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May 1, 2002

James A. Brigagliano
Assistant Director, Trading Practices
Division of Market Regulation
Securities and Exchange Commission
450 Fifth Street, N.W.
Washington, D.C. 20549

Re: **SR-NASD-2002-21, Amendment No. 2** – Proposed Rule Change
Relating to Research Analyst Conflicts of Interest

Dear Mr. Brigagliano:

NASD Regulation, Inc. (“NASD Regulation”) hereby submits Amendment No. 2 to SR-NASD-2002-21, the Proposed Rule Change Relating to Research Analyst Conflicts of Interest, which was originally filed with the Securities and Exchange Commission (“Commission”) on February 8, 2002 (the “NASD Rule Filing”)¹, and which was published for comment in the Federal Register on March 14, 2002.² NASD Regulation is making these changes in order to align the NASD Rule Filing more closely to a substantially similar proposed rule change concerning research analyst conflicts of interest that the New York Stock Exchange (“NYSE”) filed with the Commission (the “NYSE Proposal”).³ We understand that the NYSE also will be filing an amendment to its Proposal to align it more closely with the NASD Rule Filing. We are also amending the NASD Rule Filing in response to comments received. We have attached as Exhibit A hereto the entire proposed rule change with changes shown from the NASD Rule Filing. A discussion of our response to comments is being filed with the Commission separately.

1. The definition of “research analyst account” in the NASD Rule Filing differs in two respects from comparable provisions in the NYSE Proposal. First, the NYSE Proposal applies the personal trading restrictions to members of a research analyst’s household and “any account in which an associated person has a financial interest, or

¹ NASD Regulation also filed an Amendment No. 1 to SR-NASD-2002-21 on March 7, 2002. However, NASD Rule Filing page numbers in this Amendment No. 2 refer to pages of the original NASD Rule Filing filed on February 8, 2002.

² SEC Release No. 34-45526 (Mar. 8, 2002), 67 Fed. Reg. 11526 (Mar. 14, 2002).

³ See SR-NYSE-2002-09.

over which the associated person exercises discretion or control.” In contrast, the definition of “research analyst account” in the NASD Rule Filing would apply the personal trading restrictions to any account in which a research analyst or a member of the research analyst’s household has a “beneficial interest, or over which such analyst or household member has discretion or control,” other than a registered investment company.

In order to make the NASD Rule Filing more consistent with the NYSE Proposal in this regard, we are amending the definition of “research analyst account” to cover only accounts in which a research analyst or household member has a “financial” (rather than beneficial) interest, and only cover accounts over which the analyst (and not the household member) has discretion or control. This change will prevent a situation in which a household member who is employed as a broker or investment adviser is precluded from managing client accounts free from the personal trading restrictions of proposed Rule 2711(g). We understand that the NYSE Proposal will be amended to exclude registered investment companies from discretionary accounts that are covered by the personal trading restrictions in order to conform its provisions to those of the NASD Rule Filing.

Accordingly, proposed Rule 2711(a)(6), which is found on page 3 of the NASD Rule Filing, is revised as follows (new text is underlined and deleted text is bracketed):

(6) “Research analyst account” means any account in which a research analyst of member of the research analyst’s household has a [beneficial] financial interest, or over which such analyst [or household member] has discretion or control, other than an investment company registered under the Investment Company Act of 1940.

2. The NASD and the NYSE are revising their proposals to have a common definition of the term “research report.” Accordingly, proposed Rule 2711(a)(8), which defines the term “research report” and which appears on page 3 of the NASD Rule Filing, is amended as follows (new text is underlined and deleted text is bracketed):

(8) “Research Report” means a written or electronic communication [that the member has distributed or will distribute with reasonable regularity to its customers or the general public, which presents an opinion or recommendation concerning an equity security] which includes an analysis of equity securities of individual companies or industries, and which provides information reasonably sufficient upon which to base an investment decision and includes a recommendation.

