

SECURITIES AND EXCHANGE COMMISSION

WASHINGTON, D.C. 20549

April 17, 1986

Mr. Thomas Cassella

Director

Office of Financial Responsibility

National Association of

Securities Dealers, Inc.

1735 I Street, N.W.

Washington, D.C. 20006

Dear Mr. Cassella:

You have advised us that the Association has received many inquiries concerning the treatment of capitalized lease agreements under Securities Exchange Act Rule 15c3-1 (17 CFR 240.15c3-1).

Subparagraph (c)(2)(iv) of Rule 15c3-1 provides that fixed assets and other illiquid assets shall be deducted from net worth in arriving at net capital. That subparagraph allows the deduction to be reduced by the amount of "...any indebtedness excluded in accordance with subdivision (c)(1)(viii)..." of Rule 15c3-1. Under subparagraph (c)(1)(viii), such indebtedness includes "(F)ixed liabilities adequately secured by assets acquired for use in the ordinary course of the trade or business of a broker or dealer...." Under subparagraph (e)(5), indebtedness is "adequately secured" "...when the excess of the market value of the collateral over the amount of the indebtedness is sufficient to make the loan acceptable as a fully secured loan to brokers or dealers."

Subparagraph (c)(1)(viii) also allows a broker-dealer to exclude from aggregate indebtedness fixed liabilities which are collateralized by assets where the sole recourse of the creditor for default of such liability is to the assets which collateralize the liability.

Generally accepted accounting principles require that assets leased under certain circumstances be capitalized. For net capital purposes, capitalized leases are treated as purchases of assets which collateralize a financing loan. To receive favorable treatment, the broker or dealer must demonstrate to its designated examining authority that the asset adequately secures the indebtedness within the meaning of subparagraph (e)(5) of the Rule.

The Division will raise no question nor recommend any action to the Commission,

If, where the subject of a capitalized lease with a vendor-lessor or bank or other financial institution is computer equipment or telephone equipment, the broker or dealer for purposes of paragraph (c)(1)(viii) and (c)(2)(iv) treats 50% of the capitalized lease liability as adequately secured for a period of two years after the lease was entered into, without demonstration of the adequacy of the collateral; or

If, where as to any capitalized lease, the lessor has no right of recourse against the broker or dealer other than to the subject of the lease for payment of the lease amount or the broker-dealer may return the subject of the lease without further obligation on the lease, the broker dealer excludes the capitalized liability from aggregate indebtedness and does not deduct from net worth the capitalized asset to the extent of the capitalized liability.

If you have any questions, please feel free to call or write.

Sincerely,

Michael A. Macchiaroli

Assistant Director