

Notices to Members

January 2000

Notices

00-01	1999-2000 Renewal Rosters And Final Adjusted Statements	3
00-02	NASD Alerts Members To Their Obligations Concerning Soliciting Business In Foreign Jurisdictions	5
00-03	Annual Checklist Of <i>NASD Notices to Members</i>	7
00-04	Martin Luther King, Jr. Day And Presidents Day: Trade Date—Settlement Date Schedule	15
00-05	Fixed Income Pricing System Additions, Changes, And Deletions As Of November 23, 1999	17
00-06	The Countdown To Decimals	19
00-07	Disclosure To Customers Engaging In Extended Hours Trading	21
00-08	NASD Reminds Members Of Their Obligations Regarding Municipal Securities Transaction Reporting	25

Disciplinary Actions

Disciplinary Actions Reported For January	27
---	-----------

For Your Information

New Investment Advisers' Qualification Exams Now In Use	43
Web CRD Conferences	43

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Notices to Members (December 1996 to current) are also available on the Internet at www.nasdr.com.

ACTION REQUIRED

**Broker/Dealer
And Agent
Renewals**

**1999-2000 Renewal
Rosters And Final
Adjusted Statements****SUGGESTED ROUTING**

The Suggested Routing function is meant to aid the reader of this document. Each NASD member firm should consider the appropriate distribution in the context of its own organizational structure.

- Executive Representatives
- Legal & Compliance
- Operations
- Registered Representatives
- Registration
- Senior Management

KEY TOPICS

- Registration
- Renewals
- Web CRD

Executive Summary

The 1999-2000 renewal cycle for the National Association of Securities Dealers, Inc. (NASD®) broker/dealer and agent registration begins its second phase January 2000. The NASD is issuing this *Notice* to help members review, reconcile, and respond to the Final Adjusted Statements and rosters that will be available on Web CRDSM by January 24, 2000.

Questions/Further Information

Questions regarding this *Notice* may be directed to the CRD/PD Gateway Call Center at (301) 869-6699.

**Final Adjusted Statements
And Rosters**

By January 24, 2000, the NASD will make available via Web CRD Final Adjusted Statements and renewal rosters to all NASD member firms. The Final Adjusted Statements will reflect the year-end 1999 total fees for:

- NASD personnel assessments;
- NASD branch office assessments;
- NASD system processing fees;
- New York Stock Exchange (NYSE), American Stock Exchange® (Amex®), Chicago Board Options Exchange (CBOE), Pacific Exchange (PCX), and Philadelphia Stock Exchange (PHLX) maintenance fees;
- state agent renewal fees; and
- state broker/dealer renewal fees.

The statement will also reflect payment submitted by an NASD member in response to the Initial Renewal Statement which was made available on November 1, 1999. Along with the Final Adjusted Statement, the NASD will provide, via Web CRD, a Firm Renewal Roster that lists each firm's NASD and, if applicable, NYSE-, Amex-, CBOE-, PCX-, and PHLX-registered personnel, as of year-end 1999.

The roster will list all of the firm's personnel (alphabetically) whose registrations were renewed in states. Firms with registered branch offices that were active as of December 31, 1999, will also receive a Branch Office Roster. A member's Final Adjusted Statement will reflect an "amount due," a "credit due," or a "zero balance." If a firm's year-end 1999 total of NASD, NYSE, Amex, CBOE, PCX, PHLX, and state renewal fees exceeded the firm's payment submitted in response to the Initial Renewal Statement, the NASD paid the jurisdictions the additional renewal fees due at year-end on behalf of the firm and will generate an "amount due" statement to collect that sum from the member firm.

If the firm's Final Adjusted Statement reflects an amount due, the NASD requests payment by wire transfer or company check. Wire transfer instructions are located at the NASD Regulation, Inc. (NASD RegulationSM) Web Site (www.nasdr.com). From the NASDRSM Home Page, click on "Members Check Here," then click on "Central Registration Depository," and view information under the menu selection, "License Renewal Information" and "Year 2000 Renewals Overview." Firms may also contact the NASD's Finance Department at (301) 590-

NASD Notice to Members 00-01

6088 for detailed wire instructions. Firms should make the check payable to NASD Regulation, Inc., with the firm's CRD Number and the word "Renewals" written on the check, and mail it with the first page of the statement (printed from Web CRD). Payments must be received by the NASD **no later than March 10, 2000**.

If the firm's payment submitted in response to the Initial Renewal Statement exceeds its year-end 1999 total of NASD, NYSE, Amex, CBOE, PCX, PHLX, and state renewal fees, a "credit due" statement will be issued. If the firm's Final Adjusted Statement reflects a credit due and the firm would like a refund check, it should print and sign the top portion of the first page of the statement and send it to:

CRD Accounting -
Renewal Refunds
NASD Regulation, Inc.
1390 Piccard Drive, 2nd Floor
Rockville, MD 20850

The statement must be signed by an officer or principal of the firm and should include the name and address of the firm's contact person

to whom the check should be sent. Refund requests will be processed as soon as possible. The average turn-around time for receiving a refund check last year was approximately two weeks. Member firms may also request to transfer the credit due to their CRD Daily Registration Account. To initiate a transfer of funds, please contact the CRD/PD Gateway Call Center at (301) 869-6699. If the NASD does not receive a request for a refund check or request to transfer funds by March 10, 2000, CRD Accounting will begin to manually transfer the remaining credit balances to member firms' CRD accounts. This process should be completed by April 3, 2000.

Final Adjusted Statements that reflect zero balances require no further action by the member firm.

Reviewing The Renewal Rosters

Member renewal rosters include all agent registrations renewed for 2000. Registrations that were pending approval or were deficient at year-end 1999 were not assessed renewal fees; therefore, they will not be reported on the

renewal roster. Members should examine their rosters carefully to ensure that all registration approvals and terminations are properly listed.

NASD discrepancies should be reported by calling the CRD/PD Gateway Call Center at (301) 869-6699. Copies of supporting documentation, such as Web CRD-generated notice of termination, notification of deficient condition, or notice of approval from its Firm Queues, should be readily available. All other discrepancies should be reported directly to the regulators involved—NYSE, Amex, CBOE, PSE, PHLX, or the applicable state(s). All renewal roster discrepancies must be reported by March 13, 2000. The November 1999 issue (Vol. 7, No. 4) of the *CRD/PD Bulletin* contains detailed instructions to help members complete the renewal process.

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INFORMATIONAL

**Soliciting
Business
Internationally**

**NASD Alerts Members
To Their Obligations
Concerning Soliciting
Business In Foreign
Jurisdictions****SUGGESTED ROUTING**

The Suggested Routing function is meant to aid the reader of this document. Each NASD member firm should consider the appropriate distribution in the context of its own organizational structure.

- Legal & Compliance
- Registered Representatives
- Senior Management
- Training

KEY TOPICS

- Foreign Regulators
- Soliciting Business

Executive Summary

Foreign regulators have informed the National Association of Securities Dealers, Inc. (NASD®) that persons associated with member firms may be soliciting business in the regulators' jurisdictions in violation of local foreign laws. NASD Regulation, Inc. (NASD RegulationSM) reminds members considering soliciting business in foreign jurisdictions to ensure that such activities comply with all applicable laws.¹

Questions/Further Information

Questions regarding this *Notice* may be directed to Eric Moss, Assistant General Counsel, Office of General Counsel, NASD Regulation, at (202) 728-8982.

Discussion

In *NASD Notice to Members 98-91 (NtM 98-91)*, the NASD alerted members to their obligations concerning cold calling and advertising to persons in the United Kingdom. In *NtM 98-91*, the NASD also reminded members considering cold calling or advertising in any foreign jurisdiction to ensure that such activities comply with all applicable laws. Since issuing *NtM 98-91*, foreign regulators have informed the NASD that persons associated with member firms are continuing to cold call and advertise in their jurisdictions in violation of local foreign laws. Accordingly, the NASD is publishing this *Notice* to remind members and persons associated with members of their obligations to comply with applicable U.S. laws and foreign laws when soliciting business in any foreign jurisdiction.

In considering their obligations under local foreign laws, member firms should keep in mind that the term "solicitation" generally has been viewed as an expansive, fact-specific, and variable concept.² Depending on the laws of the applicable foreign jurisdiction, a wide variety of firm activities may constitute solicitation of business for purposes of foreign local law. For instance, solicitation of business may occur through newspaper ads, Internet postings, e-mails, telephone calls, or facsimile transmissions. It is not the intent of this *Notice* to describe any specific foreign laws applicable to the solicitation of business in any foreign jurisdiction. Rather, NASD Regulation urges members proposing to solicit business in foreign jurisdictions to carefully review and comply with all applicable U.S. and foreign laws. The consequences of breaching applicable foreign laws can be far-reaching, and member firms in violation of particular foreign laws may be committing a criminal offense and be liable to prosecution.³

Endnotes

¹This *Notice* does not address whether soliciting business in a foreign jurisdiction in violation of that jurisdiction's laws may constitute a violation of NASD rules.

²See, e.g., Exchange Act Release No. 27017 (July 11, 1989) (adopting SEC Rule 15a-6).

³See *NtM 98-91*.

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877-248-3355



INFORMATIONAL

Notices to Members

**Annual Checklist Of
NASD Notices to
Members****SUGGESTED ROUTING**

The Suggested Routing function is meant to aid the reader of this document. Each NASD member firm should consider the appropriate distribution in the context of its own organizational structure.

- Corporate Finance
- Legal & Compliance
- Municipal/Government Securities
- Operations
- Senior Management
- Trading & Market Making

KEY TOPICS

- *Notices to Members*

The National Association of Securities Dealers, Inc. (NASD®) published the following *Notices to Members* during 1999. Copies are available for \$25 per monthly or special issue. A two-volume, bound and indexed edition of the entire year's *Notices* will be available in late January 2000 for \$100. To order, send a check or money order—payable to the National Association of Securities Dealers, Inc.—to NASD MediaSourceSM, P.O. Box 9403, Gaithersburg, MD 20898-9403. Credit card (American Express, MasterCard, or Visa) orders can be processed over the phone by calling (301) 590-6142, Monday through Friday, 9 a.m. to 5 p.m., Eastern Time.

The 1999 *Notices to Members* are also available on the NASD Regulation, Inc. (NASD RegulationSM) Web Site, www.nasdr.com.

January 1999		Page
99-01	Office Of Disciplinary Affairs To Authorize All Enforcement Actions	3
99-02	NASD Regulation Withdraws Risk Disclosure Proposal	5
99-03	SEC Approves Rule Amendments Requiring Review Of Incoming, Written Correspondence; Effective March 15, 1999	7
99-04	Revised <i>OATS Reporting Technical Specifications</i> Released	13
99-05	SEC Issues Guidance On Handling Customer Orders During Market-Wide Trading Halts	15
99-06	1998-1999 Renewal Rosters And Final Adjusted Invoices	17
99-07	Fixed Income Pricing System Additions, Changes, And Deletions As Of November 23, 1998	19
99-08	Martin Luther King, Jr. Day and Presidents Day: Trade Date–Settlement Date Schedule	27

NASD Notice to Members 00-03

February 1999		Page
99-09	NASD Regulation Imposes Moratorium On Arbitrator-Ordered Expungements Of Information From The Central Registration Depository	47
99-10	NASD Guidelines For Compliance With New Requirements For Non-California Attorneys Representing Parties In NASD Arbitrations In California	49
99-11	NASD Regulation Issues Guidance Regarding Stock Volatility	55
99-12	NASD Regulation Issues Guidance Concerning The Operation Of Automated Order Execution Systems During Turbulent Market Conditions	59
99-13	<i>Special Notice to Members</i> NASD Alerts Members To Year 2000 Mandatory Testing Activities	61
99-14	NASD Grants Exemptive Relief Under MSRB Rule G-37(i)	67
99-15	SEC Approves Rule Amendments Limiting Quotations On OTC Bulletin Board To Reporting Securities	73
99-16	SEC Approves Changes To Rules Regarding Membership And Registration; Investigation And Sanctions; And Conduct And Code Of Procedure	81
99-17	SEC Approves Amendments Regarding Application Of The Corporate Financing Rule To Certain Offerings By Charitable Organizations	97
99-18	Annual Checklist Of <i>NASD Notices to Members</i>	99
99-19	Fixed Income Pricing System Additions, Changes, And Deletions As Of December 22, 1998	105

