

THE NET CAPITAL RULE, BOOKS AND RECORDS RULE AND OTHER RELATED RULES

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RSA Rule 19-2. Rule Fixing the Amount of Stock brokers/Dealers Surety Bonds - The amount of surety bonds required to be filed pursuant to the Revised Securities Act by stock brokers and dealers is fixed at not less than Five Million Pesos (P5,000,000.00) for brokers and not less than One Million Pesos (P1,000,000.00) for dealers. Such bonds shall run to the Government of the Philippines and be conditioned upon the faithful compliance with the provisions of this Act by said broker or dealer and by all salesmen while acting for him. Such bond shall be executed by a surety company authorized to do business in the Philippines. In lieu of such bond, he may file bonds of the Government of the Philippines. If a bond is filed, any person damaged by the failure of such broker or dealer or of any salesman while acting for him, to comply with the provisions of this Act, shall be entitled to sue the sureties under such bond and to recover the damages so suffered thereunder. If other securities are filed in lieu thereof, such person may subject such securities to the payment of such damage.

RSA Rule 19-5. Confirmation to Customer -

a. A broker or dealer shall report to the customer all transactions entered into for the customer's account, and to this end, shall send the customer a written confirmation of purchases and sales as promptly as possible on the day on which they are made. The confirmation shall be sent to the customer at the address provided on the Customer Account Information Form. An employee or salesman of a broker shall not be authorized to accept a confirmation for or in behalf of a customer.

b. The confirmation required by paragraph (a) hereof shall contain at least the following information:

- a statement as to whether the broker or dealer is acting as a broker for such customer, as a dealer for his own account, as a broker for some other person, or as a broker for such customer and some other person;
- the source and amount of any commission or other remuneration received or to be received by such broker or dealer in connection with the transaction and the amount of commission paid by him, if any, to any other broker employed by him in such transaction or the fact that such information will be furnished upon request;
- That the broker or dealer is controlled by, or controls, or is under common control with the issuer of such security if such be the fact; and
- Whether the transaction was solicited or unsolicited by the broker or dealer or whether the transaction was executed pursuant to the exercise of discretionary power. (Amends Rule B.12 of the 1938 Rules)

RSA Rule 24 (a)-1. Net Capital Rule -

(a) (1) Every broker or dealer at all times shall have and maintain net capital no less than the greater of the minimum requirement as stated under paragraph (b) or the highest minimum amount applicable to its ratio requirement under paragraph (c) of this Rule.

(2) Every broker or dealer shall at least once each month make a computation of net capital.

(3) Every broker or dealer shall immediately cease doing business as a broker or dealer and notify the Philippine Stock Exchange, if it is a member of the Exchange, and the Securities and Exchange Commission if it determines that its net capital falls below the minimum amounts required pursuant to this Net Capital Rule.

(4) The Commission or the Philippine Stock Exchange, in the case of a member of the Exchange, may require from time to time brokers and dealers to submit reports which reflect their financial and operational condition, including net capital.

MINIMUM REQUIREMENT

(b) A broker or dealer shall maintain net capital of not less than P10,000,000.

RATIO REQUIREMENT

Aggregate Indebtedness Standard

(c) No broker or dealer shall permit its aggregate indebtedness to all other persons to exceed 2,000 percent of its net capital.

DEFINITIONS

(d) For the purpose of this rule:

Aggregate Indebtedness - (1) The term "aggregate indebtedness" shall be deemed to mean the total money liabilities of a broker or dealer arising in connection with any transaction whatsoever, and includes, among other things, money borrowed, money payable against securities loaned and securities failed to receive, the market value of securities borrowed to the extent to which no equivalent value is paid or credited (other than the market value of margin securities borrowed from customers and margin securities borrowed from non-customers), customers' and non-customers' free credit balances, and credit balances in customers' and non-customers' accounts having short positions in securities, but excluding:

Exclusions from Aggregate Indebtedness - (A) Indebtedness adequately collateralized by securities which are carried long by the broker or dealer and which have not been sold or by securities which collateralize a secured demand note in conformity with RSA Rule 24 (a) -2;

(B) Amounts payable against securities loaned, which securities are carried long by the broker or dealer and which have not been sold or which securities collateralize a secured demand note in conformity with RSA Rule 24(a)- 2;

(C) Amounts payable against securities failed to receive which securities are carried long by the broker or dealer and which have not been sold or which securities collateralize a secured demand note in conformity with RSA Rule 24 (a) -2 or amounts payable against securities failed to receive for which the broker or dealer also has a receivable related to securities of the same issue and quantity thereof which are either fails to deliver or securities borrowed by the broker or dealer;

(D) Fixed liabilities adequately secured by assets acquired for use in the ordinary course of the trade or business of a broker or dealer but not other fixed liabilities secured by assets of the broker or dealer shall be so excluded unless the sole recourse of the creditor for nonpayment of such liability is to such asset;

(E) Indebtedness subordinated to the claims of creditors pursuant to a satisfactory subordination agreement in conformity with RSA Rule 24 (a) -2;

(F) Liabilities which are effectively subordinated to the claims of creditors (but which are not subject to a satisfactory subordination agreement in conformity with RSA Rule 24 (a) - 2), by non-customers of the broker or dealer prior to such subordination, except such subordinations by customers as have been approved by the Philippine Stock Exchange in the case of a member of that Exchange and the Securities and Exchange Commission in the case of a firm that is not a member of an Exchange;

(G) Credit balances in accounts of general partners;

(H) Deferred tax liabilities; and

(I) Eighty percent of amounts payable against securities loaned for which the broker or dealer has receivables related to securities of the same class and issue and quantity that are securities borrowed by the broker or dealer.