3. Both the NASD Rule Filing and the NYSE Proposal impose a “quiet period” generally prohibiting a manager or co-manager of a secondary offering from publishing a research report concerning the issuer for 10 calendar days following the date of the

offering. However, the NYSE Proposal provides that a secondary offering includes a registered follow-on offering by an issuer or a registered offering by persons other than the issuer involving the distribution of securities subject to Regulation M under the Securities Exchange Act of 1934. The NASD Rule Filing does not contain a similar limitation with regard to secondary offerings. The Commission staff believes that this exception should be limited to reports pursuant to SEC Rule 139 regarding subject companies with “actively traded securities” as defined in SEC Regulation M. We are revising the NASD Rule Filing to contain language regarding secondary offerings that is similar to that contained in the NYSE proposed rule change, as modified to address the Commission staff’s concerns. Accordingly, proposed Rule 2711(f), which appears on pages 5-6 of the NASD Rule Filing, is revised as follows (new text is underlined):

(f) Imposition of Quiet Periods

No member may publish a research report regarding a subject company for which the member acted as manager or co-manager of:

* * *

(2) a secondary offering, for 10 calendar days following the date of the offering; provided that:

(A) paragraphs (f)(1) and (f)(2) [this provision] will not prevent a member from publishing a research report concerning the effects of significant news or a significant event on the subject company within such 40- and 10-day periods, and provided further that the legal and compliance department authorizes publication of that research report before it is issued; and

(B) paragraph (f)(2) will not prevent a member from publishing a research report pursuant to SEC Rule 139 regarding a subject company with “actively-traded securities,” as defined in Regulation M, 17 CFR 242.101(c)(1).

4. Both the NASD Rule Filing and NYSE Proposal provide an exception to the personal trading restrictions for the sale of securities held by a research analyst within 30 calendar days after the research analyst began following the issuer for the member. The NASD Rule Filing but not the NYSE Proposal requires that “all” securities held by the research analyst be sold. We are revising the NASD Rule Filing to conform it to the NYSE Proposal in this respect. Accordingly, proposed Rule 2711(g)(2)(A), which appears on page 6 of the NASD Rule Filing, is revised as follows (new text is underlined and deleted text is bracketed):

(2) No research analyst account may purchase or sell any security issued by a company that the research analyst follows, or any option on or derivative of such security, for a period beginning 30 calendar days before and ending five calendar days after the publication of a research report concerning the company or a change in a rating or price target of the company's securities; provided that:

(A) a member may permit a research analyst account to sell [all of the] securities held by [them] the account that are issued by a company that the research analyst follows, within 30 calendar days after the research analyst began following the company for the member;

5. Both the NASD Rule Filing and the NYSE Proposal provide an exception from the personal trading restrictions for trading activities by certain investment funds in which the research analyst or household member invests. The NASD Rule Filing makes this exception available only with respect to investment funds that do not distribute securities in kind to the research analyst or household member, while the NYSE Proposal permits investment in such investment funds, provided that the research analyst or household member either divests those securities immediately or the research analyst refrains from participating in the preparation of research reports concerning that issuer. We are revising the NASD Rule Filing to conform it to the NYSE Proposal in this respect. Accordingly, proposed Rule 2711(g)(5)(B), which appears on page 8 of the NASD Rule Filing, is revised as follows (new text is underlined and deleted text is bracketed):

(5) The prohibitions in paragraphs (g)(1) through (g)(3) do not apply to a purchase or sale of the securities of:

* * *

(B) any other investment fund over which neither the research analyst nor a member of the research analyst's household has any investment discretion or control, provided that:

* * *

(iii) if the investment fund [does not] distributes securities in kind to the research analyst or household member before the issuer's initial public offering, the research analyst or household member must either divest those securities immediately or the research analyst must refrain from participating in the preparation of research reports concerning that issuer.