March 1999		Page
99-20	SEC Approves Rule Change Increasing Position Limits On Standardized Equity Options; NASD Reminds Members Of Their Reporting Obligations When Trading Options	127
99-21	The Nasdaq Stock Market Eliminates The SOES Five-Minute Presumption	133
99-22	Maximum SOES Order Sizes Set To Change April 1, 1999	135
99-23	SEC Approves New Arbitration Fees; Effective March 18, 1999	141
99-24	Fixed Income Pricing System Additions, Changes, And Deletions As Of January 21, 1999	145
99-25	Good Friday: Trade Date–Settlement Date Schedule	149

NASD Notice to Members 00-03

April 1999		Page
99-26	NASD Will Terminate Form 211 Applications If Applicants Do Not Respond To NASD Deficiency Letters Within 180 Calendar Days	183
99-27	Order Audit Trail System Phase 2 Firms Required To Register; Firms Should Register By April 1, 1999	185
99-28	NASD Reminds Members Of Obligations Relating To The Short-Sale Rule	189
99-29	SEC Approves Changes To Clearly Erroneous Trade Adjudication Procedures; Changes Effective April 26, 1999	191
99-30	Fixed Income Pricing System Additions, Changes, And Deletions As Of February 19, 1999	193
99-31	Memorial Day: Trade Date–Settlement Date Schedule	197
99-32	<i>Special Notice to Members</i> NASD Regulation Requests Comment On Proposed Rules Regarding Approval Procedures For Day-Trading Accounts, Including Appropriateness Determinations, And Disclosure Of Risks Of Day-Trading Activities; Comment Period Expires May 31, 1999	217
99-33	<i>Special Notice to Members</i> NASD Regulation Advises Members About Maintenance Margin Requirements For Certain Volatile Stocks And Solicits Comment On Margin Practices; Comment Period Expires May 31, 1999	221

May 1999		Page
99-34	NASD Offers Guidance On Complying With New SEC Rule Regarding Alternative Trading Systems; Rule Effective April 21, 1999	227
99-35	The NASD Reminds Members Of Their Responsibilities Regarding The Sales Of Variable Annuities	229
99-36	Members Reminded To Report Executive Representative And Address Changes	233
99-37	NASD Reminds Members Of Their Obligations Regarding Electronic Distribution Of Nasdaq And OTC Market Data	235
99-38	Fixed Income Pricing System Additions, Changes, And Deletions As Of March 23, 1999	237
99-39	<i>Special Notice to Members</i> The NASD Prepares For Move To Decimals	257
99-40	<i>Special Notice to Members</i> NASD Informs Members Of Upcoming District Committee And District Nominating Committee Elections	261

NASD Notice to Members 00-03

June 1999		Page
99-41	NASD Announces New Electronic Filing System For Corporate Financing Filings	279
99-42	NASD Offers Guidance On Complying With Notice Requirements Of New SEC Rule Regarding Alternative Trading Systems	283
99-43	Update On OTC Bulletin Board Eligibility Rule	285
99-44	SEC Approves Interpretations And Allocation Chart For Proprietary Accounts Of Introducing Broker/Dealers	287
99-45	NASD Provides Guidance On Supervisory Responsibilities	293
99-46	Maximum SOES Order Sizes Set To Change July 1, 1999	303
99-47	Fixed Income Pricing System Additions, Changes, And Deletions As Of April 22, 1999	309
99-48	Independence Day: Trade Date–Settlement Date Schedule	311
99-49	NASD Regulation Provides Interpretive Guidance On Registration Requirements	313
99-50	SEC Approves Amendments To Corporate Financing Rule Filing Fees	315
99-51	NASD Regulation Requests Comment On Requiring Chief Compliance Officers To Be Registered; Comment Period Expires July 16, 1999	319
99-52	Special Notice to Members Mail Vote —NASD Solicits Vote On Amendments To NASD By-Laws To The Associated Person Definition; Last Voting Date: July 16, 1999	341

NASD Notice to Members 00-03

July 1999	Page
99-53 NASD Regulation Offers Guidance To Members Forwarding Mini Tender Offers To Their Customers	349
99-54 NASD Regulation Seeks Comment On Issues Relating To Arbitrator-Ordered Expungements Of Information From The Central Registration Depository; Comment Period Expires July 30, 1999	351
99-55 Questions And Answers Relating To Non-Cash Compensation Rules	355
99-56 NASD Regulation Announces CRD “System Transition Period” Immediately Preceding The Deployment Of Web CRD	359
99-57 SEC Approves Rule Amendments Governing Clearing Firms And Their Introducing Firm Clients’ Relationship; Effective Date: July 19, 1999	363
99-58 SEC Grants Exemption From Rule 15c2-11 For Securities Being Removed From The OTCBB Pursuant To The NASD Eligibility Rule	367
99-59 NASD Will No Longer Impose Censures For Some Violations	375
99-60 Fixed Income Pricing System Additions, Changes, And Deletions As Of May 24, 1999	377
99-61 SEC Approves Changes To Rule 4613—Firm Quotation Requirements; Effective Date: August 2, 1999	379
99-62 <i>Special Notice to Members</i> Nominees For District Committees And District Nominating Committees	407

NASD Notice to Members 00-03

August 1999	Page
99-63 SEC Approves And Adopts Revised Forms And Electronic Filing Requirement; New Member Applicants Should Continue To File Paper Forms	421
99-64 <i>Special Notice to Members</i> NASD Informs Members Of Upcoming Nomination Procedures For Industry Member Vacancies On The National Adjudicatory Council	423
99-65 SEC Approves Rule Changes To NASD Trade-Reporting Rules For Riskless Principal Transaction In Nasdaq And OTC Securities	427
99-66 SEC Approves Prior Reference Price Trade Modifier, Changes To Bunching Rules, And Riskless Principal Trade-Reporting Rules For The Third Market	437
99-67 NASD Requests Comment On Proposed Amendments To Membership Rules; Comment Period Expires September 13, 1999	449
99-68 NASD Regulation Announces Its Policy On Enforcement Of Disciplinary Sanctions During The Pendency Of Circuit Court Appeals	477
99-69 NASD Regulation Requests Comment On Proposed Trading Halt Rules; Comment Period Expires September 30, 1999	479
99-70 NASD Regulation Announces New Web-Based FOCUS Filing System—To Be Available For September 1999 Filings	483
99-71 Labor Day: Trade Date—Settlement Date Schedule	485
99-72 Fixed Income Pricing System Additions, Changes, And Deletions As Of June 22, 1999	487
99-73 NASD Requests Comment On Proposed Amendments To The Code Of Procedure And Other Provisions; Comment Period Expires September 13, 1999	489
99-74 <i>Special Notice to Members</i> Nominees For District 10 District Committee And District Nominating Committee	547

NASD Notice to Members 00-03

September 1999		Page
99-75	Series 7 Examination Fee Increase Effective September 15, 1999	555
99-76	Update On OTC Bulletin Board Eligibility Rule	557
99-77	NASD Regulation Modifies Default Decision Procedures	559
99-78	Industry/Regulatory Council On Continuing Education Issues Firm Element Advisory	561
99-79	NASD Regulation Requests Comment On Proposed Amendments To Provisions Governing Communications With The Public; Comment Period Expires October 29, 1999	579
99-80	Maximum SOES Order Sizes Set To Change October 1, 1999	597
99-81	NASD Regulation Requests Comment On Proposed Salesperson Compensation Rules; Comment Period Expires October 29, 1999	605
99-82	Fixed Income Pricing System Additions, Changes, And Deletions As Of July 22, 1999	615
99-83	Columbus Day: Trade Date—Settlement Date Schedule	617

October 1999		Page
99-84	NASD To Send Only One Written Notice Before Deducting Delinquent Arbitration Fees From CRD Account	639
99-85	Broker/Dealer And Agent Renewals For 2000; CRD Fee Changes	641
99-86	NASD Regulation Adopts Policy Regarding Imposition And Collection Of Monetary Sanctions	645
99-87	Fixed Income Pricing System Additions, Changes, And Deletions As Of August 23, 1999	649
99-88	Veterans Day And Thanksgiving Day: Trade Dates—Settlement Dates Schedule	651
99-89	NASD Informs Members Of Election Results For District Committees And District Nominating Committees	653

NASD Notice to Members 00-03

November 1999		Page
99-90	NASD Regulation Announces New <i>Discovery Guide</i> To Be Used In Arbitration Proceedings	687
99-91	NASD Revises And Replaces <i>Notice to Members 99-59</i> And Issues New Censure Policy	699
99-92	SEC, NASD Regulation, And NYSE Issue Joint Statement On Broker/Dealer Risk Management Practices	703
99-93	Fixed Income Pricing System Additions, Changes, And Deletions As Of September 22, 1999	707
99-94	Christmas Day: Trade Date—Settlement Date Schedule	711
99-95	NASD Announces Changes To The By-Laws Associated Person Definition; Effective Date: December 1, 1999	713

December 1999		Page
99-96	SEC Approves New Arbitration Disclosure Rule And Procedures For Employment Arbitration; Effective Date: January 18, 2000	735
99-97	NASD Office Of The Ombudsman Clarifies Its Role	743
99-98	NASD Regulation Reiterates That Members Must Comply With All Short Sale Rules When Receiving Orders Through Electronic Order Systems Or The Internet And Reiterates The Operation Of The Affirmative Determination Rule	747
99-99	NASD Reiterates Obligations To Display Customer Limit Orders Pursuant To SEC Rule 11Ac1-4	751
99-100	SEC Approves Creation Of Dispute Resolution Subsidiary And Related By-Laws And Rule Changes	753
99-101	NASD Regulation To Launch Additional Form Filing Regulatory Applications	759
99-102	NASD Announces Changes To Regulation T And SEC Rule 15c3-3 Extension Request Reason Codes; Effective Date: February 7, 2000	761
99-103	SEC Approves Rule Change Relating To Sales Charges For Investment Companies And Variable Contracts; Effective Date: April 1, 2000	767
99-104	Maximum SOES Order Sizes Set To Change January 10, 2000	777
99-105	Trade Date—Settlement Date Schedule For 2000	785
99-106	NASD 2000 Holiday Schedule	791
99-107	Fixed Income Pricing System Additions, Changes, And Deletions As Of October 22, 1999	793

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INFORMATIONAL**Trade Date—
Settlement Date**

Martin Luther King, Jr.
Day And Presidents Day:
Trade Date—Settlement
Date Schedule

SUGGESTED ROUTING

The Suggested Routing function is meant to aid the reader of this document. Each NASD member firm should consider the appropriate distribution in the context of its own organizational structure.

- Internal Audit
- Legal & Compliance
- Municipal/Government Securities
- Operations
- Trading & Market Making

KEY TOPIC

- Holiday Trade Date—Settlement Date Schedule

Martin Luther King, Jr., Day: Trade Date—Settlement Date Schedule

The Nasdaq Stock Market® and the securities exchanges will be closed on Monday, January 17, 2000, in observance of Martin Luther King, Jr., Day. “Regular way” transactions made on the business days noted below will be subject to the following schedule:

<u>Trade Date</u>	<u>Settlement Date</u>	<u>Reg. T Date*</u>
Jan. 11	Jan. 14	Jan. 19
12	18	20
13	19	21
14	20	24
17	Markets Closed	—
18	21	25

Presidents Day: Trade Date—Settlement Date Schedule

The Nasdaq Stock Market and the securities exchanges will be closed on Monday, February 21, 2000, in observance of Presidents Day. “Regular way” transactions made on the business days noted below will be subject to the following schedule:

<u>Trade Date</u>	<u>Settlement Date</u>	<u>Reg. T Date*</u>
Feb. 15	Feb. 18	Feb. 23
16	22	24
17	23	25
18	24	28
21	Markets Closed	—
22	25	29

*Pursuant to Sections 220.8(b)(1) and (4) of Regulation T of the Federal Reserve Board, a broker/dealer must promptly cancel or otherwise liquidate a customer purchase transaction in a cash account if full payment is not received within five business days of the date of purchase or, pursuant to Section 220.8(d)(1), make application to extend the time period specified. The date by which members must take such action is shown in the column titled “Reg. T Date.”

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October 14-15, 1999 • Washington, DC

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NASD Notice to Members 00-05

INFORMATIONAL

FIPS Changes

Fixed Income Pricing
System Additions,
Changes, And Deletions
As Of November 23,
1999

SUGGESTED ROUTING

The Suggested Routing function is meant to aid the reader of this document. Each NASD member firm should consider the appropriate distribution in the context of its own organizational structure.

