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February 2001

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INFORMATIONAL

SEC Approves Proposed Rule Change

Relating To Cash And Margin Treatment For Certain Types Of Options Positions

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
- Options

KEY TOPICS

- Rule 2520
- Rule 2522
- Margin
- Options

Executive Summary

On November 17, 2000, the Securities and Exchange Commission (SEC or Commission) approved amendments to National Association of Securities Dealers, Inc. (NASD®) Rules 2520 and 2522, relating to margin requirements for certain options positions (the "amendments").¹ The amendments become effective on **February 26, 2001** and are substantially similar to amendments by the Chicago Board Options Exchange (CBOE) and the New York Stock Exchange (NYSE) to their margin rules.²

The text of the amendments and *Federal Register* version of the SEC Approval Order are attached. For a complete description of the amendments, as well as specific examples of certain margin calculations under the amendments, members should review the attached SEC Approval Order.

Questions/Further Information

Questions concerning this *Notice* may be directed to Susan DeMando, Director, Financial Operations, Member Regulation, NASD Regulation, Inc. (NASD RegulationSM), at (202) 728-8411, or Stephanie M. Dumont, Associate General Counsel, Office of General Counsel, NASD Regulation, at (202) 728-8176.

Background And Discussion

Until several years ago, the margin requirements governing listed options³ were set forth in Regulation T. However, Federal Reserve Board amendments to Regulation T that became effective on June 1, 1997, modified or deleted certain margin requirements regarding options transactions in favor of rules to be adopted by the self-regulatory organizations (SROs),

subject to approval by the Commission.⁴ In response, NASD Regulation is amending NASD Rules 2520 and 2522 to:

- expand the types of short options positions that would be considered "covered" and eligible for the cash account to include short positions that are components of certain limited risk spread strategies (box spreads, butterfly spreads, and debit and credit spreads), provided that any potential risk to the carrying broker/dealer is paid for in full and retained in the account;
- reduce the required margin for butterfly and box spreads by recognizing butterfly and box spreads as strategies (rather than separate transactions) for purposes of margin treatment;
- permit the extension of credit on certain long box spreads;
- recognize various hedging strategies involving stocks (or other underlying instruments) paired with long options, and reduce the required maintenance margin on such hedged stock positions;
- permit the extension of credit on certain long-term options and warrants with over nine months until expiration;
- revise the minimum margin requirement for short uncovered put options; and
- define specific terms relating to the amendments including "box spread," "butterfly spread," and "escrow agreement."

Butterfly Spreads, Box Spreads, And Other Spreads

The amendments permit butterfly and box spreads in cash-settled, European-style⁵ options to be eligible for the cash account. The

amendments also reduce the required margin for butterfly and box spreads by recognizing butterfly and box spreads as strategies (rather than separate transactions) for purposes of margin treatment. In addition, the amendments permit the extension of credit on certain long box spreads.

The amendments define the terms "butterfly spread" and "box spread" options strategies, specifying what multiple option positions, if held together, qualify for classification as butterfly or box spreads, and consequently are eligible for cash and margin treatments. In addition, the amendments define "escrow agreement," as used in connection with cash-settled calls, puts, currency warrants, currency index warrants, or stock index warrants carried short and as used in connection with non-cash settled put or call options carried short.

Cash Account Treatment: To qualify for carrying in the cash account, the butterfly spreads and box spreads must meet the specifications contained in the definitions of those terms and be comprised of options that (1) are listed or guaranteed by the carrying broker/dealer; (2) have European-style exercise; and (3) are held in, or purchased for, the account on the same day.

For long butterfly spreads and long box spreads, full payment of the net debit that is incurred when the spread strategy is established is required at the time the strategy is established or must be deposited promptly thereafter.

Short butterfly spreads generate a credit balance when established (*i.e.*, the proceeds from the sale of short option components exceed the cost of purchasing long option components). However, in the worst case scenario where all options are exercised, a debit

(loss) greater than the initial credit balance received could accrue to the account. To eliminate the risk to the broker/dealer carrying the short butterfly spread, the amendments require that an amount equal to the maximum risk be held or deposited in the account in the form of cash or cash equivalents. The maximum potential risk in a short butterfly spread comprised of call options is the aggregate difference between the two lowest exercise prices. With respect to short butterfly spreads comprised of put options, the maximum potential risk is the aggregate difference between the two highest exercise prices. The net credit received from the sale of the short option components can be applied towards the requirement.

Short box spreads also generate a credit balance when established. This credit is nearly equal to the total debit (loss) that will accrue to the account if held to expiration. The amendments require that cash or cash equivalents covering the maximum risk, which is equal to the aggregate difference in the two exercise prices involved, be held or deposited. The net credit received from the sale of the short option components may be applied towards the requirement.

In addition to butterfly spreads and box spreads, the amendments permit investors to hold in their cash accounts other spreads made up of European-style, cash-settled stock index options or stock index warrants. A short position would be considered covered, and thus eligible for the cash account, if a long position in the same European-style, cash-settled index option or stock index warrant was held in, or purchased for, the account on the same day.⁶ The long and short positions making up the spread must expire concurrently, and the long position must be paid in full.

Margin Account Treatment:

Under current margin rules, butterfly and box spreads are not recognized for margin purposes. The underlying components that make up the spreads must be margined separately. The amendments, however, permit the spreads to be viewed in combination, and therefore, commensurate with the lower combined risk, investors can receive the benefit of lower margin requirements.

To be recognized as a distinct strategy in a margin account, the butterfly spreads and box spreads must meet the specifications contained in the definitions of those terms and the options positions must be listed or guaranteed by the carrying broker/dealer. As required for cash account treatment of long butterfly spreads, the net debit must be paid in full. For short butterfly spreads comprised of call options, the initial and maintenance margin must equal at least the aggregate difference between the two lowest exercise prices. For short butterfly spreads comprised of put options, the initial and maintenance margin must equal at least the aggregate difference between the two highest exercise prices. The net credit received from the sale of the short option components may be applied towards the margin requirement for short butterfly spreads.

With respect to long box spreads, where the component options are not European-style, the amendments require full payment of the net debit that is incurred when the spread strategy is established. For short box spreads held in the margin account, the amendments require that cash or cash equivalents covering the maximum risk, which is equal to the aggregate difference in the two exercise prices involved, be deposited and maintained. The net credit

received from the sale of the short option components may be applied towards the requirement.

Generally, long and short box spreads do not have loan value for margin equity purposes. However, the amendments permit the extension of credit on long box spreads composed entirely of European-style options that are listed or guaranteed by the carrying broker/dealer. For long box spreads made up of European-style options, the amendments require initial and maintenance margin of 50 percent of the aggregate difference in the two exercise prices (buy and sell), which results in a margin requirement slightly higher than 50 percent of the debit typically incurred in establishing such a position. A long box spread position is allowed market value for margin equity purposes of not more than 100 percent of the aggregate difference in the exercise prices of the options.

Extension Of Credit On Long-Term Options And Warrants

The amendments permit extensions of credit on certain long listed and over-the-counter (OTC)⁷ options and warrant products (*i.e.*, stock index warrants, but not traditional stock warrants issued by a corporation on its own stock). Only those options or warrants with expirations exceeding nine months ("long-term") are eligible for credit extension.⁸ The amendments, however, do not provide loan value for foreign currency options.

The amendments require initial and maintenance margin of not less than 75 percent of the current market value of long-term listed options and warrants. Therefore, members will be permitted to loan up to 25 percent of the current market value of a long-term listed option or warrant. For example, if

an investor purchased a listed call option on stock XYZ that expired in January 2001 for approximately \$100 (excluding commissions), the investor would be required to deposit and maintain at least \$75. The investor could borrow the remaining \$25 from the member. Under the current margin rules, the investor would be required to pay the entire \$100.

The amendments also permit the extension of credit on certain long-term OTC options and warrants. Specifically, a member can extend credit on an OTC put or call option on a stock or stock index, and on an OTC stock index warrant. In addition to being more than nine months from expiration, a marginable OTC option or warrant must: (1) be in-the-money and valued at all times for margin purposes at an amount not to exceed the in-the-money amount; (2) be guaranteed by the carrying broker/dealer; and (3) have an American-style⁹ exercise provision. If the marginable OTC options meets these conditions, initial and maintenance margin of 75 percent of the long-term OTC option's or warrant's in-the-money amount (*i.e.*, its intrinsic value) is required.

When the time remaining until expiration for an option or warrant (listed or OTC) on which credit has been extended reaches nine months, the maintenance margin requirement becomes 100 percent of the current market value. Options or warrants expiring in less than nine months do not have loan value under the rule change because of the leverage and volatility of those instruments.

Maintenance Margin Requirements For Stock Positions Held With Options Positions

The amendments recognize and

establish reduced maintenance margin requirements for five options strategies that are designed to limit the risk of a position in the underlying component. The strategies are: (1) Long Put/Long Stock; (2) Long Call/Short Stock; (3) Conversion; (4) Reverse Conversion; and (5) Collar. Although the five strategies are summarized below in terms of stock positions held in conjunction with an overlying option (or options), the amendments also apply to components that underlie index options and warrants. For example, these same maintenance margin requirements apply when these strategies are used with a stock basket underlying index options or warrants.

Long Put/Long Stock

The Long Put/Long Stock hedging strategy requires an investor to carry in an account a long position in the component underlying the put option, and a long put option specifying equivalent units of the underlying component. This strategy is designed to limit downside risk in the underlying stock while the put is held. The put holder retains the right to sell stock at the strike price through the expiration of the put. The maintenance margin requirement for the Long Put/Long Stock combination would be the lesser of: (a) 10 percent of the put option aggregate exercise price, plus 100 percent of any amount by which the put option is out-of-the-money; or (b) 25 percent of the current market value of the long stock position.

Long Call/Short Stock

The Long Call/Short Stock hedging strategy requires an investor to carry in an account a short position in the component underlying the call option, and a long call option

specifying the equivalent units of the underlying component. This strategy is designed to limit the risk associated with upside appreciation in the underlying stock during the life of the call. The call holder retains the right to buy the stock at the strike price through the expiration of the call. For a Long Call/Short Stock combination, the maintenance margin requirement would be the lesser of: (a) 10 percent of the call option aggregate exercise price, plus 100 percent of any amount by which the call option is out-of-the-money; or (b) the maintenance margin requirement on the short stock position as specified in NASD Rule 2520(c).

