be applicable to a broker or dealer:

(i) Who carries no margin accounts, promptly transmits all customer funds and delivers all securities received in connection with its activities as a broker or dealer, does not otherwise hold funds or securities for, or owe money or securities to, customers and effectuates all financial transactions between the broker or dealer and its customers through one or more bank accounts, each to be designated as “Special Account for the Exclusive Benefit of Customers of (name of the broker or dealer)”; or

/01 “Book-entry” Securities Belonging to Customers

This exemption is not available to a broker-dealer that meets the other standards stipulated in this provision but is accountable to customers for “book-entry” securities (such as Federal Agency securities) carried long in the customers' accounts on the broker-dealer's books of account.

(SEC Letter to A. Webster Dougherty & Co., Inc., June 6, 1980)  
(No. 81-9, December 1981)

/02 Certificates of Deposit - Outstanding Checks

Overnight balances, i.e., the amount of money represented by checks drawn on the (k)(2)(i) account and in the process of collection may under prescribed conditions and with limitations be invested in the (k)(2)(i) account in 14 day certificates of deposit.

The level of such investment is determined by using the 14 day moving average balance of checks issued but not presented to the account for payment, adjusted by known factors based on past experience and any applicable early withdrawal penalties, but in no event to exceed \$1,000,000.

The broker-dealer will at all times keep no less than \$100,000 of its own funds in the account and obtain a line of credit from the bank in which the account is held to ensure payment of presented checks and prevent any checks from being returned. If, for any reason the line of credit is not available, the bank must redeem as many CD's as necessary to honor the checks presented.

Any restrictions, including those in SEA Rule 15c3-3(f), as to the Special Account must pertain also to the CD's in the account.

(SEC Letter to Summit Corporation, April 22, 1986) (No. 88-1, February 1988)

(k)(2) EXEMPTIONS (continued)

(ii) Who, as an introducing broker or dealer, clears all transactions with and for customers on a fully disclosed basis with a clearing broker or dealer, and who promptly transmits all customer funds and securities to the clearing broker or dealer which carries all of the accounts of such customers and maintains and preserves such books and records pertaining thereto pursuant to the requirements of §§ 240.17a-3 and 240.17a-4 of this chapter, as are customarily made and kept by a clearing broker or dealer.

/01 Bank Affiliated Broker-Dealers (BABD)

A BABD that introduces customer accounts can (1) direct transfer of funds from the accounts of its customers at a non-affiliated clearing broker-dealer (CBD) and its affiliated bank, and (2) accept and place securities orders received from its affiliated bank's Trust Department to be settled on a DVP/RVP basis by the CBD and qualify for the (k)(2)(ii) exemption, if:

1. The BABD obtains and preserves as part of its records a written authorization from its CBD and its customers authorizing them to direct transfers of funds from their accounts at affiliated banks;
2. The BABD will have access to the CBD's and its customers' accounts at the bank solely for the purpose of settling the balance owing from any trades the customers have made; and
3. The BABD enters into a written agreement with its affiliated bank in which the affiliated bank agrees to be responsible to the customers or the CBD for any loss of funds resulting from misappropriation, conversions or errors made by the BABD in connection with the settlement of any securities transactions.

(SEC Letter to NASD, July 1, 1986) (No. 88-1, February 1988)

(k)(2)(ii) EXEMPTIONS (continued)

/017 Checks Written By Introducing Firms on Behalf of the Clearing Firm

A (k)(2)(ii) broker-dealer may write checks for its customers drawn on a bank account of its clearing firm if:

1. The bank account is in the name of the clearing firm;
2. There is a written agreement between the carrying firm and the introducing broker-dealer stating that the introducing firm may draw upon the account only as agent; and
3. The customer's account is debited the amount of the check when the check is issued and the outstanding checks payable to the customers of the correspondents are included in the clearing firm's 15c3-3 Reserve Formula credit balances.

(SEC Staff to NYSE) (No. 96-4, November 1996)

(3) Upon written application by a broker or dealer, the Commission may exempt such broker or dealer from the provisions of this section, either unconditionally or on specified terms and conditions, if the Commission finds that the broker or dealer has established safeguards for the protection of funds and securities of customers comparable with those provided for by this rule and that it is not necessary in the public interest or for the protection of investors to subject the particular broker or dealer to the provisions of this section.

**(NEXT PAGE IS 2531)**

SEA Rule 15c3-3(k)(3)

(1) DELIVERY OF SECURITIES

Nothing stated in this section shall be construed as affecting the absolute right of a customer of a broker or dealer to receive in the course of normal business operations following demand made on the broker or dealer, the physical delivery of certificates for:

(1) Fully-paid securities to which he is entitled, and,

(2) Margin securities upon full payment by such customer to the broker or dealer of the customer's indebtedness to the broker or dealer; and, subject to the right of the broker or dealer under Regulation T (12 CFR 220) to retain collateral for its own protection beyond the requirements of Regulation T, excess margin securities not reasonably required to collateralize such customer's indebtedness to the broker or dealer.