- Corporate Finance
- Legal & Compliance
- Municipal/Government Securities
- Operations
- Senior Management
- Trading & Market Making

KEY TOPIC

- FIPS

As of November 23, 1999, the following bonds were added to the Fixed Income Pricing SystemSM (FIPS[®]).

Symbol	Name	Coupon	Maturity
ALKC.GA	Alaska Communications Holdings Inc.	9.375	05/15/09
CFUC.GA	Caitness Coso Fund Corp. Ser B	6.800	12/15/01
CFUC.GB	Caitness Coso Fund Corp. Ser B	9.050	12/15/09
CNBE.GA	Cincinnati Bell Inc.	7.250	06/15/23
CSCF.GA	Conseco Financial Corp.	10.250	06/01/02
GMUP.GA	General Chemical Ind Prod Inc.	10.625	05/01/09
ICUY.GA	Integrated Circuit Systems Inc.	11.500	05/15/09
IPX.GB	Interpool Inc.	7.2000	08/01/08
JUNO.GA	Juno Lighting Inc.	11.875	07/01/09
KM.GI	K-Mart Corp.	8.375	12/15/99
LMRM.GB	Lamar Media Corp.	8.625	12/14/99
LMRM.GC	Lamar Media Corp.	9.250	12/14/99
MXT.GB	Metris Companies Inc.	10.125	07/15/06
RJR.GD	RJ Reynolds Tobacco Holdings Inc.	8.750	04/15/04
RJR.GE	RJ Reynolds Tobacco Holdings Inc.	8.625	12/01/02
RJR.GF	RJ Reynolds Tobacco Holdings Inc.	7.625	09/15/03
RJR.GG	RJ Reynolds Tobacco Holdings Inc.	8.000	01/15/00
RJR.GH	RJ Reynolds Tobacco Holdings Inc.	8.750	08/15/05
RJR.GI	RJ Reynolds Tobacco Holdings Inc.	8.000	07/15/01
RJR.GJ	RJ Reynolds Tobacco Holdings Inc.	9.250	08/15/13
RJRN.GK	RJ Reynolds Tobacco Holdings Inc.	8.250	07/01/04
RJR.GL	RJ Reynolds Tobacco Holdings Inc.	8.750	07/15/07
RJRN.GM	RJ Reynolds Tobacco Holdings Inc.	8.500	07/01/07
SAH.GB	Sonic Automotive Inc.	11.000	08/01/08
SLGC.GC	Sterling Chemicals Holdings Inc.	12.375	07/15/06
SVRN.GE	Sovereign Bancorp Inc.	6.750	07/01/00
SVRN.GF	Sovereign Bancorp Inc.	6.625	03/15/01
TEP.GF	Tucson Electric Power Co.	7.500	08/01/08
TOK.GC	Tokheim Corp.	11.375	08/01/08

NASD Notice to Members 00-05

As of November 23, 1999, the following bonds were deleted from FIPS.

Symbol	Name	Coupon	Maturity
ADLA.GC	Adelphia Communications Corp.	11.875	09/15/04
BBBD.GB	Blue Bird Body Co.	10.750	11/15/06
CCIG.GA	Consolidated Cigar Corp.	10.500	03/01/03
EPIH.GC	Eagle-Picher Industries Inc.	9.000	11/29/99
HTHO.GB	Health Trust Inc. The Hospital Co.	10.250	04/14/04
MMGC.GA	Mego Mortgage Corp.	12.500	12/01/01
NFBK.GA	National Fiberstock Corp.	11.625	06/15/02
OCTU.GA	Orion Cap Trust II	7.701	04/15/28
OEI.GB	Ocean Energy Inc.	10.375	10/15/05
OI.GC	Owens-Ill Inc.	11.000	12/01/03
PESC.GA	Pool Energy Svcs Inc.	8.635	04/01/08
PKG.GB	Parker Drilling Co.	9.750	11/15/06
PKS.GD	Premier Parks Inc.	12.000	08/15/03
SQA.GC	Sequa Corp.	8.750	12/15/01
SQA.GD	Sequa Corp.	9.375	12/15/03

As of November 23, 1999, changes were made to the symbols of the following FIPS bonds.

New Symbol	Old Symbol	Name	Coupon	Maturity
ICED.GA	PKED.GA	Packaged Ice Inc.	9.750	02/01/05
MPAN.GA	MPN.GA	Mariner Post-Acute Network Inc.	10.500	11/01/07
MPAN.GB	MPN.GB	Mariner Post-Acute Network Inc.	9.500	11/01/06
MXT.GA	MTRS.GA	Metris Cos. Inc.	10.000	11/01/04
NER.GA	NEWC.GA	Newcor Inc.	9.875	03/01/08
RDL.GA	RIDL.GA	Riddell Sports Inc.	10.500	07/15/07
RJR.GD	RJRN.GD	RJ Reynolds Tobacco Holdings Inc.	8.750	04/15/04
RJR.GE	RJRN.GE	RJ Reynolds Tobacco Holdings Inc.	8.625	12/01/02
RJR.GF	RJRN.GF	RJ Reynolds Tobacco Holdings Inc.	7.625	09/15/03
RJR.GG	RJRN.GG	RJ Reynolds Tobacco Holdings Inc.	8.000	01/15/00
RJR.GH	RJRN.GH	RJ Reynolds Tobacco Holdings Inc.	8.750	08/15/05
RJR.GI	RJRN.GI	RJ Reynolds Tobacco Holdings Inc.	8.000	07/15/01
RJR.GJ	RJRN.GJ	RJ Reynolds Tobacco Holdings Inc.	9.250	08/15/13
RJR.GL	RJRN.GL	RJ Reynolds Tobacco Holdings Inc.	8.750	07/15/07
SLGC.GB	SLGC.GB	Sterling Chemicals Holdings Inc.	11.750	08/15/06

All bonds listed above are subject to trade-reporting requirements. Questions pertaining to FIPS trade-reporting rules should be directed to Patricia Casimates, Market Regulation, NASD RegulationSM, at (301) 590-6447.

Any questions regarding the FIPS master file should be directed to Cheryl Glowacki, Nasdaq[®] Market Operations, at (203) 385-6310.

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INFORMATIONAL

Decimalization

**The Countdown To
Decimals****SUGGESTED ROUTING**

The Suggested Routing function is meant to aid the reader of this document. Each NASD member firm should consider the appropriate distribution in the context of its own organizational structure.

- Legal & Compliance
- Operations
- Options
- Registered Representatives
- Senior Management
- Technology
- Trading & Market Making

KEY TOPICS

- Decimalization

Executive Summary

The National Association of Securities Dealers, Inc. (NASD®) is working to help make member firms aware of guidelines to begin trading in decimals in the second half of 2000.

This *Notice to Members* provides an update on the Securities Industry Association (SIA) Committee structure and the industry testing and implementation timeline.

Questions/Further Information

For more information, contact the Decimalization Program Management Office (DPMO) toll free at: (888) 227-1330 or via e-mail at decimals@nasd.com.

Background

Decimalization refers to the conversion of all securities industry systems from fractional to decimal pricing; that is in dollars and cents the way nearly everything else is priced. As with the recent Year 2000 and Order Audit Trail System initiatives, Decimalization is a major business initiative with technical implementations.

The SIA is coordinating the industry conversion, and the NASD launched the DPMO to support conversion of its internal companies and provide a level of education and awareness for its constituents. The Securities and Exchange Commission (SEC) has proposed a

conversion date of July 3, 2000. The NASD is committed to the successful industry-wide conversion to decimal pricing, and we continue to move ahead toward the conversion date mindful of our mission to protect market integrity, the interest of the investor, and the readiness of our member firms.

The DPMO began its industry education and awareness campaign last May. For a general discussion of Decimalization, see the *NASD Special Notice to Members 99-39*. The DPMO continues to work actively with other industry participants under the umbrella of the SIA.

The SIA Committees

The SIA committee structure consists of a Senior Decimalization Committee (Senior Committee), comprised of representatives from across the industry, including the NASD. The Senior Committee provides guidance on the upcoming conversion, testing, and implementation recommendations to the SEC. The Senior Committee is supported by four industry-wide subcommittees: Implementation and Testing, Market Data Vendors, Regulatory, and Communications. The NASD is a participant on all subcommittees. The SIA presented a status of the subcommittee efforts at the SIA Decimals Conference, held in New York, New York on September 22, 1999. For more information on the Conference, see the SIA Web Site, www.sia.com.

Industry Timeline: Testing And Implementation

The following industry timeline has been proposed by the SIA Decimalization Committee:

Testing

- **Point-to-Point Testing**

March 2000 through June 2000

Point-to-point tests verify that firms can transmit data using decimal file formats to a particular exchange or utility.

- **Extended Point-to-Point Testing**

April 8, 2000
May 13, 2000

Extended point-to-point tests are integrated tests consisting of a single complete trade day cycle (*i.e.*, industry test).

Implementation

Trading in Decimals

◆ *Phase I* *July 3, 2000*

This phase would involve 30 to 40 securities trading in a nickel or penny MPV—*minimum price variation*—depending on the securities' current trading increment.

◆ *Phase II* *August 7, 2000*

This phase would involve all securities trading in a nickel or penny MPV depending on the securities' current trading increment.

◆ *Phase III* *October 2, 2000*

Full implementation would involve all securities trading in "unrestricted" MPVs. A review by an SIA-sponsored industry evaluation team will be required prior to implementation.

In order to view the latest version of the *Decimalization Testing and Implementation Guide*, please visit the SIA Web Site at www.sia.com.

How The NASD Will Help Members Prepare

As the conversion date draws closer, members should expect more information about Decimalization from the DPMO. This information will come in the form of communications in various NASD publications and Web Sites,

as well as through e-mails. For more information, members can contact the DPMO toll free at: 888-227-1330 or via e-mail at decimals@nasd.com. Inquiries will be logged and then forwarded to the appropriate contacts within the NASD organization for speedy resolution.

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INFORMATIONAL

**Trading—
Extended Hours**

**Disclosure To Customers
Engaging In Extended
Hours Trading****SUGGESTED ROUTING**

The Suggested Routing function is meant to aid the reader of this document. Each NASD member firm should consider the appropriate distribution in the context of its own organizational structure.

- Legal & Compliance
- Senior Management

KEY TOPICS

- Disclosure
- Trading, Extended Hours

Executive Summary

NASD Regulation, Inc. (NASD RegulationSM) reminds members of their obligation under just and equitable principles of trade and the advertising rule to disclose to customers the material risks of extended hours trading.

A model disclosure statement is included with this *Notice* in Attachment A.

Questions/Further Information

Questions concerning this *Notice* may be directed to Gary L. Goldsholle, Assistant General Counsel, Office of General Counsel, NASD Regulation, at (202) 728-8104.

Background And Discussion

A number of member firms recently have started offering their retail customers various opportunities to trade stocks after regular market hours in what is known as “extended hours trading.” An even greater number of member firms have announced plans to offer extended hours trading in coming months.

The growth of extended hours trading provides retail customers with greater opportunities to trade securities and manage their portfolios, and in so doing, provides access to markets that were previously limited to institutional customers. Participation in extended hours trading may offer certain benefits to retail customers, but entails several material risks. Depending on the particular extended hours trading environment, these risks may include:

- lower liquidity;
- higher volatility;

- changing prices;
- unlinked markets;
- an exaggerated effect from news announcements; and
- wider spreads.

In light of these risks, members have an obligation to their retail customers to disclose the material risks of extended hours trading to customers before permitting them to engage in extended hours trading. NASD Regulation commends the many members that have already provided detailed disclosures about the risks of extended hours trading. This *Notice* is a reminder that these disclosures are not only a laudable business practice, but are a regulatory requirement under just and equitable principles of trade.

To assist members with their disclosure obligation, NASD Regulation has developed a series of model disclosures dealing with the risks of extended hours trading. Members are free to develop their own disclosures or modify these model disclosures to meet their particular disclosure needs. In some cases, members may need to develop additional disclosures to address such issues as options trading, options exercises, the effect of stock splits, dividend payments, as well as any additional risks that may arise in the future.

In addition, members are reminded that Rule 2210 requires that all communications with the public shall be based on principles of fair dealing and good faith, and that exaggerated, unwarranted, or misleading statements are prohibited. Members should use caution in communications with the public about their extended hours trading systems to ensure that these requirements are satisfied. Members describing the benefits of

NASD Notice to Members 00-07

extended hours trading must also describe the material risks.