Conversion (Long Stock/Long Put/Short Call)

A "Conversion" is a long stock position in conjunction with a long put and a short call. For a Conversion to qualify as hedged, the long put and the short call must have the same expiration and exercise price. The short call is covered by the long stock, and the long put is a right to sell the stock at a predetermined price—the exercise price of the long put. Thus, regardless of any decline in market value, the stock position, in effect, is worth no less than the exercise price of the put.

Current NASD margin rules specify that no maintenance margin would be required on the short call option because it is covered, but the underlying long stock position would be margined according to the current maintenance margin requirement (*i.e.*, 25 percent of the current market value). Under the amendments, the maintenance margin requirement for a Conversion would be 10 percent of the aggregate exercise price.

Reverse Conversion (Short Stock/Short Put/Long Call)

A "Reverse Conversion" is a short stock position held in conjunction with a short put and a long call. As with the Conversion, the short put and long call must have the same expiration date and exercise price. Regardless of any rise in market value, the stock can be acquired for the call exercise price; in effect, the short position is valued at no more than the call exercise price. Under the amendments, the maintenance margin requirement for a Reverse Conversion would be 10 percent of the aggregate exercise price, plus any in-the-money amount (*i.e.*, the amount by which the exercise price of the short put exceeds the current market value of the underlying stock position).

Collar (Long Stock/Long Put/Short Call)

A "Collar" is a long stock position held in conjunction with a long put and a short call. In a Collar, as compared to a Conversion, the exercise price of the long put is lower than the exercise price of the short call. Therefore, the options positions in a Collar do not constitute a pure synthetic short stock position. The maintenance margin for a Collar under the amendments would be the lesser of: (a) 10 percent of the long put aggregate exercise price, plus 100 percent of any amount by which the long put is out-of-the-money; or (b) 25 percent of the short call aggregate exercise price.

Margin Requirements For Short Put Options

Currently, the minimum required margin for a short listed put option is an amount equal to the option premium plus a percentage of the current value of the underlying instrument. The minimum required

margin for a short OTC put option is an amount equal to a percentage of the current value of the underlying component. As a result, a margin requirement for a short put option is created even when the price of the underlying instrument rises above the exercise price of the put and the risk associated with the put option has decreased because the option is out-of-the money. Therefore, the amendments provide a minimum margin requirement for short put options more in line with the risk associated with the option. Specifically, under the amendments, the minimum margin requirement for a short listed put option will be an amount equal to the current value of the option plus a percentage of the option's exercise price. The minimum margin required for a short OTC put option will be an amount equal to a specified percentage of the option's exercise price.

Endnotes

- 1 See Securities Exchange Act Release No. 43581 (November 17, 2000), 65 FR 70854 (November 28, 2000) (File No. SR-NASD-00-15) ("SEC Approval Order").
- 2 See Securities Exchange Act Release Nos. 41658 (July 27, 1999), 64 FR 42736 (August 5, 1999) (order approving File No. SR-CBOE-97-67); and 42011 (October 14, 1999), 64 FR 57172 (October 22, 1999) (order approving File No. SR-NYSE-99-03).
- 3 Listed options are issued by The Options Clearing Corporation (OCC), a clearing agency registered pursuant to Section 17A of the Securities Exchange Act of 1934.
- 4 See Board of Governors of the Federal Reserve System Docket No. R-0772 (April 24, 1996), 61 FR 20386 (May 6, 1996).
- 5 A European-style option may be exercised only at its expiration pursuant to the rules of the OCC.

6 A long warrant may offset a short option contract and a long option contract may offset a short warrant provided they have the same underlying component or index and equivalent aggregate current underlying value. If the long position is not listed, it must be guaranteed by the carrying broker-dealer; otherwise, the short position is not eligible for the cash account and must be margined separately pursuant to NASD Rule 2520(f)(2)(D).

7 Unlike listed options, OTC options are not issued by the OCC. OTC options and warrants are not listed or traded on a registered national securities exchange or through an automated quotation system of a registered securities association.

8 For any stock option, stock index option, or stock index warrant that expires in nine months or less, initial margin must be deposited and maintained equal to at least 100 percent of the purchase price of the option or warrant.

9 An American-style option is exercisable on any business day prior to its expiration date and on its expiration date.

ATTACHMENT A**Rule Language – SR-NASD-00-15**

(Note: New language is underlined; and deletions are bracketed)

2520. Margin Requirements

- a) through (e) No Change
- (f) Other Provisions

(1) Determination of Value for Margin Purposes

Active securities dealt in on a national securities exchange or OTC Marginable securities listed on Nasdaq shall, for margin purposes, be valued at current market prices; provided that, whether or not dealt in on an exchange or listed on Nasdaq, only those options contracts on a stock or stock index, or a stock index warrant, having an expiration that exceeds nine months and that are listed or guaranteed by the carrying broker-dealer, may be deemed to have market value for the purposes of Rule 2520. Other securities shall be valued conservatively in view of current market prices and the amount which might be realized upon liquidation. Substantial additional margin must be required in all cases where the securities carried in “long” or “short” positions are subject to unusually rapid or violent changes in value, or do not have an active market on Nasdaq or on a national securities exchange, or where the amount carried is such that the position(s) cannot be liquidated promptly.

(2) Puts, Calls, Other Options, Currency Warrants, Currency Index Warrants and Stock Index Warrants

(A) Except as provided below, and in the case of a put, call index stock group option, or stock index warrant with a remaining period to expiration exceeding nine months, no put, call, currency warrant, currency index warrant or stock index warrant carried for a customer shall be considered of any value for the purpose of computing the margin to be maintained in the account of such customer.

(B) No Change

(C) For purposes of this subparagraph [(6)(B)] ~~(f)(2)~~, obligations issued by the United States Government shall be referred to as United States Government obligations. Mortgage pass-through obligations guaranteed as to timely payment of principal and interest by the Government National Mortgage Association shall be referred to as GNMA obligations. [The terms “current market value” or “current market price” of an options, currency warrant, currency index warrant or stock index warrant shall mean the total cost or net proceeds of the option contract or warrant on the day it was purchased or sold and at any other time shall be the preceding business day’s closing price of that option (times the appropriate unit of trading or multiplier) as shown by any regularly published reporting or quotation service. The term “exercise settlement amount” shall mean the difference between the “aggregate exercise price” and the “aggregate current index value” (as such terms are defined in the pertinent By-Laws of the Options Clearing Corporation).]

In the case of any put, call, currency warrant, currency index warrant, or stock index warrant carried “long” in a customer’s account that expires in nine months or less, initial margin must be deposited and maintained equal to at least 100% of the purchase price of the option or warrant.

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Long Listed Option or Warrant With An Expiration Exceeding Nine Months. In the case of a put, call, index stock group option, or stock index warrant that is issued by a registered clearing agency, margin must be deposited and maintained equal to at least 75% of the current market value of the option or warrant; provided that the option or warrant has a remaining period to expiration exceeding nine months.

Long OTC Option or Warrant With An Expiration Exceeding Nine Months. In the case of an OTC put or call option on a stock or stock index, and a stock index warrant, with an expiration exceeding 9 months, margin must be deposited and maintained equal to at least 75% of the option's or warrant's in-the-money amount. Options or warrants margined pursuant to this paragraph must:

- (i) be valued at all times for margin purposes at an amount not to exceed, the in-the-money amount,
- (ii) be guaranteed by the carrying broker-dealer, and
- (iii) have an American-style exercise provision.

(D) The margin required on any put [or call issued], call, currency warrant, currency index warrant, or stock index warrant issued, guaranteed or carried "short" in a customer's account shall be:

(i) In the case of puts and calls issued by a registered clearing agency, 100 percent of the current market value of the option plus the percentage of the current value of the underlying [security or index] component specified in column II of the chart below. In the case of currency warrants, currency index warrants and stock index warrants, 100 percent of the current market value of each such warrant plus the percentage of the warrant's current "underlying component value" (as column IV of the chart below describes) specified in column II of the chart below.

[Notwithstanding the margin required below, t]The [minimum] margin on any put[or call issued], call, currency warrant, currency index warrant, or stock index warrant issued, guaranteed or carried "short" in a customer's account may be reduced by any "out-of-the-money amount" (as defined below), but shall not be less than 100 percent of the current market value of the option or warrant plus the percentage of the current value of the underlying [security or index] component specified in column III, except in the case of any put issued, guaranteed or carried "short" in a customer's account. Margin on such put option contracts shall not be less than the current value of the put option plus the percentage of the put option's aggregate exercise price as specified in column III.

* * * No Change to Tables * * *

If the option contract provides for the delivery of obligations with different maturity dates or coupon rates, the computation of the "out-of-the-money amount," if any, where required by this Rule, shall be made in such a manner as to result in the highest margin requirement on the short option position.

(ii) In the case of puts and calls issued by a registered clearing agency which represent options on GNMA obligations in the principal amount of \$100,000, 130 percent of the current market value of the option plus \$1,500, except that the margin required need not exceed \$5,000 plus the current market value of the option.

(iii) In the case of puts and calls not issued by a registered clearing agency, the percentage of the current value of the underlying component and the applicable multiplier, if any, specified in column II below, plus any "in-the-money amount" (as defined in this paragraph (f)(2)(D)(iii).)

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[Notwithstanding the margin required by this subparagraph] In the case of options not issued by a registered clearing agency, the [minimum] margin on any put or call issued, guaranteed or carried "short" in a customer's account may be reduced by any "out of the money amount" (as defined in paragraph (f)(2)(D)(i)), but shall not be less than the percentage of the current value of the underlying component and the applicable multiplier, if any, specified in column III below, except in the case of any put issued or guaranteed or carried "short" in a customer's account. Margin on such put option contracts shall not be less than the percentage of the put option's exercise price as specified in column III below.

