

**[ SEC, January 22, 1997 ]**

**SEC COMMISSION RELEASE ANNOUNCING ADOPTION OF  
SUBORDINATION AGREEMENTS AND MARGIN RULES**

With this release the Securities and Exchange Commission ("Commission") announces the adoption of the rules on Satisfactory Subordination Agreements and Margin.

The Net Capital Rule, RSA Rule 24(a)-1, which establishes requirements for the calculation of capital for brokers and dealers became effective on August 15, 1996. In order to meet the more stringent capital requirements of the Net Capital Rule, a broker or dealer may need to increase his capital base on either an interim or a long term basis. The Satisfactory Subordination Agreement Rule, RSA Rule 24 (a)-2, sets forth the minimum requirements necessary for a subordinated loan or secured demand note agreement to meet the requirements of the Net Capital Rule.

All subordinated loan agreements must be approved by the Philippine Stock Exchange ("PSE") for members of the Exchange. The PSE is presently establishing procedures for the approval process of such agreements entered into by members. In order to streamline the approval process, the Exchange is presently developing several standard forms of agreement which meet the requirements of Rule 24(a)-2. Copies of these forms will be provided to members of the Exchange.

This release also announces the adoption of the Margin Rule, RSA Rule 23(b)-1, which raises the allowable initial margin from forty (40) to fifty (50) percent.

In addition, the Commission is announcing minor technical changes to two other rules and the rescission of a significant number of old rules which no longer have relevance.

Old Rules Suspended which are no longer appropriate

- Trading Hours; Transactions Outside of Trading Hours, Rule A.1 of the 1938 Rules.
- Exchange Not to Trade on its Own Floor, Rule A.3 of the 1938 Rules.
- Member Limited to One Seat, Rule A.5 of the 1938 Rules.
- Odd Lot Dealers, Rule A.6 of the 1938 Rules.
- Specialists, Rule A.7 of the 1938 Rules.
- Application for Reinstatement, Rule A.15 of the 1938 Rules.

- Withdrawal or Striking from Listing, Rule A.19 of the 1938 Rules.
- Minimum Units of Trading, Rule A.22 of the 1938 Rules.
- Different Kinds of Contracts or Deliveries, Rule A.23 of the 1938 Rules
- All or None Offers, Rule A.25 of the 1938 Rules.
- Cross Sales by Members, Rule A.26 of the 1938 Rules.
- Price Quotations, Rule A.31 of the 1938 Rules.
- Broker's or Dealer's Reports, Rule B.6 of the 1938 Rules.
- Untitled, Miscellaneous Rules C.2, C.3, C.4 and C.5 of the 1938 Rules.
- SEC-BED Memorandum Circular No. 05, Series of 1989, entitled "Amendment to the Revised Rules Governing the Registration and/or Listing of Securities of Corporations" (February 8, 1989).
- Memorandum Circular No. 15, Series of 1987, entitled "Publication of Application for Listing of Securities" (September 18, 1987).
- BED Circular No. 2, Series of 1987, Untitled (February 26, 1987).
- Requirements and Procedures for Listing and Delisting of Securities (Undated)
- New Rules on Price Freezing of Securities Listed in the Stock Exchanges (May 22, 1987).
- Rules Requiring Attendance of SEC Representative in Press Conferences or Interviews Given by Listed Companies (April 17, 1974)
- BED Memorandum Circular No. 3, Series of 1987, entitled "SEC Regulations of July 1, 1973, Covering the Form and Content of Financial Statements" (March 5, 1987).
- SEC-BED Memorandum Circular No. 05, Series of 1988, entitled "Exemption from the Requirements of BED Memorandum Circular No. 3, Series of 1987 on the Form and Contents of Financial Statements (May 9, 1988).
- Order No. \_\_\_\_, Series of 1982, entitled "Report on Inventory of Stock Certificates" (July 27, 1982).
- SEC-BED Memo Circular No. 12, Series of 1989, entitled "Temporary Ban Against Short Selling" (Dec. 28, 1989)

Effective Date of the Rules

These rules shall take effect fifteen (15) days after its publication in two (2) newspapers of general circulation in the Philippines.

Adopted: 22 January 1997

(SGD.) PERFECTO R. YASAY, JR.  
*Chairman*  
*Securities and Exchange Commission*

(SGD.) FE ELOISA C. GLORIA

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Text of Rules Adopted by the Commission

**RSA Rule 23 (b)-1** Margin

(a) A broker or dealer shall not extend credit to a customer in an amount that exceeds 50 per centum of the current market value of the security at the time of transaction. In no event shall new or additional credit be extended in an account in which the equity is P50,000 or less.

(b) The margin maintained in a margin account of a customer shall be no less than 25 per centum of the current market value of all securities "long" in the account and 30 per centum of the current market value of securities "short" in the account.

(c) When there is an insufficiency of margin, a call for additional margin shall be issued promptly by the broker or dealer to the customer. A call for initial margin shall be satisfied within five business days from the date the insufficiency is created. A call for maintenance margin shall be satisfied within 24 hours after the call is issued.

