



DIVISION OF
MARKET REGULATION

UNITED STATES
SECURITIES AND EXCHANGE COMMISSION
WASHINGTON, D.C. 20549

April 19, 2001

Mr. Ira Polk
Chief Financial Officer
Man Financial Inc.
Two World Financial Center
27th Floor
New York, NY 10281-2700

Re: Request for Relief from the Short Option Value Charge

Dear Mr. Polk:

This is in response to your letter dated April 16, 2001, and telephone conversations with the staff of the Division of Market Regulation ("Division") in which you request, on behalf of Man Financial Inc. ("Man Financial"), relief from the deduction, referred to herein as the "short option value charge," required by subparagraph (a)(3)(x) of Appendix B to Rule 15c3-1 under the Securities Exchange Act of 1934 (the "Exchange Act")¹ for commodity options granted (sold) by certain customers. The short option value charge requires that a broker-dealer, when calculating net capital under Rule 15c3-1, deduct from its net worth four percent (4%) of the market value of commodity options granted (sold) by option customers on or subject to the rules of a contract market.

I understand the relevant facts to be as follows: Man Financial is registered as a broker-dealer with the Securities and Exchange Commission ("Commission") and as a futures commission merchant with the Commodity Futures Trading Commission ("CFTC"). In connection with its business, Man Financial provides institutional and private clients with a range of hedging and investment products, which include futures, options, and securities. In your letter, you represent that Man Financial executes and clears hedging transactions in energy-related commodity options for certain large institutions that either directly or through affiliates produce, purchase, transport, or sell energy products. With regard to these clients, you represent that Man Financial is often required to deduct significant percentages of its net worth pursuant to the short option value charge.

¹ 17 CFR 240.15c3-1b(a)(3)(x).

As a result of the short option value charge, you represent that Man Financial is evaluating whether it should restructure its business into separate entities; one for conducting securities activities and another for commodity futures and options activities. You note that a futures commission merchant not otherwise registered as a broker-dealer is not subject to the short option value charge.² In lieu of restructuring, you have requested that the Division provide Man Financial with relief from the short option value charge arising from hedging transactions executed by certain institutional clients active in the energy markets. You represent that these clients, which account for approximately 90 percent of Man Financial's short option value charge, are well-capitalized, highly-rated institutions that generally sell commodity options to reduce the effects of changes in the selling prices of crude oil, natural gas and other refined products. You also represent that risk associated with short options transactions executed by these institutions is actively monitored and controlled by Man Financial on a daily basis.

Based on your representations, the Division will not recommend enforcement action to the Commission if Man Financial, when computing its short option value charge under subparagraph (a)(3)(x) of Appendix B to Rule 15c3-1, does not include short commodity options that are part of a "bona fide hedging transaction," as that term is defined in CFTC Rule 1.3(z),³ provided that such positions are carried for the accounts of customers that: (1) directly or through affiliates produce, purchase, transport, or sell energy products; (2) have a net worth, computed in accordance with generally accepted accounting principles ("GAAP"), of at least \$50 million or are guaranteed subsidiaries of a parent that has a GAAP net worth of at least \$50 million; and (3) have investment grade ratings for senior unsecured long-term debt or commercial paper by a nationally recognized statistical rating organization or are guaranteed subsidiaries of a parent that has such ratings. The relief set forth in this letter extends only to short options on energy-related products and does not include short options on interest rate products or foreign currencies. Further, Man Financial will be required to continue deducting the short option value charge on all other accounts carried by the firm.

² In 1998, the CFTC rescinded the short option value charge in subparagraph (c)(5)(iii) of its net capital rule, Rule 1.17 under the Commodity Exchange Act (17 CFR 1.17). See 63 FR 32725 (June 16, 1998). Because the requirements of Exchange Act Rule 15c3-1 and CFTC Rule 1.17 are both applicable to entities registered dually as broker-dealers and futures commission merchants, Division staff are reviewing deductions by broker-dealers under the short option value charge to determine what action, if any, should be taken to align the commodity-related provisions of Rule 15c3-1 with Rule 1.17.

³ 17 CFR 1.3(z).

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You should be aware that this is a staff position with respect to enforcement only and does not purport to express any legal conclusions. This position is based solely on the foregoing description. Factual variations could warrant a different response, and any material change in the facts must be brought to the Division's attention. This position may be withdrawn or modified if the staff determines that such action is necessary for the protection of investors, in the public interest, or otherwise in furtherance of the securities laws.

Sincerely,



Michael A. Macchiaroli
Associate Director

cc: Ms. Anne Glass, Chicago Mercantile Exchange
Ms. Barbara Lorenzen, Chicago Board of Trade
Ms. Elaine Michitsch, New York Stock Exchange