Net Capital

(2) The term "net capital" shall be deemed to mean the net worth of a broker or dealer, adjusted by;

Adjustments to Net Worth Related to Unrealized Profit or Loss

(A) (i) Adding unrealized profits (or deducting unrealized losses) in the accounts of the broker or dealer;

(ii) In determining net worth, all long and all short securities positions shall be marked to their market value.

Subordinated Liabilities

(B) Excluding liabilities of the broker or dealer which are subordinated to the claims of creditors pursuant to a satisfactory subordination agreement in conformity with RSA Rule 24 (a) - 2;

Sole Proprietors

(C) Deducting, in the case of a broker or dealer who is a sole proprietor, the excess of liabilities which have not been incurred in the course of business as a broker or dealer over assets not used in the business.

Assets Not Readily Convertible Into Cash

(D) Deducting, fixed assets and assets which cannot be readily converted into cash (less any indebtedness excluded in accordance with subparagraph (d) (1) (D) of this rule) including, among other things;

Fixed Assets and Prepaid Items

(i) Real estate; furniture and fixtures; exchange memberships; prepaid rent; insurance and other expenses goodwill, organization expenses;

Certain Unsecured and Partly Secured Receivables

(ii) All unsecured advances and loans; deficits in customers' and non-customers' unsecured and partly secured notes; deficits in special omnibus accounts or similar accounts carried on behalf of another broker or dealer, after application of calls for margin, marks to the market or other required deposits that are outstanding five (5) business days or less; deficits in customers' and non-customers' unsecured and partly secured accounts after application of calls for margin, marks to the market or other required deposits that are outstanding five (5) business days or less, except deficits in cash accounts for which not more than one extension respecting a specified securities transaction has been requested and granted; the market value of stock loaned in excess of the value of any collateral received therefor; receivables arising out of free shipments of securities in excess of P125,000 per shipment and all free shipments outstanding more than 7 business days, and any collateral deficiencies in secured demand notes in conformity with RSA Rule 24 (a) - 2;

(iii) Interest receivable, floor brokerage receivable; commissions receivable from other brokers or dealers, and management fees receivable from registered investment companies/all of which receivables are outstanding longer than thirty (30) days from the date they arose; dividends receivable outstanding longer than thirty (30) days from the payable date;

Insurance Claims

(iv) Insurance claims which, after fifteen (15) business days from the date the loss giving rise to the claim is discovered, are not covered by an opinion of outside counsel that the claim is valid and is covered by insurance policies presently in effect; insurance claims which after thirty (30) business days from the date the loss giving rise to the claim is discovered and which are accompanied by an opinion of outside counsel described above, have not been acknowledged in writing by the insurance carrier as due and payable; and insurance claims acknowledged in writing by the carrier as due and payable outstanding longer than twenty (20) business days from the date they are so acknowledged by the carrier;

Other Deductions

(v) All other unsecured receivables; all assets doubtful of collection less any reserves established therefor; the amount by which market value of securities failed to receive outstanding longer than thirty (30) calendar days exceeds the contract value of such fails to receive; and,

Securities Borrowed

(vi) 1% of the market value of securities borrowed collateralized by an irrevocable letter of credit;

(vii) Any receivable from an affiliate of the broker or dealer (not otherwise deducted from net worth) and the market value of any collateral given to an affiliate (not otherwise deducted from net worth) to secure a liability over the amount of the liability of the broker or dealer unless the books and records of the affiliate are made available for examination when requested by the Commission or the Philippine Stock Exchange for the broker or dealer in order to demonstrate the validity of the receivable or payable. The provisions of this subsection shall not apply where the affiliate is a registered broker or dealer;

Securities Differences

(E) (i) Deducting the market value of all short securities differences (which shall include securities positions reflected on the securities records which are not susceptible to either count or confirmation) unresolved after discovery in accordance with the following schedule:

Percentage of Market Value of Short Securities Differences

Number of Business Days After Discovery

25%

7

50%

14

75%

21

100%

28

(ii) Deducting the market value of any long securities differences, where such securities have been sold by the broker or dealer before they are adequately resolved, less any reserves established therefor;

(iii) For a Philippine Stock Exchange member, the Philippine Stock Exchange, and in the case of a firm that is not a member of an Exchange, the Securities and Exchange Commission may extend the periods in (i) above for up to 10 business days if it finds that exceptional circumstances warrant an extension.