6. Both the NASD Rule Filing and the NYSE Proposal impose “blackout periods” during which research analysts are prohibited from trading securities of issuers that they cover. Both proposals also generally prohibit research analysts from trading securities they cover against their current recommendations regarding those securities. However, both proposals also include an exception from the blackout period and the prohibition of trading against recommendations if an analyst faces an unanticipated change in his or her personal financial circumstances. We are revising the NASD Rule Filing regarding this exception so that it better conforms to the NYSE Proposal. Accordingly, proposed Rule 2711(g)(4), which appears on pages 7-8 of the NASD Rule Filing, is revised as follows (new text is underlined):

(4) A member’s legal or compliance department may authorize a transaction otherwise prohibited by paragraphs (g)(2) and (g)(3) based upon an unanticipated significant change in the personal financial circumstances of the beneficial owner of the research analyst account, provided that:

(A) the legal or compliance department authorizes the transaction before it is entered;

(B) each exception is granted in compliance with policies and procedures adopted by the member that are reasonably designed to ensure that these transactions do not create a conflict of interest between the professional responsibilities and the personal trading activities of a research analyst; and

(C) the member maintains written records concerning each transaction and the justification for permitting the transaction for three years following the date on which the transaction is approved.

7. Both the NASD Rule Filing and the NYSE Proposal require disclosure if, as of five business days before the publication of the research report or the public appearance, the member or its affiliates beneficially own 1% or more of any class of common equity securities of the subject company. Commenters urged us to eliminate the 5-day rolling period, and instead require that the calculation of beneficial ownership be as of the end of the most recent calendar quarter. Commenters argued that the 5-day rolling period was impractical given the amount of information that members would have to gather from many sources within the member and its affiliates. They felt that the “snapshot” approach would allow them to calculate the beneficial ownership information in a manner that better ensures that its integrity is maintained. The Commission staff also noted that, unlike the NYSE proposal, there is not specific reference to Section 13(d) of the Securities Exchange Act of 1934 for determination of ownership provisions.

While we agree that such an approach should be adopted, we will amend the NASD Rule Filing to do so only on a month-end rather than a quarter-end basis. The revised rule provision allows members an additional 10 calendar days after the month-end to make this calculation. We recognize that the quarter-end basis may allow members to track the calculations to their current Schedule 13G obligations. Nevertheless, information gathered on a quarter-end basis would grow stale and may be of little use to investors over time. Pursuant to the Commission staff's request, we are also amending this provision to reference Section 13(d). Accordingly, proposed Rule 2711(h)(1)(B), which appears on pages 8-9 of the NASD Rule Filing, is revised as follows (new text is underlined and deleted text is bracketed):

(h) Disclosure Requirements

(1) Ownership and Material Conflicts of Interest

A member must disclose in research reports and a research analyst must disclose in public appearances:

* * *

(B) if, [as of five business days before the publication of the research report or the public appearance,] as of the end of the month immediately preceding the date of publication of the research report or the public appearance (or the end of the second most recent month if the publication date is less than 10 calendar days after the end of the most recent month), the member or its affiliates beneficially own 1% or more of any class of common equity securities of the subject company. Computation of beneficial ownership of securities must be based upon the same standards used to compute ownership for purposes of the reporting requirements under Section 13(d) of the Securities Exchange Act of 1934;

8. Both the NASD Rule Filing and the NYSE Proposal require disclosure in research reports if the member or its affiliates received compensation from the subject company within twelve months before, or reasonably expects to receive compensation from the subject company within three months following, publication of the research report. Commenters urged us to reconsider this requirement for three principal reasons. First, commenters argued that because the requirement applies to compensation received in connection with non-public transactions, it might inappropriately tip the research analyst to nonpublic information. Second, commenters noted that because the requirement is not limited to compensation for investment banking services, but applies to compensation from the subject company to the member or any affiliate for any service, the disclosure

might become boilerplate and would provide little useful information to investors. Finally, commenters indicated that the costs of gathering the necessary information on a regular basis would be prohibitively expensive.

