SECURITIES AND EXCHANGE COMMISSION
WASHINGTON, D.C. 20549

DIVISION OF
MARKET REGULATION

September 16, 1980

Mr. Michael Minikes
Bear, Stearns & Co.
55 Water Street
New York, New York 10041

Dear Mr. Minikes:

The net capital rule requires a broker or dealer to deduct from net worth in computing net capital the market value of stock loaned in excess of the value of any collateral received therefore. See Rule 15c3-1(c)(2)(iv)(B). Rule 15c3-3 requires that a broker or dealer in computing the Formula for Determination of Reserves Requirement, include as a credit the amount by which the market value of securities loaned exceeds the collateral value received from the lending of the securities. See Note C to Formula. Both must be computed on a broker by broker basis. In your letter of January 15, 1980, you state that these provisions penalize your firm substantially. You cannot determine "deficits" until after the close of business each day and your marks to market to others are not met until the following night.

Under these circumstances, the Division will recommend no action to the Commission if the firm does not include stock loan deficits as a Rule 15c3-3 credit item to the extent your firm issues a mark to market by 11:00 a.m. the business day following the computation and actually receives payment that day.

As to the net capital rule, the Division will recommend no action to the Commission if the firm does not include stock loan deficits for one day from the day the deficit arises. It is expected that the firm will issue its mark to market and collect payment on that day.

Sincerely,

Michael A. Macchiaroli
Branch Chief

Interpretation / clearing house
marked through

BEAR STEARNS

Bear, Stearns & Co.
55 Water Street
New York, N.Y. 10041
(212) 952-5000

WRITER'S DIRECT DIAL NUMBER

January 25, 1980

Mr. Nelson Kibler
Assistant Director of the
SEC Division of Market Regulation
Securities & Exchange Commission
500 North Capitol Street
Washington, D.C. 20549

Dear Nelson:

This letter will summarize our recent conversation related to the net capital and Rule 15c3-3 treatment of stock loan "deficits". As you are aware, the Rule and existing interpretations require a deduction from net capital, and a Rule 15c3-3 formula credit to the extent the market value of stock loaned is in excess of the value of any collateral received, computed on a broker by broker basis. As I indicated, this provision penalizes us substantially because we cannot determine "deficits" until after the close of business each day, and marks to market issued to others are not met until the following night. For example, for any deficits as of Friday (the usual day of our Rule 15c3-3 calculations), we issue marks on Monday and are usually paid through the clearing house or otherwise on Monday.

You agreed that to the extent we issue a mark to market by 11:00 a.m. on Monday and are paid that day, we need not include stock loan "deficits" as a Rule 15c3-3 credit item or as a deduction in computing net capital.

I hope this letter adequately clarifies the situation.

Very truly yours,

Michael Minikes

MM/amc