Securities Haircuts

(F) (i) Deducting for all securities or evidences of indebtedness [other than those described in subparagraphs (ii) and (iii) below] in the proprietary or other accounts of the broker or dealer, 15 percent of the market value of the greater of the long or short positions and to the extent the market value of the lesser of the long or short positions exceeds 25 percent of the market value of the greater of the long or short positions, the percentage deduction on such excess shall be 15 percent of the market value of such excess". No deduction need be made in the case of:

- a. Securities that are convertible into or exchangeable for other securities within a period of 90 days, subject to no conditions other than the payment of money, and the other securities into which such security is convertible or for which it is exchangeable, are short in the accounts of such broker or dealer; or
- b. A security that has been called for redemption and that is redeemable within 90 days.

Securities With A Limited Market

(ii) Deducting, in the case of securities in the proprietary or other accounts of the broker or dealer, which are not traded on a securities exchange, the following amounts:

- a. In the case where there are regular quotations for the securities by three or more independent dealers (exclusive of the computing broker or dealer) and where each such quotation represents a bona fide offer to brokers or dealers to both buy and sell in reasonable quantities at stated prices, the deduction shall be determined in accordance with subparagraph (i) above;
- b. In the case where there are regular quotations for the securities by only one or two independent dealers (exclusive of the computing broker or dealer) and where each such quotation represents a bona fide offer to brokers or dealers both to buy and sell in reasonable quantities, at stated prices, the deduction on both the long and short position shall be 40 percent.
- c. Where a broker or dealer demonstrates that there is sufficient liquidity for any securities long or short in the proprietary or other accounts of the broker or dealer which are subject to a deduction required by subparagraph (ii) b. above, such deduction, upon a proper showing to the Philippine Stock Exchange in the case of a member of that Exchange and to the Securities and Exchange Commission in the case of a firm that is not a member of an Exchange may be appropriately decreased, but in no case shall such deduction be less than that prescribed in subparagraph (i) above.

(iii) Deducting for securities issued by the Republic of the Philippines in the proprietary or other accounts of the broker or dealer, the applicable percentage of the market value of the greater of the long or short positions in each of the categories specified below:

- less than 1 year to maturity - 2 %
- year but less than 2 years to maturity - 3 %
- years but less than 3 years to maturity - 5%
- years but less than 5 years to maturity - 6%
- 5 years but less than 10 years to maturity - 7%

Undue Concentration

(iv) In the case of securities of a single class or series of an issuer (other than securities issued by the Republic of the Philippines) which are long or short in the proprietary or other accounts of a broker or dealer, including securities that are collateral to secured demand notes in conformity with RSA Rule 24 (a) - 2, and that have a market value of more than 10 percent of the net capital of a broker or dealer before the application of haircuts required by this rule, there shall be an additional deduction from net worth and/or collateral value for securities collateralizing a secured demand note in conformity with RSA Rule 24 (a) - 2 equal to 50 percent of the percentage deduction otherwise provided by haircut provisions of this rule on that portion of the securities position in excess of 10 percent of the net capital of the broker or dealer before the application of the haircuts.

Non-Marketable Securities

(G) Deduction of 100 percent of the carrying value in the case of securities or evidence of indebtedness, in the proprietary or other account of the broker or dealer, for which there is no ready market, as defined in subparagraph (d) (6) of this rule, and securities, in the proprietary or other accounts of the broker or dealer, which cannot be publicly offered or sold because of statutory, regulatory or contractual arrangements or other restrictions;

Aged Fails to Deliver

(H) Deducting from the contract value of each failed to deliver contract that is outstanding 15 business days or longer the percentages of the market value of the underlying security that would be required by application of the haircut requirements of the rule. Such deduction, however, shall be increased by an excess of the contract price of the failed to deliver contract over the market value of the underlying security or reduced by an excess of the market value of the underlying security over the contract value of the failed to deliver contract, but not to exceed the amount of such deduction. Upon application of the broker or dealer, the Philippine Stock Exchange in the case of a member of that Exchange and the Securities and Exchange Commission in the case of a firm that is not a member of an Exchange may extend the time period provided in this paragraph for up to 5 business days if it is satisfied that an extension is warranted. Upon expiration of the extension, the Philippine Stock Exchange or the Securities and Exchange Commission may grant an additional extension of up to 5 business days if it is satisfied an extension is warranted.

Adequately Secured

(3) Adequately secured indebtedness shall be deemed to exist when the excess of the market value of the collateral over the amount of the indebtedness is sufficient to make the loan acceptable as a fully secured loan to banks regularly making secured loans to brokers or dealers.

Customer

(4) The term "customer" shall mean any person from whom, or on whose behalf, a broker or dealer received, acquired or holds funds or securities for the account of such person, but shall not include a broker or dealer, or a general, special or limited partner or director or officer of the broker or dealer, or any person to the extent that such person has a claim for property or funds, which by contract, agreement or understanding, or by operation of law, is part of the capital of the broker or dealer or is subordinated to the claims of creditors of the broker or dealer. However, the term "customer" shall include a broker or dealer, but only insofar as such broker or dealer maintains a special omnibus account carried with another broker or dealer.

