

MAUNEY COMPANY

3208 W. MAGNOLIA BLVD, P.O. BOX 6746

BURBANK, CALIF. 91505

July 11, 1975

General Counsel,

Securities & Exchange Commission,

Washington, D.C. 20549

Sir.

With regard to the recently adopted Rule 15c3-1, clarification as to the intent of the Commission is requested on subparagraph (c)(2)(ix)-Aged Fails to Deliver.

While it is clear that customer originated transactions are expected to be completed within ten days of settlement date after January 1, 1977 and after fourteen days during calendar 1976 or be subject to the indicated haircuts, the language used is confusing with regard to proprietary short positions. This is because proprietary short positions are already marked to market and haircut as specified in the aforementioned subparagraph.

Does the commission desire a double haircut on proprietary short positions after the specified time allowance?

If so, is the commission aware of the inevitable effect on market-marking particularly with regard to illiquidity and unnatural spreads that will result?

Reference is invited to the N.A.S.D. letter of comment by Douglas Parillo on this matter at the time this rule change was offered for comment which details with great clarity the problems involved herein.

While broker/dealers with large assets could conceivably cope with this problem of high haircuts, these firms have historically shown little interest in maintaining markets in approximately 8000 issues left to the attention of smaller firms. It would not be in the public interest if the smaller firms were to cease market-making activities and leave the public with unsaleable securities.

Sincerely,

Robert E. Bernhard Jr.

REB:b

DEC 11 1975

Mr. Robert E. Bernhard, Jr.

Mauney Company

3208 W. Magnolia Boulevard

P.O. Box 6746

Burbank, California 91505

Dear Mr. Bernhard:

This is in response to your letter of July 11, 1975, regarding Rule 15c3-1 (17 CFR §240.15c3-1) under the Securities Exchange Act of 1934 as amended June 26, 1975. Specifically, you question pursuant to subparagraph (c)(2)(ix) of the rule, the appropriate haircut on a fail to deliver created by a proprietary short sale, which has aged 15 business days beyond settlement date.

Pursuant to subparagraph (c)(2)(ix), a broker-dealer is required to deduct from the contract value of each fail to deliver contract which is outstanding 11 business days or longer (15 business days or longer until January 1, 1977) the percentage of the market value of the underlying security which would be required by application of the deduction required by subparagraph (c)(2)(vi) or where appropriate in paragraph (f). In the case of equity securities, pursuant to subparagraph (c)(2)(vi)(J), the greater of the long or short proprietary positions shall be haircut by 30%. The lesser of the long or short position, exceeding 25% of the market value of the greater of the long or short position, shall be haircut 15%.

It is the Division's view that if an aged fail to deliver relates to a proprietary short sale, the deduction required by subparagraph (c)(2)(ix) shall equal 15% of the market value of the underlying security regardless of whether the proprietary short

position is less than the long position or the computing broker-dealer is subject to the capital requirements of paragraph (a) or (f) of Rule 15c3-1. However, if the fail to deliver and related short positions are in securities other than those subject to subparagraph (c)(2)(vi)(I) of the rule, the aged fail to deliver would be subject to the haircut provisions of subparagraphs (c)(2)(vi)(A)- (I).

If you have any questions regarding this matter, please contact me.

Sincerely,

Robert L. Smith

Financial Responsibility

Officer

RLS/sml/12-2-75

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