**(NEXT PAGE IS 2551)**

(m) COMPLETION OF SELL ORDERS ON BEHALF OF CUSTOMERS

If a broker or dealer executes a sell order of a customer (other than an order to execute a sale of securities which the seller does not own) and if for any reason whatever the broker or dealer has not obtained possession of the securities from the customer within 10 business days after the settlement date, the broker or dealer shall immediately thereafter close the transaction with the customer by purchasing securities of like kind and quantity: Provided, however, the term "customer" for the purpose of this paragraph (m) shall not include a broker or dealer who maintains an omnibus credit account with another broker or dealer in compliance with section 7(f) of Regulation T (12 CFR 220.7(f)).

Note to paragraph (m): See 38 FR 12103, May 9, 1973 for an order suspending indefinitely the operation of paragraph (m) as to sell orders for exempted securities (e.g., U.S. Government and municipal obligations).

/01 Short Against the Box

A customer selling a security short against the box is considered to be selling securities he does not own.

(SEC Release 34-9922, January 2, 1973)

/02 Government Securities

The buy-in provision applies to all U.S. Government securities which have not been received from the customer within 30 calendar days after settlement date except mortgage backed securities, which must be bought in within 60 calendar days if not received from the customer pursuant to the requirements of the Treasury Rule.

(U.S. Treasury Department Release, February 28, 1994)  
(SEC Staff to NYSE) (No. 95-3, May 1995)

/03 Exempt securities

Debt obligations of the World Bank, the Asian Development Bank and the Inter-American Development Bank are treated as exempt securities for purposes of SEA Rule 15c3-3(m) but are not considered qualified securities for use in the Reserve Bank Account.

(SEC Staff to NYSE)

(m) COMPLETION OF SELL ORDERS ON BEHALF OF CUSTOMERS (continued)

/04 Dividend Claims Against Customers

Short positions in customer accounts arising from dividends received directly by customers upon which the broker/dealer has a claim are sales related items and therefore SEA Rule 15c3-3(m) applies. In such circumstances the buy-in period required by paragraph (m) shall be 10 business days from the payable date, unless a ten business day period after settlement date would result in the buy-in being required at a later date. (Note: Extensions of time under paragraph (n) apply.)

(SEC to Merrill Lynch, Pierce, Fenner & Smith Inc., December 17, 1973)  
(No. 78-1, May 1978)

/05 Sale of Securities to be Received Under Employee Stock Option Plan

When a broker-dealer exercises an employee stock option for a customer, it must have acknowledgement from the issuer that a freely transferable, readily saleable and marketable security in negotiable form will be promptly delivered to the broker-dealer within 13 business days after exercise notice is given to the issuer (when acknowledgement is given by telephone, the condition should be restated in the transmittal to the issuer).

The exercise shall be subject to the following:

- When the security has been sold and has not been received from the issuer within 13 business days following trade date of the sale, it is subject to the buy-in provision of this paragraph (m) unless an extension of time is requested and approved under paragraph (n) of this rule.

(SEC Staff to NYSE) (No. 88-20, November 1988)

(m) COMPLETION OF SELL ORDERS ON BEHALF OF CUSTOMERS (continued)/06 Foreign Issued, Foreign Settled Securities

Broker-dealers may, in lieu of the 10 day buy-in requirement for foreign issued, foreign settled securities apply alternative procedures (which are also applicable to fails to receive over 30 calendar days old of foreign issued, foreign settled securities).

The alternative procedure stipulates:

1. The filing of a written notice with the designated examining authority of the intention to apply the alternative procedure;
2. The taking of proprietary haircut charges pursuant to SEA Rule 15c3-1 on securities due from customers on long sale transactions 30 days after settlement date, or 30 days from trade date where settlement is on a seller's option basis rather than on a customary settlement cycle; and
3. The maintenance and preservation of certain detailed records concerning the number and contractual value of contracts and transactions in foreign issued, foreign settled securities.

See interpretation 15c3-3(d)(2)/01 for complete details.

(SEC Letter to SIA, June 16, 1988) (No. 88-20, November 1988)

**(NEXT PAGE IS 2561)**

(n) EXTENSION OF TIME

If a registered national securities exchange or a registered national securities association is satisfied that a broker or dealer is acting in good faith in making the application and that exceptional circumstances warrant such action, such exchange or association, on application of the broker or dealer, may extend any period specified in paragraphs (d)(2) through (4), (h) and (m) of this section, relating to the requirement that such broker or dealer take action within a designated period of time to buy-in a security, for one or more limited periods commensurate with the circumstances. Each such exchange or association shall make and preserve for a period of not less than 3 years a record of each extension granted pursuant to paragraph (n) of this section which shall contain a summary of the justification for the granting of the extension.