Non-Customer

(5) The term "non-customer" means a broker or dealer, general partner, limited partner, officer, director and persons to the extent their claims are subordinated to the claims of creditors of the broker or dealer.

Ready Market

(6) (A) The term "ready market" shall include a recognized established securities market in which exists independent bona fide offers to buy and sell so that a price reasonably related to the last sales price or current bona fide competitive bid and offer quotations can be determined for a particular security almost instantaneously and where payment will be received in settlement of a sale at such price within a relatively short time.

(B) A "ready market" shall also be deemed to exist where securities have been accepted as collateral for a loan by a bank as defined in Section 2 (1) of the Revised Securities Act and where the broker or dealer demonstrates to the Philippine Stock Exchange in the case of a member of that Exchange or the Securities and Exchange Commission in the case of a firm that is not a member of an Exchange that such securities adequately secure such loans.

LIMITATIONS ON WITHDRAWAL OF EQUITY CAPITAL

(e) (1) No equity capital of the broker or dealer may be withdrawn by action of a stockholder or a partner or by redemption or repurchase of shares of stock or through the payment of dividends or any similar distribution, nor may any unsecured advance or loan be made to a stockholder, partner, sole proprietor, employee or affiliate, if after giving effect thereto and to any other such withdrawals, advances or loans and any payments under satisfactory subordination agreements in conformity with RSA Rule 24 (a) -2 which are scheduled to occur within 180 days following such withdrawal, advance or loan if:

(a) the broker or dealer's net capital would be less than 120 percent of the minimum amount required by paragraph (a) of this rule; or

(b) the aggregate indebtedness of the broker or dealer exceeds 1500 percent of its net capital.

(2) For purposes of paragraph (e) (1), the term equity capital includes capital contributions by partners, par or stated value of capital stock, paid-in capital in excess of par, retained earnings or other capital accounts.

(3) Paragraph (e) (1) shall not preclude a broker or dealer from making required tax payments or preclude to partners of reasonable compensation, and such payments shall not be included in the calculation of withdrawals, advances, or loans for purposes of paragraph (e) (1).

(4) For the purpose of paragraph (e) (1), any transaction between a broker or dealer and a stockholder, partner, sole proprietor, employee or affiliate that results in a diminution of the broker or dealer's net capital shall be deemed to be an advance or loan of net capital.

TRANSITION

(f) The provisions of this rule other than subparagraph (d) (2) (F)(i), (ii), (Hi) and (iv) shall take effect on August 15, 1996. One third of the total of the deductions required by (d)(2) (F) (i), (iii) and (iv) shall be deducted by a broker or dealer commencing on August 15, 1996; two-thirds of the total commencing on February 15, 1997 and the full amount of the total of the deductions commencing on August 15, 1997.

RSA Rule 31 (a) (3) - 1 - Conditions Under Which Broker or Dealer Vested With Discretion May Effect Transactions - A broker, dealer, or salesman who is vested by a customer with discretion as to the choice or the amount of securities to be bought or sold or as to whether the transaction shall be one of purchase or sale, may:

(1) Effect a transaction for or with such customer in any security in which in the course of his business as a broker, dealer, or salesman he has a long or short position, or in the distribution or accumulation of which he has any direct financial interest, or in which he holds, or has granted or has knowledge that any principal for whom he is acting holds or has granted any option, provided that he clearly discloses to such customer the fact of such position, interest, or option and obtains the written, telegraphic or facsimile consent of such customer to each such transaction; or

(2) Buy from or sell to such customer any security for any account in which he or any principal for whom he is acting is interested, provided that he obtains the written, telegraphic or facsimile consent of such customer to each such purchase or sale. (Amends Rule B.23 of the 1938 Rules).

RSA Rule 31 (a) (3) - 2 - Discretionary Account Disclosure Rule - (a) No broker, dealer, associated person or salesman shall exercise discretionary power in a customer's account unless such customer has given prior written authorization to a stated individual or individuals and the account has been accepted by the broker or dealer, as evidenced in writing by the broker or dealer, or the partner, officer or manager, duly designated by the broker or dealer;

(b) The broker or dealer or the person duly designated shall approve promptly in writing each discretionary order entered and shall review all discretionary accounts at frequent intervals in order to detect and prevent transactions which are excessive in size and frequency in view of the financial resources and character of the account.

(c) No broker, dealer, associated person or salesman shall effect with or for any customer's account in respect to which such broker, dealer, associated person or salesman, is vested with any discretionary power any transactions of purchase or sale which are excessive in size or frequency in view of the financial resources and character of such account.

(d) This rule shall not apply to discretion as to the price at which or the time when an order given by a customer for the purchase or sale of a definite amount of a specified security shall be executed.

RSA 37 (a)-1 - Books and Records Rule - (a) Every broker or dealer shall make and keep current the following books and records relating to its business and they shall be maintained in one principal office of the broker or dealer:

(1) Blotters (or other records of original entry) containing an itemized daily record of all purchases and sales of securities, all receipts and deliveries of securities (including certificate numbers), all receipts and disbursements of cash and all other debits and credits. Such records shall show the account for which each such transaction was effected, the name and amount of securities, the unit and aggregate purchase or sale price (if any), the trade date, settlement date, and the name or other designation of the person from whom purchased or received or to whom sold or delivered.

