



DIVISION OF
MARKET REGULATION

UNITED STATES
SECURITIES AND EXCHANGE COMMISSION
WASHINGTON, D.C. 20549

April 25, 1990

Mr. Salvatore Pallante
Vice President
New York Stock Exchange, Inc.
20 Broad Street
New York, New York 10005

Mr. John E. Pinto, Jr.
Executive Vice President
Compliance
National Association of
Securities Dealers, Inc.
1735 K Street, N.W.
Washington, D.C. 20036

Dear Messrs. Pallante and Pinto:

This letter addresses the problems that certain broker-dealers have experienced in connection with withdrawals from the "Special Reserve Bank Account for the Exclusive Benefit of Customers" ("Reserve Bank Account") under Rule 15c3-3 of the Securities Exchange Act of 1934 (17 CFR § 240.15c3-3).

Paragraph (e) of Rule 15c3-3 requires a broker-dealer to deposit cash and/or qualified securities in its Reserve Bank Account, in amounts computed in accordance with a weekly computation of the Reserve Requirement Formula in Exhibit A to Rule 15c3-3, made as of the close of the last business day of the week. (Under certain conditions, broker-dealers are permitted to make the computation monthly, as of the close of the last business day of the month.) Paragraph (g) of Rule 15c3-3 permits a broker-dealer to "make withdrawals from his Reserve Bank Account if and to the extent that at the time of the withdrawal the amount remaining in the Reserve Bank Account is not less than the amount then required by paragraph (e)... On any business day on which a withdrawal is made, the broker or dealer shall make a record of the computation on the basis of which he makes a withdrawal...".

We understand that broker-dealers on occasion are accountable on the Rule 15c3-3 computation date for certain payables such as customer failed to receive securities or customer free credit balances that are significantly out of proportion to their normal customer-related liabilities. These credit items may arise from an offering of securities pursuant to a firm commitment underwriting, a sale of a significant amount of securities by one or more customers, a purchase by one or more customers of a significant amount of securities for which the broker-dealer receives money before settlement date, or a deposit of a large sum of money by a customer in anticipation of a purchase of a significant amount of securities. These credit items in the Reserve Bank Account computation normally require a significant deposit in the broker-dealer's Reserve Bank Account. Settlement of a customer's securities purchase or a customer's request for payment of his free credit balance from the broker-dealer may occur between the dates on which the broker-dealer performs its Reserve Requirement calculation. Paragraph (g) of the rule, however, prevents withdrawal of the funds until a computation is made showing that the funds in the Reserve Bank Account are in excess of the amount required by the computation.

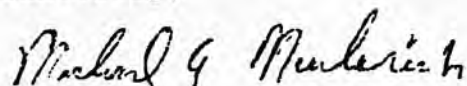
The purpose of paragraph (g) is to prevent a broker-dealer from using customer funds or securities in its business except as otherwise permitted by the rule. This provision assumes that a broker-dealer will have a sufficient flow of funds to finance customer transactions between computation periods and, therefore, that the Reserve Bank Account will not be used as an operating account. The inability of a broker-dealer to finance transactions on behalf of a customer without removal of funds from its Reserve Bank Account may indicate a need for additional capital in the firm. It would seem, however, that the objectives of Rule 15c3-3 could be accomplished without creating unusual borrowing problems for the broker-dealer if there was not an excessive amount of these abnormal credit items.

Under the circumstances, the Division will not recommend any action to the Commission if a broker-dealer withdraws from the Reserve Bank Account, without a computation as required by paragraph (g) of Rule 15c3-3, customer funds received in the following three circumstances: (a) in anticipation of a securities transaction on behalf of that customer; (b) in order to satisfy a customer's request for cash in connection with a sale of the customer's securities which generates proceeds; or (c) in order to pay an issuer for a customer transaction

resulting from a firm contractual commitment, under the following conditions:

- (1) The customer funds received in connection with a specific securities purchase or sale creating the free credit item are deposited directly into a separate Reserve Bank Account established in conformity with paragraph (f) of Rule 15c3-3 when the funds are received. This account would be in addition to any other of the broker-dealer's customary Reserve Bank Accounts. (Each underwriting will be deemed to be a single purchase regardless of the number of the broker-dealer's customers purchasing securities pursuant to the underwriting.) The receipt and disbursement of the customer funds must be separately identified on a broker-dealer's records. The credit items may not be netted against any debit items.
- (2) The amount received per transaction or with respect to a particular customer is equal to at least 25% of the total of the credit items in the most recent Reserve Requirement computation required by paragraph (e) of the Rule.
- (3) If a broker-dealer is required to segregate customer funds pursuant to more than one transaction at any particular time, the funds of each transaction should not be commingled with those of any other transaction.
- (4) The broker-dealer has net capital equal to at least \$250,000 at the time of receipt of the customer monies.

Sincerely,



Michael A. Macchiaroli
Assistant Director