Finally, members are also reminded that in *Notice to Members 99-11*, NASD Regulation described the types of general disclosure that

firms may use to inform their customers about the risks associated with stock volatility. In preparing disclosures regarding extended hours trading, members may wish to review the types of disclosure suggested in that *Notice*.

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Attachment A**MODEL EXTENDED HOURS TRADING RISK DISCLOSURE**

- **Risk of Lower Liquidity.** Liquidity refers to the ability of market participants to buy and sell securities. Generally, the more orders that are available in a market, the greater the liquidity. Liquidity is important because with greater liquidity it is easier for investors to buy or sell securities, and as a result, investors are more likely to pay or receive a competitive price for securities purchased or sold. There may be lower liquidity in extended hours trading as compared to regular market hours. As a result, your order may only be partially executed, or not at all.
- **Risk of Higher Volatility.** Volatility refers to the changes in price that securities undergo when trading. Generally, the higher the volatility of a security, the greater its price swings. There may be greater volatility in extended hours trading than in regular market hours. As a result, your order may only be partially executed, or not at all, or you may receive an inferior price in extended hours trading than you would during regular market hours.
- **Risk of Changing Prices.** The prices of securities traded in extended hours trading may not reflect the prices either at the end of regular market hours, or upon the opening the next morning. As a result, you may receive an inferior price in extended hours trading than you would during regular market hours.
- **Risk of Unlinked Markets.** Depending on the extended hours trading system or the time of day, the prices displayed on a particular extended hours trading system may not reflect the prices in other concurrently operating extended hours trading systems dealing in the same securities. Accordingly, you may receive an inferior price in one extended hours trading system than you would in another extended hours trading system.
- **Risk of News Announcements.** Normally, issuers make news announcements that may affect the price of their securities after regular market hours. Similarly, important financial information is frequently announced outside of regular market hours. In extended hours trading, these announcements may occur during trading, and if combined with lower liquidity and higher volatility, may cause an exaggerated and unsustainable effect on the price of a security.
- **Risk of Wider Spreads.** The spread refers to the difference in price between what you can buy a security for and what you can sell it for. Lower liquidity and higher volatility in extended hours trading may result in wider than normal spreads for a particular security.

NASD Member Benefits

NEW Management Liability Insurance Program

Choose the coverage your firm needs from this complete protection package. And, you can save up to 10% on already discounted premiums.



- **Errors and Omissions (E&O) Insurance**
Protect your firm from investor allegations involving unsuitable investments, misrepresentations, negligence, unauthorized trading, and more.
- **Employment Practices Liability Insurance (EPLI)**
Protect your firm against a wide spectrum of employment practice claims. Coverage encompasses claims of sexual harassment, discrimination, and wrongful termination, including violations of local, state, or federal law.
- **Directors and Officers (D&O) Insurance**
Protect the assets of your firm's directors and officers, and the assets of the corporate entity with coverage for claims arising from a broad range of management liability suits.
- **Employee Benefit Plan Fiduciary Insurance**
Protect your firm from mismanagement claims against your own firm's employee pension plans. Includes coverage for qualified and non-qualified pension and welfare plans.

Call the NASD program administrator today!

800-978-NASD (6273)



INFORMATIONAL

Municipal Securities Transaction Reporting

NASD Reminds Members Of Their Obligations Regarding Municipal Securities Transaction Reporting

SUGGESTED ROUTING

The Suggested Routing function is meant to aid the reader of this document. Each NASD member firm should consider the appropriate distribution in the context of its own organizational structure.

- Legal & Compliance
- Operations
- Senior Management

KEY TOPICS

- Customer Transactions
- Inter-dealer Transactions
- MSRB Rules G-12 And G-14

Executive Summary

NASD Regulation, Inc. (NASD RegulationSM) reminds member firms about the obligations imposed by Municipal Securities Rulemaking Board (MSRB) Rules G-12 and G-14, particularly the requirement that member firms report their municipal securities transactions accurately and in a timely manner. The initial phase of the MSRB Transaction Reporting System, which became effective in 1995, requires the reporting of all inter-dealer municipal transactions. The second phase, effective since 1998, requires the reporting of all customer municipal transactions.

Accurate and timely automated comparison and reporting of municipal securities transaction information is critical to a member firm's trade processing function, accurate public transaction dissemination and resulting price transparency, and efficient and effective regulatory oversight of municipal securities trading and sales practices.

Questions/Further Information

Questions concerning this *Notice* may be directed to Malcolm Northam, Director, Fixed Income Regulation, NASD Regulation, at (202) 728-8085.

Transaction Reporting***Inter-dealer Transactions***

MSRB Rule G-12, in part, requires that dealers submit their municipal trades with other dealers for automated comparison to the National Securities Clearing Corporation (NSCC). After the transaction comparison is complete, the NSCC forwards the transaction information to the

MSRB. As a result, dealers that submit their transaction information to the automated comparison system, as required by MSRB Rule G-12, also satisfy the requirements of MSRB Rule G-14 for transaction reporting for inter-dealer transactions.

The NSCC compiles a "T-Input Percentage", which is an indicator of the accuracy and timely submission of inter-dealer municipal transaction information. Compliance indicators related to both customer and inter-dealer municipal securities transaction reporting include:

- accurate effecting broker symbols;
- accurate reporting of time of trade;
- the number of canceled and/or amended transactions; and
- the number of late-trade submissions.

The "T-Input Percentage" measures the accuracy and completeness of a member firm's municipal inter-dealer trade input. NASD Regulation monitors and uses member firm "T-Input Percentages" to evaluate compliance with MSRB Rules G-12 and G-14. In 1999, the industry average "T-Input Percentage" approximated 93 percent. Stated another way, clearing firms submitted inaccurate or incomplete municipal inter-dealer transaction information to the NSCC in approximately seven percent of their transactions. Clearing firms can monitor their inter-dealer trade input performance by reviewing the "Regular Way Trade Comparison Analysis" provided monthly by NSCC.

Customer Transactions

Member firms use a different process to report customer municipal securities transactions. Members firms may report their customer municipal securities transactions in one of three ways:

- 1) direct submission to the NSCC;
- 2) submission via either a service bureau or a clearing agent; or
- 3) submission through a PC dial-up connection directly to the MSRB.

Member firms can monitor their customer transaction reporting by calling the MSRB at (202) 223-9347 and requesting daily feedback on their reporting performance.

Possible Disciplinary Action For Late Or Inaccurate Reporting

When a member firm submits required municipal transaction information late, or submits inaccurate information, it violates MSRB Rule G-12 and/or G-14, and subjects the member firm to a potential disciplinary action.

NASD Regulation has recently instituted and settled formal disciplinary proceedings against several member firms for failing to provide accurate and timely information regarding their inter-dealer municipal securities transactions during the first half of 1999. Each of these firms attained NSCC "T-Input Percentages" significantly below the industry

average. The fines aggregated \$25,500 and ranged from \$1,000 to \$4,000 for each firm. NASD Regulation continues to monitor both municipal inter-dealer and customer transaction submissions for accuracy and timeliness and will be seeking sanctions in appropriate instances. We encourage firms to monitor the timeliness and accuracy of transaction reporting and take appropriate steps to ensure compliance.

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Disciplinary Actions

Disciplinary Actions Reported For January

NASD Regulation, Inc. (NASD RegulationSM) has taken disciplinary actions against the following firms and individuals for violations of National Association of Securities Dealers, Inc. (NASD[®]) rules; federal securities laws, rules, and regulations; and the rules of the Municipal Securities Rulemaking Board (MSRB). Unless otherwise indicated, suspensions will begin with the opening of business on Tuesday, January 18, 2000. The information relating to matters contained in this *Notice* is current as of the end of December 29, 1999.

Firms Expelled, Individuals Sanctioned

Coastline Financial, Inc. (CRD #16711, Mission Viejo, California) and **Donald Allyson Williams, Sr. (CRD #1899764, Registered Principal, Mission Viejo, California)** were censured and fined \$50,000, jointly and severally. The firm was also expelled from membership in the NASD and ordered to repay any outstanding promissory notes with the stated interest. Williams was barred from association with any NASD member in any capacity. The Securities and Exchange Commission (SEC) affirmed the sanctions following appeal of a National Business Conduct Committee decision. The sanctions were based on findings that the firm and Williams engaged in misrepresentations in connection with the sales of promissory notes to investors. **(NASD Case #C02950059)**

Sterling Foster & Co., Inc. (CRD #36052, Uniondale, New York) and **Adam Richard Lieberman (CRD #1466902, Registered Principal, Roslyn Heights, New York)** submitted an Offer of Settlement pursuant to which they

were censured and the firm was expelled from membership in the NASD. Lieberman was fined \$1,000,000 and barred from association with any NASD member in any capacity. Without admitting or denying the allegations, they consented to the described sanctions and to the entry of findings that the firm and Lieberman engaged in a recurring pattern of improper underwritings, manipulative trading, and fraudulent “boiler room” sales practices. The findings also stated that the firm acted as managing underwriter and placed approximately 74 percent of an initial public offering (IPO) with its customers. The firm and Lieberman, through high pressure sales tactics, sold approximately double the number of shares available in the public float, resulting in enormous short positions in the firm’s trading account. The firm and Lieberman dominated and controlled aftermarket trading in the securities and established arbitrary and artificially inflated prices. In addition, the firm’s short position was covered through purchases of stock from insiders of the company at prices that represented a tremendous discount to the prevailing market price and resulted in approximately \$53,000,000 in illicit profits to the firm, Lieberman, and the firm’s brokers. **(NASD Case #CMS960174)**

Firm And Individual Sanctioned

Hampton Securities, Inc. (CRD #18305, Los Angeles, California) and **Patrick Alexander Anthony (CRD #2080102, Registered Principal, Los Angeles, California)** submitted a Letter of Acceptance, Waiver, and Consent (AWC) pursuant to which they were fined \$20,000, jointly and severally, and suspended from participating in

new underwritings for 30 days. Anthony was ordered to requalify by exam as a financial and operations principal within 60 days of notice of acceptance of the AWC. Without admitting or denying the allegations, they consented to the described sanctions and to the entry of findings that the firm, acting under the direction and control of Anthony, effected transactions in securities when it failed to have and maintain sufficient net capital and failed to file annual audited financial statements in a timely manner. In addition, the firm, acting under the direction and control of Anthony, participated in an underwriting and failed to promptly transmit customer checks, totaling more than \$162,000, to the issuer. **(NASD Case #C02990063)**

Firms Fined, Individuals Sanctioned

Empire Securities, Inc. of Washington (CRD #13854, Spokane, Washington) and David Allen Taisey (CRD #128009, Registered Principal, Elk, Washington) submitted a Letter of Acceptance, Waiver, and Consent pursuant to which the firm was censured and fined \$15,000 and Taisey was censured and barred from association with any NASD member in the capacity of a general securities principal with the right to reapply after five years. Without admitting or denying the allegations, they consented to the described sanctions and to the entry of findings that the firm, acting through Taisey, failed to establish, maintain, and enforce written supervisory procedures reasonably designed to ensure that the firm's registered representatives refrained from engaging in recommendations to customers that resulted in unsuitable over-concentrations of securities in customers' accounts. The findings also stated that Taisey

failed to adequately supervise registered representatives regarding their unsuitable recommendations. In addition, the findings stated that Taisey recommended purchases to public customers that were unsuitable based on these customers' other security holdings, financial situations, objectives, and needs. **(NASD Case #C3B990033)**

Lumiere Securities, Inc. (CRD #13414, Denver, Colorado) and Larry Irwin Kravetz (CRD #275211, Registered Principal, Denver Colorado) submitted a Letter of Acceptance, Waiver, and Consent pursuant to which they were censured, fined \$50,000, jointly and severally, and ordered to disgorge \$125,000 in profits. Also, if a firm controlled by Kravetz applies for NASD membership within four years of this AWC becoming final, that firm must retain an independent consultant at its own expense to review the firm's supervisory and compliance policies and procedures regarding making Form 211 filings and making markets in equity securities that trade on the OTC Bulletin Board® or in the pink sheets. If the consultant makes recommendations for preventing or detecting improper conduct, this firm will implement the recommendations in a timely manner and report the progress in writing to the consultant. Kravetz also cannot become associated in a principal capacity with any member firm that is a Market Maker in, or effects principal or agency transactions in, equity securities not traded on The Nasdaq Stock Market, Inc. for two years from the date this AWC becomes final unless the NASD permits such association. Without admitting or denying the allegations, the firm and Kravetz consented to the described sanctions and to the

entry of findings that the firm, acting through Kravetz, received compensation, directly or indirectly, from issuers, affiliates of issuers, and/or promoters for making Form 211 filings, entering quotations, and/or making a market. The findings also stated that the firm, acting through Kravetz, entered a priced quotation for which it had previously filed a Form 211 for unpriced quotations without filing supplements, and entered a quotation and commenced making a market without a reasonable, independent basis for the quotation. Furthermore, the findings also stated that the firm, acting through Kravetz, maintained inventory in amounts that exceeded the amount permitted by the firm's restriction agreement, failed to implement Firm Element Continuing Education, and failed to report Non-Nasdaq® OTC transactions in a timely manner or with the correct capacity designator. **(NASD Case #C3A990063)**