* * * No Change to Tables * * *

(D)(iv) through (G)(iv) No Change.

(G)(v) The following requirements set forth the minimum amount of margin that must be maintained in margin accounts of customers having positions in components underlying options, and stock index warrants, when such components are held in conjunction with certain positions in the overlying option or warrant. The option or warrant must be issued by a registered clearing agency or guaranteed by the carrying broker/dealer. In the case of a call or warrant carried in a short position, a related long position in the underlying component shall be valued at no more than the call/warrant exercise price for margin equity purposes.

a. Long Option or Warrant Offset. When a component underlying an option or warrant is carried long (short) in an account in which there is also carried a long put (call) or warrant specifying equivalent units of the underlying component, the minimum amount of margin that must be maintained on the underlying component is 10% of the aggregate option/warrant exercise price plus the "out-of-the-money" amount, not to exceed the minimum maintenance required pursuant to paragraph (c) of this Rule.

b. Conversions. When a call or warrant carried in a short position is covered by a long position in equivalent units of the underlying component and there is also carried with a long put or warrant specifying equivalent units of the same underlying component and having the same exercise price and expiration date as the short call or warrant, the minimum amount of margin that must be maintained for the underlying component shall be 10% of the aggregate exercise price.

c. Reverse Conversions. When a put or warrant carried in a short position is covered by a short position in equivalent units of the underlying component and is also carried with a long call or warrant specifying equivalent units of the same underlying component and having the same exercise price and expiration date as the short put or warrant, the minimum amount of margin that must be maintained for the underlying component shall be 10% of the aggregate exercise price plus the amount by which the exercise price of the put exceeds the current market value of the underlying, if any.

d. Collars. When a call or warrant carried in a short position is covered by a long position in equivalent units of the underlying component and is also carried with a long put or warrant specifying equivalent units of the same underlying component and having a lower exercise price and the same expiration date as the short call/warrant, the minimum amount of margin that must be maintained for the underlying component shall be the lesser of 10% of the aggregate exercise price of the put plus the put "out-of-the-money" amount or 25% of the call aggregate exercise price.

e. Butterfly Spread. This subparagraph applies to a butterfly spread as defined in Rule 2522 where all option positions are issued by a registered clearing agency or guaranteed by the carrying broker/dealer.

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1. With respect to a long butterfly spread as defined in Rule 2522, the net debit must be paid in full.

2. With respect to a short butterfly spread as defined in Rule 2522, margin must be deposited and maintained equal to at least the amount of the aggregate difference between the two lowest exercise prices with respect to short butterfly spreads comprised of calls or the aggregate difference between the two highest exercise prices with respect to short butterfly spreads comprised of puts. The net proceeds from the sale of short option components may be applied to the requirement.

f. Box Spread. This subparagraph applies to box spreads as defined in Rule 2522, where all option positions are issued by a registered clearing agency or guaranteed by the carrying broker/dealer.

1. With respect to a long box spread as defined in Rule 2522 the net debit must be paid in full.

2. With respect to a short box spread as defined in Rule 2522, margin must be deposited and maintained equal to at least the amount of the aggregate difference between the exercise prices. The net proceeds from the sale of the short option components may be applied to the requirement.

g. Long Box Spread in European-Style Options. With respect to a long box spread as defined in Rule 2522, in which all component options have a European-style exercise provision and are issued by a registered clearing agency or guaranteed by the carrying broker/dealer, margin must be deposited and maintained equal to a least 50% of the aggregate difference in the exercise prices. The net proceeds from the sale of short option components may be applied to the requirement. For margin purposes, the long box spread may be valued at an amount not to exceed 100% of the aggregate difference in the exercise prices.

(f)(2)(H) through (f)(2)(L) No Change

(M) Cash account transactions. - A member may make option transactions in a customer's cash account, provided that:

(i) The transaction is permissible under Regulation T, Section 220.8; or

(ii) [The transaction is a debit put spread in listed broad-based index options with European-style exercise comprised of a long put(s) coupled with a short put(s) overlying the same broad-based index with an equivalent underlying aggregate index value and the short put(s) and the long put(s) expire simultaneously, and the strike price of the long put(s) exceed the strike price of the short put(s).] **Spreads.** A European-style cash-settled index stock group option or stock index warrant carried in a short position is deemed a covered position, and eligible for the cash account, provided a long position in a European-style cash-settled stock group index option, or stock index warrant having the same underlying component or index that is based on the same aggregate current underlying value, is held in or purchased for the account on the same day, provided that:

a. the long position and the short position expire concurrently;

b. the long position is paid is full; and

c. there is held in the account at the time the positions are established, or received into the account promptly thereafter;

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1. cash or cash equivalents of not less than any amount by which the aggregate exercise price of the long call or call warrant (short put or put warrant) exceeds the aggregate exercise price of the short call or call warrant (long put or put warrant), to which requirement of net proceeds from the sale of the short position may be applied, or

2. an escrow agreement.

The escrow agreement must certify that the bank holds for the account of the customer as security for the agreement i. cash, ii. cash equivalents, or iii. a combination thereof having an aggregate market value at the time the positions are established of not less than any amount by which the aggregate exercise price of the long call or call warrant (short put or put warrant) exceeds the aggregate exercise price of a short call or call warrant (long put or put warrant) and that the bank will promptly pay the member such amount in the event the account is assigned an exercise notice or that the bank will promptly pay the member funds sufficient to purchase a warrant sold short in the event of a buy-in.

d. A long warrant may offset a short option contract and a long option contract may offset a short warrant provided that they have the same underlying component or index and equivalent aggregate current underlying value. In the event that the long position is not listed, it must be guaranteed by the carrying broker/dealer; otherwise the short position is not eligible for the cash account and must be margined separately pursuant to subparagraph (f)(2)(D).

(iii) **Butterfly Spreads.** Put or call options carried in a short position are deemed covered positions and eligible for the cash account provided that the account contains long positions of the same type which in conjunction with the short options, constitute a butterfly spread as defined in Rule 2522 and provided that:

a. all component options are listed, or guaranteed by the carrying broker/dealer;

b. all component options are European-style;

c. all component options are cash settled;

d. the long options are held in, or purchased for the account on the same day;

e. with respect to a long butterfly spread as defined in Rule 2522, the net debit is paid in full; and

f. with respect to a short butterfly spread as defined in Rule 2522, there is held in the account at the time the positions are established or received into the account promptly thereafter:

1. cash or cash equivalents of not less than the amount of the aggregate difference between the two lowest exercise prices with respect to short butterfly spreads comprised of call options or the aggregate difference between the two highest exercise prices with respect to short butterfly spreads comprised of put options, to which requirement the net proceeds from the sale of short option components may be applied; or

2. an escrow agreement.

The escrow agreement must certify that the bank holds for the account of the customer as security for the agreement i. cash, ii. cash equivalents or iii. a combination thereof having an aggregate market value at the time the positions are established of not less than the amount of the aggregate difference between

NASD Notice to Members 01-11

the two lowest exercise prices with respect to short butterfly spreads comprised of calls or the aggregate difference between the two highest exercise prices with respect to short butterfly spreads comprised of puts and that the bank will promptly pay the member such amount in the event the account is assigned an exercise notice on the call (put) with the lowest (highest) exercise price.

(iv) **Box Spreads.** Puts and calls carried in a short position are deemed covered positions and eligible for the cash account provided that the account contains long positions which in conjunction with the short options constitute a box spread as defined in Rule 2522 provided that:

- a. all component options are listed, or guaranteed by the carrying broker/dealer;
- b. all component options are European-style;
- c. all component options are cash settled;
- d. the long options are held in, or purchased for the account on the same day;
- e. with respect to a long box spread as defined in Rule 2522, the net debit is paid in full; and
- f. with respect to a short box spread as defined in Rule 2522, there is held in the account at the time the positions are established, or received into the account promptly thereafter:

1. cash or cash equivalents of not less than the amount of the aggregate difference between the exercise prices, to which requirement the net proceeds from the sale of short option components may be applied; or

2. an escrow agreement.

The escrow agreement must certify that the bank holds for the account of the customer as security for the agreement i. cash, ii. cash equivalents or iii. a combination thereof having an aggregate market value at the time the positions are established of not less than the amount of the aggregate difference between the exercise prices and that the bank will promptly pay the member such amount in the event the account is assigned an exercise notice on either short option.

* * *

2522. Definitions Related to Options, Currency Warrants, Currency Index Warrants and Stock Index Warrants Transactions

[(a) Definitions Related to Options Transactions]

(a) The following definitions shall apply to the margin requirements for options, currency warrants, currency index warrants and stock index warrants transactions:

* * *

(6) Box Spread

The term "box spread" means an aggregation of positions in a long call and short put with the same exercise price ("buy side") coupled with a long put and short call with the same exercise price ("sell side") all of which have the same underlying component or index and time of expirations, and are based on the same aggregate current underlying value, and are structured as: (A) a "long box spread" in which the sell side exercise price exceeds the buy side exercise price or (B) a "short box spread" in which the buy side exercise price exceeds the sell side exercise price.

Paragraphs (6) and (7) are renumbered as Paragraphs (7) and (8).

(9) Butterfly Spread

The term “butterfly spread” means an aggregation of positions in three series of either puts or calls all having the same underlying component or index, and time of expiration, and based on the same aggregate current underlying value, where the interval between the exercise price of each series is equal, which positions are structured as either: (A) a “long butterfly spread” in which two short options in the same series are offset by one long option with a higher exercise price and one long option with a lower exercise price or (B) a “short butterfly spread” in which two long options in the same series offset one short option with a higher exercise price and one short option with a lower exercise price.

Paragraphs (8) through (17) are renumbered as Paragraphs (10) through (19).

(20) Current Market Value or Current Market Price

The terms “current market value” or “current market price” of an option, currency warrant, currency index warrant or stock index warrant are as defined in Section 220.2 of Regulation T of the Board of Governors of the Federal Reserve System.

Paragraphs (18) and (19) are renumbered as Paragraphs (21) through (22).

