Information Memo

New York
Stock Exchange, Inc.

Member Firm Regulation

20 Broad Street
New York, NY 10005

Number 01-9
April 2, 2001

ATTENTION: CHIEF EXECUTIVE OFFICER, MANAGING PARTNERS, CREDIT AND MARGIN DEPARTMENTS, COMPLIANCE AND LEGAL DEPARTMENTS

TO: MEMBERS AND MEMBER ORGANIZATIONS

SUBJECT: AMENDMENTS TO RULE 431 ("MARGIN REQUIREMENTS") REGARDING "DAY TRADING"

The Securities and Exchange Commission ("SEC") has approved amendments to Exchange Rule 431 ("Margin Requirements") (see Exhibit A) establishing new requirements to address the intraday risks associated with day trading in customer accounts.[1] The amendments require that equity and maintenance margin be deposited and maintained in customer accounts that engage in a pattern of day trading in amounts sufficient to support the risks associated with such trading activities. Margin requirements will be based on a day trader's activities during the day, rather than on open securities positions at the end of the day. Additionally, the amendments prohibit the use of cross guarantees and early withdrawal of account equity as these practices do not require customers to demonstrate actual financial ability to engage in day trading. THE EFFECTIVE DATE FOR IMPLEMENTATION WILL BE AUGUST 27, 2001.

The significant changes are summarized below:

- The term "pattern day-trader" is defined as any customer who executes four or more day trades within five business days, provided the number of day-trades is more than 6% of the total trades in the account during that period. See Rule 431 (f)(8)(B)(ii).

  If the member organization knows, or has a reasonable basis to believe that a customer who seeks to open an account, or seeks to resume day trading in an existing account will engage in pattern day trading, then, the customer must immediately be considered a pattern day trader in lieu of waiting five business days. See Rule 431 (f)(8)(B) Supplementary Material .30.

- The minimum equity requirement for pattern day traders is $25,000. See Rule 431 (f)(8)(B)(iv)(1).

[1] See Securities Exchange Act Release No. 34-44009, dated February 27, 2001, approving SR-NYSE-99-47.

- The amendments redefine the term "day trading" to treat the sale of an existing position held from the previous day as a liquidation, and the subsequent repurchase of that position as the establishment of a new position not subject to day trading margin requirements.

- Day trading margin requirements – For day trades in equity securities, the day trading margin requirement shall be 25 percent of either: (1) the cost of all day trades made during the day; or (2) the highest open position during the day. If a customer's day-trading margin requirement is to be calculated based on the highest open position during the day, the customer's member organization must maintain adequate "time and tick" records documenting the sequence in which each day trade is completed. "Time and tick" information provided by the customer is not acceptable.

- Day trading buying power will be calculated based on the customer's account position as of the close of business on the previous day. The amendments limit day trading buying power to four times the day trader's maintenance margin excess. See Rule 431 (f)(8)(B)(iii).

- Day trading margin calls – A pattern day trader exceeding his day trading buying power results in a special maintenance deficiency. Member organizations are required to issue a day-trading margin call to cover the amount of the deficiency. Pattern day traders have five business days to deposit funds to meet this day trading margin call. The day trading account is restricted to day trading buying power of two times maintenance margin excess based on the customer's daily total trading commitment, ["time and tick" can not be used during this period] beginning on the trading day after the day trading buying power is exceeded until the earlier of when the call is met or five business days. If the day trading margin call is not met by the fifth business day, the account must be further restricted to trading only on a cash available basis for 90 days or until the call is met. See Rule 431 (f)(8)(B)(iv)(2) & (3).

- Pattern day traders will be prohibited from utilizing cross guarantees to meet day trading margin calls or to meet minimum equity requirements. See Rule 431 (f)(8)(B)(iv)(4).

- Deposits of funds to meet minimum equity requirements or to meet day trading margin calls must remain in the customer's account and cannot be withdrawn for two business days. See Rule 431 (f)(8)(B)(5).

Inquiries regarding these amendments should be directed to Albert Lucks (212) 656-5782 or Patrice Vellecca (212) 656-2784.

Salvatore Pallante
Executive Vice President

Attachments