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Sr. Vice President
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June 1, 1999

Katherine A. England
Assistant Director
Division of Market Regulation
Securities and Exchange Commission
450 Fifth Street, N.W.
Washington, D.C. 20549
Mail Stop 10-1

Re: **File No. SR-NASD-99-05, Amendment No. 1** - Amendments to Rule 2520 (Margin Rules) Relating to Margin for Exempted Borrowers, Good Faith Accounts, Joint Back Office Arrangements and Options Transactions

Dear Ms. England:

NASD Regulation hereby amends the referenced rule filing as follows:

1. On page 6 of 47, the discussion of the proposed rule change is amended to add the following discussion after the first paragraph:

Control and Restricted Securities

Currently, the "Concentration Reduction" provision in subparagraph (e)(8)(C)(ii) is designed to impose increasing margin requirements for customer positions in control and restricted securities based upon the percent of outstanding shares or the percent of average weekly volume that the position represents. The effect of the provision, however, is to impose a margin requirement on the entire position, rather than the part of the position that actually collateralizes the loan extended to the customer. Thus, the customer is penalized for maintaining a position that exceeds the collateral necessary to cover his margin loan. To eliminate this unintended penalty, the proposed rule change adds language excluding "excess securities" from the concentration reduction calculation. Excess securities are to be defined as the amount of securities by which the aggregate position in control and restricted securities of any one issue would be required to support the aggregate credit extended on such control and restricted securities if the applicable margin requirement was fifty (50) percent. Thus, under the proposed rule change, the concentration reduction calculation will be performed on an aggregate position that is only as large as the collateral necessary to support a margin loan of fifty (50) percent.

In addition, the proposed rule change expands the exception from paragraph (e)(8) to include *all* restricted securities that can be sold pursuant to SEC Rules 144(k), 145(d)(2), or 145(d)(3). Currently, only those restricted securities that can be sold by *non-affiliates* of the issuer pursuant to SEC Rules 144(k), 145(d)(2), or 145(d)(3) are excepted from paragraph (e)(8). As a result this change, in the event of a customer default members will be permitted to sell certain restricted securities pursuant to Rule 144(k) without being subject to the requirements of 2520. Accordingly, those customer-owned, restricted securities that can be sold under Rule 144(k) would be subject to the same maintenance margin requirements that presently apply to ordinary stock (25%).

2. On page 17 of 47, paragraph (c) of the rule language is amended as follows:

“The margin which must be maintained in [margin] all accounts of customers”

3. On page 18 of 47, the numbering for subparagraph (c)(5) is being deleted along with the text of subparagraph (c)(5)
4. On page 21 of 47, the numbering and punctuation of the rule language in subparagraph (e)(3) is amended as follows:

Pursuant to the Rule 9600 Series, the Association may grant an exemption from the provisions of paragraph (e)(3), if the account is[:]

[(A)] confined exclusively to transactions and positions in exempted securities[:].

[(B)] maintained as a Market Functions Account conforming to the conditions of Section 220.12(e) (Odd-lot dealers) of Regulation T of the Board of Governors of the Federal Reserve System; or]

[(C)] maintained as a Market Functions Account conforming to the conditions of Section 220.12(c) (Underwritings and Distributions) of Regulation T of the Board of Governors of the Federal Reserve System and each other participant margins his share of such account on such basis as the Association may prescribe.]

5. On page 22 of 47, the numbering of subparagraph (e)(6)(A) is amended to underline the “(A)” to show that the numbering is new.
6. On page 24 of 47, subparagraph (e)(8)(B)(i) is amended to change the reference to “subparagraph (iii) below” to “subparagraph (C)(ii) below.”
7. On page 25 of 47, subparagraph (e)(8)(C)(ii) is amended as follows:

(ii) Concentration Reduction. A concentration exists whenever the aggregate position in control and restricted securities of any one issue, excluding excess securities (as defined below), exceeds:

8. On page 26 or 47, the language of subparagraphs (e)(8)(D)(i) and (ii) is amended as follows:

(D) Restricted Securities - Securities either:

(i) [held by non-affiliates of the issuer which are] then salable [by the non-affiliate] pursuant to the terms and conditions of Rule 144(k) under the Securities Act of 1933, or

(ii) [which have been acquired by non-affiliates of the issuer in connection with a Rule 145(a) transaction under the Securities Act of 1933 which are] then salable [by such non-affiliate] pursuant to the terms and conditions of Rule 145(d)(2) or (d)(3) under such Act,

shall not be subject to the provisions of this subparagraph [(H)] ~~(e)(8)~~, provided that the issuer continues to maintain a consistent history of filing annual and periodic reports in timely fashion pursuant to the formal continuous disclosure system under the Act.

9. On page 41 of 47, the reference to “this paragraph (c)” in subparagraph (f)(6) is amended to read “this Rule.”
10. Finally, Rule 2520 is intended to be substantially identical to New York Stock Exchange Rule 431 in order to minimize confusion with respect to margin requirements between NASD members who are also NYSE members and, therefore, subject to NYSE rules, and NASD members who are not. Accordingly, the NASD intends that, unless otherwise specifically noted or where the language of Rule 2520 differs substantively from NYSE Rule 431, the two rules be read and interpreted in the same manner. The NASD is aware that NYSE Rule 431 uses the terms “clearing member” and “carrying member” to refer to two distinct forms of activity engaged in by certain types of firms. The NASD uses the same terms in its rule language. The NASD agrees with the interpretation of staff of the Board of Governors of the Federal Reserve as set forth in a letter from Scott Holz, Counsel to the Board of Governors, to Raymond J. Hennessy, Vice President, Member Firm Regulation, NYSE, that for purposes of Regulation T, a “clearing member” or “carrying member,” as those terms are used in NYSE Rule 431, is equivalent to a “clearing or servicing broker or dealer.” Thus, those terms will have the same meaning in NASD Rule 2520.

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If you have any questions, please contact Elliott R. Curzon, Office of General Counsel, NASD Regulation, Inc., at (202) 728-8451; e-mail curzone@nasd.com. The fax number of the Office of General Counsel is (202) 728-8264.

Very truly yours,

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