

OPENING REMARKS OF CHAIRMAN ARTHUR LEVITT
BEFORE THE SECURITIES AND EXCHANGE COMMISSION
REGARDING THE ADOPTION OF AMENDMENTS TO THE NET CAPITAL RULE
FOR COMMISSION CONSIDERATION AUGUST 11, 1993

Good morning. Today we are going to consider the adoption of amendments to the Commission's net capital rule (Rule 15c3-1) under the Securities Exchange Act of 1934.

I don't think I would be alone if I described the Commission's net capital rule as one of our more intricate rules; and though it is a hard rule to read, when the smoke clears, you are left with a rule that has stood the test of time. Indeed, since 1942, the Commission's net capital rule has required certain broker-dealers to maintain specified minimum levels of assets in order to conduct a securities business. The rule has been improved upon over the years as conditions and circumstances in the markets have changed, in some respects radically. What we are considering today are refinements which, I believe, will further improve the rule. I am very pleased that one of the first Commission initiatives on my watch is to take final action on a rule that directly impacts and influences the safety and soundness of our markets.

The rule amendments as initially proposed would extend the application of the net capital rule to exchange members -- specialists -- who currently are exempt from the rule because they have no customers and restrict their business to that of a specialist. The amendments would have allowed specialists a one

day "grace period" within which to meet the rule's haircut and undue concentration deductions. In addition, the rule continued to provide an exemption for options market makers doing business on the floor of a national securities exchange.

I understand that the rule that is now in front of us has been revised somewhat from what was initially proposed, to take into account the concerns of commenters. The most significant change has been in the Division's determination to recommend that specialists who are becoming subject to the rule for the first time, not be subject to the rule's haircut and undue concentration tests with respect to their speciality securities. Specialists would, however, have to take these requirements into account if they desired to withdraw capital from a firm.

I believe that the time has come for adoption of a uniform rule that provides assurance that specialists are maintaining minimum levels of liquid capital. The distinctions that were drawn in the past between specialists that engaged in other activities or had customers, and those that did not, have lost their relevance in today's marketplace. What we experienced, most emphatically during the October 1987 Market Break, is that the capital requirements imposed by the exchanges at that time on their specialists, did not reflect the actual capital required to ensure the maintenance of fair and orderly markets.

These amendments will help ensure that specialists are operating with sufficient capital and, of equal importance, they will require specialists to give the Commission notice of conditions that may be adversely affecting a specialist's financial condition. I think this last point is terribly important, because trying to make decisions that will impact the operations of the market, in an environment where you lack sufficient uniform information, is like the Commission trying to do business in the dark.

I think the Division has carefully crafted a rule that achieves our intended objectives, while at the same time ensuring that the liquidity of our markets is maintained. I would also like to emphasize that this proposal is just one of a number of significant initiatives in the financial responsibility area that the Commission has pursued since 1987. These initiatives include (1) the broker-dealer holding company risk assessment rules; (2) the requirement that broker-dealers notify the Commission of large capital withdrawals and that authorizes the Commission to prohibit those withdrawals under certain conditions; and (3) the adoption of increased minimum capital standards for broker-dealers doing a public business. Each of these steps addressed a weakness in the financial responsibility framework that was exposed by the 1987 Market Break. In the aggregate, these initiatives represent vital steps forward in improving the safety and soundness of our markets.

At this point, I am going to ask Mr. Becker to make his introductory remarks. I will then open the discussion for the questions and comments of my colleagues.

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