



DIVISION OF  
MARKET REGULATION

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

August 13, 1984

Mr. Donald Van Weezel  
Managing Director  
Regulatory Affairs  
New York Stock Exchange, Inc.  
55 Water Street, 23rd Floor  
New York, New York 10041

Dear Mr. Van Weezel:

This is in response to your letter of June 12, 1984, requesting on behalf of the New York Stock Exchange, Inc. ("NYSE"), the Division's interpretation with respect to subparagraphs (c)(2)(iv)(B) and (c)(2)(xii) of Rule 15c3-1 (17 CFR §240.15c3-1 (c)(2)(iv)(B) and (c)(2)(xii) under the Securities Exchange Act of 1934 as those provisions apply to non-purpose loans collateralized by negotiable certificates of deposit ("CDs").

We understand the pertinent facts to be as follows: Regulation T of the Federal Reserve Board (12 CFR §220) in limiting the credit extended by broker-dealers to customers does not recognize currency, notes, drafts, bills of exchange or banker's acceptances having a maturity of less than nine months as marginable securities in a general account. Regulation T, however, permits broker-dealers to extend and maintain credit to or for any customer without any collateral or on any collateral whatsoever for any purpose other than purchasing, carrying or trading securities. Under the NYSE Rule 431, the NYSE's margin rule, such non-purpose loans secured by collateral which is not recognized as marginable securities under Regulation T are considered as unsecured or having a cash margin deficiency subjecting the broker-dealer to a capital deduction under subparagraphs (c)(2)(iv)(B) or (c)(2)(xii) of the rule. Thus, you request that the Division issue an interpretation which would allow broker-dealers to extend credit collateralized by CD's held in non-purpose loan accounts without incurring the capital charge prescribed by the above provisions.

In support of your request, you state that CDs are considered as liquid assets for net capital purposes with haircuts equivalent to and in some cases less than the haircuts prescribed for U.S. Government securities. You also state that CDs are considered as qualified securities under certain circumstances for purposes of Rule 15c3-3 and thus, may be deposited in the Special Reserve Bank Account.

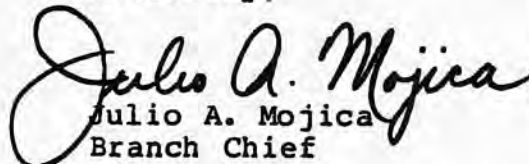
Based on the foregoing facts, the Division will not recommend any action to the Commission if a broker-dealer in computing net capital treats a non-purpose loan account collateralized by insured negotiable CDs or an insured participation interest in "brokered" negotiable CDs as a fully secured receivable for purposes of subparagraphs (c)(2)(iv)(B) and (c)(2)(xii) of Rule 15c3-1 provided that the following conditions are satisfied:

1. The negotiable CDs are issued by U.S. Banks and are denominated in U.S. Dollars.
2. Negotiable CDs with maturity of one year or less securing a non-purpose loan shall have an initial and maintenance margin requirement of 10%. Negotiable CDs with longer maturities securing a non-purpose loan account shall have an initial and maintenance margin requirement of 25%. Any cash margin deficiencies must be charged to capital.
3. CDs held as collateral for non-purpose loans to customers may not be deposited in the Special Reserve Bank Account to satisfy a Rule 15c3-3 reserve deposit requirement.
4. Two percent of the total amount of non-purpose loan debits must be deducted in the broker-dealer's computation of net capital under NYSE Rule 325.
5. Broker-dealers may not lend customers' funds to make the initial purchase or to reinvest in other CDs or money market instruments.
6. Broker-dealers are prohibited from selling CDs short to customers.
7. Brokered CDs with any one bank which are used for collateral may not exceed 100 percent of the broker-dealer's excess net capital.

You should understand that the position expressed herein is a staff position with respect to enforcement only and does not purport to express any legal conclusion on this matter. The Division's position is necessarily confined to the facts as you have represented them; any material change therein may warrant a different result and should be brought to the Division's attention.

If you have any further questions, please contact us.

Sincerely,

  
Julio A. Mojica  
Branch Chief