/01 Extensions under (d)(2), (d)(3) and (h)

The Exchange will consider extension requests in accordance with paragraphs (d)(2), (d)(3) and (h) on all securities regardless of where they are listed or traded. Requests are to be submitted to the Exchange electronically, either by the Exchange's PC (Personal Computer) System or directly from the member firm's computer to the Exchange's computer (CPU to CPU).

/02 Extensions under (m)

The Exchange will consider extension requests in accordance with subparagraph (m), "customer sales," on all securities regardless of where they are listed or traded. Requests are to be submitted to the Exchange electronically, either by the Exchange's PC (Personal Computer) System or directly from the member firm's computer to the Exchange's computer (CPU to CPU).

/03 Extension request authorization

All member organizations applying for extensions to the Exchange are required to have an officer, partner or an authorized person representing the firm, review all requests before submitting them to the Exchange. In accordance with NYSE Rule 342, "Offices - Approval, Supervision and Control", the firm representative should insure that each request is in compliance with SEA Rule 15c3-3 and that the reason for the request is based on extenuating circumstances.

(o) SECURITY FUTURES PRODUCTS

(1) WHERE SECURITY FUTURES PRODUCTS SHALL BE HELD

A broker or dealer registered with the Commission pursuant to section 15(b)(1) of the Act (15 U.S.C. 78o(b)(1)) that is also a futures commission merchant registered with the Commodity Futures Trading Commission pursuant to section 4f(a)(1) of the Commodity Exchange Act (7 U.S.C. 6f(a)(1)):

(i) Shall hold a customer's security futures products in either a securities account or a futures account; and

(ii) Shall establish written policies or procedures for determining whether customer security futures products will be placed in a securities account or a futures account and, if applicable, the process by which a customer may elect the type or types of account in which security futures products will be held (including the procedure to be followed if a customer fails to make an election of account type).

(2) DISCLOSURE AND RECORD REQUIREMENTS

(i) Except as provided in paragraph (o)(2)(ii), before a broker or dealer registered with the Commission pursuant to section 15(b)(1) of the Act (15 U.S.C. 78o(b)(1)) accepts the first order for a security futures product from or on behalf of a customer, the broker or dealer shall furnish the customer with a disclosure document containing the following information:

(A) A description of the protections provided by the requirements set forth under this section and SIPA applicable to a securities account;

(B) A description of the protections provided by the requirements set forth under section 4d of the Commodity Exchange Act (7 U.S.C. 6d) applicable to a futures account;

(C) A statement indicating whether the customer's security futures products will be held in a securities account or a futures account, or whether the firm permits customers to make or change an election of account type; and

(D) A statement that, with respect to holding the customer's security futures products in a securities account or a futures account, the alternative regulatory scheme is not available to the customer with relation to that account.

(ii) Where a customer account containing an open security futures product position is transferred to a broker or dealer registered with the Commission pursuant to section 15(b)(1) of the Act (15 U.S.C. 78o(b)(1)), that broker or dealer may instead provide the statements described in paragraphs (o)(2)(i)(C) and (o)(2)(i)(D) of this section no later than ten business days after the date the account is received.

(o) SECURITY FUTURES PRODUCTS (continued)

(3) CHANGES IN ACCOUNT TYPE

A broker or dealer registered with the Commission pursuant to section 15(b)(1) of the Act (15 U.S.C. 78o(b)(1)) that is also a futures commission merchant registered pursuant to section 4f(a)(1) of the Commodity Exchange Act (7 U.S.C. 6f(a)(1)) may change the type of account in which a customer's security futures products will be held; provided that:

(i) The broker or dealer creates a record of each change in account type, including the name of the customer, the account number, the date the broker or dealer received the customer's request to change the account type, if applicable, and the date the change in account type became effective; and

(ii) The broker or dealer, at least ten days before the customer's account type is changed;

(A) Notifies the customer in writing of the date that the change will become effective, and

(B) Provides the customer with the disclosures described in paragraph (o)(2)(i) of this section.