(23) Escrow Agreement

The term “escrow agreement,” when used in connection with cash settled calls, puts, currency warrants, currency index warrants or stock index warrants carried short, means any agreement issued in a form acceptable to the Association under which a bank holding cash, cash equivalents, one or more qualified equity securities or combination thereof in the case of a call option or warrant[s] or cash, cash equivalents or a combination thereof in the case of a put option or warrant is obligated (in the case of an option) to pay the creditor the exercise settlement amount in the event an option is assigned an exercise notice [or (in the case of a warrant) the funds sufficient to purchase a warrant sold short in the event an option is assigned an exercise notice] or (in the case of a warrant) the funds sufficient to purchase a warrant sold short in the event of a buy-in.

The term “escrow agreement” when used in connection with non cash settled call or put options carried short, means any agreement issued in a form acceptable to the Association under which a bank holding the underlying security (in the case of a call option) or required cash or cash equivalents or a combination thereof (in the case of a put option) is obligated to deliver to the creditor (in the case of a call option) or accept from the creditor (in the case of a put option) the underlying security against payment of the exercise price in the event of the call or put is assigned an exercise notice.

Paragraphs (20) through (22) are renumbered as Paragraphs (24) through (26).

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(27) Exercise Settlement Amount

The term “exercise settlement amount” shall mean the difference between the “aggregate exercise price” and the “aggregate current index value” (as such terms are defined in the pertinent By-Laws of the Options Clearing Corporation).

Paragraphs (23) through (58) are renumbered as Paragraphs (28) through (63).

(64) Stock Index Warrant

The term “stock index warrant” shall mean a put or call warrant that overlies a broad index stock group or an industry index stock group.

Paragraphs (59) through (71) are renumbered as Paragraphs (65) through (77).

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INFORMATIONAL

Decimalization Testing

Nasdaq Announces Additional Decimalization Pilot Phase For March 26, 2001

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
- Registered Representatives
- Senior Management
- Technology
- Trading and Market Making

KEY TOPICS

- Decimalization

Executive Summary

In this *NASD Notice to Members* you will find information on Nasdaq® adding an additional pilot phase to its decimal conversion schedule. A summary of decimalization testing is included; please note mandated testing firms have until February 24, 2001 to satisfy the mandate. Also, a table of the industry-critical dates is provided.

Questions/Further Information

Questions regarding this *Notice* may be directed to the National Association of Securities Dealers, Inc. (NASD®) Decimalization Program Management Office (DPMO) toll free at: (888) 227-1330 or via e-mail at decimals@nasd.com.

For the most recent decimalization news and developments, visit the NASD Web Site (www.nasd.com) and click on the decimalization link. Additional decimalization information is available on the Securities Industry Association (SIA) Web Site located at www.sia.com.

Additional Pilot Phase

On Monday, March 26, 2001, The Nasdaq Stock Market® will begin a second decimal pilot. This additional pilot period was added after discussions between Nasdaq, the Securities and Exchange Commission (SEC), and the SIA, to further ensure a smooth transition to decimal pricing.

With the addition of the March 26th pilot, Nasdaq's decimalization schedule is as follows:

- March 12, 2001:
Pilot of 15 securities* will begin
- March 26, 2001:
Second pilot* will begin

- April 9, 2001: Nasdaq equity securities will be fully converted to decimals

* *Lists of pilot securities will be released approximately 30 days prior to the implementation dates.*

Nasdaq Decimalization Testing

Complete testing information can be found by visiting the NASD Web Site (www.nasd.com), clicking on the decimalization link, and then the testing button; or the Nasdaq TraderSM Web Site (www.nasdaqtrader.com), clicking on Hot Topics, and then decimalization. The January *NASD Notice to Members 01-05* also reviews mandated decimalization testing.

Testing Registration - Registration for Point-to-Point, Extended Point-to-Point, and Saturday Production testing is **required**. Firms must register at least 48 hours in advance of the date they wish to test on Nasdaq's Customer Subscriber Test (CST) facility.

Point-to-Point - Full Point-to-Point testing began January 2, 2001, and will continue through April 6, 2001, via the Customer Subscriber Test (CST) facility for CTCL and API/NWII participants. Testing of decimal-priced securities in both penny and nickel minimum price variations (MPVs), as well as fractional-priced securities, will occur.

Extended Point-to-Point - Testing will take place the mornings of February 10 and 24, 2001, and will be scripted. Systems will be available at approximately 9:00 a.m., Eastern Time (ET). The simulated open will be at approximately 10:00 a.m., ET, with the test running until 12:00 p.m., ET. Nasdaq will confirm the testing times in an *Alert* closer to the dates of the tests.

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Nasdaq Production Tests - Testing will take place the afternoon of February 10, 2001 from approximately 1:00 p.m. – 3:00 p.m., ET, and will be unscripted. Production testing will also be available Saturday, February 17, 2001, from approximately 10:00 a.m., ET – 2:00 p.m., ET. Nasdaq will confirm the testing times in an *Alert* closer to the dates of the tests.

Proxy Testing - The NASD is accepting proxy testing where feasible for firms that rely on service providers or software purchased

from vendors. Your firm's specific testing requirements, stated on the NASD Web Site, or in the NASD letter firms mandated to test received, will show where proxy testing is acceptable.

Testing Strategy - During full Point-to-Point, Extended Point-to-Point, and Production testing, Nasdaq will establish a list of securities for decimal testing with either an MPV of \$0.05 or \$0.01. Nasdaq has released a list of the test securities with their associated MPVs, which can be found on the Nasdaq

Trader Web Site, under Hot Topics, Decimalization, as well as the NASD Decimalization Web Page under Testing. Due to the possibility of additions and deletions, there is no guarantee that this list will remain static, and that all of these securities will be available for testing. If one of these securities is no longer available, it will not be replaced. Nasdaq is confident that such changes will be minimal and that a majority of these securities will be available.

Key Dates For Industry Implementation

| Checkpoint/Phase | Action | Date |
|---------------------------|--|-----------------------|
| Checkpoint I | Pre-Implementation Evaluation | August 15, 2000 |
| Phase I | Limited Exchange-Listed Issues and Options | August 28, 2000 |
| Checkpoint II | Determine Readiness for Additional Exchange-Listed Issues and Options | September 19, 2000 |
| Phase IIA | Additional Exchange-Listed Issues and Options | September 25, 2000 |
| Checkpoint III | Determine Readiness for Full Implementation of Exchange-Listed Issues and/or All Options | November 1, 2000 |
| Phase IIA-21 ¹ | Additional NYSE equities and Associated Options | December 4, 2000 |
| Phase IIB | Full Conversion Exchange-Listed Issues and Associated Options | January 29, 2001 |
| Checkpoint IV-A | Determine Readiness for Limited Nasdaq Issues and Associated Options | March 5, 2001 |
| Phase III-A | 10-15 Nasdaq Issues and Associated Options | March 12, 2001 |
| Checkpoint IV-B | Determine Readiness for Additional Nasdaq Issues and Associated Options | March 5, 2001 |
| Phase IV-A | 100-200 Additional Nasdaq Issues and Associated Options | March 26, 2001 |
| Checkpoint V | Determine Readiness for All Markets, Full Implementation | April 2, 2001 |
| Phase IV-B | All Markets, Full Implementation | April 9, 2001 |

To view the complete Exchange Committee implementation plan submitted to the SEC, visit the SEC Web Site located at www.sec.gov (<http://www.sec.gov/rules/other/decimalp.htm>). The SEC has not given final approval to the plan.

Endnote

¹ Phase IIA-2 was not part of the original submission to the SEC. At Checkpoint III, held November 1, 2000, a decision was made to begin trading additional New York Stock Exchange equities and their associated options in decimals.

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INFORMATIONAL

Rules For Arbitrator Challenges

REVISED — SUPERSEDES NTM 01-04¹

SEC Approves Amendments To Director's Authority To Remove Arbitrators For Cause; Effective Date: March 8, 2001

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

KEY TOPICS

- Arbitration
- Arbitrator Challenges

Executive Summary

On December 8, 2000, the Securities and Exchange Commission (SEC) approved amendments to National Association of Securities Dealers, Inc. (NASD[®]) Rules 10308 and 10312 to provide authority for the Director of Arbitration (Director) to remove arbitrators for cause after hearings have begun.² The Code of Arbitration Procedure (Code) presently provides that the authority of the Director to remove an arbitrator for cause ceases after the earlier of the first pre-hearing conference or the first hearing. The amendments eliminate this restriction, and allow the Director or the President of NASD Dispute Resolution, Inc. (NASD Dispute Resolution) non-delegable authority to remove an arbitrator for cause³ at any time and, if the challenge is raised after the initial pre-hearing or hearing session, to require that it be based on information not known to the parties when the arbitrator was appointed.

Included with this *Notice* is Attachment A, the text of the amendments that will become effective on March 8, 2001.

Questions/Further Information

Questions regarding this *Notice* may be directed to George H. Friedman, Senior Vice President and Director, NASD Dispute Resolution, Inc., at (212) 858-4488; or Jean I. Feeney, Special Advisor to the President, NASD Dispute Resolution, Inc., at (202) 728-6959.

Discussion

Background

In order to protect the integrity of the arbitration process and to ensure the impartiality of arbitrators, Rule 10312(a) requires that arbitrators make full disclosure of certain enumerated interests,

relationships, and circumstances, as well as "any circumstances which might preclude such arbitrator from rendering an objective and impartial determination." Under the current list selection method for choosing arbitrators, Rule 10308(b)(6) requires the Director to send the parties the employment history and other background information about the arbitrators on their lists. The parties may request additional information. Then, as provided in Rule 10308(c), they may strike any number of arbitrators from the list for any reason, and rank those who remain. The Director or his staff⁴ consolidates the parties' lists in ranking order and, if the number of arbitrators available to serve from the consolidated list is not sufficient to fill a panel, the Director uses the Neutral List Selection System (NLSS) to extend the list and appoints one or more additional arbitrators to complete the panel. Parties receive information about any arbitrators appointed by extending the list, and have the right to raise for-cause challenges as provided in Rule 10308(d)(1).