- (2) Ledgers (or other records) reflecting all assets and liabilities, income and expense and capital accounts.
- (3) Ledger accounts (or other records) itemizing separately as to each cash and margin account of every customer, broker or dealer and partners thereof, all purchases, sales, receipts and deliveries of securities and commodities for such account and all other debits and credits to such account.
- (4) Ledgers (or other records) reflecting the following:
- (A) Securities in transfer;
 - (B) Dividends and interest received and paid, including receivable and payable balances by security;
 - (C) Securities borrowed and securities loaned-shares and monies;
 - (D) Monies borrowed and monies loaned (together with a record of the collateral therefor and any substitutions in such collateral);
 - (E) Securities and monies failed to receive and failed to deliver;
 - (F) All long and all short securities record differences arising from the examination, count, verification and comparison (by date of examination, count, verification and comparison showing for each security the number of long or short count differences);
 - (G) Repurchase and reverse repurchase agreements;
- (5) A Securities record or ledger reflecting separately for each security as of the clearance dates all "long" or "short" positions (including securities in safekeeping and securities that are the subjects of repurchase or reverse repurchase agreements) carried by such broker or dealer for his account or for the account of his customers or partners or others and showing the location of all securities long and the offsetting position to all securities short, including long security count differences and shorts security count differences classified by the date of the physical count and verification in which they were discovered, and in all cases the name or designation of the account in which each position is carried.
- (6) A memorandum of each brokerage order, and of any other instruction, given or received for the purchase or sale of securities whether executed or unexecuted. Such memorandum shall show the terms and conditions of the order or instructions and of any modification or cancellation thereof, the account for which entered, the time of entry, the price at which executed and, to the extent feasible, the time of execution or cancellation. Orders entered pursuant to the exercise of discretionary power by such broker or dealer, or any employee thereof, shall be so designated. The term "instruction" shall be deemed to include instructions between partners and employees of a broker or dealer. The term "time of entry" shall be deemed to mean the time when such broker or dealer transmits the order or instruction for execution or, if it is not so transmitted, the time when it is received.
- (7) A memorandum of each purchase and sale for the account of such broker or dealer showing (the price and, to the extent feasible, the time of execution; and in addition, where such purchase or sale is with a customer other than a broker or dealer, a memorandum of each order received, showing the time of receipt, the terms and conditions of the order, and the account in which it was entered.
- (8) Copies of confirmations of all purchases and sales of securities, including all repurchase and reverse repurchase agreements, and copies of notices of all other debits and credits for securities, cash and other items for the account of customers and partners of such broker or dealer.
- (9) A record in respect of each cash or margin account with such broker or dealer indicating (i) the name and address of the beneficial owner of such account, and (ii) in the case of a margin account, the signature of such

owner, Provided, That, in the case of a joint account or an account of a corporation, such records are required only in respect of the person or persons authorized to transact business for such account.

(10) A record of all puts, calls, spreads, straddles and other options in which such broker or dealer has any direct or indirect interest or which such broker or dealer has granted, purchased or guaranteed, containing, at least, an identification of the security and the number of units involved.

(11) A record of the proof of money balances of all ledger accounts in the form of trial balances, and a record of the computation of aggregate indebtedness and net capital, as of the trial balance date. Such trial balances and computations shall be prepared at least once a month.

(12) A questionnaire or application for employment executed by each associated person and salesman of such broker or dealer, which questionnaire or application shall be approved in writing by an authorized representative of such broker or dealer and shall contain at least the following information with respect to such person:

(A) His name, address, and the starting date of his employment or other association with the broker or dealer;

(B) His date of birth;

(C) A complete, consecutive statement of all his business connections for at least the preceding ten years, including whether the employment was part-time or full-time.

(D) A record of any denial of registration, or termination for cause, and of any disciplinary action taken, or sanction imposed, upon him by any agency, or by any exchange including any finding that he was a cause of any disciplinary action or had violated any law;

(E) A record of any denial, suspension, expulsion or revocation of any registration of a broker or dealer with which he was associated in any capacity when such action was taken;

(F) A record of any permanent or temporary injunction entered against him or any broker or dealer with which he was associated in any capacity at the time such injunction was entered;

(G) A record of any arrest or indictment for any felony, or any misdemeanor pertaining to securities, commodities, banking, insurance or real estate (including, but not limited to acting as or being associated with a broker-dealer, investment company, investment adviser, futures sponsor, bank or savings and loan association), fraud, false statements or omissions, wrongful taking of property or bribery, forgery, counterfeiting or extortion, and the disposition of the foregoing; and

(H) A record of any other name or names by which he has been known by which he has used;

Provided, however, that if such salesman or associated person has been registered with the SEC, retention of a full, correct, and complete copy of any and all applications for such registration or approval shall be deemed to satisfy the requirements of this subparagraph.