**(NEXT PAGE IS 2601)**

FORMULA FOR DETERMINATION OF CUSTOMER AND PAB ACCOUNT  
RESERVE REQUIREMENTS OF BROKERS AND DEALERS UNDER § 240.15c3-3

	<u>CREDITS</u>	<u>DEBITS</u>
1. Free credit balances and other credit balances in customers' security accounts. (See Note A)	\$ XXX	
2. Monies borrowed collateralized by securities carried for the accounts of customers. (See Note B)	XXX	
3. Monies payable against customers' securities loaned. (See Note C)	XXX	
4. Customers' securities failed to receive. (See Note D)	XXX	
5. Credit balances in firm accounts which are attributable to principal sales to customers.	XXX	
6. Market value of stock dividends, stock splits and similar distributions receivable outstanding over 30 calendar days.	XXX	
7. Market value of short security count differences over 30 calendar days old.	XXX	
8. Market value of short securities and credits (not to be offset by longs or by debits) in all suspense accounts over 30 calendar days.	XXX	
9. Market value of securities which are in transfer in excess of 40 calendar days and have not been confirmed to be in transfer by the transfer agent or the issuer during the 40 days.	XXX	

FORMULA FOR DETERMINATION OF CUSTOMER AND PAB ACCOUNT  
RESERVE REQUIREMENTS OF BROKERS AND DEALERS UNDER § 240.15c3-3

	<u>CREDITS</u>	<u>DEBITS</u>
10. Debit balances in customers' cash and margin accounts excluding unsecured accounts and accounts doubtful of collection. (See Note E)		\$ XXX
11. Securities borrowed to effectuate short sales by customers and securities borrowed to make delivery on customers' securities failed to deliver.		XXX
12. Failed to deliver of customers' securities not older than 30 calendar days.		XXX
13. Margin required and on deposit with the Options Clearing Corporation for all option contracts written or purchased in customer accounts. (See Note F)		XXX
14. Margin required and on deposit with a clearing agency registered with the Commission under section 17A of the Act (15 U.S.C. 78q-1) or a derivatives clearing organization registered with the Commodity Futures Trading Commission under section 5b of the Commodity Exchange Act (7 U.S.C. 7a-1) related to the following types of positions written, purchased or sold in customer accounts: (1) security futures products and (2) futures contracts (and options thereon) carried in a securities account pursuant to an SRO portfolio margining rule. (See Note G)		XXX
TOTAL CREDITS	<u>\$ XXX</u>	
TOTAL DEBITS		<u>\$ XXX</u>
15. Excess of total credits (sum of items 1-9) over total debits (sum of items 10-14) required to be on deposit in the "Reserve Bank Account" (§ 240.15c3-3(e)). If the computation is made monthly as permitted by this section, the deposit must be not less than 105% of the excess of total credits over total debits.		<u>\$XXX</u>

NOTES REGARDING THE CUSTOMER RESERVE BANK ACCOUNT COMPUTATIONNote A

Item 1 must include all outstanding drafts payable to customers which have been applied against free credit balances or other credit balances and must also include checks drawn in excess of bank balances per the records of the broker or dealer.

Note B

Item 2 must include the amount of options-related or security futures product-related Letters of Credit obtained by a member of a registered clearing agency or a derivatives clearing organization which are collateralized by customers' securities, to the extent of the member's margin requirement at the registered clearing agency or derivatives clearing organization. Item 2 must also include the amount of Letters of Credit which are collateralized by customers' securities and related to other futures contracts (and options thereon) carried in a securities account pursuant to an SRO portfolio margining rule.

Note C

Item 3 must include in addition to monies payable against customers' securities loaned the amount by which the market value of securities loaned exceeds the collateral value received from the lending of such securities.

Note D

Item 4 must include in addition to customers' securities failed to receive the amount by which the market value of securities failed to receive and outstanding more than thirty (30) calendar days exceeds their contract value.

Note E

(1) Debit balances in margin accounts must be reduced by the amount by which a specific security (other than an exempted security) which is collateral for margin accounts exceeds in aggregate value 15 percent of the aggregate value of all securities which collateralize all margin accounts receivable; provided, however, the required reduction must not be in excess of the amounts of the debit balance required to be excluded because of this concentration rule. A specified security is deemed to be collateral for a margin account only to the extent it represents in value not more than 140 percent of the customer debit balance in a margin account.

(2) Debit balances in special omnibus accounts, maintained in compliance with the requirements of Section 7(f) of Regulation T (12 CFR 220.7(f)) or similar accounts carried on behalf of another broker or dealer, must be reduced by any deficits in such accounts (or if a credit, such credit must be increased) less any calls for margin, mark to the market, or other required deposits which are outstanding 5 business days or less.

NOTES REGARDING THE CUSTOMER RESERVE BANK ACCOUNT COMPUTATION  
(continued)

Note E (continued)

(3) Debit balances in customers' cash and margin accounts included in the formula under Item 10 must be reduced by an amount equal to 1 percent of their aggregate value.

(4) Debit balances in cash and margin accounts of household members and other persons related to principals of a broker or dealer and debit balances in cash and margin accounts of affiliated persons of a broker or dealer must be excluded from the Reserve Formula, unless the broker or dealer can demonstrate that such debit balances are directly related to credit items in the formula.

/01 Determination of the Includible Amount of an Affiliated Account's Debit Balance in the Reserve Formula

A broker-dealer may utilize its reserve formula allocation to determine the includible amount of an affiliated account's debit balance that is related to a credit item in the reserve formula.