Rule 10308(c)(4)(A) provides that the Director appoints arbitrators "subject to availability and disqualification." "Availability" refers to the arbitrator's ability to serve on the case in the desired location during the relevant time period. "Disqualification" could occur either (i) when a disqualifying fact is revealed to the Director after the parties have completed the striking and ranking process, or (ii) when the Director consults with a ranked arbitrator candidate just prior to appointment and the candidate, upon hearing more case-specific information, reveals information that the Director determines is a basis for disqualification. In the latter case, the Director would either drop the arbitrator, or disclose the information to the parties and invite their views on whether the arbitrator should serve.

Under Rule 10312(c), an arbitrator's disclosure obligation continues throughout the arbitration. If a disqualifying fact comes to light after a panel has been appointed, Rules 10308(d) and 10312(d) permit the Director to remove an arbitrator based on such information before the earlier of the first pre-hearing conference or the first hearing. Once one of these events occurs, Rules 10308(d)(2) and 10312(f) currently state that the Director's authority to remove an arbitrator ceases.

Nevertheless, current Rule 10312(f) requires the Director to inform the parties of any potentially disqualifying information disclosed after the first pre-hearing or hearing session. At that point, however, a party can no longer use a challenge for cause to remove the arbitrator. Therefore, when a for-cause objection is raised after the first pre-hearing or hearing session, the arbitrator can only be removed where he or she agrees to step down or all the parties agree that the arbitrator should be removed. Failing that, an aggrieved party's only recourse is to seek judicial intervention, which increases the party's legal expenses, causes delays, and reduces confidence in the fairness and efficiency of the arbitration process.

NASD Dispute Resolution believes that an alternative dispute resolution forum should be able to resolve all issues relating to an arbitration without forcing the parties to go to court. Accordingly, NASD Dispute Resolution has amended the Code to permit the Director to remove an arbitrator for cause at any time and, if the challenge is raised after the initial pre-hearing or hearing session, to require that it be based on information not known to the parties when the arbitrator was appointed. In addition, certain

minor language changes have been made to clarify that both relationships and circumstances must be disclosed if they fit within the criteria of Rule 10312, and that the Rule is not limited to personal relationships and circumstances of the arbitrator, as described in more detail below.

Some users of the arbitration forum may be concerned about the ability of the staff to remove arbitrators who were selected by the parties, based on one party's objection. To address that concern, the amendments provide that the only persons who can remove arbitrators after the first pre-hearing or hearing session are the Director and the President of NASD Dispute Resolution. This authority cannot be delegated. In addition, as discussed above, removal after the first pre-hearing or hearing session can only be based on information: (1) that is required to be disclosed pursuant to Rule 10312; and (2) that was not known to the parties at the time the arbitrator was appointed.

Description Of Amendments

NASD Dispute Resolution has amended Rule 10308, the list selection rule, to provide that the authority of the Director to disqualify or remove arbitrators does not end when the first pre-hearing or hearing session begins. Rather, amended 10308(d)(2) provides that, after that first session, the Director may remove an arbitrator from an arbitration panel based on information that is required to be disclosed pursuant to Rule 10312 and that was not previously disclosed.

Rule 10312, the arbitrator disclosure rule, has been amended in several places. Rule 10312(a)(2) has been amended to include disclosure of existing or past financial, business, professional, family, social, or other relation-

ships or circumstances that are likely to affect impartiality or might reasonably create an appearance of partiality or bias. The word "personally" has been deleted from the second sentence of Rule 10312(a)(2), as it might be read too narrowly, and the phrase "or circumstances" has been added to paragraphs (b) and (e) of Rule 10312. This clarifies that the arbitrator is required to disclose *any* relationships or circumstances that might fit under Rule 10312.

NASD Dispute Resolution also has amended Rule 10312 to provide, as in Rule 10308, that the Director's authority to remove arbitrators does not cease with the first pre-hearing or hearing session. There are two restrictions on the exercise of this authority, however, once such sessions have begun. Amended Rule 10312(d)(2) provides that, after the earlier of the first pre-hearing conference or the first hearing, the Director may remove an arbitrator based only on information not known to the parties when the arbitrator was selected. This provision is intended to prevent parties from raising challenges late in the process that could have been raised at the outset. Amended Rule 10312(d)(2) also provides that the Director's authority under this subparagraph may only be exercised by the Director or by the President of NASD Dispute Resolution.

Rule 10312(e) has been amended to be consistent with the above changes, and Rule 10312(f) is deleted as no longer necessary in light of the preceding changes.

Effective Date

The amended rule will apply to claims filed on or after March 8, 2001, and all claims currently pending before NASD Dispute Resolution on March 8, 2001.

Endnotes

- 1 This *Notice to Members* supersedes *Notice to Members 01-04*, which is hereby rescinded and should be disregarded.
- 2 Exchange Act Release No. 43695 (Dec. 8, 2000) (File No. SR-NASD-00-34), 65 Federal Register 78520 (Dec. 15, 2000).
- 3 The standard for circumstances that would be considered "for cause" would be the same as the general disclosure standard contained in Rule 10312: "any circumstances which might preclude such arbitrator from rendering an objective and impartial determination."
- 4 Rules 10103 provides that the duties and functions of the Director may be delegated, as appropriate (but see revised Rule 10312(d)(2), contained in the Attachment, which prohibits delegation in certain circumstances).

ATTACHMENT A

Text Of Amendments

*New language is underlined;
deletions are in brackets.*

10000. Code Of Arbitration Procedure

10308. Selection of Arbitrators

(a) - (c) Unchanged.

(d) Disqualification and Removal of Arbitrator Due to Conflict of Interest or Bias

(1) Disqualification by Director
After the appointment of an arbitrator and prior to the commencement of the earlier of (A) the first pre-hearing conference or (B) the first hearing, if the Director or a party objects to the continued service of the arbitrator, the Director shall determine if the arbitrator should be disqualified. If the Director sends a notice to the parties that the arbitrator shall be disqualified, the arbitrator will be disqualified unless the parties unanimously agree otherwise in writing and notify the Director not later than 15 days after the Director sent the notice.

(2) [Authority of Director to Disqualify Ceases] Removal by Director
After the commencement of the earlier of (A) the first pre-hearing conference or (B) the first hearing, the Director's authority to may remove an arbitrator from an arbitration panel [ceases] based on information that is required to be disclosed pursuant to Rule 10312 and that was not

previously disclosed.

(3) Unchanged.

(e) Unchanged.

10312. Disclosures Required of Arbitrators and Director's Authority to Disqualify

(a) Each arbitrator shall be required to disclose to the Director of Arbitration any circumstances which might preclude such arbitrator from rendering an objective and impartial determination. Each arbitrator shall disclose:

(1) Any direct or indirect financial or personal interest in the outcome of the arbitration;

(2) Any existing or past financial, business, professional, family, [or] social, or other relationships or circumstances that are likely to affect impartiality or might reasonably create an appearance of partiality or bias. Persons requested to serve as arbitrators should disclose any such relationships or circumstances that they [personally] have with any party or its counsel, or with any individual whom they have been told will be a witness. They should also disclose any such relationship or circumstances involving members of their families or their current employers, partners, or business associates.

(b) Persons who are requested to accept appointment as arbitrators should make a reasonable effort to inform themselves of any interests, [or] relationships or circumstances described in paragraph (a) above.

(c) The obligation to disclose interests, relationships, or circumstances that might preclude

an arbitrator from rendering an objective and impartial determination described in paragraph (a) is a continuing duty that requires a person who accepts appointment as an arbitrator to disclose, at any stage of the arbitration, any such interests, relationships, or circumstances that arise, or are recalled or discovered.

(d) Removal by Director
[Prior to the commencement of the earlier of (1) the first pre-hearing conference or (2) the first hearing, the]

(1) The Director may remove an arbitrator based on information that is required to be disclosed pursuant to this Rule.

(2) After the commencement of the earlier of (A) the first pre-hearing conference or (B) the first hearing, the Director may remove an arbitrator based only on information not known to the parties when the arbitrator was selected. The Director's authority under this subparagraph (2) may be exercised only by the Director or the President of NASD Dispute Resolution.

(e) [Prior to the commencement of the earlier of (1) the first pre-hearing conference or (2) the first hearing, t]The Director shall inform the parties to an arbitration proceeding of any information disclosed to the Director under this Rule unless either the arbitrator who disclosed the information withdraws voluntarily as soon as the arbitrator learns of any interest, [or] relationship, or circumstances described in paragraph (a) that might preclude the arbitrator from rendering an objective and impartial determination in the proceeding, or the Director removes the arbitrator.

[(f) After the commencement of the earlier of (1) the first pre-hearing

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conference or (2) the first hearing, the Director's authority to remove an arbitrator from an arbitration panel ceases. During this period, the Director shall inform the parties of any information disclosed by an arbitrator under this Rule.]

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INFORMATIONAL

Continuing Education— In-Firm Delivery Of The Regulatory Element

SEC Approves Revision
To Membership And
Registration Rule 1120
—Continuing Education
Requirements—
Permitting In-Firm
Delivery

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.

- Continuing Education
- Legal & Compliance
- Registration Department
- Senior Management

KEY TOPICS

- NASD Membership and Registration Rule 1120
- In-Firm Delivery
- Regulatory Element

Executive Summary

On December 11, 2000, the Securities and Exchange Commission (SEC) approved a revision to NASD® Membership and Registration Rule 1120, Continuing Education Requirements. Effective March 11, 2001, Rule 1120 permits a member firm to deliver the Regulatory Element computer-based training to registered persons on firm premises—also called “In-Firm Delivery”—as an option to having persons take the training at a Sylvan/Prometric Technology Center.

Questions/Further Information

Questions concerning this *Notice* may be directed to John Linnehan, Director, Continuing Education, NASD Regulation, Inc. (NASDR) at (240) 386-4684, or Heather Bevans, NASDR Continuing Education Communications Coordinator, at (240) 386-4685.