Firms And Individuals Fined

Black & Company, Inc. (CRD #95, Portland, Oregon) and Dennis Burton Reiter (CRD #373898, Registered Principal, Portland, Oregon) submitted a Letter of Acceptance, Waiver, and Consent pursuant to which they were censured and fined \$10,000, jointly and severally. Reiter was also required to requalify by exam as a financial and operations principal (Series 27) within 90 days of the acceptance of the AWC. If Reiter fails to requalify, he will be unable to act as a financial and operations principal until he successfully passes the exam. Without admitting or denying the allegations, they consented to the described sanctions and to the entry of findings that the firm, acting through Reiter in his capacity as its financial principal, effected transactions in

securities while failing to maintain its minimum required net capital. **(NASD Case #C3B990034)**

Colonial Securities, Inc. (CRD #3013, New York, New York), Yee Yee Wong (CRD #809335, Registered Principal, Flushing, New York) and David Wong (CRD #2095703, Registered Principal, Flushing, New York) submitted a Letter of Acceptance, Waiver, and Consent pursuant to which they were censured and fined \$12,500, jointly and severally. The firm and Y. Wong were fined an additional \$1,000, jointly and severally. Without admitting or denying the allegations, the respondents consented to the described sanctions and to the entry of findings that the firm, acting through Y. Wong and D. Wong, failed to maintain adequate written supervisory procedures covering the receipt of customer checks, review of customer transactions to prevent excessive cancellations and the use of the firm's error account, NASD reporting requirements, the need to conduct an annual needs analysis and to develop an employee training plan, and the designation of a principal to be in charge of each business conducted by the firm. The findings also stated that the firm failed to conduct a Continuing Education needs analysis, establish a satisfactory training plan, and evidence that training was conducted for two years. The firm also failed to report to the NASD a settlement of \$25,717.97 with a public customer. In addition, the firm, acting through Y. Wong, conducted a securities business while failing to maintain its minimum required net capital. **(NASD Case #C10990203)**

Firms Fined

Chicago Capital, Inc. (CRD #39274, Chicago, Illinois) submitted a Letter of Acceptance, Waiver, and Consent pursuant to which the firm was censured, fined \$3,500 jointly and severally with an individual, and fined an additional \$9,500. Without admitting or denying the allegations, the firm consented to the described sanctions and to the entry of findings that, acting through an individual, it purchased shares of an IPO, at the IPO price, for the joint account of public customers when trading began at a premium over the IPO price in the secondary market. The firm also inaccurately reported transactions, failed to timely decline or accept transactions in which the firm was the non-reporting member, and inaccurately reported short sales to the Automated Confirmation Transaction ServiceSM (ACTSM) by failing to include the ".S" modifier. The findings also stated that the firm executed transactions in the Small Order Execution SystemSM (SOESSM) for the accounts of persons associated with the firm when such persons had physical access to a terminal capable of entering orders into SOES. Furthermore, the findings also stated that the firm failed to communicate to the NASD its best bids and offers when it entered proprietary orders into SelectNetSM at better prices than its published quote and failed to update its published quote or to update its published quote promptly. In addition, the firm failed to prepare or accurately prepare order tickets for transactions and failed to establish, maintain, and enforce written supervisory procedures reasonably designed to achieve compliance with applicable rules, regulations, and NASD laws concerning trading and market-making activities. **(NASD Case #C8A990078)**

King Financial Services, Inc. (CRD #25843, Iselin, New Jersey) submitted a Letter of Acceptance, Waiver, and Consent pursuant to which the firm was censured and fined \$10,000. Without admitting or denying the allegations, the firm consented to the described sanctions and to the entry of findings that it failed to respond in a timely manner to NASD requests for an automated submission of trading data for Nasdaq National Market[®] (NNM) securities and one request for an automated submission of trading data for a non-Nasdaq security. The findings also stated that the firm submitted an automated submission of trading data more than 30 days after the date such information was required to be provided. **(NASD Case #CMS990157)**

Piper Jaffray, Inc. (CRD #665, Minneapolis, Minnesota) submitted a Letter of Acceptance, Waiver, and Consent pursuant to which the firm was censured and fined \$12,500. Without admitting or denying the allegations, the firm consented to the described sanctions and to the entry of findings that it failed to provide its customers with written notification of the reported trade price in transactions and, in one case, failed to provide the customer with written notification that the price he received was an average price. The findings also stated that the firm failed to immediately display customer limit orders either when the orders were at a price that would have improved the firm's bid or offer in each security related to those orders or when the orders were priced equal to the firm's bid or offer and the national best bid or offer and the orders represented more than a *de minimus* change in relation to the size associated with the firm's bid or offer in each security. In addition, the firm failed

to establish, maintain, and enforce written supervisory procedures reasonably designed to achieve compliance with applicable rules regarding limit order display and protection, best execution, trade reporting, and the use of SOES. **(NASD Case #CMS990145)**

PMK Securities & Research, Inc. (CRD #40145, Delray Beach, Florida) submitted a Letter of Acceptance, Waiver, and Consent pursuant to which the firm was censured and fined \$13,500. Without admitting or denying the allegations, the firm consented to the described sanctions and to the entry of findings that it failed to report transactions in NNM securities to ACT, failed to identify to ACT aggregated transaction reports in NNM securities in a manner directed by the NASD, and improperly aggregated individual executions in an NNM security into a single transaction report. The findings also stated that the firm failed to identify order tickets of aggregated trades in NNM securities in a manner directed by the NASD; failed to show the correct time of execution on the memorandum of brokerage orders; and, while acting in instances as principal for its own account, failed to provide written notification disclosing to its customer that it was a Market Maker. In addition, the firm failed to establish, maintain, and enforce written supervisory procedures reasonably designed to achieve compliance with applicable laws, regulations, and NASD rules regarding transaction reporting, recordkeeping, and customer confirmation disclosures. **(NASD Case #CMS990156)**

Sands Brothers & Co., Ltd. (CRD #26816, New York, New York) submitted a Letter of Acceptance, Waiver, and Consent pursuant to which the firm was censured, fined \$18,500, and required to disgorge

\$27,789 to the NASD. Without admitting or denying the allegations, the firm consented to the described sanctions and to the entry of findings that, in connection with contingency offerings of securities, it failed to handle customer funds properly; the firm failed to utilize a written escrow agreement and distributed offering materials that misrepresented that a non-interest bearing escrow account would be established for investors' funds, when the funds were instead placed in an interest-bearing account with the interest earned paid to the firm. The findings also stated that the firm failed to properly record the receipt of customer funds on the firm's books and records for purchases of interests in contingency offerings of securities. In addition, the firm failed to indicate the limit order terms and conditions on order tickets to reflect that the customers' limit orders had been changed to market orders and that it held unexecuted customer limit orders in Nasdaq securities while it continued to trade the securities for its market-making account at prices that would have satisfied the customers' limit orders. Moreover, the findings stated that the firm failed to immediately publish bids or offers that reflected the prices and the full size of customer limit orders which were at prices that would have improved the firm's bid or offer in certain securities. The firm also neglected to execute transactions in a timely manner and allowed an individual to engage in the firm's securities business prior to his becoming registered with the NASD as a general securities representative. **(NASD Case #C05990053)**

SK International Securities Corporation (CRD #7850, San Diego, California) submitted a Letter of Acceptance, Waiver, and Consent pursuant to which the firm was censured, fined \$12,000, and

required to submit revised supervisory procedures to the NASD pertaining to the findings in this AWC. Without admitting or denying the allegations, the firm consented to the described sanctions and to the entry of findings that it failed to transmit through ACT transactions in NNM and OTC equity securities in a timely manner and failed to designate such transactions as late to ACT, thereby engaging in a pattern or practice of late transaction reporting without exceptional circumstances. The findings also stated that the firm incorrectly reported to ACT whether it had executed trades as principal or agent in transactions. In addition, the findings stated that the firm failed to establish, maintain, and enforce written supervisory procedures reasonably designed to achieve compliance with applicable laws, regulations, and NASD rules concerning transaction reporting and ACT compliance. **(NASD Case #CMS990158)**

Tucker Anthony, Incorporated (CRD #837, New York, New York) submitted a Letter of Acceptance, Waiver, and Consent pursuant to which the firm was censured and fined \$17,500. Without admitting or denying the allegations, the firm consented to the described sanctions and to the entry of findings that it failed to immediately display customer limit orders in Nasdaq securities in its public quotation when the orders were at prices that would have improved the firm's bid or offer in the securities or when the orders were priced equal to the firm's bid or offer and the national best bid or offer for the securities and the size of the orders represented more than a *de minimus* change in relation to the size associated with the firm's bid or offer in the securities. The findings also stated that the firm failed to contemporaneously

execute or to partially execute customer limit orders in Nasdaq securities after it traded each security for its own market-making account at a price that would have satisfied each customer's limit order. In addition, when the firm acted as principal for its own account, it failed to provide written notification disclosing to its customer the correct reported trade price or that it was a Market Maker in each such security. The firm also failed to provide written notification disclosing to a customer that the transaction executed was at an average price. **(NASD Case #CMS990147)**

Zions Investment Securities, Inc. (CRD #17776, Salt Lake City, Utah) submitted a Letter of Acceptance, Waiver, and Consent pursuant to which the firm was censured, fined \$6,000 jointly and severally with individuals, and ordered to disgorge \$18,933 in net commissions accrued to the firm. Without admitting or denying the allegations, the firm consented to the described sanctions and to the entry of findings that it conducted a securities business while it failed to maintain the required minimum net capital; failed to prepare, maintain, and issue account statements to its customers notifying them of customer free credit/debit balances; and failed to send each customer information regarding its financial condition. The findings also stated that the firm, acting through an individual, allowed persons to remain associated with the firm, transact a securities business, and collect commissions while their licenses were inactive due to failure to complete the Regulatory Element of Continuing Education. In addition, the firm, acting through the individual, failed to have adequate written supervisory procedures addressing the handling of customer free credit and debit balances, the firm's obligation to

send semi-annual financial statements to customers for which the firm holds customer money balances, compliance with the Regulatory and Firm Elements of Continuing Education, and compliance with the firm's obligations to report customer complaints and other events to the NASD. **(NASD Case #C3A990066)**

Individuals Barred Or Suspended

Stephen F. Agnese (CRD #2529358, Registered Principal, Staten Island, New York) submitted an Offer of Settlement pursuant to which he was barred from association with any NASD member in any capacity. Without admitting or denying the allegations, Agnese consented to the described sanctions and to the entry of findings that he failed to respond to NASD requests for information and to provide documents. **(NASD Case #C10990153)**

Michael Brooks Belton (CRD #1197442, Registered Representative, Leesburg, Florida) submitted a Letter of Acceptance, Waiver, and Consent pursuant to which he was fined \$5,000 and suspended from association with any NASD member in any capacity for 20 business days. Without admitting or denying the allegations, Belton consented to the described sanctions and to the entry of findings that, in the extended absence of his member firm's president, he forged the signature of the president on an NASD Offer of Settlement to facilitate the resolution of a complaint against the president and the firm and then submitted the Offer of Settlement to the NASD, without the president's knowledge or consent. **(NASD Case #C07990076)**

Howard Brett Berger (CRD #2284367, Registered Principal, Roslyn Heights, New York) submitted an Offer of Settlement pursuant to which he was fined \$20,000, suspended from association with any NASD member in a principal capacity for two years, suspended from association with any NASD member in any capacity for 120 days, and required to comply with an undertaking to never serve as a Director of Compliance or to otherwise function as the highest ranking person in the compliance department of any NASD member. Without admitting or denying the allegations, Berger consented to the described sanctions and to the entry of findings that he, acting with at least one other individual, placed over 15 percent of the total offering of an IPO into customer accounts and arranged with the customers to sell their units back to his member firm in the immediate aftermarket trading of the security or reasonably believed the purchasing customers would sell their units back to the firm in the immediate aftermarket trading of the security. The firm, acting through Berger and another individual, bid for and purchased securities which were the subject of the distribution and induced other persons to purchase such securities before the distribution was completed. The firm's other customers were not informed of the "flipping" or that the IPO was not a *bona fide* public distribution. The findings also stated that Berger failed to take steps to register unregistered individuals who were selling securities for his firm or to prevent them from selling while unregistered. In addition, Berger failed to establish and maintain adequate written supervisory procedures to address compliance with securities laws and regulations pertaining to the underwriting and distribution of securities. **(NASD Case #CAF980098)**