We agree with the comments that the proposed disclosure regarding firm compensation may constitute “boilerplate” and provide little useful information to investors because of the general nature of this disclosure. We believe that disclosure should be limited to compensation received from investment banking services provided to the subject company. While we recognize the risk that disclosure of non-public transactions may tip the market, after discussions with the Commission staff, we believe that the broad definition of “investment banking services” may be sufficient not to tip the market as to specific transactions. Thus, the provision would require disclosure of non-public information.

Therefore, in response to these comments, we are amending the NASD Rule Filing to require disclosure if the member or its affiliates: (i) managed or co-managed a public offering of securities for the subject company in the past 12 months;⁴ (ii) received compensation for investment banking services from the subject company in the past 12 months; or (iii) expects to receive or intends to seek compensation for investment banking services from the subject company in the next 3 months. Proposed Rule 2711(h)(2)(A), which appears on pages 9-10 of the NASD Rule Filing, is revised as follows (new text is underlined and deleted text is bracketed in bold):

(A) A member must disclose in research reports if:

(i) the research analyst principally responsible for preparation of the report received compensation that is based upon (among other factors) the member’s investment banking revenues;

[(ii) the member or its affiliates received compensation from the subject company within twelve months before, or reasonably expects to receive compensation from the subject company within three months following, publication of the research report;]

(ii) the member or its affiliates:

(a) managed or co-managed a public offering of securities for the subject company in the past 12 months;

⁴ NASD Rule 2210(d)(2)(B)(i)(c) currently requires members to disclose if the member was manager or co-manager of a public offering of any securities of a recommended issuer within the last 3 years. If approved, the 12-month look-back in proposed Rule 2711 will supersede the 3-year look-back in Rule 2210(d)(2)(B)(i)(c).

(b) received compensation for investment banking services from the subject company in the past 12 months;
or

(c) expects to receive or intends to seek compensation for investment banking services from the subject company in the next 3 months.

9. A number of commenters argued that it would be burdensome and difficult to include the required disclosures in research reports that discuss multiple securities. In particular, commenters noted that including a price chart for each security discussed in a research report could add considerable length to such communications.

In order to address these comments, we have added an exception to the disclosure requirements that allows research reports concerning six or more companies to direct the reader as to where they may obtain applicable current disclosures. A proposed new Rule 2711(h)(11) is added on page 12 of the NASD Rule Filing (new text is underlined):

(11) Disclosures in Research Reports Covering Six or More Companies

When a member distributes a research report covering six or more subject companies, for purposes of the disclosures required in paragraph (h), such research report may direct the reader in a clear manner as to where they may obtain applicable current disclosures in written or electronic format.

9. We request that the NASD Rule Filing be implemented according to the following schedule.

- **180 calendar days following the date of the issuance of the Commission order of approval:**
 - Rule 2711(h)(1)(B) (Disclosure of 1% Firm Ownership) and related written procedures under Rule 2711(i)

- **120 calendar days following the date of the issuance of the Commission order of approval:**
 - Rule 2711(b)(2) and (3); Rule 2711(c)(1) and (2) (Gatekeeper Functions) and related written procedures under Rule 2711(i)
 - Rule 2711(h)(5) (Disclosure of Distribution of Ratings) and related written procedures under Rule 2711(i)

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- Rule 2711(h)(6) (Disclosure of Price Chart) and related written procedures under Rule 2711(i)
- **60 calendar days following the date of the issuance of the Commission order of approval:**
 - All other provisions of Rule 2711.

* * *

If you have any questions, please contact Thomas M. Selman, Senior Vice President, Investment Companies/Corporate Financing, NASD Regulation, Inc., at (240) 386-4533, Joseph P. Savage, Counsel, Investment Companies Regulation, NASD Regulation, Inc., at (240) 386-4534, or me, at (202) 728-8451. The fax number of Investment Companies/Corporate Financing is (240) 386-4572.

Sincerely,

Philip A. Shaikun
Assistant General Counsel
NASD Regulation, Inc.

cc: Patrice M. Gliniecki
Thomas M. Selman
Joseph P. Savage

EXHIBIT A: AMENDMENTS TO PROPOSED RULE CHANGE

(New text is underlined and deletions are bracketed.)

