

15c3-1(c)(2)(iv)(C)/09 (Commissions or Concessions Receivable versus Commissions or Concessions Payable)

Instances arise where a broker-dealer accrues concession income in connection with the sale of mutual funds and tax shelter vehicles or investments and at the same time accrues expenses relating thereto.

Concessions receivable need not be deducted from net worth to the extent they are offset by commissions or concessions payable to sales representatives or unaffiliated selling group members provided that:

1. A written contract exists between the broker-dealer and sales representative or unaffiliated selling group member, whereby the sales representative or unaffiliated selling group member waives payment of the commission or the concession until the broker-dealer is in receipt of the concessions;
2. The broker-dealer's liability for the commission or concession payable is limited solely to the proceeds of the concessions receivable;
3. The entire amount of the commission or concession payable must be accrued and that portion payable within twelve months must be included in aggregate indebtedness; and
4. The net capital requirement shall be increased by an amount equal to one percent of the remaining commission payable.

(SEC Letter to NASD, July 24, 1984) (No. 88-14, August 1988)

The SEC staff has issued a no-action letter according this treatment to receivables arising from selling interests or participation in direct participation programs, real estate investment trusts, single premium life insurance policies and variable annuities.

(SEC Letter to Securities Consultants, Inc., March 22, 1989) (No. 89-6, June 1989)