Howard Stephen Blanck (CRD #1815177, Registered Representative, Reading, Pennsylvania) submitted an Offer of Settlement pursuant to which he was suspended from association with any NASD member in any capacity for 15 business days and ordered to pay the sum of \$7,197 to the Trustee appointed by the court in *SEC v. The Infinity Group Company et al.* within 90 days of the acceptance of the Offer of Settlement. Without admitting or denying the allegations, Blanck consented to the described sanctions and to the entry of findings that he engaged in securities transactions outside of the normal course or scope of his association with a member firm for selling compensation, without providing prior written notice to, or receiving prior written approval from, his member firm. **(NASD Case #C9A990046)**

Gregory Scott Boyd (CRD #1691952, Registered Representative, Denver, Colorado) was fined \$25,000 and barred from association with any NASD member in any capacity for failure to appear, fined \$25,000 and suspended from association with any NASD member in any capacity for two years for private securities transactions, and fined \$30,000 and barred from association with any NASD member in any capacity for misuse of customer funds and failure to secure an intended investment. The sanctions were based on findings that Boyd failed to respond to NASD requests for information and to appear for an on-the-record interview. The findings also stated that Boyd engaged in private securities transactions without prior notification of his member firm. The findings further stated that Boyd received \$5,832.20 from a public customer for investment purposes, deposited the funds into his

personal bank account, and failed to return or invest the funds, thereby misusing customer funds. In addition, Boyd failed to arrange for delivery of genuine stock certificates to the customer representing his investments and, instead, delivered fake certificates to the customer in an attempt to deceive and to conceal the fact that he had not completed the transactions. **(NASD Case #C3A990038)**

Neil Howard Brauner (CRD #2571484, Registered Representative, New York, New York) was fined \$10,000 and suspended from association with any NASD member in any capacity for two years for material misrepresentations; fined \$2,500 and suspended from association with any NASD member in any capacity for 30 business days for guaranteeing a customer against loss; and barred from association with any NASD member in any capacity for effecting unauthorized transactions and providing false information to a request for information. Payment of the fines shall be a condition to Brauner's eligibility to associate with a member firm. The sanctions were based on findings that Brauner misrepresented that he was placing stop-loss orders on stock purchases sold to public customers to induce them to purchase stock and guaranteed a customer that he would not suffer a loss on a purchase. The findings also stated that Brauner engaged in unauthorized transactions in a customer's account and effected transactions in another customer's account after the customer had sent Brauner written direction to liquidate and close the account. In addition, Brauner failed to respond truthfully to an NASD request for information. **(NASD Case #C10990081)**

Stanley Paul Buck (CRD #2304732, Registered Representative, Liberty, Missouri) was barred from association with any NASD member in any capacity. The sanctions were based on findings that Buck entered inaccurate deposit records into his member firm's computer system and failed to respond to NASD requests for information. **(NASD Case #C04990038)**

Omar Luis Buttari, Sr. (CRD #37337, Registered Principal, Chicago, Illinois) submitted an Offer of Settlement pursuant to which he was suspended from association with any NASD member in any capacity for 30 days. Without admitting or denying the allegations, Buttari consented to the described sanctions and to the entry of findings that he failed to make a cash payment of \$62,553 to a member firm pursuant to a New York Stock Exchange arbitration award or to make a motion to vacate or modify the award in a timely manner. The findings also stated that Buttari failed to respond to NASD requests to submit a signed and notarized financial questionnaire and to provide tax returns in a timely manner. **(NASD Case #C02980078)**

Craig Thomas Butzbach (CRD #1348291, Registered Representative, East Greenwich, Rhode Island) submitted a Letter of Acceptance, Waiver, and Consent pursuant to which he was barred from association with any NASD member in any capacity. Without admitting or denying the allegations, Butzbach consented to the described sanctions and to the entry of findings that he made improper use of \$10,000 belonging to a client. **(NASD Case #C11990051)**

Douglas John Cabell (CRD #733516, Registered Representative, Bettendorf, Iowa) submitted a Letter of Acceptance, Waiver, and Consent pursuant to which he was fined \$5,000 and suspended from association with any NASD member in any capacity for 30 business days. Without admitting or denying the allegations, Cabell consented to the described sanctions and to the entry of findings that he participated in private securities transactions without providing prior written notice to, and receiving written approval from, his member firm. **(NASD Case #C04990044)**

Sylvester Cannon, Jr. (CRD #2766126, Registered Representative, Detroit, Michigan) was fined \$25,000 and barred from association with any NASD member in any capacity. The NAC imposed the sanctions following appeal of a Chicago DBCC decision. The sanctions were based on findings that Cannon failed to respond to NASD requests for information.

Cannon has appealed this action to the SEC and the sanctions, other than the bar, are not in effect pending consideration of the appeal. **(NASD Case #C8A980054)**

Kenneth M. Caraglio (CRD #2580769, Registered Representative, Miami, Florida) was fined \$50,000 and barred from association with any NASD member. If Caraglio applies to re-enter the securities industry, the fine will be reduced by the amount of restitution, if any, he has paid to public customers. The sanctions were based on findings that Caraglio failed to follow public customers' instructions repeatedly and prepared and sent false confirmations and order tickets of trades that had not been made. The

findings also stated that Caraglio failed to respond to NASD requests for information. **(NASD Case #C07990046)**

Roger Harry Chlowitz (CRD #501445, Registered Principal, Northridge, California) was barred from association with any NASD member in any capacity. The National Adjudicatory Council (NAC) imposed the sanctions following appeal of a Los Angeles District Business Conduct Committee (DBCC) decision. The sanctions were based on findings that Chlowitz failed to respond to NASD requests for information. **(NASD Case #C02980025)**

John Samuel Crossman (CRD #1660492, Registered Principal, San Antonio, Texas) submitted a Letter of Acceptance, Waiver, and Consent pursuant to which he was fined \$7,500 and suspended from association with any NASD member in any capacity for 10 business days. Without admitting or denying the allegations, Crossman consented to the described sanctions and to the entry of findings that he borrowed money from a customer and misrepresented that fact to his member firm. **(NASD Case #C06990022)**

Marc Jason Dannenberg (CRD #2569254, Registered Representative, Thornwood, New York) submitted a Letter of Acceptance, Waiver, and Consent pursuant to which he was fined \$7,500 and suspended from association with any NASD member in any capacity for 17 months and one week. Without admitting or denying the allegations, Dannenberg consented to the described sanctions and to the entry of findings that he effected a transaction in the securities account of a public customer

without the customer's prior knowledge, authorization, or consent and left a threatening message on the customer's home telephone answering machine after he refused to pay for the stock purchase. The findings also stated that Dannenberg made false statements on his Form U-4 concerning violations of state investment regulations or statutes. **(NASD Case #C10990199)**

Charles A. DiMaggio (CRD #2443379, Registered Representative, Brooklyn, New York) submitted a Letter of Acceptance, Waiver, and Consent pursuant to which he was censured, fined \$50,000, barred from association with any NASD member in any capacity, and required to disgorge \$70,332.45 in earnings to the NASD. Without admitting or denying the allegations, DiMaggio consented to the described sanctions and to the entry of findings that he had an impostor take the Series 7 exam on his behalf and refused to appear for an NASD on-the-record interview. **(NASD Case #C10990194)**

John Robert Doughty (CRD #1341074, Registered Representative, Vero Beach, Florida) submitted an Offer of Settlement pursuant to which he was fined \$10,000, suspended from association with any NASD member in any capacity for one year, and ordered to disgorge \$23,850, plus interest, in sales compensation. The sanctions were based on findings that Doughty sold joint venture agreements outside the scope of his regular employment with a member firm and received approximately \$23,850 in sales compensation without providing prior written notice to, or receiving prior written approval from, his member firm. The findings also stated that

Doughty failed to disclose to the investors that approximately 13 to 14 percent of their investments was to pay sales compensation, a material fact necessary for investors to make an informed decision regarding the purchase of securities. **(NASD Case #C07990059)**

Linh Julia Dyer (CRD #2530791, Registered Representative, Keansburg, New Jersey) was barred from association with any NASD member in any capacity. The sanctions were based on findings that Dyer failed to respond to NASD requests for information regarding an allegation of converting customer funds. **(NASD Case #C9B990017)**

Robert John Eldridge (CRD #1059162, Registered Principal, Cumberland, Rhode Island) was fined \$25,000 and barred from association with any NASD member in any capacity. The sanctions were based on findings that Eldridge failed to respond to NASD requests for information relating to his activities in connection with trading losses and a deficit in one of his member firm's proprietary accounts. **(NASD Case #C11990027)**

Arnold J. Feldman (CRD #1132591, Registered Representative, Long Beach, New York) submitted a Letter of Acceptance, Waiver, and Consent pursuant to which he was fined \$25,000 and barred from association with any NASD member in any capacity. Without admitting or denying the allegations, Feldman consented to the described sanctions and to the entry of findings that he received checks totaling \$2,469 from public customers to be deposited with his member firm for purposes of restoring funds which had

previously been drawn against their insurance policies, failed to deposit the checks, and instead, converted the funds to his own use and benefit without the customers' knowledge or consent. The findings also stated that Feldman misrepresented to the customers that the checks were required to be issued to replace other checks which his firm had issued in error and which had been drawn against their insurance policies when, in fact, the checks were not issued in error but were issued at the request of Feldman without the customers' consent. **(NASD Case #C9B990036)**

Alina Fuentes (CRD #2812427, Registered Representative, Pacoima, California) submitted a Letter of Acceptance, Waiver, and Consent pursuant to which she was censured, fined \$90,000, and barred from association with any NASD member in any capacity. Without admitting or denying the allegations, Fuentes consented to the described sanctions and to the entry of findings that she falsified an annuity application, established a fraudulent annuity policy in the name of a fictitious individual, created the impression that the annuity was funded with the use of a fraudulent check, and sent a letter to her member firm in the name of the fraudulent individual instructing the firm to cancel the policy and refund the cost which resulted in a \$9,382 refund check being issued. The findings also stated that Fuentes endorsed the check and deposited it into her personal bank account. **(NASD Case #C10990197)**

Steven Douglas Goodman (CRD #1510905, Registered Principal, Allison Park, Pennsylvania) was fined \$75,000 and barred from association with any NASD member in any capacity. The NAC

imposed the sanctions following appeal of a Washington, D.C. DBCC decision. The sanctions were based on findings that Goodman engaged in sales practice abuses that included material misrepresentations and omissions and unfounded price predictions.