The broker-dealer's allocation system must be able to determine any long security position underlying an affiliated account's debit balance that allocates to a short security position underlying the related credit item in the reserve formula.

Credit items that have been included in the reserve formula, which may be considered as relating to an affiliated account's debit balance, are limited to those related to bank loan, securities loan, fail to receive, customer short, proprietary short, PAIB short and non-customer short.

Each credit item identified as relating to an affiliated account's debit balance must have a related credit balance which is included in the reserve formula, in order for the affiliated account's debit balance to be includible in the reserve formula.

For purposes of this interpretation, the term "affiliated account" refers to cash and margin accounts of household members and other persons related to principals of a broker-dealer, as well as cash and margin accounts of affiliated persons of a broker-dealer.

(SEC Staff to NYSE) (No. 07-4, April 2007)

NOTES REGARDING THE CUSTOMER RESERVE BANK ACCOUNT COMPUTATION  
(continued)

Note E (continued)

(5) Debit balances in margin accounts (other than omnibus accounts) must be reduced by the amount by which any single customer's debit balance exceeds 25% (to the extent such amount is greater than \$50,000) of the broker-dealer's tentative net capital (i.e., net capital prior to securities haircuts) unless the broker or dealer can demonstrate that the debit balance is directly related to credit items in the Reserve Formula. Related accounts (e.g., the separate accounts of an individual, accounts under common control or subject to cross guarantees) will be deemed to be a single customer's accounts for purposes of this provision.

If the registered national securities exchange or the registered national securities association having responsibility for examining the broker or dealer ("designated examining authority") is satisfied, after taking into account the circumstances of the concentrated account including the quality, diversity, and marketability of the collateral securing the debit balances or margin accounts subject to this provision, that the concentration of debit balances is appropriate, then such designated examining authority may grant a partial or plenary exception from this provision. The debit balance may be included in the reserve formula computation for five business days from the day the request is made.

/01 Determination of the Includible Amount of a Customer's Concentrated Margin Debit Balance in the Reserve Formula

A broker-dealer may utilize its reserve formula allocation to determine the includible amount of a customer's concentrated margin debit balance that is related to a credit item in the reserve formula.

The broker-dealer's allocation system must be able to determine any long security position underlying a customer's concentrated margin debit balance that allocates to a short security position underlying the related credit item in the reserve formula.

Credit items that have been included in the reserve formula, which may be considered as relating to a customer's concentrated margin debit balance, are limited to those related to bank loan, securities loan, fail to receive, customer short, proprietary short, PAIB short and non-customer short.

Each credit item identified as relating to a customer's concentrated margin debit balance must have a related credit balance which is included in the reserve formula, in order for the customer's concentrated margin debit balance to be includible in the reserve formula.

(SEC Staff to NYSE) (No. 07-4, April 2007)

NOTES REGARDING THE CUSTOMER RESERVE BANK ACCOUNT COMPUTATION  
(continued)

Note E (continued)

(6) Debit balances in joint accounts, custodian accounts, participation in hedge funds or limited partnerships or similar type accounts or arrangements that include both assets of a person or persons who would be excluded from the definition of customer (“noncustomer”) and assets of a person or persons who would be included in the definition of customer must be included in the Reserve Formula in the following manner: if the percentage ownership of the non-customer is less than 5 percent then the entire debit balance shall be included in the formula; if such percentage ownership is between 5 percent and 50 percent then the portion of the debit balance attributable to the non-customer must be excluded from the formula unless the broker or dealer can demonstrate that the debit balance is directly related to credit items in the formula; or if such percentage ownership is greater than 50 percent, then the entire debit balance must be excluded from the formula unless the broker or dealer can demonstrate that the debit balance is directly related to credit items in the formula.

/01 Netting of Same Customer’s Balances – Rescinded (No. 04-3, June 2004)

/011 Netting of Same Customer’s Balances

A short sale credit balance, other than a balance resulting from an open short versus the box position, may not be used for netting purposes with a debit balance with the same customer in arriving at the excludable debit balance portion from the reserve formula pursuant to Notes E(4), E(5), and E(6).

(SEC Staff to NYSE) (No. 04-3, June 2004)

NOTES REGARDING THE CUSTOMER RESERVE BANK ACCOUNT COMPUTATION  
(continued)

Note E(6) (continued)

/02 Determination of the Includible Amount of a Non-Customer's Debit Balance Portion in a Joint Account with a Customer in the Reserve Formula

A broker-dealer may utilize its reserve formula allocation to determine the includible amount of a non-customer's debit balance portion in a joint account with a customer that is related to a credit item in the reserve formula.

The broker-dealer's allocation system must be able to determine any long security position underlying a non-customer's debit balance portion in a joint account with a customer that allocates to a short security position underlying the related credit item in the reserve formula.

