

ROBISON, CURPHEY & O'CONNELL 425 LIBBEY-OWENS-FORD BUILDING TOLEDO,  
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July 11, 1977

Mr. Robert L. Smith Division of Market Regulation Securities and Exchange  
Commission 500 North Capitol Street, N.W. Washington, D.C. 20549

SBA Guaranteed Loans

Dear Mr. Smith:

On July 11, 1977, I wrote to you concerning the effect of SBA guaranteed loans on  
net capital requirements. At your convenience, I shall appreciate your advising me  
of the status of this matter and when I may expect to receive clarification.

Thank you for your attention to this matter.

Very truly yours,

Douglas E. Metz

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Mr. Robert L. Smith Division of Market Regulation Securities and Exchange  
Commission 500 North Capitol Street, N.W. Washington, D.C. 20549

SBA Guaranteed Loans

Dear Mr. Smith:

As I explained on the telephone on Thursday, July 7, 1977, our office represents an  
investment banking firm that wishes to enter the secondary market in loans  
guaranteed by the Small Business Administration and is concerned about the effect  
of these securities on its net capital requirements.

The SBA, an agency of the U.S. Government, is authorized under Section 7(a) of the  
Small Business Act of 1958 to guarantee up to 90% of the principal and interest on

loans made by lending institutions to small businesses. The SBA is aggressively promoting the resale of these guaranteed loans in an effort to overcome lending institutions' reluctance to tie up their funds in small business lending. Last summer, the SBA formalized the resale procedures and there is now a growing secondary market for the sale of the guaranteed portion of the SBA loans. Often, the guaranteed portion is sold to pension funds, credit unions, or mutual funds. The assignment of the loans is made by means of a tripartite agreement between the participating lender, the investor and the SBA. A copy of the standard agreement (Form 1084) is enclosed. The agreement provides that in the event of default by the borrower the SBA will repurchase the guaranteed portion and pay directly to the investor the unpaid principal and interest attributable to his share of the loan.

As indicated by the enclosed copy of a letter from John Heneghan, Chief Counsel, Securities and Exchange Commission, to the Acting General Counsel of the Small Business Administration, the guaranteed loans qualify as "government securities" exempt from registration pursuant to Section 3(a)(2) of the Securities Act of 1933. As you know, Release No. 11497/June 26, 1975, subparagraph (c)(2)(vi)(A), provides for a maximum haircut of 3% with respect to government securities, that is, securities issued or guaranteed to principal or interest by the United States or any agency thereof, ... It would seem that if the guaranteed portion of the SBA loans are exempt from registration under the Securities Act of 1933 as government securities that they would also be classified as government securities under the above-mentioned subparagraph of Release No. 11497 for net capital requirement purposes, but since this is a relatively new market, we shall greatly appreciate your confirmation or clarification.

Thank you for your attention to this matter.

Very truly yours,

Douglas E. Metz

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Douglas E. Metz, Esq. Robison, Curphey & O'Connell 425 Libbey-Owens-Ford  
Building Toledo, Ohio 43624

Dear Mr. Metz:

Bob Smith has asked me to respond to your letter of July 11, 1977, in which you inquire as to the haircut treatment, under the Commission's Net Capital Rule, for broker-dealers, of loans guaranteed as to principal and interest by the Small Business Administration. The guaranteed portions of such loans are "government securities" for purposes of the net capital rule and, as such, subject to a maximum three percent haircut.

I trust this information is helpful.

Sincerely,

Phillip M. Huston, Jr.

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