Goodman has appealed this action to the SEC and the sanctions, other than the bar, are not in effect pending consideration of the appeal. **(NASD Case #C9B960013)**

Edward Jon Graziano (CRD #1100519, Registered Representative, Fairport, New York) was fined \$25,000 and barred from association with any NASD member in any capacity. The sanctions were based on findings that Graziano failed to respond to NASD requests for information and documents pertaining to his termination from member firms under circumstances concerning his potential outside business activity. **(NASD Case #C8B990019)**

Anthony Lamar Green (CRD #3196919, Associated Person, Schwensville, Pennsylvania) submitted a Letter of Acceptance, Waiver, and Consent pursuant to which he was fined \$25,000 and barred from association with any NASD member in any capacity. Without admitting or denying the allegations, Green consented to the described sanctions and to the entry of findings that he failed to respond, in writing, to an NASD request for information relating to his termination for cause from a member firm. **(NASD Case #C9A990059)**

Dwight Raymond Guthrie (CRD #1580936, Registered Representative, Apollo, Pennsylvania) submitted a Letter

of Acceptance, Waiver, and Consent pursuant to which he was fined \$150,000 and barred from association with any NASD member in any capacity. Without admitting or denying the allegations, Guthrie consented to the described sanctions and to the entry of findings that he received \$18,661 from a public customer to be applied toward the payment of insurance premiums and/or for investment in securities, failed to apply the funds as directed, and converted the funds to his own use and benefit. The findings also stated that Guthrie failed to respond to NASD requests for information concerning possible misappropriation of customer funds. **(NASD Case #C9A990055)**

Jo Ann Lee Harper (CRD #2390689, Registered Representative, Norfolk, Virginia) submitted an Offer of Settlement pursuant to which she was barred from association with any NASD member in any capacity. Without admitting or denying the allegations, Harper consented to the described sanctions and to the entry of findings that she failed to respond to an NASD request for information concerning an ongoing investigation of a customer complaint against her. **(NASD Case #C07990056)**

Bruce Alan Hawkes (CRD #1073573, Registered Representative, North Reading, Massachusetts) submitted a Letter of Acceptance, Waiver, and Consent pursuant to which he was fined \$5,000, suspended from association with any NASD member in any capacity for 30 days, and required to pay \$9,603, plus interest, in restitution to public customers. Without admitting or denying the allegations, Hawkes consented to the described

sanctions and to the entry of findings that he engaged in private securities transactions without prior written notice to, or approval from, his member firm and received \$9,603 in commissions as a result of the transactions. **(NASD Case #C11990049)**

David Burton Hollister (CRD #1732780, Registered Representative, New York, New York) submitted an Offer of Settlement pursuant to which he was fined \$25,000, suspended from association with any NASD member in any capacity for one year, and required to requalify by examination within 180 days from the date he becomes associated with any NASD member firm following his one-year suspension. Without admitting or denying the allegations, Hollister consented to the described sanctions and to the entry of findings that he electronically entered fictitious trades on the books and records of his member firm. **(NASD Case #C10990148)**

Joseph Imbrenda (CRD #2624795, Registered Representative, Holmdel, New Jersey) submitted an Offer of Settlement pursuant to which he was fined \$25,000 and barred from association with any NASD member in any capacity. Without admitting or denying the allegations, Imbrenda consented to the described sanctions and to the entry of findings that he intentionally and willfully gave false, misleading, inaccurate, and/or incomplete testimony in response to questions posed to him by the New Jersey Bureau of Securities examiners regarding his and his member firm's sales and business practices. **(NASD Case #C10990129)**

Robert Jay Kendzierski (CRD #1290761, Registered Representative, Erie, Pennsylvania) was fined \$80,000 and barred from association with any NASD member in any capacity. The NAC imposed the sanctions following appeal of a Philadelphia DBCC decision. The sanctions were based on findings that Kendzierski converted \$6,000 in customer funds to his own use and benefit. **(NASD Case #C9A980021)**

Norvin Kirkendall (CRD #1617954, Registered Representative, Noblesville, Indiana) submitted a Letter of Acceptance, Waiver, and Consent pursuant to which he was fined \$5,000 and suspended from association with any NASD member in any capacity for 30 days. Without admitting or denying the allegations, Kirkendall consented to the described sanctions and to the entry of findings that he engaged in private securities transactions, failed to give prior written notice of his intention to engage in such activity to his member firm, and failed to receive prior written approval from his firm. **(NASD Case #C8A990073)**

Peter S. Lau (CRD #866720, Registered Representative, Edison, New Jersey) was fined \$25,000, barred from association with any NASD member in any capacity, and ordered to pay \$75,114, plus interest, in restitution to a public customer. The fine and restitution must be paid before Lau can be eligible for future association with a member firm. The sanctions are based on findings that Lau received over \$75,000 for investment purposes from a public customer, failed to invest the funds, and converted all but \$1,500 to his own use and

benefit. The findings also stated that Lau failed to respond to NASD requests for information. **(NASD Case #C10990119)**

Charles Michael Lee, III (CRD #2320124, Registered Representative, Brooklyn, New York) submitted an Offer of Settlement pursuant to which he was suspended from association with any NASD member in any capacity for 30 business days. Without admitting or denying the allegations, Lee consented to the described sanctions and to the entry of findings that he unsuccessfully attempted to induce a customer to purchase stock by assuring the customer he could cancel the trade if the investment was not profitable within two weeks and falsely told the customer that he had personally bought shares of the stock when he had not done so. The findings also stated that Lee falsified account records to reflect a different home state for the customer in order to sell the stock which was not registered for sale under the laws of the customer's state of residence. **(NASD Case #C10990138)**

Michael Lee (CRD #3073397, Registered Representative, Owings Mills, Maryland) was fined \$5,000 and suspended from association with any NASD member in any capacity for 30 business days. Lee will not be eligible for association with any member firm in any capacity until the fine is paid. The sanctions are based on findings that Lee failed to disclose a misdemeanor theft conviction in Illinois on his Form U-4. **(NASD Case #C9A990017)**

Richard Stephen Levitov (CRD #602479, Registered Principal, Bayonne, New Jersey) and **Ralph Joseph Angeline (CRD #6094, Registered Principal, Katonah,**

New York) were each suspended from association with any NASD member in any capacity for one year. At the end of one year, each will be barred if he has not fully and unconditionally provided NASD with on-the-record testimony. The NAC imposed the sanctions following appeal by NASD Regulation's Department of Enforcement and cross-appeal by Levitov and Angeline of an NASD Regulation Hearing Panel decision. The sanctions were based on findings that Levitov and Angeline failed to respond to an NASD request to appear for on-the-record testimony after having been denied continuance requests.

Levitov's and Angeline's suspensions began at the opening of business on December 2, 1999, and, if the conditions imposed in the decision are satisfied, will conclude at the close of business on December 1, 2000. **(NASD Case #CAF980025)**

Joseph John Librandi (CRD #2642824, Registered Representative, Massapequa Park, New York) submitted a Letter of Acceptance, Waiver, and Consent pursuant to which he was fined \$5,000, suspended from association with any NASD member in any capacity for 10 business days, and required to requalify by exam as either a general securities representative (Series 7) or a corporate securities representative (Series 62) no later than March 28, 2000. Failure to requalify by that date will result in suspension from association with any member firm in any capacity until Librandi passes a registration exam. Without admitting or denying the allegations, Librandi consented to the described sanctions and to the entry of findings that he executed a purchase of stock in a public customer's account without

the customer's authorization, consent, or knowledge of the transaction. **(NASD Case #C10990201)**

David Vincent Liuzza (CRD #2331632, Registered Representative, Covington, Louisiana) submitted a Letter of Acceptance, Waiver, and Consent pursuant to which he was fined \$100,000, barred from association with any NASD member in any capacity, and required to pay \$215,850, plus interest, in restitution to a member firm. Without admitting or denying the allegations, Liuzza consented to the described sanctions and to the entry of findings that he executed unauthorized sale transactions in the accounts of public customers in order to withdraw funds from their accounts and made misrepresentations to public customers as to his use of funds received from them. The findings also stated that Liuzza forged documents, including checks and letters of authorization, in order to withdraw funds from customers' accounts and provided fictitious account statements to the customers. **(NASD Case #C05990052)**

John Francis Mara (CRD #1646745, Registered Representative, Bedford, Massachusetts) submitted a Letter of Acceptance, Waiver, and Consent pursuant to which he was fined \$70,000, which includes the disgorgement of \$68,750 in earned commissions, and suspended from association with any NASD member in any capacity for four months. Without admitting or denying the allegations, Mara consented to the described sanctions and to the entry of findings that he engaged in private securities transactions without giving prior written notice to, or

receiving approval from, his member firm and received \$68,750 in commissions as a result of those transactions. **(NASD Case #C11990052)**

Michael Motsykulashvili (CRD #2382306, Registered Representative, Hicksville, New York) submitted a Letter of Acceptance, Waiver, and Consent pursuant to which he was barred from association with any NASD member in any capacity. Without admitting or denying the allegations, Motsykulashvili consented to the described sanctions and to the entry of findings that he induced public customers to purchase securities by making predictions that were without adequate, accurate, or reasonable basis in fact and purchased securities for public customers without their prior knowledge, authorization, or consent. **(NASD Case #C10990209)**

Vito Gerard Padulo (CRD #2370645, Registered Representative, Englishtown, New Jersey) was barred from association with any NASD member in any capacity. The sanctions were based on findings that Padulo failed to respond to NASD requests for information concerning a customer complaint. **(NASD Case #C9B990015)**

Frank Mark Paladino, Jr. (CRD #1503957, Registered Representative, Guilford, Connecticut) was fined \$59,000 and barred from association with any NASD member in any capacity. The sanctions were based on findings that Paladino used a public customer's credit card and withdrew \$9,800 from her account at his member firm, without her authorization, and converted the funds to his own use and benefit. **(NASD Case #C11990024)**

Keith Malvin Peters (CRD #2247575, Registered Principal, Commack, New York) submitted an Offer of Settlement pursuant to which he was suspended from association with any NASD member in any capacity for six months. Without admitting or denying the allegations, Peters consented to the described sanctions and to the entry of findings that he made material misrepresentations, omitted to disclose material facts, and predicted the future prices of speculative securities in connection with the offer and sale of securities. The findings also stated that Peters effected a transaction in a public customer account that exceeded the size previously authorized by the customer. In addition, Peters failed to sell securities when instructed to do so by a customer. **(NASD Case #C3A990022)**

Henri Placek (CRD #2676196, Registered Representative, London, England) submitted an Offer of Settlement pursuant to which he was fined \$15,000 and suspended from association with any NASD member in any capacity for six months. Without admitting or denying the allegations, Placek consented to the described sanctions and to the entry of findings that he interfered with market forces and placed the interests of his member firm ahead of those of a customer. **(NASD Case #C10990052)**

Charles Anthony Schlapfer (CRD #2045197, Registered Representative, Brick, New Jersey) submitted a Letter of Acceptance, Waiver, and Consent pursuant to which he was fined \$500,000 and barred from association with any NASD member in any capacity. Without admitting or denying the allegations, Schlapfer consented to the described sanctions and to the

entry of findings that he received approximately \$122,956 from public customers for investment, failed to cause the funds to be invested as instructed, and, without the authorization or knowledge of the customers, deposited the funds into either a personal bank account or a bank account owned by his fiancée. Schlapfer converted all but \$22,256 to his own use or benefit. The findings also stated that Schlapfer altered account statements for a public customer's account to falsely reflect a value greater than the actual value of the account and transmitted the false account statements to the customer. **(NASD Case #C9A990057)**

Jeffrey Mark Schuler (CRD #1077640, Registered Principal, Delray Beach, Florida) submitted an Offer of Settlement pursuant to which he was suspended from association with any NASD member in any capacity for 30 days and required to pay \$32,659.17 in restitution to a public customer. Without admitting or denying the allegations, Schuler consented to the described sanctions and to the entry of findings that he recommended transactions for public customers that were unsuitable based upon their tax status, investment objectives, financial situations, and needs. **(NASD Case #C07980045)**

Lissa Ann Searfoss (CRD #1952678, Registered Representative, San Francisco, California) was barred from association with any NASD member in any capacity. The sanctions were based on findings that Searfoss failed to respond to NASD requests for information concerning a customer complaint. **(NASD Case #C01990008)**

Anthony Michael Tanico (CRD #2400898, Registered Representative, Staten Island,

New York) submitted a Letter of Acceptance, Waiver, and Consent pursuant to which he was fined \$75,000, barred from association with any NASD member in any capacity, and ordered to disgorge \$134,334 to the NASD. Without admitting or denying the allegations, Tanico consented to the described sanctions and to the entry of findings that he arranged for an impostor to take the Series 7 and Series 63 qualification exams on his behalf. Tanico also failed to complete an NASD on-the-record interview. **(NASD Case #C10990204)**

Charles Burtran Walker (CRD #1893276, Registered Representative, South Orange, New Jersey) submitted an Offer of Settlement pursuant to which he was fined \$5,000 and suspended from association with any NASD member in any capacity for six months. Without admitting or denying the allegations, Walker consented to the described sanctions and to the entry of findings that he engaged in business activities outside his employment with a member firm and failed to provide his firm with prompt, or any, prior written notice of his activities. **(NASD Case #C10990113)**

James Anthony Wengler (CRD #2121904, Registered Principal, San Antonio, Texas) submitted a Letter of Acceptance, Waiver, and Consent pursuant to which he was fined \$7,500 and suspended from association with any NASD member in any capacity for 10 business days. Without admitting or denying the allegations, Wengler consented to the described sanctions and to the entry of findings that he borrowed money from a customer and misrepresented that fact to his member firm. **(NASD Case #C06990023)**

Individual Fined

Scott Farrell Merlis (CRD #1222722, Registered Representative, Westport Connecticut) submitted a Letter of Acceptance, Waiver, and Consent pursuant to which he was censured, fined \$9,000, ordered to requalify as a general securities representative within 90 days of approval of this AWC by the NASD, and required to disgorge \$14,427.35 in profits to the NASD. If Merlis fails to requalify, he cannot associate with any NASD member in any capacity until he requalifies. Without admitting or denying the allegations, Merlis consented to the described sanctions and to the entry of findings that, while associated with a member firm, he purchased securities in IPOs through a brokerage account that he maintained with another member firm. The IPOs traded at a premium in the immediate aftermarket and were thus “hot issues.” The findings also stated that Merlis failed to notify his member firm promptly that he had maintained a brokerage account with another firm. **(NASD Case #C10990200)**

Decisions Issued

The following decisions have been issued by the DBCC or the Office of Hearing Officers and have been appealed to or called for review by the NAC as of December 10, 1999. The findings and sanctions imposed in the decision may be increased, decreased, modified, or reversed by the NAC. Initial decisions whose time for appeal has not yet expired will be reported in the next *Notices to Members*.

