

Mr. John P. Teevan

Financial Principal

First Monmouth Securities Corporation

468 Broad Street

P.O. Box 206

Shrewsbury, New Jersey 07701

Dear Mr. Teevan:

June 13, 1984

This is in response to your November 18, 1983 letter on behalf of First Monmouth Securities Corporation ("FMS") wherein you request a "no-action" position from the Division with respect to Rule 15c3-3 of the Securities Exchange Act of 1934 (17 CFR §240.15c3-3).

We understand the pertinent facts to be as follows:

FMS borrows funds from Bradford Trust Company, using securities in the firm's clearance account as collateral. As customers purchase and pay for those securities, FMS submits instructions to remove them from lien. Bradford normally takes from two to four days to process those instructions and move the now fully-paid customer securities from the bank loan into a segregation account.

Rule 15c3-3 requires the broker-dealer to include as a credit in Item 2 in the Formula For Determination of Reserve Requirement for Brokers and Dealers (the "Formula") the market value of securities lodged in firm bank loan for which the broker or dealer does not have a corresponding proprietary long position and which do not allocate to the positions of a director or officer of the firm. Because it takes from two to four days before the customer's check clears and before FMS can use those funds to reduce the balance due on the customer-bank loan, you suggest that an amount equal to the uncleared customer checks in the present case be included as an offsetting debit in the Formula.

The Division believes that the reserve requirement under Rule 15c3-3 provides essential accountability for the broker-dealer's custody of its customers' funds and

securities. As the inclusion of uncleared customer checks as a debit item in the Formula eliminates the broker-dealer's reserve requirement with respect to those funds and in effect allows the broker-dealer to use those funds in its business, the Division is unable to grant your request for a no-action position. As an alternative, however, you may consider using those uncleared customer checks to satisfy your reserve requirement by depositing them in the Special Account for the Exclusive Benefit of Customers as provided for in Rule 15c3-3(e). As those checks clear and after a recomputation as required under Rule 15c3-3(g), those funds may then be used to reduce the amount due under the bank loan.

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

Sincerely,

Michael P. Jamroz

Staff Accountant

Securities And Exchange Commission 500 North Capitol Street Washington, D.C.
20006

Attention: Broker Dealer Examinations

Gentlemen:

November 18, 1983

As a follow up to my telegram of November 9, 1983, I wish to submit more information about our customer reserve calculations. Securities are received into our loan account at S.P.S. Clearing Division, Bradford Trust Company. I issue transfer instructions to S.P.S. daily to segregate securities based upon customer checks received at our office. These checks are placed in Shrewsbury State Bank for collection, which normally requires two to four days before funds may be wired to S.P.S.. Normally S.P.S. Bradford's lag in processing segregation movements coincides with the check clearance lag. As an example at October 31, 1983 our uncleared customer funds (\$ 222,838) approximated the commingled bonds in our loan account (\$ 227,877).

The N.A.S.D. examiner at October 31, 1983 calculated our deficiency at \$310,693 per my telegram. My review of the calculation reduced the deficiency to \$244,454 which was agreed to by the N.A.S.D. examiner. He included the \$227,877 in customer bonds in the calculation. This position was not agreed to by the management of the First Monmouth Securities Corp. since timely segregation moves were on file, but had not been completed by S.P.S. Bradford due to normal processing lag.

If this amount must be included in the calculation, then I believe the broker dealer should be entitled to include the uncleared customer funds at Shrewsbury State Bank which will be available in the immediate future.

If these positions were allowed, then First Monmouth Securities Corp.'s deficiency would have been \$21,616. I believe an interpretation of the rules in this specific clearing arrangement would assist all parties concerned.

Vert truly yours,

John P. Teevan

Financial Principal

CC: National Association of Securities Dealers, Inc.

1818 Market St. Philadelphia, Pa. 19103

Attn: Walter Robertson

N.A.S.D., Inc.

1735 K St., N.W. Washington, D.C. 20006

Attn: Surveillance Department

Securities and Exchange Commission

26 Federal Plaza New York, N.Y. 10278

Attn: Broker Dealer Examination