(d) If a margin call is not met within the time prescribed in paragraph (c), the broker or dealer shall liquidate securities sufficient to meet the margin call or eliminate the margin deficiency existing on the day such liquidation is required, whichever is less. The broker or dealer shall liquidate the securities through the Exchange on which it is traded or in the best available public market. If the margin deficiency in the account is less than P10,000.00 no action need be taken by the broker or dealer.

(e) The required payment date for a call for initial margin may be extended by seven (7) days upon written request delivered by hand or facsimile transmission by the broker or dealer to the Philippine Stock Exchange in the case of members of that Exchange or to the Securities and Exchange Commission, in the case of non exchange members. In granting such an extension, the Exchange or Commission will take into consideration whether the broker or dealer and the customer are acting in good faith and whether exceptional circumstances warrant such extension.

A written request for the extension must be received and acted upon before the expiration of the original payment period or the expiration of any previous extension. (Replaces Rules 12 through 16 of the 1937 Provisional Rules which were later incorporated into the 1938 Rules.)

## **RSA Rule 24(a)-2** Satisfactory Subordination Agreements

### Introduction

(a) (1) This rule sets forth minimum and non-exclusive requirements for satisfactory subordination agreements (hereinafter "subordination agreement"). The Philippine Stock Exchange, in the case of a member of the Exchange, or the Securities and Exchange Commission may require or the broker or dealer may include such other provisions as deemed necessary or appropriate to the extent such provisions do not cause the subordination agreement to fail to meet the minimum requirements of this rule.

### Definitions

(2) For purposes of RSA Rule 24(a)-1 and this rule:

(A) A subordination agreement may be either a subordinated loan agreement or a secured demand note agreement.

(B) The term "subordinated loan agreement" shall mean the agreement or agreements evidencing or governing a subordinated borrowing of cash.

(C) The term "Collateral Value" of any securities pledged to secure a secured demand note shall mean the market value of such securities after reducing the market value of the securities by 30 percent, except for securities issued by the Republic of the Philippines. In lieu of the 30 percent deduction, the broker or dealer shall reduce the market value of securities issued by the Republic of the Philippines pledged to secure the secured demand note by the percentage deductions set forth in paragraph (d)(2)(F)(iii) of RSA Rule 24(a)- 1.

(D) The term "Payment Obligation" shall mean the obligation of a broker or dealer in respect of any subordination agreement (i) to repay cash loaned to the broker or dealer pursuant to a subordinated loan agreement or (ii) to return a secured demand note contributed to the broker or dealer or reduce the unpaid principal amount thereof and to return cash or securities pledged as collateral to secure the secured demand note. "Payment" shall mean the performance by a broker or dealer of a Payment Obligation.

(E)(i) The term "secured demand note agreement" shall mean an agreement (including the related secured demand note) evidencing or governing the contribution of a secured demand note to a broker or dealer and the pledge of securities and/or cash with the broker or dealer as collateral to secure payment of such secured demand note. The secured demand note agreement may provide that neither the lender, his heirs, executors, administrators or assigns shall be personally liable on

such note and that in the event of default the broker or dealer shall look for payment of such note solely to the collateral then pledged to secure the same.

(ii) The secured demand note shall be a promissory note executed by the lender and shall be payable on the demand of the broker or dealer to which it is contributed; provided, however, that the making of such demand may be conditioned upon the occurrence of any of certain events which are acceptable to the Securities and Exchange Commission and to the Philippine Stock Exchange in the case of a broker or dealer member of the Exchange.

(iii) If such note is not paid upon presentment and demand as provided for therein, the broker or dealer shall have the right to liquidate all or any part of the securities then pledged as collateral to secure payment of the same and to apply the net proceeds of such liquidation, together with any cash then included in the collateral, in payment of such note. Subject to the prior rights of the broker or dealer as pledgee, the lender, as defined herein, may retain ownership of the collateral and have the benefit of any increases and bear the risks of any decreases in the value of the collateral and may retain the right to vote securities contained within the collateral and any right to income therefrom or distributions thereon, except the broker or dealer shall have the right to receive and hold as pledgee all dividends payable in securities and all partial and complete liquidating dividends.

(iv) Subject to the prior rights of the broker or dealer as pledgee, the lender may have the right to direct the sale of any securities included in the collateral, to direct the purchase of securities with any cash included therein, to withdraw excess collateral or to substitute cash so other securities as collateral, provided that the net proceeds of any such sale and the cash so substituted and the securities so purchased or substituted are held by the broker or dealer, as pledgee, and are included within the collateral to secure payment of the secured demand note, and provided further that no such transaction shall be permitted if, after: giving effect thereto, the sum of the amount of any cash, plus the Collateral Value of the securities, then pledged as collateral to secure the secured demand note would be less than the unpaid principal amount of the secured demand note.

(v) Upon payment by the lender, as distinguished from a reduction by the lender which is provided for in paragraph (b)(6)(C) or reduction by the broker or dealer as provided for in paragraph (b)(7) of this rule, of all or any part of the unpaid principal amount of the secured demand note, a broker or dealer shall issue to the lender a subordinated loan agreement in the amount of such payment (or in the case of a broker or dealer that is a partnership credit a capital account of the lender) or issue preferred or common stock of the broker or dealer in the amount of such payment, or any combination of the foregoing, as provided for in the secured demand note agreement.

(F) The term "lender" shall mean the person who lends cash to a