David Lloyd Foran (CRD #861746, Registered Principal, Royal Oak, Michigan) was fined \$35,000 and barred from association with any NASD member in any capacity. Payment of the fine, in full, shall be a prerequisite for consideration of any application for association with a member firm. The sanctions are based on findings that Foran misappropriated more than \$5,000 in commissions from his firm’s commission account and misapplied the funds, thereby converting the funds to his own use and benefit.

Foran has appealed this action to the NAC and the sanctions are not in effect pending consideration of the appeal. **(NASD Case #C8A990017)**

Philip John Milligan (CRD #1874103, Registered Principal, Guttenberg, New Jersey) was barred from association with any NASD member in any capacity. The sanctions were based on findings that Milligan failed to respond to NASD requests to appear for on-the-record testimony.

Milligan has appealed this action to the NAC and the sanctions are not in effect pending consideration of the appeal. **(NASD Case #C10990058)**

Complaints Filed

The following complaints were issued by the NASD. Issuance of a disciplinary complaint represents the initiation of a formal proceeding by the NASD in which findings as to the allegations in the complaint have not been made, and does not represent a decision as to any of the allegations contained in the complaint. Because these complaints are unadjudicated, you may wish to contact the respondents before drawing any conclusions regarding the allegations in the complaint.

James Burling Chase (CRD #368743, Registered Principal, Milwaukee, Wisconsin) was named as a respondent in an NASD complaint alleging that he effected common stock purchases for the accounts of a public customer, one of which was a margin account opened by Chase, without a reasonable basis for believing that the recommendations were suitable based upon the facts known to Chase concerning the nature of the securities, the concentration of the securities in the customer's account, and the customer's investment objectives, financial situation, and needs. **(NASD Case #C8A990081)**

Bruce Thomas Gmahle, Jr. (CRD #2044839, Registered Representative, Point Pleasant Beach, New Jersey) was named as a respondent in an NASD complaint alleging that he executed transactions in the accounts of public customers without their prior knowledge, authorization, or consent. The complaint also alleges that Gmahle executed transactions in the account of a deceased customer without the authorization of the customer or the prior knowledge, authorization, or consent of any representative or

agent of the customer or his estate. **(NASD Case #C10990211)**

Keith Dennis Grossman (CRD #2127371, Registered Representative, Huntington Station, New York) was named as a respondent in an NASD complaint alleging that he engaged in unauthorized trades in the accounts of public customers without discretionary trading authority for the accounts. The complaint also alleges that Grossman effected transactions in or induced the purchase or sale of securities by means of manipulative, deceptive, or other fraudulent devices and contrivances. **(NASD Case #CAF990042)**

Brett Howard Hamburger (CRD #1974666, Registered Representative, Sunrise, Florida) was named as a respondent in an NASD complaint alleging that he executed transactions in the account of a public customer without the customer's prior knowledge, authorization, or consent. The complaint also alleges that Hamburger acted in a capacity requiring registration without being registered with the NASD, used a name other than his own when soliciting a customer to purchase or sell securities, and solicited the purchase and sale of securities from a customer without being registered in the state where the customer resided. In addition, the complaint alleges that Hamburger failed to respond to an NASD request to appear for an on-the-record interview. **(NASD Case #C10990210)**

Frank Joseph Maggio, Jr. (CRD #2238463, Registered Representative, Lake Ronkonkoma, New York) was named as a respondent in an NASD complaint alleging that, in

connection with the sale of stock to a public customer, he knowingly or recklessly made misrepresentations or omissions concerning the association of his investment advisory business with a member firm and the nature of the customer's investment. The complaint also alleges that Maggio retained for his own use \$8,700 in sale proceeds received from the sale of stock, without the customer's consent or authority. In addition, the complaint alleges that Maggio failed to respond to NASD written requests for information. **(NASD Case #C9B990034)**

James Albert Mayer, Jr. (CRD #2305774, Registered Representative, Bay Shore, New York) was named as a respondent in an NASD complaint alleging that he effected the purchase and sale of securities in the accounts of public customers without their knowledge or consent. The complaint also alleges that Mayer failed to execute sales in the accounts of public customers. **(NASD Case #C10990206)**

Marcus Eugene Rivers (CRD #1170703, Registered Representative, Mobile, Alabama) was named as a respondent in an NASD complaint alleging that he received checks totaling \$93,764.85 from a public customer for the purpose of investing in securities, failed and neglected to apply all funds received for the purchase of securities on the customer's behalf, and retained the sum of \$58,764.85 which he converted to his own use and benefit, without the customer's knowledge and consent. The complaint also alleges that Rivers failed to respond to NASD requests for information. **(NASD Case #C05990054)**

Firms Suspended

The following firms were suspended from membership in the NASD for failure to comply with formal written requests to submit financial information to the NASD. The actions were based on the provisions of NASD Rule 8210 and Article VII, Section 2 of the NASD By-Laws. The date the suspensions commenced is listed after the entry. If the firm has complied with the requests for information, the listing also includes the date the suspension concluded.

Airmark Investments, Inc.,
Tucker, Georgia
(December 6, 1999)

First American Equities, Inc.,
Boca Raton, Florida
(December 15, 1999)

G.F.B. Securities, Inc., East
Meadow, New York
(December 15, 1999)

M. Cornfeld, Inc., Los Angeles,
California (December 6, 1999)

Muller Sports Securities, LLC,
New York, New York
(December 6, 1999)

Tiger Investment Group, Inc.,
Waltham, Massachusetts
(December 6, 1999)

U.S.A. Investments Incorporated,
Morristown, New Jersey
(December 6, 1999)

NASD Regulation Sanctions Eight Former Monitor Investment Group Executives And Brokers For Manipulative And Deceptive Practices

NASD Regulation announced that eight individuals previously associated with Monitor Investment Group, Inc. (Monitor), including the firm's president and two other principals, have been fined a total of \$750,000, and permanently barred or suspended from the securities industry.

After a 14-day hearing, an NASD Regulation Hearing Panel imposed these sanctions on the following individuals named as a result of their participation in a fraudulent stock manipulation scheme which violated federal securities laws and NASD rules:

- John Montelbano, former president of Monitor and general principal, was permanently barred from the securities industry and fined \$90,000. Montelbano has appealed this decision to the NAC;
- Michael Galasso, Jr., former trader at Monitor and registered representative, was permanently barred from the securities industry and fined \$130,000. Galasso has appealed this decision to the NAC;
- Emmanuel Gennuso, former operations and compliance officer of Monitor and general principal, was permanently barred from the securities industry and fined \$215,000;
- Gerald McMahon, former research analyst of Monitor and registered representative, was permanently barred from the securities industry and fined

\$90,000. McMahon has appealed this decision to the NAC;

- Patrick Giglio, registered representative, was permanently barred from the securities industry and fined \$80,000;
- Steven Goldstein, registered representative, was permanently barred from the securities industry and fined \$50,000;
- Dwayne Leverett, general principal, was suspended from associating with any member of the NASD for 120 days, fined \$55,000, and ordered to requalify by passing the Series 7 and 63 examinations within 90 days of the Panel's decision becoming final and the Series 24 examination within 180 days of the Panel's decision becoming final; and
- Todd Nejaime, registered representative, was suspended from associating with any member of the NASD for 90 days, fined \$40,000, and ordered to requalify by passing the Series 7 and 63 examinations within 90 days of the Panel's decision becoming final and the Series 24 examination within 180 days of the Panel's decision becoming final.

The Hearing Panel determined that, in connection with Monitor's sale of the common stock of Accessible Software, Inc., the named eight individuals engaged in a scheme which ultimately resulted in a "massive fraud" being perpetrated on the investing public. The Panel found that John Montelbano, Emmanuel Gennuso, Michael Galasso, and Gerard McMahon

implemented a scheme to manipulate the stock's price and distribute the shares to Monitor's customers at predetermined prices. Critical aspects of the scheme were found by the Hearing Panel to have included exploiting Monitor's position as the stock's only Market Maker to illegally raise the per share price from \$1 to \$6 3/4 over a two-hour period, encouraging Monitor's sales force to make misrepresentations and baseless predictions to their customers, and manipulating the market to create an artificial demand for the stock.

The Hearing Panel also found that Patrick Giglio, Steven Goldstein, Dwayne Leverett, and Todd Nejaime engaged in manipulative and deceptive sales practices during their sales of the manipulated stock. These individuals were found to have sold the stock to their clients at predetermined prices that had no relation to market forces and failed to disclose to investors the brokers'

excessively high commissions. Giglio, Goldstein, and Leverett also were found to have made baseless performance predictions to their customers. In addition, Galasso and Gennuso were found to have excessively and fraudulently marked up the price of the stock, charging customers undisclosed markups from 10 to 74 percent on their purchases.

The Hearing Panel also found that Galasso created false and fictitious records; Gennuso, Leverett, and Montelbano failed to prevent, detect, or correct the illegal conduct; and Gennuso permitted an unregistered individual to act as a broker. Further, Galasso, Gennuso, Giglio, Leverett, McMahon, Montelbano, and Nejaime obstructed NASD Regulation's investigation by lying to and concealing information from NASD Regulation staff.

Accessible Software, Inc. (ASWE) is not a party to this action and

there are no allegations or findings that it or its officers knew that its shares were being manipulated or were in any way involved in illegal conduct.

Monitor was based in Pennsylvania but conducted most of its business through three branch offices located in New York City. The firm withdrew its membership from the NASD in October 1996.

Unless the matter is appealed to the NAC, or called for review by the NAC, the Hearing Panel's decision becomes final after 45 days. The sanctions imposed by the Hearing Panel are not effective during this period. If the decision is appealed or called for review, the sanctions may be increased, decreased, modified, or reversed. Each individual may choose to appeal the decision.

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For Your Information

New Investment Advisers' Qualification Exams Now In Use

Two qualification examinations for investment advisers have recently been updated. New versions of the Series 65 (Uniform Investment Adviser Law Exam) and Series 66 (Uniform Combined State Law Exam) exams became effective on January 1, 2000. The revised Series 65 covers economics, investment vehicles, and investment strategies, as well as securities law and ethics. Applicants will have 180 minutes to complete the 130 multiple choice question exam. The exam fee is \$110.

The revised Series 66 is available to individuals registering in states that require licensing as both an agent and an investment adviser. (The Series 66 is a combination of the Series 63 [Uniform Securities Agent State Law Exam] and the Series 65. Individuals who are required to take both exams—Series 63 and 65—have the option of instead taking just the Series 66.) The Series 66 covers investment analysis, recommendations and strategies, ethics, and legal guidelines. The prerequisite for the Series 66 is the Series 7 (General Securities Representative Exam). (Because subject matter from the Series 7 is not duplicated on the

Series 66, the Series 66 is a shorter exam than the Series 65.) Applicants will have 150 minutes to complete the 100 question exam. The exam fee is \$110.

Most states require investment advisers to pass certain qualification examinations prior to being licensed. These exams are developed and maintained by the North American Securities Administrators Association, Inc. (NASAA) and administered by NASD Regulation, Inc. For more information on the exams, visit the NASAA Web Site at www.nasaa.org.

Web CRD Conferences

Web CRDSM Conferences are being planned for March and early April of this year. Regional conferences will be held in Los Angeles, Washington, DC, Chicago, Dallas, and New York City. Please check the Conferences and Events Internet Web Page or the CRD Internet Web Page of the NASDRSM Web Site, www.nasdr.com, later this month for the conference brochure and registration information. A conference brochure and registration information will also be mailed to every member firm.

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