

SECURITIES AND EXCHANGE COMMISSION

WASHINGTON, D.C. 20549

Mr. Reginald Schauder

Comptroller

First United Fund, Ltd.

1001 Franklin Avenue

Garden City, New York 11530

Dear Mr. Schauder:

August 15, 1984

This is in response to your letter of August 1, 1983 on behalf of First United Fund, Ltd., ("First United"), in which you request that the Division issue a no action position with respect to commissions receivable due from banks under Rule 15c3-1 (17 CFR §240.15c3-1).

We understand the relevant facts which prompted your request to be as follows:

First United is a registered broker-dealer engaging as a commissions broker in the placement of bank certificates of deposits and as traders in various obligations of the U.S. Government. In addition, First United invests for its own account in various U.S. Government securities.

In support of your request, you state that First United, in its four years of operation, has had an excellent collection record. On an average billing of \$1 million dollars per month, First United collects approximately 75% in 30 days and 90% within 60 days. In addition, you state that all of these commissions receivables are due from savings and loan associations and other thrift institutions, which are subject to state and federal regulations designed to constantly monitor the banks liquidity and protect its depositors and creditors. Furthermore, First United has further improved its position as creditor by obtaining written commission contracts with each of its institutional customers. These contracts afford First United additional

protection by making it eligible to collect from the FSLIC and FDIC, should the particular institution become insolvent.

For the aforementioned reasons, it is your belief that requiring First United to exclude its commissions receivable from savings and loans associations and/or other thrift institutions as a non-allowable asset for net capital purposes subjects First United to undue hardship. Thus, you have requested that the Division issue a no action letter regarding the net capital treatment of these receivables.

Paragraph (c)(2)(iv) of the net capital rule, consistent with the rule's underlying concept of liquidity, provides that "assets not readily convertible into cash" must be deducted from net worth in computing net capital. Therefore, all unsecured receivables must be deducted from net worth. Subparagraph (c)(2)(iv)(C) recognizes several exceptions to this rule. One of these exceptions is that commissions receivable from other broker-dealers which have been outstanding for less than thirty calendar days need not be deducted from net worth. However, in Release 34-18417, the Commission in rejecting various proposals from representatives of the securities industry to extend the (c)(2)(iv)(C) exceptions to other unsecured receivables, stated "[w]hatever the cause for these exceptions to an otherwise clear policy, the Commission does not view it as a reason to extend the exceptions any further."¹ Therefore, the Division is unable to issue the no action letter you have requested, extending (c)(2)(iv)(C) net capital treatment to commissions receivables from savings and loan associations and other thrift institutions.

I trust the foregoing is responsive to your inquiry. If you have further question, please do not hesitate to contact us.

Sincerely,

Julio A. Monticciolo

Branch Chief