



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

DIVISION OF
MARKET REGULATION

January 15, 1986

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NASD
SURVEILLANCE

Ms. J. Leslie Daniels
Special Counsel
New York Stock Exchange, Inc.
55 Water Street
New York, New York 10041

Dear Ms. Daniels:

In your letter of April 20, 1984, you ask whether interest obligations pursuant to subordinated loan agreements that comply with the provisions of Appendix D to Rule 15c3-1 (17 CFR 240.15c3-1d) can be excluded from net worth in arriving at net capital as defined in Rule 15c3-1(c)(2).

Paragraph (c)(2)(ii) of Rule 15c3-1 allows broker-dealers to exclude from net worth in arriving at net capital, liabilities which are subordinated to the claims of creditors pursuant to satisfactory subordination agreements as defined in Appendix D to Rule 15c3-1. Paragraph (b)(2) of Appendix D states that "[a]ll subordination agreements shall be for a specific dollar amount...." Including the obligation to pay interest as part of a subordinated loan agreement causes the dollar amount of such an agreement to vary with each accrual of interest; therefore accrued interest has been deemed not to be excludible from net worth in computing net capital. However, the Division will raise no question and recommend no action to the Commission as to paragraph (b)(2) of Appendix D if broker-dealers add subordinated loan interest to net worth in arriving at net capital without a new subordination agreement as to any accrued interest under the following circumstances:

- 1) The total amount of interest to be added to net worth must be ascertainable from the subordination agreement.
- 2) Subordinated interest accruals that are added back to net worth cannot be paid until one year after the date that the payment is due. If the broker-dealer elects this treatment as to any accrued interest payments, it must elect the treatment as to all interest payments, except for those which are accrued in the last year of the agreement.

Ms. J. Leslie Daniels
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3) A self-regulatory organization may, as to members designated to it for financial responsibility purposes, determine a minimum amount of interest which may not be excluded from net worth in determining net capital.

4) This applies only to agreements with an initial maturity of one year or longer.

If you have any further questions, please feel free to contact us.

Sincerely,

Michael A. Macchiaroli

Michael A. Macchiaroli
Assistant Director



**N.Y. STOCK
EXCHANGE**

*May
Jamroz*

SECURITIES & EXCHANGE COMMISSION

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MAY 3 1984

Division of Member Firm
Regulatory Services

April 30, 1984 DIVISION OF MARKET REGULATION

**Mr. Michael Macchioroli
Securities & Exchange Commission
450 5th Street N.W.
Washington, D.C. 20549**

Dear Mike:

This will confirm the discussions we have had with Michael Jamroz of your office concerning the inclusion in net capital of interest on subordination agreements entered into pursuant to Appendix D of Rule 15(c)3-1.

It is our understanding that if the document is drafted to specifically include interest on the loan as subject to the capital lock-in and subordination and all other provisions of the agreement, including the requirement that no interest can be withdrawn within less than one year, a firm may include the interest on such an agreement in its net capital computation.

We are also mindful of the fact that this approach is not to be used for lenders of relatively small amounts of capital.

If anything in this letter contradicts your understanding, please contact me at 212-623-8462.

Very truly yours,

J. Leslie Daniels

J. Leslie Daniels

:vdl

**cc: Mr. Michael Jamroz
Securities & Exchange Commission**

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