Credit items that have been included in the reserve formula, which may be considered as relating to a non-customer's debit balance portion in a joint account with a customer, are limited to those related to bank loan, securities loan, fail to receive, customer short, proprietary short, PAIB short and non-customer short.

Each credit item identified as relating to a non-customer's debit balance portion in a joint account with a customer must have a related credit balance which is included in the reserve formula, in order for the non-customer's debit balance portion in a joint account with a customer to be includible in the reserve formula.

For purposes of this interpretation, the term "joint account" refers to joint accounts, custodian accounts, participation in hedge funds or limited partnerships or similar type accounts or arrangements between a "non-customer" and a "customer", as defined under SEA Rule 15c3-3(a)(1).

(SEC Staff to NYSE) (No. 07-4, April 2007)

Note F

Item 13 must include the amount of margin required and on deposit with the Options Clearing Corporation to the extent such margin is represented by cash, proprietary qualified securities and letters of credit collateralized by customers' securities.

NOTES REGARDING THE CUSTOMER RESERVE BANK ACCOUNT COMPUTATION  
(continued)

Note G

(a) Item 14 must include the amount of margin required and on deposit with a clearing agency registered with the Commission under section 17A of the Act (15 U.S.C. 78q-1) or a derivatives clearing organization registered with the Commodity Futures Trading Commission under section 5b of the Commodity Exchange Act (7 U.S.C. 7a-1) for customer accounts to the extent that the margin is represented by cash, proprietary qualified securities, and letters of credit collateralized by customers' securities.

/01 Customer Security Accounts Holding Security Futures Products

The provisions of Note G are only applicable to security futures products written, purchased or sold in customer security accounts.

(SEC Staff to NYSE) (No. 05-2, January 2005)

(b) Item 14 will apply only if the broker or dealer has the margin related to security futures products, or futures (and options thereon) carried in a securities account pursuant to an approved SRO portfolio margining program on deposit with:

(1) A registered clearing agency or derivatives clearing organization that:

(i) Maintains the highest investment-grade rating from a nationally recognized statistical rating organization; or

(ii) Maintains security deposits from clearing members in connection with regulated options or futures transactions and assessment power over member firms that equal a combined total of at least \$2 billion, at least \$500 million of which must be in the form of security deposits. For the purposes of this Note G, the term "security deposits" refers to a general fund, other than margin deposits or their equivalent, that consists of cash or securities held by a registered clearing agency or derivative clearing organization; or

(iii) Maintains at least \$3 billion in margin deposits; or

(iv) Does not meet the requirements of paragraphs (b)(1)(i) through (b)(1)(iii) of this Note G, if the Commission has determined, upon a written request for exemption by or for the benefit of the broker or dealer, that the broker or dealer may utilize such a registered clearing agency or derivatives clearing organization. The Commission may, in its sole discretion, grant such an exemption subject to such conditions as are appropriate under the circumstances, if the Commission determines that such conditional or unconditional exemption is necessary or appropriate in the public interest, and is consistent with the protection of investors; and

SEA Rule 15c3-3(Exhibit A - Note G(b)(1)(iv))

NOTES REGARDING THE CUSTOMER RESERVE BANK ACCOUNT COMPUTATION  
(continued)

Note G (continued)

(2) A registered clearing agency or derivatives clearing organization that, if it holds funds or securities deposited as margin for security futures products or futures in a portfolio margin account in a bank, as defined in section 3(a)(6) of the Act (15 U.S.C. 78c(a)(6)), obtains and preserves written notification from the bank at which it holds such funds and securities or at which such funds and securities are held on its behalf. The written notification will state that all funds and/or securities deposited with the bank as margin (including customer security futures products and futures in a portfolio margin account), or held by the bank and pledged to such registered clearing agency or derivatives clearing agency as margin, are being held by the bank for the exclusive benefit of clearing members of the registered clearing agency or derivatives clearing organization (subject to the interest of such registered clearing agency or derivatives clearing organization therein), and are being kept separate from any other accounts maintained by the registered clearing agency or derivatives clearing organization with the bank. The written notification also will provide that such funds and/or securities will at no time be used directly or indirectly as security for a loan to the registered clearing agency or derivatives clearing organization by the bank, and will be subject to no right, charge, security interest, lien, or claim of any kind in favor of the bank or any person claiming through the bank. This provision, however, will not prohibit a registered clearing agency or derivatives clearing organization from pledging customer funds or securities as collateral to a bank for any purpose that the rules of the Commission or the registered clearing agency or derivatives clearing organization otherwise permit; and

(3) A registered clearing agency or derivatives clearing organization establishes, documents, and maintains:

(i) Safeguards in the handling, transfer, and delivery of cash and securities;

(ii) Fidelity bond coverage for its employees and agents who handle customer funds or securities. In the case of agents of a registered clearing agency or derivatives clearing organization, the agent may provide the fidelity bond coverage; and

(iii) Provisions for periodic examination by independent public accountants; and

(iv) A derivatives clearing organization that, if it is not otherwise registered with the Commission, has provided the Commission with a written undertaking, in a form acceptable to the Commission, executed by a duly authorized person at the derivatives clearing organization, to the effect that, with respect to the clearance and settlement of the customer security futures products and futures in a portfolio margin account of the broker or dealer, the derivatives clearing organization will permit the Commission to examine the books and records of the derivatives clearing organization for compliance with the requirements set forth in § 240.15c3-3a, Note G (b)(1) through (3).