Rule 2711. Research Analysts and Research Reports

(a) Definitions

For purposes of this rule, the following terms shall be defined as provided.

- (1) “Investment banking department” means any department or division, whether or not identified as such, that performs any investment banking service on behalf of a member.
- (2) “Investment banking services” include, without limitation, acting as an underwriter in an offering for the issuer; acting as a financial adviser in a merger or acquisition; providing venture capital, equity lines of credit, PIPEs or similar investments; or serving as placement agent for the issuer.
- (3) “Member of a research analyst’s household” means any individual whose principal residence is the same as the research analyst’s principal residence.
- (4) “Public appearance” means any participation in a seminar, forum (including an interactive electronic forum), radio or television interview, or other public speaking activity in which a research analyst makes a recommendation or offers an opinion concerning an equity security.
- (5) “Research analyst” means the associated person who is principally responsible for, and any associated person who reports directly or indirectly to such a research analyst in connection with, preparation of the substance of a research report, whether or not any such person has the job title of “research analyst.”
- (6) “Research analyst account” means any account in which a research analyst of member of the research analyst’s household has a [beneficial] financial interest, or over which such analyst [or household member] has discretion or control, other than an investment company registered under the Investment Company Act of 1940.
- (7) “Research department” means any department or division, whether or not identified as such, that is principally responsible for preparing the substance of a research report on behalf of a member.
- (8) “Research Report” means a written or electronic communication [that the member has distributed or will distribute with reasonable regularity to

its customers or the general public, which presents an opinion or recommendation concerning an equity security] which includes an analysis of equity securities of individual companies or industries, and which provides information reasonably sufficient upon which to base an investment decision and includes a recommendation.

(9) “Subject company” means the company whose equity securities are the subject of a research report or recommendation in a public appearance.

(b) **Restrictions on Investment Banking Department Relationship with Research Department**

(1) No research analyst may be subject to the supervision or control of any employee of the member’s investment banking department.

(2) Except as provided in paragraph (b)(3), no employee of the investment banking department may review or approve a research report of the member before its publication.

(3) Investment banking personnel may review a research report before its publication as necessary only to verify the factual accuracy of information in the research report or to review the research report for any potential conflict of interest, provided that:

(A) any written communication between investment banking and research department personnel concerning such a research report must be made either through an authorized legal or compliance official of the member or in a transmission copied to such an official; and

(B) any oral communication between investment banking and research department personnel concerning such a research report must be documented and made either through an authorized legal or compliance official acting as intermediary or in a conversation conducted in the presence of such an official.

(c) **Restrictions on Review of a Research Report by the Subject Company**

(1) Except as provided in paragraphs (c)(2) and (c)(3), a member may not submit a research report to the subject company before its publication.

(2) A member may submit sections of such a research report to the subject company before its publication for review as necessary only to verify the factual accuracy of information in those sections, provided that:

(A) the sections of the research report submitted to the subject company do not contain the research summary, the research rating or the price target;

(B) a complete draft of the research report is provided to the legal or compliance department before sections of the report are submitted to the subject company; and

(C) if after submitting the sections of the research report to the subject company the research department intends to change the proposed rating or price target, it must first provide written justification to, and receive written authorization from, the legal or compliance department for the change. The member must retain copies of any draft and the final version of such a research report for three years following its publication.

(3) The member may notify a subject company that the member intends to change its rating of the subject company's securities, provided that the notification occurs on the business day before the member announces the rating change, after the close of trading in the principal market of the subject company's securities.

(d) Prohibition of Certain Forms of Research Analyst Compensation

No member may pay any bonus, salary or other form of compensation to a research analyst that is based upon a specific investment banking services transaction.

(e) Prohibition of Promise of Favorable Research

No member may directly or indirectly offer favorable research, a specific rating or a specific price target, or threaten to change research, a rating or a price target, to a company as consideration or inducement for the receipt of business or compensation.

