

Act	34
Section	15(c)(3)
Rule	15c3-3
Public	
Availability	4/7/73

*Exemption not necessarily lost if legal transfer items are held for customers pending transfer, as long as prompt action is taken and there is no unreasonable delay*  
 March 3, 1973

Mr. Edmund W. Olifiers  
 Frazer, Olifiers & Co., Inc.  
 11 Broadway  
 New York, New York 10004

Dear Mr. Olifiers:

This is in response to your letters of January 15, 1973 and January 22, 1973 wherein you discuss the exemption of Frazer, Olifiers & Co., Inc. ("Frazer") under the provisions of Rule 15c3-3.

In your letter of January 15 you outline certain of the services performed by your firm with respect to the processing of certificates registered in the name of a deceased person for sale, or for transfer into the names of the beneficiaries of the estate. You inquire, in effect, whether holding securities pending receipt of legal papers in order to accomplish legal transfer would be deemed to be a custodial function which would disqualify your firm from utilizing the exemption from Rule 15c3-3 set forth in subparagraph (k)(2)(A) thereof.

In general the exemption set forth in subparagraph (k)(2)(A) does not preclude a broker-dealer from performing transfers for its customers. Nor would a broker-dealer, in general, be deemed to be not exempt under subparagraph (k)(2)(A) solely because it was holding legal transfer items pending receipt of necessary legal documents. You are reminded, however, that the exemption requires the broker-dealer to act as promptly as practical under the circumstances and that an unreasonable delay may result in not being able to qualify for the exemption provided by subparagraph (k)(2)(A).

In your letter of January 22, 1973, you state that you intend to qualify for an exemption under subparagraph (k)(3) of the Rule and you discuss two transfers involving unsolicited purchase orders for customers' accounts of a Japanese company wherein the certificates are not generally permitted to be delivered outside Japan. Based on the facts set forth in your letter, an exemption under subparagraph (k)(3) of the Rule is not available. However, inasmuch as you appear to be operating under the exemption set forth in subparagraph (k)(2)(A) that exemption envisions that the broker-dealer qualifying thereunder not have any custodial functions with respect to customers' securities whatsoever. Therefore, the custody of the foreign securities through an agent would not be consistent with the intent of the exemption. However, if Frases discontinues the custodial arrangement before June 30, 1973, no question will be raised by the staff with respect to your exemption from the provisions of Rule 15c3-3 as a consequence of your holding Japanese securities for customers as described briefly above.

I hope our letter is responsive to your inquiry.

Sincerely,

Nelson S. Kibler  
Staff Accountant

3/8/73

SECURITIES AND EXCHANGE COMMISSION  
RECEIVED  
JAN 29 1973  
DIVISION OF MARKET REGULATION  
FRAZEE, OLIFIERS & COMPANY, INC.  
INVESTMENT SECURITIES  
11 BROADWAY  
NEW YORK, NEW YORK 10004

REC-1.E.C.  
1973  
JAN 20 1973

January 22, 1973

(212) 260-5288

United States Securities & Exchange Commission,  
Office of Market Regulation,  
500 North Capitol Street,  
Washington, D. C. 20549

Attention of: Mr. Lee A. Pickard, Associate Director.

Gentlemen:

It is our intention to qualify for exemption from S.E.C. Rule 15c3-3, under the provisions of subparagraph (k) (3) of the rule, and believe that we have met all the requirements.

We have just learned that we must request exemption from the rule with the exception noted below.

We refer specifically to (2) transactions involving unsolicited purchase orders for customers accounts of a Japanese security wherein the custom has been to hold the certificates in Japan and delivery is never made in the United States.

These securities are identified as American Owned Securities. One transaction involved a purchase of 1200 shares of Toyo Kogyo Company Ltd. from Carl Marks & Co. who informs us that the shares are held for their account by Chase Manhattan Bank, Tokyo, Japan.

The second transaction involved a purchase of 800 shares of Toyo Kogyo Company, Ltd. from M. S. Wien & Co. who inform us that the shares are being held for their account by Nikko Securities Co. Ltd., Tokyo, Japan.

In view of the problems created by this type of transaction, it is our intention to engage in no further activity wherein a stock certificate cannot be delivered.

Because transactions of this nature have been considered as "good trades" and the practice of not making delivery of certificates outside of Japan has been a long standing one, it did not enter into our deliberations when we discussed the item of proper location of customers securities. We do not hold customers securities. We respectfully request that exemption from Rule 15c3-3 be granted with the exception outlined above.

Very truly yours,

*Edmund W. Olifiers*  
For Frazee, Olifiers & Co., Inc.

EWO/dip

FRAZEE, OLIFIERS & COMPANY, INC.  
INVESTMENT SECURITIES  
11 BROADWAY  
NEW YORK, NEW YORK 10004

2121 200-5288

January 15, 1973.

United States Securities & Exchange Commission,  
Office of Broker-Dealer Financial Responsibility  
and Securities Transactions,  
500 North Capitol Street,  
Washington, D. C. 20549.

Attention of: Charles J. Doerrler,  
Systems Officer,  
Re: S. E. C. Rule 15c3-3  
Subparagraph (k) (2).

~~TOP SECRET~~  
JAN 17 1973

Gentlemen:

It is our intention to qualify for exemption from S.E.C. Rule 15c3-3, under provisions of subparagraph (k) (2) of the Rule. In order to meet the requirements we will appreciate clarification on the following point.

On occasions we are called upon by attorneys to process securities in the names of deceased persons for sale or for transfer into the names of beneficiaries of the estate.

Processing of such securities usually requires accumulation of various legal papers and submission of the same to the transfer agents, together with the certificates. As transfer requirements are not uniform, it is not unusual that some securities are returned to us and held pending receipt of additional papers, needed to satisfy transfer requirements. As soon as transfers are completed the newly registered certificates are either sold or returned to the attorneys.

We point out that until proper transfer is completed, the securities registered in the names of decedents have absolutely no value and cannot be used for any purpose.

Having met all other requirements for exemption from S.E.C. Rule 15c3-3, we request that the special nature of the services outlined above be continued and still permit us to qualify for exemption from the Rule.

Your early, and, we hope, favorable reply will be, very much, appreciated.

Very truly yours,

Frazer, Olifiers & Co., Inc.,

*Edmund W. Olifiers*

EW/O/dip