Background

NASD rules require all registered persons to participate in a prescribed Regulatory Element computer-based training session within 120 days of their second registration anniversary date and every three years thereafter. There are three Regulatory Element programs: 1) the S201 for registered Supervisors/Principals, 2) the S106 for Investment Company Products/Variable Contracts Representatives, and 3) the S101 for General Securities Representatives and other registration categories not required to take the Supervisor or Series 6 programs.

Before the Securities Industry/Regulatory Council on Continuing Education¹ developed the requirements for In-Firm Delivery, registered persons could only par-

ticipate in the Regulatory Element at Sylvan/Prometric Technology Centers located throughout the United States. The Regulatory Element continues to be offered at Sylvan/Prometric Technology Centers; however, effective March 11, 2001, member firms will be permitted to deliver the Regulatory Element on their premises provided the firms comply with specific requirements relating to supervision, delivery site(s), technology, administration, and proctoring. Firms offering In-Firm Delivery may continue to send their registered persons to Sylvan/Prometric locations.

Firms offering In-Firm Delivery will continue to have their CRD accounts charged for each Regulatory Element delivery. The charge will be \$62 versus \$65 charged when the representative takes a Regulatory Element session at a Sylvan/Prometric Technology Center. There will, however, be no charge to a firm if a representative cancels or does not keep an In-Firm Delivery appointment, whereas firms will continue to be charged \$65 if a representative does not keep or cancels with too short notice a Sylvan/Prometric appointment.

The following are the different requirements for In-Firm Delivery.

1. Supervisory Requirements — Firms must designate a registered principal to be responsible for In-Firm Delivery at the firm, and they must revise their Written Supervisory Procedures to include:

1. The principal/officer designated as responsible for In-Firm Delivery, and the name(s) of individuals authorized by the firm to serve as proctors.
2. The location of the firm's delivery site(s).

3. The procedures implemented to comply with the requirements of In-Firm Delivery of the Regulatory Element.

Before commencing In-Firm Delivery of the Regulatory Element, members are required to file with their Designated Examining Authority (DEA) a *Letter Of Attestation* (part of Attachment A) signed by a principal executive officer or executive representative, attesting to the establishment of required procedures addressing principal in-charge, supervision, In-Firm Delivery site(s), technology, administration, and proctoring. *Letters Of Attestation* filed with NASD Regulation, Inc. should be sent to Member Regulation, Continuing Education Department, 3rd Floor, 9509 Key West Avenue, Rockville, MD 20850.

2. Site Requirements — Delivery of the Regulatory Element must take place in an environment conducive to training, such as a training facility, conference room, or other area dedicated to this purpose. Personal offices or any other locations that cannot be secured from traffic and interruptions are not acceptable. Where there are multiple delivery terminals in one room, adequate separation between terminals must be maintained. Firms may have more than one site for In-Firm Delivery, but the locations of all delivery sites must be under the control of the firm and must be listed in the firm's Written Supervisory Procedures. All In-Firm Delivery sites must be made available for inspection by the firm's DEA.

3. Technology Requirements — Communication lines and In-Firm Delivery computer hardware and software must comply with standards (Attachment B) established by Virtual University Enterprises (VUE), a division of NCS Pearson,

Inc., the vendor designated by NASDR to facilitate In-Firm Delivery. Firms must install *VUE Testing System* software (*Testing System*) for each In-Firm Delivery site the firm operates, and execute a single software licensing agreement with VUE. The *Testing System* software costs \$600 to install at each site.

4. Administrative Requirements — Firms must schedule all Regulatory Element appointments in advance using the *Testing System* software and deliver Regulatory Element training in accordance with the procedures in the *VUE Testing Center Guide* (*Testing Guide*). The *Testing Guide* will be sent once the firm executes the software license agreement with VUE.

5. Proctor Requirements — A proctor must be present at every Regulatory Element session delivered at the firm. Proctors must be registered persons and be supervised by the principal/officer in charge. Proctors must follow the policies and procedures in the *VUE Testing Center Guide*. Important responsibilities of proctors are to check candidate IDs, supervise proper completion of *Rules of Conduct Forms* (including fingerprints), and maintain the training center *Sign-In Log*.

How To Begin — Firms should take the following steps to implement In-Firm Delivery.

1. Contact the NASD Regulation Continuing Education Department at (240) 386-4685 to obtain an information kit about In-Firm Delivery. The kit will include guidelines on establishing an In-Firm Delivery site and a detailed summary of the procedures firms will have to follow to operate the site.

2. Establish an In-Firm Delivery site that satisfies the requirements of Rule 1120.
3. Update the firm's Written Supervisory Procedures so that they include:
 - the name of the Principal in charge of In-Firm Delivery
 - the names of registered proctors
 - the location of all training sites at the firm
 - the procedures staff will follow to operate the In-Firm Delivery site(s).
4. File the *Letter of Attestation* (part of Attachment A) with NASD Regulation.

After firms file their *Letter of Attestation*, the Continuing Education Department will have VUE contact the firm to arrange for signing the *Software Licensing Agreement* and installing the VUE software.

Endnotes

1 The Council facilitates industry/regulatory coordination of the Securities Industry Continuing Education Program's administration and its future development. The Council comprises 14 individuals from a broad cross section of industry firms and six self-regulatory organizations. Industry representatives serve three-year terms and are selected through a nominating committee process. Both the SEC and the North American Securities Administrators Association (NASAA) have liaison staff assigned to the Council.

ATTACHMENT A

1000. Membership, Registration And Qualification Requirements

Text of the change to Rule 1120, Continuing Education relating to In-Firm Delivery of the Regulatory Element. New text is in [brackets].

* * *

1120. Continuing Education Requirements

This Rule prescribes requirements regarding the continuing education of certain registered persons subsequent to their initial qualification and registration with the Association. The requirements shall consist of a Regulatory Element and a Firm Element as set forth below.

(a) Regulatory Element

(1) through (5) No change

[(6) In-Firm Delivery of the Regulatory Element

Members will be permitted to administer the continuing education Regulatory Element program to their registered persons by instituting an in-firm program acceptable to the Association.

The following procedures are required:

(A) Principal/Officer In-Charge. The firm has designated a principal to be responsible for the in-firm delivery of the Regulatory Element.

(B) Site Requirements.

(i) The location of all delivery sites will be under the control of the firm.

(ii) Delivery of Regulatory Element continuing education will take place in an environment conducive to training. (Examples: a training facility, conference room or other area dedicated to this purpose would be appropriate. Inappropriate locations would include a personal office or any location that is not or cannot be secured from traffic and interruptions.)

(iii) Where multiple delivery terminals are placed in a room, adequate separation between terminals will be maintained.

(C) Technology Requirements. The communication links and firm delivery computer hardware must comply with standards defined by the Association or its designated vendor.

(D) Supervision.

(i) The firm's Written Supervisory Procedures must contain the procedures implemented to comply with the requirements of in-firm delivery of the Regulatory Element continuing education.

(ii) The firm's Written Supervisory Procedures must identify the principal designated pursuant to Rule 1120(a)(6)(A) and contain a list of individuals authorized by the firm to serve as proctors.

(iii) Firm locations for delivery of the Regulatory Element continuing education will be specifically listed in the firm's Written Supervisory Procedures.

(E) Proctors.

(i) All sessions will be proctored by an authorized person during the entire Regulatory Element session. Proctors must be present in the session room or must be able to view the person(s) sitting for Regulatory Element continuing education through a window or by video monitor.

(ii) The individual responsible for proctoring at each administration will sign a certification that required procedures have been followed, that no material from Regulatory Element continuing education has been reproduced, and that no candidate received any assistance to complete the session. Such certification may be part of the sign-in log required under Rule 1120(a)(6)(F).

(iii) Individuals serving as proctors must be persons registered with an SRO and supervised by the designated principal for purposes of in-firm delivery of the Regulatory Element continuing education.

(iv) Proctors will check and verify the identification of all individuals taking Regulatory Element continuing education.

(F) Administration.

(i) All appointments will be scheduled in advance using the procedures and software specified by the Association to communicate with the Association's system and designated vendor.

(ii) The firm/proctor will conduct each session in accordance with the administrative appointment scheduling procedures established by the Association or its designated vendor.

(iii) A sign-in log will be maintained at the delivery facility. Logs will contain the date of each session, the name and social security number of the individual taking the session, that required identification was checked, the sign-in time, the sign-out time, and the name of the individual proctoring the session. Such logs are required to be retained pursuant to SEC Rules 17a-3 and 17a-4.

(iv) No material will be permitted to be utilized for the session nor may any session-related material be removed.

(v) Delivery sites will be made available for inspection by the SROs.

(vi) Before commencing in-firm delivery of the Regulatory Element continuing education, members are required to file with their Designated Examining Authority ("DEA"), a letter of attestation (as specified below) signed by a principal executive officer or executive representative, attesting to the establishment of required procedures addressing principal in-charge, supervision, site, technology, proctors, and administrative requirements. Letters filed with NASD Regulation, Inc. should be sent to Member Regulation, Continuing Education Department, 9509 Key West Avenue, Rockville, MD 20850.

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**Letter of Attestation for In-Firm Delivery of Regulatory Element
Continuing Education**

{Name of member} has established procedures for delivering Regulatory Element continuing education on its premises. I have determined that these procedures are reasonably designed to comply with SRO requirements pertaining to in-firm delivery of Regulatory Element continuing education, including that such procedures have been implemented to comply with principal/officer in-charge, supervision, site, technology, proctors, and administrative requirements.

Signature

Printed name

Title {Must be signed by a Principal Executive Officer (or Executive Representative) of the firm}

Date]

(b) Firm Element No change.

* * *

ATTACHMENT B

In-Firm Delivery Site Hardware And Software Specifications

Firms may procure the required equipment themselves or contract with Virtual University Enterprises (VUE), a division of NCS Pearson, Inc., the vendor designated to facilitate In-Firm Delivery.