(f) Imposition of Quiet Periods

No member may publish a research report regarding a subject company for which the member acted as manager or co-manager of:

(1) an initial public offering, for 40 calendar days following the date of the offering; or

(2) a secondary offering, for 10 calendar days following the date of the offering; provided that:

(A) paragraphs (f)(1) and (f)(2) [this provision] will not prevent a member from publishing a research report concerning the effects of significant news or a significant event on the subject company within such 40- and 10-day periods, and provided further that the legal and compliance department authorizes publication of that research report before it is issued; and

(B) paragraph (f)(2) will not prevent a member from publishing a research report pursuant to SEC Rule 139 regarding a subject company with “actively-traded securities,” as defined in Regulation M, 17 CFR 242.101(c)(1).

(g) Restrictions on Personal Trading by Research Analysts

(1) No research analyst account may purchase or receive any securities before the issuer’s initial public offering if the issuer is principally engaged in the same types of business as companies that the research analyst follows.

(2) No research analyst account may purchase or sell any security issued by a company that the research analyst follows, or any option on or derivative of such security, for a period beginning 30 calendar days before and ending five calendar days after the publication of a research report concerning the company or a change in a rating or price target of the company’s securities; provided that:

(A) a member may permit a research analyst account to sell [all of the] securities held by [them] the account that are issued by a company that the research analyst follows, within 30 calendar days after the research analyst began following the company for the member;

(B) a member may permit a research analyst account to purchase or sell any security issued by a subject company within 30 calendar days before the publication of a research report or change in the rating or price target of the subject company’s securities due to significant news or a significant event concerning the subject company, provided that the member’s legal or compliance department pre-approves the research report and any change in the rating or price target.

(3) No research analyst account may purchase or sell any security or any option on or derivative of such security in a manner inconsistent with

the research analyst's recommendation as reflected in the most recent research report published by the member.

(4) A member's legal or compliance department may authorize a transaction otherwise prohibited by paragraphs (g)(2) and (g)(3) based upon an unanticipated significant change in the personal financial circumstances of the beneficial owner of the research analyst account, provided that:

(A) the legal or compliance department authorizes the transaction before it is entered;

(B) each exception is granted in compliance with policies and procedures adopted by the member that are reasonably designed to ensure that these transactions do not create a conflict of interest between the professional responsibilities and the personal trading activities of a research analyst; and

(C) the member maintains written records concerning each transaction and the justification for permitting the transaction for three years following the date on which the transaction is approved.

(5) The prohibitions in paragraphs (g)(1) through (g)(3) do not apply to a purchase or sale of the securities of:

(A) any registered diversified investment company as defined under Section (5)(b)(1) of the Investment Company Act of 1940; or

(B) any other investment fund over which neither the research analyst nor a member of the research analyst's household has any investment discretion or control, provided that:

(i) the research analyst accounts collectively own interests representing no more than 1% of the assets of the fund;

(ii) the fund invests no more than 20% of its assets in securities of issuers principally engaged in the same types of business as companies that the research analyst follows; and

(iii) if the investment fund [does not] distributes securities in kind to the research analyst or household member before the issuer's initial public offering, the

research analyst or household member must either divest those securities immediately or the research analyst must refrain from participating in the preparation of research reports concerning that issuer.

(h) Disclosure Requirements

(1) Ownership and Material Conflicts of Interest

A member must disclose in research reports and a research analyst must disclose in public appearances:

(A) if the research analyst or a member of the research analyst's household has a financial interest in the securities of the subject company, and the nature of the financial interest (including, without limitation, whether it consists of any option, right, warrant, future, long or short position);

(B) if, [as of five business days before the publication of the research report or the public appearance,] as of the end of the month immediately preceding the date of publication of the research report or the public appearance (or the end of the second most recent month if the publication date is less than 10 calendar days after the end of the most recent month), the member or its affiliates beneficially own 1% or more of any class of common equity securities of the subject company. Computation of beneficial ownership of securities must be based upon the same standards used to compute ownership for purposes of the reporting requirements under Section 13(d) of the Securities Exchange Act of 1934;

(C) any other actual, material conflict of interest of the research analyst of which the research analyst or member knows or has reason to know at the time of publication of the research report, or of which the research analyst knows or has reason to know at the time of the public appearance; and

(D) any other actual, material conflict of interest of the member of which the member knows or has reason to know at the time of publication of the research report, or of which the research analyst knows or has reason to know at the time of the public appearance.