SEA Rule 15c3-3(Exhibit A - Note G(b)(3)(iv))

NOTES REGARDING THE CUSTOMER RESERVE BANK ACCOUNT COMPUTATION  
(continued)

Note G (continued)

(c) Item 14 will apply only if a broker or dealer determines, at least annually, that the registered clearing agency or derivatives clearing organization with which the broker or dealer has on deposit margin related to securities future products or futures in a portfolio margin account meets the conditions of this Note G.

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NOTES REGARDING THE PAB RESERVE BANK ACCOUNT COMPUTATIONNote 1

Broker-dealers should use the formula in Exhibit A for the purposes of computing the PAB reserve requirement, except that references to “accounts,” “customer accounts, or “customers” will be treated as references to PAB accounts.

Note 2

Any credit (including a credit applied to reduce a debit) that is included in the computation required by § 240.15c3-3 with respect to customer accounts (the “customer reserve computation”) may not be included as a credit in the computation required by § 240.15c3-3 with respect to PAB accounts (the “PAB reserve computation”).

Note 3

Note E(1) to § 240.15c3-3a does not apply to the PAB reserve computation.

Note 4

Note E(3) to § 240.15c3-3a which reduces debit balances by 1% does not apply to the PAB reserve computation.

Note 5

Interest receivable, floor brokerage, and commissions receivable of another broker or dealer from the broker or dealer (excluding clearing deposits) that are otherwise allowable assets under § 240.15c3-1 need not be included in the PAB reserve computation, provided the amounts have been clearly identified as payables on the books of the broker or dealer. Commissions receivable and other receivables of another broker or dealer from the broker or dealer that are otherwise non-allowable assets under § 240.15c3-1 and clearing deposits of another broker or dealer may be included as “credit balances” for purposes of the PAB reserve computation, provided the commissions receivable and other receivables are subject to immediate cash payment to the other broker or dealer and the clearing deposit is subject to payment within 30 days.

NOTES REGARDING THE PAB RESERVE BANK ACCOUNT COMPUTATION (continued)Note 6

Credits included in the PAB reserve computation that result from the use of securities held for a PAB account (“PAB securities”) that are pledged to meet intra-day margin calls in a cross-margin account established between the Options Clearing Corporation and any regulated derivatives clearing organization may be reduced to the extent that the excess margin held by the other clearing corporation in the cross-margin relationship is used the following business day to replace the PAB securities that were previously pledged. In addition, balances resulting from a portfolio margin account that are segregated pursuant to Commodity Futures Trading Commission regulations need not be included in the PAB Reserve Bank Account computation.

Note 7

Deposits received prior to a transaction pending settlement which are \$5 million or greater for any single transaction or \$10 million in aggregate may be excluded as credits from the PAB reserve computation if such balances are placed and maintained in a separate PAB Reserve Bank Account by 12 p.m. Eastern Time on the following business day. Thereafter, the money representing any such deposits may be withdrawn to complete the related transactions without performing a new PAB reserve computation.

Note 8

A credit balance resulting from a PAB reserve computation may be reduced by the amount that items representing such credits are swept into money market funds or mutual funds of an investment company registered under the Investment Company Act of 1940 on or prior to 10 a.m. Eastern Time on the deposit date provided that the credits swept into any such fund are not subject to any right, charge, security interest, lien, or claim of any kind in favor of the investment company or the broker or dealer. Any credits that have been swept into money market funds or mutual funds must be maintained in the name of a particular broker or for the benefit of another broker.

Note 9

Clearing deposits required to be maintained at registered clearing agencies may be included as debits in the PAB reserve computation to the extent the percentage of the deposit, which is based upon the clearing agency’s aggregate deposit requirements (e.g., dollar trading volume), that relates to the proprietary business of other brokers and dealers can be identified.

Note 10

A broker or dealer that clears PAB accounts through an affiliate or third party clearing broker must include these PAB account balances and the omnibus PAB account balance in its PAB reserve computation.