(b) The term "associated person" shall mean a partner, officer, director, or branch manager of such broker or dealer, or any employee thereof who exercises control or supervisory authority but does not include a salesman or person whose functions are solely clerical or ministerial.

(c) The term "salesman" shall mean every natural person, other than a broker or dealer, employed or appointed or authorized by a broker, dealer or issuer to sell or purchase securities in any manner. The partners in a partnership and the executive officers of a corporation or other association registered as a broker or dealer shall not be salesmen within the meaning of this definition.

(d) Every broker and dealer shall immediately make available any or all of its books and records upon request of

the Securities and Exchange Commission, the Philippine Stock Exchange or any other self regulatory organization of which it is a member. Failure to do so shall result in immediate suspension of the broker or dealer from the right to engage in the securities business. Such suspension shall continue until such time as the books and records are made available to the requesting agency and the agency has satisfied itself that the books and records have not been modified or otherwise changed or altered during the period of suspension.

Rule 37 (a) - 2 Records Retention Rule - (a) Every broker and dealer shall preserve for a period of not less than six years, the first two years in an easily accessible place, all records required to be made pursuant to Paragraph (a) (1), (2), (3), and (5) of Rule 37 (a) - 1. the Books and Records Rule.

(b) Every such broker and dealer shall preserve for a period of not less than three years, the first two years in an accessible place:

(1) All records required to be made pursuant to paragraph (a) (4), (6), (7), (8), (9), (10) and (11) of the Books and Records Rule.

(2) All check books, bank statements, cancelled checks and cash reconciliations.

(3) All bills receivable or payable (or copies thereof), paid or unpaid, relating to the business of such broker or dealer as such.

(4) Originals of all communications received and copies of all communications sent by such broker or dealer (including inter-office memoranda and communications) relating to his business as such.

(5) All trial balances, computations of aggregate indebtedness and net capital (and working papers in connection therewith), financial statements, branch office reconciliations and internal audit working papers, relating to the business of such member, broker or dealer, as such.

(6) All guaranteed accounts and all powers of attorney and other evidence of the granting of any discretionary authority given in respect of any account, and copies of resolutions empowering an agent to act on behalf of a corporation.

(7) All written agreements (or copies thereof) entered into by such broker or dealer relating to his business as such, including agreements with respect to any account.

(8) Records which contain the following information in support of amounts included in the report prepared as of the audit date in annual audited financial statements required by the RSA Rule 37 (a) -6.

(A) Money balance position, long or short, including description, quantity, price and valuation of each security including contractual commitments in customer's accounts, in cash and fully secured accounts, partly secured accounts, unsecured accounts and in securities accounts payable to customers;

(B) Money balance and position, long or short, including description, quantity, price and valuation of each security, including contractual commitments in non-customers' accounts, in cash and fully secured accounts, partly secured and unsecured accounts and in securities accounts payable to non-customers;

(C) Position, long or short, including description, quantity, price and valuation of each security, including contractual commitments included in the Computation of Net Capital as commitments, securities owned, securities owned not readily marketable, and other investments owned not readily marketable;

(D) Amount of secured demand note, description of collateral securing such secured demand note including quantity, price and valuation of each security and cash balance securing such secured demand note;

(E) Description of futures commodity contracts, contract value on trade date, market value, gain or loss, and

liquidating equity or deficit in customers' and non- customers' accounts;

(F) Description of futures commodity contracts, contract value on trade date, market value, gain or loss and liquidating equity or deficit in trading and investment accounts;

(G) Description, money balance, quantity, price and valuation of each spot commodity position or commitments in customers' and non-customers' accounts;

(H) Description, money balance, quantity, price and valuation of each spot commodity position or commitments in trading and investment accounts;

(I) Number of shares, description of security, exercise price, cost and market value of put and call options including short out of the money having no market or exercise value, showing listed and unlisted put and call options separately;

(J) Quantity, price and valuation of each security underlying the haircut for undue concentration made in the Computation for Net Capital;

(K) Description, quantity, price, and valuation of each security and commodity position or contractual commitment, long or short, in each joint account in which the broker or dealer has an interest, including each participant's interest and margin deposit;

(L) Description, settlement date, contract amount, market price, and valuation for each aged failed to deliver requiring a charge in the Computation of Net Capital;

(M) Detail of alt items, not otherwise substantiated which are charged or credited in the Computation of Net Capital pursuant to the Net Capital Rule, such as cash margin deficiencies, deductions related to securities values and undue concentration, aged securities differences and insurance claims receivable; and

(N) Details relating to information for possession or control requirements and computations for determination of reserve requirements under the Rule on Customer Protection-Reserves and Custody of Securities.

(9) A detailed description of the procedures which the broker or dealer utilizes to comply with the provisions of Rule 24 (a) -3.

(c) Every broker and dealer shall preserve for a period of not less than six years after the closing of any customer's account any account cards or records which relate to the terms and conditions with respect to the opening and maintenance of such account.

(d) Every broker and dealer shall preserve during the life of the enterprise and of any successor enterprise all partnership articles or, in the case of a corporation, all articles of incorporation or charter, minute books and stock certificate books.

