

Interpretation Memo

Member Firm Regulation

NYSE

New York
Stock Exchange, Inc.

55 Water Street
New York, NY 10041

Number 86-6
May 30, 1986

PLEASE ROUTE TO CHIEF FINANCIAL AND OPERATIONS
OFFICER/PARTNER AND COMPLIANCE DIRECTORS

To: Members, Member Organizations and Handbook Subscribers

Subject: Update to Rule 15c3-1 Section of Interpretation Handbook:
● Physical Positions in Gold and Silver
● Options ((c)(2)(x) and Appendix A)
● Index

Capital Treatment of Physical Positions in Gold and Silver Under Rule 15c3-1

Recently the SEC called our attention to the attached letter wherein they cite the treatment of proprietary positions in physical (spot) commodities under subparagraph (a)(3)(iv) of Appendix B to Rule 15c3-1 and interpret "readily marketable" to mean that the gold is within the broker-dealers "control in good deliverable form" and "covered by appropriate insurance."

We have discussed this treatment of physical commodities held by securities broker-dealers for proprietary and customers accounts with the SEC Staff. As a result, interpretations (a)(3)(iv)/01 page 443, (a)(3)(xii)/01 page 445 and (a)(3)(xiii)/01 page 445-1 have been added to the NYSE Handbook for ready reference.

It should be noted that under Subparagraph (a)(3)(xviii) all physical commodities pledged as collateral to a loan or advance are subject to the same requirements as proprietary physical commodities.

Positions in physical (spot) commodities other than gold and silver such as other metals, oils, sugar, grains, etc., are also subject to the requirements of subparagraph (a)(3)(iv) of Appendix B. The SEC advises that no value is allowed for physical (spot) commodities positions held in proprietary or customers accounts unless the commodities are under the control of the broker or dealer in good deliverable form, lodged with an acceptable custodian and covered by appropriate insurance.

Member organizations dealing in physical commodities should carefully consider the effect of these interpretations and promptly consult with their coordinator if there are any questions.

A copy of the SEC letter dated August 20, 1984 is attached and should be retained with this memo.

Interpretations Relating to Options Postions

Interpretations or definitions relating to options positions have been added to Rule 15c3-1 in the Interpretation Handbook as follows:

<u>Rule Reference</u>	<u>Pages</u>	<u>Interpretation</u>
(c)(2)(viii)/05	254	Foreign Currency Forward Commitments
(c)(2)(x)(A)(5)/01	266-1	Options in Foreign Currencies Hedged With Forward Postions
(App. A)(a)/02	401-1 - 401-2	Definitions for Hedged Option, Spread, Conversion, Reverse Conversion, Box Spread, Straddle and a Schedule of percentage haircuts applicable to securities underlying options
(App. A)(a)/09	411	Cross reference to interpretation on Page 266-1
	401-1/ 411	Editorial changes were made

Rule 15c3-1 Index

The Index, formerly alphabetized by major section has been reformed as a topical index alphabetized by subject.

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DIVISION OF
MARKET REGULATION

UNITED STATES
SECURITIES AND EXCHANGE COMMISSION
WASHINGTON, DC 20549

August 20, 1984

Mr. Irving Lipsiner
Irving Lipsiner Associates, Inc.
43 Trumbull Street
New Haven, Connecticut 06511

Dear Mr. Lipsiner:

This is in response to your letter of April 4, 1984 wherein you inquire as to the appropriate treatment of gold under the net capital rule (17 CFR 240.15c3-1). Subparagraph (a)(3)(iv) of Appendix B to Rule 15c3-1 of the Securities Exchange Act of 1934 requires broker-dealers to deduct from net worth in arriving at net capital all commodity related inventories except for "readily marketable spot commodities" or spot commodities which adequately collateralize indebtedness. Twenty percent of the market value of readily marketable commodity inventories that are not covered by an open futures contract must be deducted from net worth under Rule 15c3-1b(a)(3)(ix). For purposes of subparagraph (iv) the Division has interpreted "readily marketable" to mean that the gold is within the broker-dealer's "control in good deliverable form" and "covered by appropriate insurance."

The term "within the broker-dealer's control" refers to gold in bullion form, identified by serial number or otherwise, and subject to immediate disposition at the direction of the broker-dealer. Storage arrangements acceptable to insurance carriers are satisfactory provided the coverage complies with the "appropriate insurance" requirement discussed below. Certain custodial requirements must be satisfied whenever gold bullion is stored in outside depositories. The broker-dealer must satisfy itself that the depository will maintain physical possession or control of the bullion stored for its customers free of any lien or claim on such bullion other than that arising out of, and limited to the extent of, any margin transaction or other unpaid for transaction. Records shall be maintained to separately identify gold owned by the firm, customer pledged gold bullion subject to lien and customer bullion not pledged and fully paid for. The broker-dealer must include as part of a written agreement with the depository such other protections as may be deemed necessary. Broker-dealers considering the utilization of foreign depositories are cautioned to familiarize themselves with foreign laws on banking and bankruptcy to insure compliance with this paragraph, since these laws may differ significantly from those of the United States.

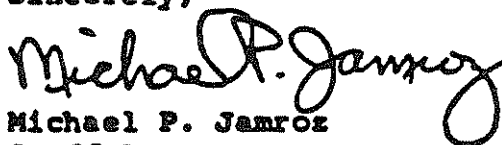
Mr. Irvin Lipsiner
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The term "good deliverable form" refers to the condition of the gold. To be in "good deliverable form", the gold must be minimum 995 parts per 1000 fine and either have been refined by a refiner or assayed by an assayer recognized as being acceptable to those organized national U.S. commodity exchanges trading in gold or the London Gold Market.

The term "appropriate insurance" refers to insurance coverage of all gold under the control of a broker-dealer, whether stored in a depository, in its own custody, in transit, or in any other location within the broker-dealer's control.

If you have any further questions, please feel free to contact us.

Sincerely,



Michael P. Janroz
Staff Accountant