

NASD Notice to Members 99-05

SEC Issues Guidance On Handling Customer Orders During Market- Wide Trading Halts

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Executive Summary

On September 9, 1998, the Securities and Exchange Commission's (SEC) Division of Market Regulation (the Division) issued Staff Legal Bulletin No. 8 setting forth the Division's views on the appropriate handling of customer orders when market-wide circuit breakers halt trading. In addition, the SEC again stressed that broker/dealers must have sufficient internal system capacity to operate properly during periods of market stress.¹

Questions regarding this *Notice* should be directed to Thomas P. Moran, Senior Attorney, Office of General Counsel, The Nasdaq Stock Market, Inc., at (202) 728-8401.

Background And Summary

As part of its review of October 27-28, 1997 trading activity, the SEC determined a need to clarify broker/dealers' execution responsibilities for retail market orders pending or received during market-wide trading halts.² In response, the Division issued Staff Legal Bulletin No. 8 outlining a broker/dealer's obligations during periods of extreme volatility resulting in the imposition of market-wide trading halts. In summary, the SEC provided the following guidance concerning order handling:

1. During market-wide trading halts resulting from the triggering of circuit breakers, customer orders should be handled in the same manner as they would have been handled during other regulatory trading halts concerning only individual stocks.

2. During market-wide trading halts of durations that will allow trading to resume on that same trading day, pending and new customer orders should be forwarded to the appropriate market for execution upon the resumption of trading. This should be done unless the member receives

contrary instructions from the customer during the halt.

3. During market-wide trading halts with durations that will close the market for the remainder of the trading day, pending and new customer orders should be treated as follows:

- Absent customer instructions to the contrary, orders that are pending at the time of the halt, and new orders received after the halt has commenced, should be treated as "Good Til Cancelled" orders and be held by the member for execution at the reopening of the next trading session.

- "At-the-Close" orders (including "Market-at-Close" orders) pending at the time trading is halted **should be treated as cancelled orders**. Members should not accept, or forward to a market, any new orders related to closing prices received during a trading halt.³

Members may obtain a complete copy of Staff Legal Bulletin No. 8 (MR) from the SEC's Web site (www.sec.gov).

Endnotes

¹ See SEC Staff Legal Bulletin No. 8 (MR) (Division of Market Regulation-September 9, 1998).

² See NASD IM-4120-3 Market Closing Policy (effective April 15, 1998).

³ This guidance supersedes the instructions concerning the handling of Market-on-Close orders contained in Nasdaq's General News Bulletin "Information Regarding Circuit Breakers and Related Interpretative Issues" dated October 29, 1997.