

# Interpretation Memo

Member Firm Regulation

STOCK EXCHANGE  
OF NEW YORK  
AND  
AMERICAN  
FUTURES  
EXCHANGE

New York  
Stock Exchange, Inc.

20 Broad Street  
New York, NY 10004

Number 91-8  
July 9, 1991

TO: MEMBERS AND MEMBER ORGANIZATIONS

ATTENTION: CHIEF EXECUTIVE, FINANCIAL, AND OPERATIONS  
OFFICERS/PARTNERS

SUBJECT: RESTRICTION OF FLOW THROUGH CAPITAL BENEFITS  
RECEIVED FROM BROKER-DEALER SUBSIDIARIES OR  
AFFILIATES

SEC has advised that the amount of flow through capital benefits which a broker-dealer may receive from certain broker-dealer or other regulated subsidiaries or affiliates under SEA Rule 15c3-1 (Appendix C)(b)(2) will be restricted to: 1) the amount of net capital of a subsidiary or affiliated entity which exceeds the percentage limitations\* for withdrawal of equity capital under the applicable early warning levels for that entity pursuant to SEA Rule 15c3-1(e), or (2) any greater limitation or early warning levels imposed by other regulatory authority or legal covenant. Such treatment is necessary because the use of subsidiary or affiliate excess net capital by a parent member organization is considered tantamount to a potential withdrawal of capital.

These limitations would apply to all flow through benefits derived from subsidiaries and affiliates including those which are registered as brokers or dealers, FCM's, government securities brokers or dealers, or who are otherwise subject to similar capital or reserve requirements imposed by other regulatory agencies, a sovereign national government or legal covenants.

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\*A parent broker-dealer would be allowed to receive flow through in excess of net capital of a subsidiary or affiliate over the following applicable percentage limitations of Rule 15c3-1(e):

1. 1000% of aggregate indebtedness if under the basic method
2. 120% of minimum dollar requirement if applicable
3. 5% of aggregate debit items if computing under alternate method, or
4. if the affiliate is also a registered futures commission merchant, the greater of 1, 2 or 3 as appropriate or 7% of funds required to be segregated under CEA regulations and other deductions specified, or
5. 25% of the deductions from net worth required by paragraphs (c)(2)(vi), (f) and Appendix A of Rule 15c3-1.

Further, the SEC advises that a parent broker-dealer receiving flow through benefits must meet the minimum net capital requirements set forth under SEA Rule 15c3-1 exclusive of such flow through benefits.

Member organizations receiving flow through should disclose, in footnotes to financial statements, the amount of net capital available to meet its regulatory or other higher capital requirements exclusive of flow through amounts received.

Questions and comments should be directed to your organization's finance coordinator.

This interpretation will become effective 60 days from the date of its publication for inclusion in the Interpretation Handbook.

Also attached are updated handbook pages which are being distributed as replacements for existing pages. The following should be carefully reviewed before insertion into the handbook.

SEC Rule 15c3-1

<u>Page &amp; Reference</u>	<u>Subject</u>
314, App. C(c)(4)/021	Net Capital Requirement of Parent Broker-Dealer Receiving Flow Through Benefits
315, App. C(c)(4)/022	Restrictions of Flow Through Capital Benefits Received from Broker-Dealer Subsidiaries or Affiliates
	<u>Remove Pages</u>
	<u>Add Pages</u>
	313-314
	313-315

RETAIN ALL INTERPRETATION/INFORMATION MEMOS FOR FUTURE REFERENCE