(e) Every broker and dealer shall maintain and preserve in an easily accessible place all records required under paragraph (a) (12) of the Books and Records Rule until at least three years after the associated person for salesman has terminated his employment and any other connection with the broker or dealer.

(f) The records required to be maintained and preserved pursuant to this Rule may be immediately produced or reproduced on microfilm and be maintained and preserved for the required time in that form. If such microfilm substitution for hard copy is made by a broker or dealer, it shall (1) at all times have available for Commission or Philippine Stock Exchange examination of its records, facilities for immediate, easily readable projection of the microfilm and for producing easily readable facsimile enlargements, (2) arrange the records and index and file the films in such a manner as to permit the immediate location of any particular record, (3) be ready at all times to provide and immediately provide, any facsimile enlargement which the Commission or the Philippine Stock Exchange by their examiners or other representatives may request, and (4) store separately from the

original one other copy of the microfilm for the time required.

(g) If a person who has been subject to this Rule ceases to transact a business in securities such person shall, for the remainder of the periods of time specified in this Rule, continue to preserve the records which he theretofore preserved to this Rule.

(h) If the records required to be maintained and preserved pursuant to the Books and Records Rule and Records Retention Rule are prepared or maintained by an outside service bureau, depository, bank or other recordkeeping service on behalf of the broker or dealer required to maintain and preserve such records, such outside entity shall file with the Commission a written undertaking in form acceptable to the Commission, signed by a duly authorized person, to the effect that such records are the property of the broker or dealer required to maintain and preserve such records and will be surrendered promptly on request of the broker or dealer and including the following provision:

"With respect to any books and records maintained or preserved on behalf of [name of broker or dealer], the undersigned hereby undertakes to permit examination of such books and records at any time or from time to time during business hours by representatives or designees of the Securities and Exchange Commission, and/or the Philippine Stock Exchange and to promptly furnish to said Commission and Exchange or its designee true, correct, complete and current hard copy of any or all any part of such books and records."

Agreement with an outside entity shall not relieve such broker or dealer from the responsibility to prepare and maintain records as specified in this Rule or in the Books and Records Rule.

(i) Every broker or dealer subject to this Rule shall furnish promptly to a representative of the Commission and/ or the Philippine Stock Exchange such legible, true and complete copies of those records of the broker or dealer, which are required to be preserved under this Rule, as are requested by the Commission or the Exchange.

RSA Rule 37 (a) - 4 - Keeping of Exchange Records - A securities exchange shall keep complete and accurate records of all its proceedings, transactions and decisions and such records shall be made available for inspection by the Securities and Exchange Commission. (Amends Rule A.2 of the 1938 Rules).

RSA Rule 37 (a) - 5 - Reports of Exchange Members, and Brokers or Dealers Trading Through Members - Every member of a securities exchange and every broker or dealer who transacts a business in securities through the medium of any such member shall, in the manner and form to be prescribed by the Commission, make such periodic, special or other reports as the Commission may by order require from time to time. (Amends Rule A. 8 of the 1938 Rules)

RSA Rule 37 (a) - 7 - Customer Account Information Rule - Each broker or dealer shall maintain accounts opened after June 1, 1996 as follows:

(a) for each account, each broker or dealer shall maintain the following information:

- customer's name, residence address and residence telephone;
- whether customer is of legal age;
- nationality
- signature of the salesman introducing the account and signature of the partner, officer or manager who accepts the account; and
- if the customer is a corporation, partnership or other legal entity, the names of any person authorized to transact business on behalf of the entity.

b. for each account other than an institutional account each broker or dealer shall also make reasonable efforts to obtain, prior to the settlement of the initial transaction in the account, the following information to the extent it is applicable to the account;

- customer's tax identification number;
- occupation of customer and name and address and telephone number of employer;
- whether the customer is associated with another broker or dealer;
- whether the customer is an officer or director of a company listed on an exchange;
- the customer's investment objective and other related information concerning the customer's financial situation and needs; and
- if duplicate confirmations are required to be sent to another person, the identity of that person and his relationship to the customer.

c. For discretionary accounts, the broker or dealer shall also:

- obtain the signature of each person authorized to exercise discretion in the account;
- record the date such discretion is granted; and
- be in full compliance with the provisions of RSA Rule 31 (a) (3) -2 the Discretionary Account Disclosure Rule.

d. If the broker or dealer intends to bind the customer to any contract, agreement, clause or condition appearing in the customer account agreement, he shall require the customer to initial the specific provision therein which is intended to bind him.

e. For purposes of this Rule, the term "institutional account" shall mean the account of:

- a bank, insurance company, or registered investment company;
- an investment advisor; or
- any other entity (whether a natural person, corporation, partnership, trust or otherwise) with total assets of at least P1,200,000,000.

A suggested format for a customer account information form appears in Attachment 1.