Hardware

Administrator Station And Training Station Specifications — A site will need one administrator station. Administrator stations must run Windows NT. A site can have as many training stations as it would like. All of the computers must be part of a workgroup or LAN. The training stations must run Windows 98 or Windows NT-English language version only. They must meet or exceed the following minimum configuration:

- IBM PC or compatible
- Pentium 300 Mhz (or better)
- 128 MB RAM
- 17" SVGA monitor with video card, capable of 800X600 resolution and 256 colors, and 1 MB of video RAM
- Minimum 3 gigabytes of free local hard drive space
- Microsoft or compatible Mouse and associated driver
- Network interface
- Local CD ROM (8X)
- Headphones
- SoundBlaster or compatible audio card

Communications Specifications — Internet access via high-speed connection, e.g., ISDN, DSL, T1, etc.

Shared Storage Space — The Software requires at least 12 gigabytes of shared disk storage on the local area network. This space is required for the storage of the continuing education software and the required scheduling and administrative software (see below). The shared disk storage must be accessible by the training stations and the administrator station.

Printers — Administrator and training stations must have access to an inkjet or laserjet printer located outside the training room.

Backups — Shared storage must be backed up each business day.

Software

Firms must use the software applications of the VUE Testing System and execute a *Software License Agreement* with VUE. There is a \$600 **per site** charge to install the software. VUE will provide firms with the *VUE Testing Center Guide*, which contains information about using the Testing System applications and about In-Firm Delivery site policies and procedures. VUE will also provide technical support for software installation, and ongoing operations of the site.

Hardware specifications as of 01/12/01

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FIPS Changes

Fixed Income Pricing System Additions, Changes, And Deletions As Of December 26, 2000

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 and Market Making

KEY TOPICS

- FIPS

As of December 26, 2000, the following bonds were added to the Fixed Income Pricing SystemSM (FIPSSM).

| Symbol | Name | Coupon | Maturity |
|---------|--------------------------------|--------|----------|
| AES.GH | AES Corp | 8.750 | 12/15/02 |
| ASNC.GA | Asat Finance LLC | 12.500 | 11/01/06 |
| CCK.GA | Crown Cork & Seal Inc | 6.750 | 04/15/03 |
| CCK.GB | Crown Cork & Seal Inc | 8.000 | 04/15/23 |
| CCK.GC | Crown Cork & Seal Inc | 8.375 | 01/15/05 |
| CCK.GD | Crown Cork & Seal Inc | 7.375 | 12/15/26 |
| CCK.GE | Crown Cork & Seal Inc | 7.125 | 09/01/02 |
| CYSM.GA | Condor Systems Inc | 11.875 | 05/01/09 |
| EIX.GA | Edison International | 6.875 | 09/15/04 |
| GNV.GA | Geneva Steel | 11.125 | 03/15/01 |
| GNV.GB | Geneva Steel | 9.500 | 01/15/04 |
| GRP.GA | Grand Prideco Inc | 9.625 | 12/01/07 |
| HRC.GB | Healthsouth Corp | 10.750 | 10/01/08 |
| MCLD.GF | McLeodUSA Inc | 12.000 | 07/15/08 |
| MCLD.GG | McLeodUSA Inc | 11.500 | 05/01/09 |
| MCLD.GH | McLeodUSA Inc | 11.375 | 01/01/09 |
| MGMA.GA | MGM Mirage | 8.375 | 02/01/11 |
| NTLO.GA | CFW Comm Co (NTELOS Inc) | 13.000 | 08/15/10 |
| PCGE.GA | Pacific Gas & Electric Company | 8.800 | 05/01/24 |
| PCGE.GB | Pacific Gas & Electric Company | 7.875 | 03/01/02 |
| PCGE.GC | Pacific Gas & Electric Company | 8.375 | 05/01/25 |
| PCGE.GD | Pacific Gas & Electric Company | 8.250 | 11/01/22 |
| PCGE.GE | Pacific Gas & Electric Company | 7.250 | 03/01/26 |
| PCGE.GF | Pacific Gas & Electric Company | 6.250 | 08/01/03 |
| PCGE.GG | Pacific Gas & Electric Company | 7.250 | 08/01/26 |
| PCGE.GH | Pacific Gas & Electric Company | 5.875 | 10/01/05 |
| PCGE.GI | Pacific Gas & Electric Company | 6.750 | 10/01/23 |
| PCGE.GJ | Pacific Gas & Electric Company | 6.250 | 03/01/04 |
| PCGE.GK | Pacific Gas & Electric Company | 7.050 | 03/01/24 |
| SCEP.GA | Southern California Edison Co | 7.250 | 03/01/26 |
| SCEP.GB | Southern California Edison Co | 6.250 | 06/15/03 |
| SCEP.GC | Southern California Edison Co | 7.125 | 07/15/25 |
| SCEP.GD | Southern California Edison Co | 5.875 | 09/01/04 |
| SCEP.GE | Southern California Edison Co | 6.900 | 10/01/18 |
| SCEP.GF | Southern California Edison Co | 5.625 | 10/01/02 |
| SCEP.GG | Southern California Edison Co | 6.500 | 06/01/01 |
| SCEP.GH | Southern California Edison Co | 6.375 | 01/15/06 |
| SCEP.GI | Southern California Edison Co | 6.650 | 04/01/29 |
| SCEP.GJ | Southern California Edison Co | 7.625 | 01/15/10 |
| SCEP.GK | Southern California Edison Co | 0.000 | 11/03/03 |
| SCEP.GL | Southern California Edison Co | 0.000 | 05/01/02 |
| TVCR.GA | TravelCenters of America | 12.750 | 05/01/09 |

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As of December 26, 2000, the following bonds were deleted from the Fixed Income Pricing System.

| Symbol | Name | Coupon | Maturity |
|---------|-----------------------------|--------|----------|
| APH.GA | Amphenol Corp | 12.750 | 12/15/02 |
| APVU.GA | Apparel Ventures Inc | 12.250 | 12/31/00 |
| ASGB.GA | Asia Global Crossings LTD | 13.375 | 10/15/10 |
| ATUC.GA | Atrium Companies Inc | 10.500 | 11/15/06 |
| CGME.GA | Colorado Gaming & Ent Co | 12.000 | 06/01/03 |
| CHK.GH | Chesapeake Energy Corp | 12.000 | 03/01/01 |
| CLHS.GA | Coast Hotels & Casinos Inc | 13.000 | 12/15/02 |
| COSE.GA | Costilla Energy Inc | 10.250 | 10/01/06 |
| CPE.GA | Callon Petroleum Co | 10.000 | 12/15/01 |
| EMEN.GA | Empress Entertainment Inc | 8.125 | 07/01/06 |
| FDLD.GA | Federal Data Corp | 10.125 | 08/01/05 |
| FMAC.GA | First Merchants Accept Corp | 9.500 | 12/15/06 |
| FOMX.GA | Foamex L.P./Cap Corp | 11.250 | 10/01/02 |
| FOMX.GB | Foamex L.P./Cap Corp | 11.875 | 10/01/04 |
| GLNM.GA | General Media Inc | 10.625 | 12/31/00 |
| GNV.GA | Geneva Steel | 11.125 | 03/15/01 |
| GNV.GB | Geneva Steel | 9.500 | 01/15/04 |
| SFC.GA | Southern Pacific Funding | 11.500 | 11/01/04 |
| TYVT.GA | Taylor Investment Corp | 11.000 | 01/01/01 |
| USAR.LK | US Airways Inc | 10.600 | 01/01/01 |
| USAR.LL | US Airways Inc | 10.600 | 01/01/01 |
| USAR.LM | US Airways Inc | 10.600 | 01/01/01 |
| USAR.LN | US Airways Inc | 10.600 | 01/01/01 |
| USAR.LO | US Airways Inc | 10.600 | 01/01/01 |
| USAR.LP | US Airways Inc | 10.600 | 01/01/01 |
| USAR.LQ | US Airways Inc | 10.600 | 01/01/01 |
| USAR.LR | US Airways Inc | 10.600 | 01/01/01 |

As of December 26, 2000, changes were made to the symbols/names of the following FIPS bonds:

| New Symbol | Old Symbol | New Name/Old Name | Coupon | Maturity |
|------------|------------|---------------------------|--------|----------|
| WTXI.GA | WTX.GA | WorldTex Inc/WorldTex Inc | 9.625 | 12/15/07 |

All bonds listed above are subject to trade-reporting requirements. Questions pertaining to FIPS trade-reporting rules should be directed to Patricia Casimates, NASDR Market Regulation, 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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Disciplinary Actions

Disciplinary Actions Reported For February

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). The information relating to matters contained in this *Notice* is current as of the end of January 22, 2001.

Firms Fined, Individuals Sanctioned

Anglo-America Investors Services Corp. (CRD #14279, Charlottesville, Virginia), Timothy McLaurine Jones (CRD #2784009, Registered Representative, Charlottesville, Virginia), Robin Cordell Rodriguez (CRD #1231366, Registered Principal, Ruckersville, Virginia), and Charles Francis Robinson (CRD #1560335, Registered Principal, Charlottesville, Virginia) submitted a Letter of Acceptance, Waiver, and Consent in which the firm was censured and fined \$15,000. Jones was fined \$5,000 and suspended from association with any NASD member in any capacity for five business days. Rodriguez was fined \$7,500, and suspended from association with any NASD member in any capacity for 15 business days. Robinson was fined \$5,000, and suspended from association with any NASD member in any capacity for 10 business days with the exception that he may act as a Limited Principal – Financial and Operations – for the firm during the suspension. In addition, the firm and Rodriguez were fined \$2,500, jointly and severally, and the firm and Robinson were fined \$2,500, jointly and severally.

Without admitting or denying the allegations, the respondents consented to the described sanctions

and to the entry of findings that Jones functioned as an equity trader, and the firm, Rodriguez, and Robinson permitted him to do so, without having taken the equity trader exam, or having been registered as an equity trader with the NASD. Moreover, the NASD found that Jones had not qualified or been registered as a general securities sales representative and the firm, Rodriguez, and Robinson permitted him to function in that capacity without registering as such with the NASD. The findings also stated that Rodriguez functioned as an equity trader and supervisor, and Robinson functioned as an equity trader supervisor, and the firm permitted them to do so, without having taking the equity trader exam, or without having been registered as an equity trader with the NASD.

