



# N.Y. STOCK EXCHANGE

# INTERPRETATION MEMO

New York Stock Exchange, Inc.  
55 Water Street  
New York, New York 10041

Division of Member Firm  
Regulatory Services

Number 84-1

January 26, 1984

PLEASE ROUTE TO FINANCIAL/PARTNER AND COMPLIANCE AND MARGIN DEPARTMENTS

SUBJECT: INTERPRETATION OF CAPITAL CHARGES FOR SECURITIES  
BORROWED DEFICITS

In a letter to the Chicago Board Options Exchange on December 7, 1983 the Securities and Exchange Commission issued an interpretation that requires a deduction in computing net capital under Rule 15c3-1(c)(2)(iv)(B) for deficits in securities borrowed transactions. The interpretation, which is to become effective on April 1, 1984 will:

- o require a daily determination of securities borrowed deficits;
- o require deduction for a deficit exceeding 5% of the market value of the securities borrowed;
- o require deductions when deficits with any one lender or for all lenders exceed specified percentages of the broker/dealer's excess net capital.

A copy of the letter is attached hereto.

## Filing Instructions

Insert New Page 140-2 in Handbook



SECURITIES AND EXCHANGE COMMISSION

WASHINGTON, D.C. 20549

DIVISION OF  
MARKET REGULATION

December 7, 1983

Mr. William J. Young  
Senior Vice President  
Regulatory Division  
Chicago Board Options Exchange  
LaSalle at Jackson  
Chicago, Illinois 60604

Dear Mr. Young:

It has come to the attention of the Division that some broker-dealers may not be computing their net capital properly with respect to securities borrowed deficits. Sub-paragraph (c)(2)(iv)(B) of Rule 15c3-1 of the Securities Exchange Act of 1934 (17 CFR §240.15c3-1(c)(2)(iv)(B)) applied literally would require a broker-dealer which borrows securities to deduct from its net worth the entire amount of the excess collateral it deposits with each lender. The amount of the collateral which exceeds the market value of the securities borrowed is, in effect, an unsecured receivable to the borrowing broker-dealer.

The Division will, however, raise no question nor recommend any action to the Commission if for purposes of Rule 15c3-1(c)(2)(iv)(B), a broker-dealer treats securities borrowed deficits arising from securities borrowed from a customer or non-customer which requires the deposit of collateral in excess of the market value of the securities borrowed as follows:

A broker-dealer which has borrowed securities (borrower) must mark the borrowed securities to the market each business day, as of the close of the prior day's business, and determine the amount of collateral held by any securities lender (lender) which exceeds the current market value of the securities borrowed from that lender (excess collateral). The borrower must deduct from its net worth in computing net capital;

- (a) the amount of excess collateral held by any one lender which exceeds one hundred and five percent (105%) of the current market value of the securities borrowed from that lender;

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- (b) or, if greater, the amount of excess collateral held by any one lender to the extent the excess collateral is greater than twenty percent (20%) of the borrower's excess net capital (net capital greater than the minimum required); plus,
- (c) the total amount of excess collateral held by all lenders in aggregate which exceeds three hundred percent (300%) of the borrower's excess net capital reduced by the charge that the broker-dealer has already incurred under the above standards.

The borrower may issue a mark to the market call and collect payment from the lender(s) by the close of the next business day following the date of such determination which may serve to reduce or eliminate the capital charge determined in accordance with the above standards.

It should be noted that a broker-dealer may net excess collateral due from a lender with excess collateral related to securities borrowed payable from that same lender. Broker-dealers should be careful to coordinate lending and borrowing activities with the same entity to prevent inadvertent errors in the receipt and return of collateral.

The Division will not object if these standards are not implemented until April 1, 1984.

You should understand that the position expressed herein is a staff position with respect to enforcement only and does not purport to express any legal conclusion on this matter. If you have any questions, please feel free to contact us.

Sincerely,



Michael A. Macchiaroli  
Assistant Director

cc: Thomas Cassella  
National Association of  
Securities Dealers, Inc.

Martin Hobby  
New York Stock Exchange, Inc.