RSA Rule 37 (a) - 8 - Order Ticket Rule -

a. All orders received by a broker or dealer to buy or sell securities for customers shall be entered on an order form. All buying and selling orders shall be time-stamped upon receipt by the broker or dealer or person acting on his behalf and further time-stamped upon transmission to the floor of the exchange and also upon their execution, withdrawal or cancellation.

b. All brokers or dealers, who deal for their own account or trade for a discretionary account, as well as their partners, floor traders, officials and employees, shall record all purchase and sale orders on the same order form used by such brokers for their customers, and such order forms shall also be time-stamped as required by subparagraph (a) hereof.

c. Every broker or dealer, or associated person or sales man of a broker or dealer, executing an order for a transaction in securities shall enter on the order ticket for the transaction on the floor of the exchange or in the firm's trading room in the case on an over the counter transaction and in the trading system used for the execution

whether the firm is acting as agent or principal in connection with the transaction.

d. In addition to the information required in subparagraphs (a), (b) and (c), the order ticket must reflect the terms and conditions of the order or instructions, including a notation if the order is a short sale, and any subsequent modification or cancellation, the name of the customer for which the order was entered, the price at which executed, and whether the order was solicited or unsolicited.

e. All purchase and sale orders for the same security and under the same terms and conditions, including those placed by the broker or dealer for its own account or for discretionary accounts and those placed by partners, floor traders, officials and employees, shall be executed by the broker or dealer in the order in which they were received. (Amends Rule B. 7 of the 1938 Rules).

RSA Rule 37 (a) - 9 - Customer Account Statements - a) A broker or dealer shall, with a frequency of not less than once every calendar quarter, send a statement of account containing a description of any securities positions, money balance, or account activity to each customer whose account had a security position, money balance, or account activity during the period since the last such statement was sent to the customer.

b. Such statement shall disclose that free credit balances are not segregated and may be used in the operation of the broker or dealer and that such funds are payable on demand of the customer.

c. For purposes of this Rule, the term "account activity" shall include, but not be limited to, purchases, sales, interest credits or debits, charges or credits, dividend payments transfer activity, securities receipts or deliveries, and/or journal entries relating to securities or funds in the possession or control of the broker or dealer.

RSA 37 (a) - 10. Customer Complaint Rule -

a. Every broker or dealer shall keep and preserve in each of its offices either a separate file of all written complaints of customers received by office and the action taken by the broker or dealer, if any, or a separate record of such complaints and a clear reference to the files containing the correspondence connected with such complaint and maintained in such office.

b. Every broker or dealer shall keep in its home office either a duplicate copy of all written complaints of customers received by all offices of the firm and the action taken in respect thereto, if any, or a separate record of such complaints and a clear reference to the files containing the correspondence connected with such complaint.

c. A "complaint" shall be deemed to mean any written statement of a customer or any person acting on behalf of a customer alleging a grievance involving the activities of those persons under the control of the broker or dealer in connection with the solicitation or execution of any transaction, the disposition of securities or funds of that customer or any other aspect of the broker's or dealer's securities business.

Old Rules Rescinded by the Commission

"Rules Fixing Amount of Paid-up Capital of Stock Brokerage Firms and Their Surety Bonds" dated 10/9/73.

Unnumbered Memorandum Circular entitled "Revised Rules Fixing the Amount of Paid-up Capital of Stock Brokers/ Dealers and Their Surety Bonds" dated 9/15/87.

Memorandum Circular No. 13, Series of 1987. issued 9/15/ 87 and entitled "Amendments to the Rules Fixing the Amount of Paid-up Capital Stock of Stockbroker/Dealers and Their Surety Bonds."

Memorandum Circular No. 1, Series of 1994. issued 1/17/ 94, entitled "Amendments to the Rules Fixing the Amount of Paid-up Capital Stock of Stock Brokerage Firms and their Surety Bonds."

Memorandum Circular No. 4, Series of 1994, issued 11/4/94, entitled "Amendments to Rules Fixing the Amount of Stockbrokers/Dealers Surety Bonds."

"Broker's and Dealer's Forms to be Furnished to Commission", Rule B.1 of 1938 Rules and Regulations Governing Securities Exchanges and Their Members, Brokers, Dealers, Salesmen and Customer (The 1938 Rules).

"Disclosure by Broker Acting as Dealer", Rule A.29 of the 1938 Rules.

"Customer's Reference Card", Rule B.4 of the 1938 Rules.

"Account Books or Records to be Kept", Rule B.5 of the 1938 Rules.

"Discretionary Accounts", Rule B.9 of the 1938 Rules.

"Daily Reports of Sales and Purchases", Rule B.11 of the 1938 Rules.

"Erroneous Transactions to be Reported", Rule B.20 of the 1938 Rules.

"Disclosure by Broker or Dealer in Over-The-Counter Transaction," Rule B.22 of the 1938 Rules.

Effective Date of the New Rules

These rules, with the exception of the Net Capital Rule, shall take effect fifteen (15) days after its publication in two (2) newspapers of general circulation in the Philippines. On the other hand, the Net Capital Rule shall take effect on August 15, 1996 in accordance with the Transitory provision of the Net Capital Rule.

RECOMMENDING APPROVAL:

PERFECTO R. YASAY, JR.
Acting Chairman
Securities and Exchange Commission

APPROVED BY:

ROBERTO F. DE OCAMPO
Secretary
Department of Finance

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