



DIVISION OF
MARKET REGULATION

SECURITIES AND EXCHANGE COMMISSION

WASHINGTON, D.C. 20549

October 24, 1983

Thomas R. Cassella
Director
Financial Responsibility
National Association of
Securities Dealers, Inc.
1735 K Street, N.W.
Washington, D.C. 20006

Dear Tom:

The purpose of this letter is to summarize and confirm the conclusions we had reached relative to interpretative matters that have arisen in connection with the 1982 amendments to the net capital rule.

The following is a summary of these questions and the SEC's staff's response in regard to such:

1. QUESTION:

Can a municipal securities brokers' broker who elects to compute under the new category (a)(8) which requires a minimum net capital of \$150,000 move to the paragraph (a) standard method of calculating net capital as capital circumstances may dictate?

ANSWER:

No. A brokers' broker who notifies the SEC of his election to operate under paragraph (a)(8) may not switch to another method without the written approval of the SEC. Before granting any petition to change methods of computing net capital, the capital history of the firm and other relevant factors would be considered by the SEC.

2. QUESTION:

What types of securities, if any, may a municipal securities brokers' broker, operating pursuant to paragraph (a)(8), maintain in a proprietary or investment account?

ANSWER:

A brokers' broker operating pursuant to paragraph (a)(8) would by definition be precluded from maintaining any proprietary accounts. However, the staff of the SEC would not object if such brokers were to invest idle cash in short term investments in government securities falling within subparagraph (c)(2)(vi)(A)(1) Category 1 or securities qualifying under (c)(2)(vi)(E)(1).

3. QUESTION:

May a paragraph (a)(8) brokers' broker have Subordination Agreements with Secured Demand Notes (SDN) collateralized by municipal securities?

ANSWER:

No. The prohibition against municipal securities in proprietary accounts extends to SDN collateral. However, those brokers who currently have such securities as collateral to SDN's will be permitted to keep such collateral until the earliest rollover date, but in no event beyond June 25, 1984. Thereafter, they must obtain collateral which conforms to the types of securities described in answer to Question 2, above.

4. QUESTION:

Can subparagraph(c)(2)(ix) of the net capital rule extension be granted by the designated examining authority for an aged fail to deliver on a municipal security?

ANSWER:

No. Municipal securities become aged 21 business days after settlement date and this is deemed sufficient time to complete the transaction.

5. QUESTION:

May a fail to receive be matched against an aged fail to deliver, i.e., failed to deliver of customer securities older than 30 calendar days, for purposes of excluding it from the Reserve Formula Computation?

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ANSWER:

No. Since the fail to deliver is already excluded from the formula by virtue of its being aged, that fail may not be matched against a fail to receive for purposes of excluding the fail to receive from the formula.

I hope these answers are satisfactory. Please contact me if I can be of further assistance.

Sincerely,

Michael A. Macchiaroli

Michael A. Macchiaroli
Assistant Director