

BOARD OF GOVERNORS
OF THE
FEDERAL RESERVE SYSTEM
WASHINGTON

S-226
Reg. T-92

ADDRESS OFFICIAL CORRESPONDENCE
TO THE BOARD



July 19, 1940

Dear Sir:

There is attached a copy of a ruling which will be published in the Federal Reserve Bulletin regarding "Obtaining Payment for Purchase of Securities in Cash Account Under Regulation T".

It will be noted that the attached ruling is in the form of a statement for the press which, however, is not to be released until the time specified on the statement.

Very truly yours,

A handwritten signature in dark ink, appearing to read "L. P. Bethea". The signature is fluid and cursive, with a large initial "L" and "B".

L. P. Bethea,
Assistant Secretary.

Enclosure

TO PRESIDENTS OF ALL FEDERAL RESERVE BANKS

BOARD OF GOVERNORS
OF THE
FEDERAL RESERVE SYSTEM

STATEMENT FOR THE PRESS

For release in morning papers,
Tuesday, July 23, 1940.

The following ruling will appear in the Federal Reserve
Bulletin:

Obtaining Payment for Purchase of Securities in Cash
Account Under Regulation T

The Board recently considered several questions regarding the provisions of Regulation T which relate to the maximum time permitted for obtaining payment in a special cash account under section 4(c) of the regulation. The general rule on this subject is stated in subdivision (2) of the section. Subject to a number of exceptions stated in subsequent subdivisions of the section, this subdivision provides that:

"(2) In case a customer purchases a security (other than an exempted security) in the special cash account and does not make full cash payment for the security within 7 days after the date on which the security is so purchased, the creditor shall, except as provided in the succeeding subdivisions of this section 4(c), promptly cancel or otherwise liquidate the transaction or the unsettled portion thereof."

Paying by sale of another security. - One inquiry related to the application of this provision to a question that may be described as follows:

A customer effects a purchase in a special cash account established pursuant to section 4(c) of the regulation. On the same day the customer sells in the account

another security which he owns but which he has not yet deposited in the account. The proceeds of the sale, which was effected "seller 10", are sufficient to make full cash payment for the purchase, but such proceeds will not be available to the broker until after the time applicable under section 4(c) for obtaining payment for the purchase. May the sale be considered to constitute payment for the security purchased, and thus make it unnecessary to take alternative action?

It is to be noted that a similar question was considered by the Board in the ruling published at page 1043 of the December 1938 Federal Reserve Bulletin on the subject of "Paying for Purchase in Special Cash Account by Selling Another Security". In that case the security sold was deposited in the account prior to the expiration of the time permitted for obtaining payment of the securities purchased. In the present case, although the sale was made within the required period, the securities so sold were not delivered into the account within that time.

It is recognized that such transactions might be evidence of an effort to evade the regulation in violation of section 4(a) which provides that:

"A special account established pursuant to this section shall not be used in any way for the purpose of evading or circumventing any of the provisions of this regulation."

Naturally, any such transaction should be carefully scrutinized for any such possibility, and any repetition of such a method of making payment by a customer would be especially subject to question. Assuming, however, that there is no such evasion or circumvention of the regulation, it is the view of the Board that the broker may, at his option, treat

the customer as having made payment for the purchased security at the time when the other security was sold, and that this would be permissible even though the security sold had not been deposited in the account. The same conclusion would, of course, follow if the security sold had been deposited in the account but happened not to be in form for "good delivery".

Delayed offer of payment. - An inquiry was presented as to a situation in which a broker or dealer does not obtain full cash payment within the period applicable to the transaction but is offered payment promptly after the period and before he has cancelled or otherwise liquidated the transaction. The question was whether the broker or dealer in such circumstances may accept such payment and consider the provisions requiring cancellation or liquidation for failure to obtain payment to have been met.

The section provides various exceptions for cases where a period other than the seven-day period would be more appropriate. These exceptions do not include any provision for a payment which is offered promptly after the period applicable to the transaction, and it does not appear why any additional time should be permissible in such circumstances if there is no other ground for additional time. The provision for cancelling or otherwise liquidating the transaction when payment has not been obtained within the applicable period is explicit. There are various exceptions, including provision for an extension of time under certain conditions by an appropriate committee

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of a national securities exchange, and it is the view of the Board that in the circumstances described the delayed payment by the customer may not be accepted as a substitute for the cancellation or liquidation of the transaction. This would be the case whether a brokerage or a dealer transaction was involved.

Additional time for shipment of securities. - Subdivision

(4) of section 4(c) provides that:

"(4) If any shipment of securities is incidental to the consummation of the transaction, the period applicable to the transaction under subdivision (2) of this section 4(c) shall be deemed to be extended by the number of days required for all such shipments, but not by more than 7 days."

Questions were raised as to whether certain periods required for the shipment of securities were covered by this provision, and whether they might be added together (to a total such extension not exceeding the seven days specified in the provision). Such questions were presented as to the time of shipment from the place of purchase to the broker, from the broker to the customer, and to and from the transfer office.

Assuming that such shipments are not a subterfuge but actually are incidental to the consummation of the transaction, it is the view of the Board that each such period is covered by the provision. In addition, all such periods may be added together, provided, of course, that the total such extension for any transaction does not exceed the seven-day maximum specified in the provision.