(2) *Receipt of Compensation*

(A) A member must disclose in research reports if:

(i) the research analyst principally responsible for preparation of the report received compensation that is based upon (among other factors) the member's investment banking revenues; and

[(ii) the member or its affiliates received compensation from the subject company within twelve months before, or reasonably expects to receive compensation from the subject company within three months following, publication of the research report;]

(ii) the member or its affiliates:

(a) managed or co-managed a public offering of securities for the subject company in the past 12 months;

(b) received compensation for investment banking services from the subject company in the past 12 months; or

(c) expects to receive or intends to seek compensation for investment banking services from the subject company in the next 3 months.

(B) A research analyst must disclose in public appearances if the analyst knows or has reason to know that the subject company is a client of the member or its affiliates.

(3) *Position as Officer or Director*

A member must disclose in research reports and a research analyst must disclose in public appearances if the research analyst or a member of the research analyst's household serves as an officer, director or advisory board member of the subject company.

(4) *Meaning of Ratings*

A member must define in its research reports the meaning of each rating used by the member in its rating system. The definition of each rating must be consistent with its plain meaning.

(5) *Distribution of Ratings*

(A) Regardless of the rating system that a member employs, a member must disclose in each research report the percentage of all securities rated by the member to which the member would assign a “buy,” “hold/neutral,” or “sell” rating.

(B) In each research report, the member must disclose the percentage of subject companies within each of these three categories for whom the member has provided investment banking services within the previous twelve months.

(C) The information that is disclosed under paragraphs (h)(5)(A) and (h)(5)(B) must be current as of the end of the most recent calendar quarter (or the second most recent calendar quarter if the publication date is less than 15 calendar days after the most recent calendar quarter).

(6) *Price Chart*

A member must present in any research report concerning an equity security on which the member has assigned any rating for at least one year, a line graph of the security’s daily closing prices for the period that the member has assigned any rating or for a three-year period, whichever is shorter. The line graph must:

(A) indicate the dates on which the member assigned or changed each rating or price target;

(B) depict each rating and price target assigned or changed on those dates; and

(C) be current as of the end of the most recent calendar quarter (or the second most recent calendar quarter if the publication date is less than 15 calendar days after the most recent calendar quarter).

(7) *Price Targets*

A member must disclose in research reports the valuation methods used to determine a price target. Price targets must have a reasonable basis and must be accompanied by a disclosure concerning the risks that may impede achievement of the price target.

(8) *Market Making*

A member must disclose in research reports if it was making a market in the subject company's securities at the time that the research report was published.

(9) *Disclosure Required by Other Provisions*

In addition to the disclosure required by this rule, members and research analysts must provide disclosure in research reports and public appearances that is required by applicable law or regulation, including NASD Rule 2210 and the antifraud provisions of the federal securities laws.

(10) *Prominence of Disclosure*

The disclosures required by this paragraph (h) must be presented on the front page of research reports or the front page must refer to the page on which disclosures are found. Disclosures and references to disclosures must be clear, comprehensive and prominent.

(11) *Disclosures in Research Reports Covering Six or More Companies*

When a member distributes a research report covering six or more subject companies, for purposes of the disclosures required in paragraph (h), such research report may direct the reader in a clear manner as to where they may obtain applicable current disclosures in written or electronic format.

(i) Supervisory Procedures

Each member subject to this rule must adopt and implement written supervisory procedures reasonably designed to ensure that the member and its employees comply with the provisions of this rule, and a senior officer of such a member must attest annually to the Association that it has adopted and implemented those procedures.