

August 12, 1988

Mr. Edward Kwalwasser

Senior Vice President New York Stock Exchange, Inc,

20 Broad Street New York, NY 10005

Mr. John E. Pinto, Jr.

Senior Vice President

Compliance

National Association of Securities Dealers, Inc.

1735 K Street, Northwest Washington, DC 20036

Dear Messrs. Kwalwasser and Pinto:

We have received numerous inquiries concerning aged failed to deliver contracts which allocate to failed to receive contracts under Exhibit A, the 'Formula for Determination of Reserve Requirements for Brokers and Dealers' ("Reserve Formula") of Securities Exchange Act Rule 15c3-3 (17 C.F.R. 1240.15c3-3).

Rule 15c3-3 allows a broker-dealer to exclude from the Reserve Formula computation failed to receive contracts which allocate to failed to deliver contracts only if the failed to deliver contracts are not older than 30 calendar days. A broker-dealer electing the alternative method must deduct from net worth in computing net capital 1% of the contract value of all failed to deliver contracts or securities borrowed, which were allocated to failed to receive contracts of the same issue and which were excluded from items 11 or 12 of the Reserve Formula.

We have been advised by numerous broker-dealers that fails to deliver of many securities occur either from inability of broker-dealers to buy-in or borrow failed to receive securities, because of the thinness of the particular market, or from the need to transfer securities by physical form. These circumstances occur typically where the failed to deliver securities are municipal securities or are securities issued or guaranteed by the United States or its agencies.

Under the circumstances, the Division will raise no question nor recommend any action to the commission if broker-dealers include in the Reserve Formula aged failed to deliver contracts which allocate to failed to receive contracts it:

1. The aged failed to deliver security is a municipal security or a security issued or guaranteed by the United States or any of its agencies or is a so-called zero or stripped bond relating to one of those securities;
2. The broker-dealer reduces the aged failed to deliver value for purposes of the Reserve Formula by an amount computed in accordance with paragraph (c)(2)(ix) of the net capital rule (Rule 15c3-1) (the appropriate haircut plus [or minus] the mark-to-market);
3. The failed to deliver is not older than 120 calendar days.

Sincerely,

Michael A. Macchiaroli

Assistant Director