

Securities and Exchange Commission, Division of Market Regulation.

June 2, 1977

Recently, the following interpretations were received by telephone from Mr. Bob Smith of your office, and the Exchange would appreciate an official confirmation of its understanding of them.

The market value of fully-paid securities borrowed from the personal (non-capital) securities account of a general partner of the computing firm, for which no equivalent money or value was paid or credited, for the purpose of delivery against an inventory short sale is excludable from aggregate indebtedness and is excludable from the credit side of the Reserve Formula.

The market value of designated margin securities borrowed from the margin account of a customer of the computing firm, for which no equivalent money or value is paid or credited, for the purpose of delivery against an inventory short sale is excludable from aggregate indebtedness and is includable from the credit side of the Reserve Formula.

Recently our staff received the following interpretations by telephone from Mr. Bob Smith and would appreciate a written confirmation of them:

Other than the requirements of subparagraph (c)(5) (temporary subordinations) Appendix D of Rule 15c3-1 does not impose a maximum length of time during which a Secured Demand Note or Cash Subordinated Loan Agreement may operate;

The length of time a concentrated proprietary position may exist without the imposition of the additional capital penalties pursuant to subparagraph (c)(2)(vi)(M) of Rule 15c3-1 is measured by the number of consecutive business days that the position continues to exceed the financial parameters of the Rule. Note: does this interpretation supersede that published by the NASO dated 12/31/75? (See attached).

Recently our staff received the following interpretation by telephone from Mr. Bob Smith of your office and the Exchange would appreciate an official confirmation of it:

The balance in the "Special Account" required by Rule 15c3-3(k)(2)(A) may not serve to reduce aggregate indebtedness in a computation pursuant to Rule 15c3-1.

This is in response to your letters of April 5, April 6, and April 7, 1977 on behalf of the Midwest Stock Exchange, Inc. regarding the application of Rule 15c3-1 (17 CFR 240.15c3-1) and Rule 15c3-3 (17 CFR 240.15c3-3) under the Securities Exchange Act of 1934 (the "Act").

In the above-noted letters you raise the following questions:

May the balance in the "Special Account," required by Rule 15c3-3(k)(2)(i) serve to reduce aggregate indebtedness in a computation pursuant to Rule 15c3-1;

Is the market value of fully-paid securities borrowed from the personal (non-capital) securities account of a general partner of the computing firm, for which no equivalent money or value was paid or credited, for the purpose of delivery against an inventory short sale, excludable from aggregate indebtedness and excludable from the credit side of the Reserve Formula;

Is the market value of designated margin securities borrowed from the margin account of a customer of the computing firm, for which no equivalent money or value is paid or credited, for the purpose of delivery against an inventory short sale excludable from aggregate indebtedness and includable in the credit side of the Reserve Formula;

Other than the requirements of subparagraph (c)(5) (temporary subordinations), does Appendix D of Rule 15c3-1 impose a maximum length of time during which a Secured Demand Note or Cash Subordinated Loan Agreement may operate; and

Is the length of time a concentrated proprietary position may exist, without the imposition of the additional capital penalties pursuant to subparagraph (c)(2)(vi)(M) of Rule 15c3-1, measured by the number of consecutive business days that the position continues to exceed the financial parameters of the Rule?

With regard to your first question, Rule 15c3-1 does not exclude from aggregate indebtedness ("A1") amounts payable to the extent funds are on deposit in a "Special Account" required by Rule 15c3-3(k)(2)(i).

In response to questions number two and three, amounts representing customer's margin securities or officer's or partner's fully-paid non-capital securities that are not required to be in possession or control under the Rule and which are utilized by a broker-dealer to deliver against a proprietary short sale are not included in A1 or the credit side of the Reserve Formula. It should be noted, however, that in the calculation of the Reserve Formula the firm short would allocate to a customer long requiring an entry to the credit side of the Reserve Formula equal to the value of the proprietary position.

In response to item number four, Appendix D to Rule 15c3-1 does not impose a maximum time period during which a conforming secured demand note or subordinated loan may be entered into other than temporary subordinations pursuant to subparagraph (c)(5) of Appendix D.

Finally, with regard to your last question, it is the Division's view that the undue concentration charge required by subparagraph (c)(2)(vi)(M) of Rule 15c3-1 is applied to a proprietary position which has been in position for more than eleven consecutive business days at any time its market value exceeds 10 percent of net capital prior to the deductions required by subparagraph (c)(2)(vi) or Appendix A of Rule 15c3-1.