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SEA Rule 15c3-3(Exhibit A - Note 10)

(a) RECORDS TO BE MADE (continued)

(20) A record, which need not be separate from the advertisements, sales literature, or communications, documenting that the member, broker or dealer has complied with, or adopted policies and procedures reasonably designed to establish compliance with, applicable federal requirements and rules of a self-regulatory organization of which the member, broker or dealer is a member which require that advertisements, sales literature, or any other communications with the public by a member, broker or dealer or its associated persons be approved by a principal.

(21) A record for each office listing, by name or title, each person at that office who, without delay, can explain the types of records the firm maintains at that office and the information contained in those records.

(22) A record listing each principal of a member, broker or dealer responsible for establishing policies and procedures that are reasonably designed to ensure compliance with any applicable federal requirements or rules of a self-regulatory organization of which the member, broker or dealer is a member that require acceptance or approval of a record by a principal.

(23) A record documenting the credit, market, and liquidity risk management controls established and maintained by the broker or dealer to assist it in analyzing and managing the risks associated with its business activities, Provided, that the records required by this paragraph (a)(23) need only be made if the broker or dealer has more than:

- (i) \$1,000,000 in aggregate credit items as computed under § 240.15c3-3a; or
- (ii) \$20,000,000 in capital, which includes debt subordinated in accordance with § 240.15c3-1d.

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RECORDS TO BE PRESERVED (continued)

(b) Every member, broker and dealer subject to § 240.17a-3 shall preserve for a period of not less than three years, the first two years in an easily accessible place:

(1) All records required to be made pursuant to § 240.17a-3(a)(4), (a)(6), (a)(7), (a)(8), (a)(9), (a)(10), (a)(16), (a)(18), (a)(19), (a)(20), and analogous records created pursuant to § 240.17a-3(g).

(2) All check books, bank statements, canceled checks and cash reconciliations.

(3) All bills receivable or payable (or copies thereof), paid or unpaid, relating to the business of such member, broker or dealer, as such.

(4) Originals of all communications received and copies of all communications sent (and any approvals thereof) by the member, broker or dealer (including inter-office memoranda and communications) relating to its business as such, including all communications which are subject to rules of a self-regulatory organization of which the member, broker or dealer is a member regarding communications with the public. As used in this paragraph, the term communications includes sales scripts.

(b) RECORDS TO BE PRESERVED (continued)

(9) The records required to be made pursuant to §240.15c3-3(d)(5) and (o).

(10) The records required to be made pursuant to §240.15c3-4 and the results of the periodic reviews conducted pursuant to §240.15c3-4(d).

(11) All notices relating to an internal broker-dealer system provided to the customers of the broker or dealer that sponsors such internal broker-dealer system, as defined in paragraph (a)(16)(ii)(A) of §240.17a-3. Notices, whether written or communicated through the internal broker-dealer trading system or other automated means, shall be preserved under this paragraph (b)(11) if they are provided to all customers with access to an internal broker-dealer system, or to one or more classes of customers. Examples of notices to be preserved under this paragraph (b)(11) include, but are not limited to, notices addressing hours of system operations, system malfunctions, changes to system procedures, maintenance of hardware and software, and instructions pertaining to access to the internal broker-dealer system.

(12) The records required to be made pursuant to §240.15c3-1e(c)(4)(vi)(D) and (E).

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(e) RECORDS TO BE PRESERVED (continued)

(5) All account record information required pursuant to § 240.17a-3(a)(17) until at least six years after the earlier of the date the account was closed or the date on which the information was replaced or updated.

(6) Each report which a securities regulatory authority has requested or required the member, broker or dealer to make and furnish to it pursuant to an order or settlement, and each securities regulatory authority examination report until three years after the date of the report.

(7) Each compliance, supervisory, and procedures manual, including any updates, modifications, and revisions to the manual, describing the policies and practices of the member, broker or dealer with respect to compliance with applicable laws and rules, and supervision of the activities of each natural person associated with the member, broker or dealer until three years after the termination of the use of the manual.

(8) All reports produced to review for unusual activity in customer accounts until eighteen months after the date the report was generated. In lieu of maintaining the reports, a member, broker or dealer may produce promptly the reports upon request by a representative of a securities regulatory authority. If a report was generated in a computer system that has been changed in the most recent eighteen month period in a manner such that the report cannot be reproduced using historical data in the same format as it was originally generated, the report may be produced by using the historical data in the current system, but must be accompanied by a record explaining each system change which affected the reports. If a report is generated in a computer system that has been changed in the most recent eighteen month period in a manner such that the report cannot be reproduced in any format using historical data, the member, broker or dealer shall promptly produce upon request a record of the parameters that were used to generate the report at the time specified by a representative of a securities regulatory authority, including a record of the frequency with which the reports were generated.

(9) All records required pursuant to § 240.17a-3(a)(23) until three years after the termination of the use of the risk management controls documented therein.

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SEA Rule 17a-4(e)(9)