Jones' suspension began January 16, 2001, and concluded at the close of business on January 22, 2001. Rodriguez's suspension began January 22, 2001, and concluded at the close of business on February 9, 2001. Robinson's suspension began on February 12, 2001, and will conclude at the close of business on February 26, 2001. **(NASD Case #C0700099)**

Pacific Capital Management, Inc. (CRD #23343, Monterey, California) and Frank Wing Fai Ma (CRD #1000790, Registered Principal, Pasadena, California) submitted an Offer of Settlement in which the firm was censured, and the firm and Ma were fined \$20,635, jointly and severally. In addition, Ma was suspended from association with any NASD member in the capacity of a general securities principal for six months and ordered to requalify by exam as a general securities principal during the suspension. If Ma fails to requalify at the end of the suspension period, he will continue

to be suspended until he requalifies. Without admitting or denying the allegations, the respondents consented to the described sanctions and to the entry of findings that the firm, acting through Ma, permitted individuals to engage in the securities business without benefit of registration in any capacity with the NASD. According to the findings, the firm and Ma entered into an arrangement in which the individuals would telephone a customer order to Ma, and Ma would cause the order to be effected through the firm's clearing broker. Ma would open the account for the customers and the customer account statement listed Ma as the account executive of record.

Ma's suspension began January 16, 2001, and will conclude on July 15, 2001. **(NASD Case #C02000044)**

Firms And Individuals Fined

Donald & Co. Securities, Inc. (CRD #7776, New York, New York) and Stephen Allan Blum (CRD #600373, Registered Principal, New York, New York) submitted a Letter of Acceptance, Waiver, and Consent in which they were censured and fined \$10,000, jointly and severally, and the firm was fined an additional \$20,000. Without admitting or denying the allegations, the respondents consented to the described sanctions and to the entry of findings that the firm, acting through Blum, violated its membership agreement with the NASD by conducting a municipal securities business on a principal basis, and by making markets in OTC Bulletin Board® securities, and failed to file with the NASD a written notice and application for continuance in membership based on a change in its business operations. The findings also stated that the firm revealed transactions in

which the firm improperly used the "O." modifier, and failed to report a short sale where the firm's cumulative position in a stock in which it made a market was short. The NASD also found that the firm failed to update its quote in limit orders and to display the size and price of the quote within 30 seconds when the customer's order was priced better than the firm's prevailing quotation. And, the findings stated the firm also failed to contemporaneously or partially execute customer limit orders in Nasdaq securities after it traded each subject security for its own market-making account at a price that would have satisfied each customer's limit order. Furthermore, the NASD determined that the firm executed a customer order without using diligence to determine the best inter-dealer market for the relevant security so that the resultant price to the customer was as favorable as possible under prevailing market conditions. In addition, the NASD found that the firm failed to establish, maintain, and enforce adequate written supervisory procedures reasonably designed to achieve compliance with NASD rules relating to best execution, and limit order protection and display. **(NASD Case #C9B000039)**

Fine Equities, Inc. (CRD #38004, New York, New York) and Nathan Scott Fine (CRD #850331, Registered Principal, New Canaan, Connecticut) submitted a Letter of Acceptance, Waiver, and Consent in which they were censured and fined \$14,500, 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 Fine, sold shares of stock prior to the security's registration statement being declared effective by the Securities and

Exchange Commission (SEC) and failed to maintain sufficient net capital while conducting a securities business. The findings also stated that the firm, acting through Fine, failed to administer a continuing and current education program for its covered registered persons and failed to maintain records for the completion of the program by its covered registered persons. **(NASD Case #C10000223)**

Hanmi Securities, Inc. (CRD #25518, Los Angeles, California) and Eul Hyung Choi (CRD #1592055, Registered Principal, Los Angeles, California) submitted a Letter of Acceptance, Waiver, and Consent in which they were censured and fined \$10,000, 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 Choi, failed to maintain a continuing and current education program for its covered registered persons. The findings also stated that the firm operated an Office of Supervisory Jurisdiction and failed to register this office with the NASD. **(NASD Case #C02000066)**

Firms Fined

Banc of America Securities LLC (CRD #26091, New York, New York) submitted a Letter of Acceptance, Waiver, and Consent in which the firm was censured, fined \$19,000, and required to pay \$922.88, plus interest, in restitution to public customers. Without admitting or denying the allegations, the firm consented to the described sanctions and to the entry of findings that it executed customer buy and sell orders of stocks, and failed to use reasonable diligence to ascertain the best inter-dealer market for the stocks,

and to buy and sell in such a market so that the resultant price to its customer was as favorable as possible under prevailing market conditions. Moreover, the NASD determined that the firm failed to report to the Automated Confirmation Transaction ServiceSM (ACTSM) the correct symbol indicating whether transaction reports relating to orders in eligible securities were as principal or agent and failed to accept or decline in ACT transactions in eligible securities within 20 minutes after execution. Furthermore, the findings stated that the firm failed to show the time of execution on the memorandum of brokerage orders; failed to show the correct time of execution on the memorandum of brokerage orders; failed to show the time of entry on the memorandum of brokerage orders; and failed to show the terms and conditions on the memorandum of a brokerage order. The NASD also found that the firm failed to provide written notification disclosing to its customer the correct reported trade price on customer transactions in which it acted as principal for its own account. And the firm failed to immediately display customer limit orders in its public quote, where each such order was at a price better than its public quote, or at a price equal to its public quote when such quote was priced equal to the national best bid or offer in such security and that order represented more than a de minimis change in relation to the size associated with the firm's bid or offer. **(NASD Case #CMS000260)**

Credit Lyonnais Securities (USA), Inc. (CRD #190, New York, New York) submitted a Letter of Acceptance, Waiver, and Consent in which the firm was censured, fined \$15,000, and required to revise its written supervisory procedures concerning transaction reporting and compliance. Without

admitting or denying the allegations, the firm consented to the described sanctions and to the entry of findings that it failed, within 90 seconds after execution, to transmit to ACT last sale reports of transactions in Nasdaq National Market[®] (NNM) and eligible securities. The findings also stated that the firm failed to transmit through ACT, last sale reports of transactions in NNM securities and eligible securities, and failed to designate through ACT, the last sale reports as late, and failed to designate as ".T" through ACT, last sale reports of transactions in NNM securities executed during normal market hours. In addition, the NASD found that the firm's supervisory system did not provide for supervision reasonably designed to achieve compliance with respect to the applicable securities laws and regulations concerning transaction reporting and ACT compliance. **(NASD Case #CMS000259)**

Datek Online Brokerage Services LLC (CRD #5209, Iselin, New Jersey) submitted a Letter of Acceptance, Waiver, and Consent in which the firm was censured and fined \$30,000. Without admitting or denying the allegations, the firm consented to the described sanctions and to the entry of findings that it failed to ensure that appropriate disclosure of capacity was correctly coded on customer confirmations at the time it changed its coding process, failed to ensure that changes were implemented, and failed to conduct reviews or audits after coding changes were implemented to ensure that its customer confirmations were accurate. The findings also stated that the firm failed to ensure that its written supervisory procedures in place were adequate for correct capacity disclosure and for the review of confirmation disclosure on a

periodic basis. The NASD also found that the firm failed to establish, maintain, and enforce written supervisory procedures and a supervisory system reasonably designed to achieve compliance with applicable securities laws, regulations, and NASD rules regarding written trade confirmations. **(NASD Case #CAF000047)**

GKN Securities Corp. (CRD #19415, New York, New York) submitted a Letter of Acceptance, Waiver, and Consent in which the firm was censured and fined \$40,000. Without admitting or denying the allegations, the firm consented to the described sanctions and to the entry of findings that it failed to contemporaneously or partially execute limit orders in Nasdaq securities after it traded each subject security for its own market-making account at a price that would have satisfied each customer's limit order. The findings also stated that the firm failed to display immediately customer limit orders in Nasdaq securities in its public quotation, when each such order was at a price that would have improved the firm's bid or offer for each such security, or when the order was priced equal to the firm's bid or offer and the national best bid or offer for each such security, and the size of the order represented more than a de minimis change in relation to the size associated with the firm's bid or offer in each such security. **(NASD Case #CMS000247)**

International Assets Advisory Corporation (CRD #10645, Winter Park, Florida) submitted a Letter of Acceptance, Waiver, and Consent in 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, within 90 seconds after execution, to

transmit to ACT last sale reports of transactions in NNM, OTC Equity securities, and failed to designate through ACT such last sale reports as late. The findings also stated that the firm failed to designate as ".T" through ACT, last sale reports of transactions in OTC equity securities executed outside normal market hours. **(NASD Case #CMS000246)**

Oscar Gruss & Son, Inc. (CRD #2091, New York, New York) submitted a Letter of Acceptance, Waiver, and Consent in 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 as a market maker in securities, without making reasonable efforts to avoid a locked or crossed market by executing transactions with all market makers whose quotations would be locked or crossed, entered bid or ask quotations in The Nasdaq Stock Market which caused a locked or crossed market condition to occur in each instance. **(NASD Case #CMS000255)**

Prime Charter LTD. (CRD #25668, New York, New York) submitted a Letter of Acceptance, Waiver, and Consent in which the firm was censured, fined \$10,000, and required to revise its written supervisory procedures relating to firm quote compliance. Without admitting or denying the allegations, the firm consented to the described sanctions and to the entry of findings that an order was presented to the firm at the firm's published bid or published offer in an amount up to its published quotation size. The NASD found that the firm failed to execute the orders upon presentment, and thereby failed to honor its published quotation. The findings also stated that the firm's supervisory

system did not provide for supervision reasonably designed to achieve compliance with respect to the applicable securities laws and regulations concerning firm quote compliance. **(NASD Case #CMS000248)**

Individuals Barred Or Suspended

Henry Mansfield Akin, III (CRD #2234134, Registered Representative, Glen Allen, Virginia) submitted a Letter of Acceptance, Waiver, and Consent in which he was barred from association with any NASD member in any capacity. Proof of restitution in the amount of \$187,113.09 to public customers must be provided prior to reassociating with a member firm. Without admitting or denying the allegations, Akin consented to the described sanctions and to the entry of findings that he participated in private securities transactions without providing prior written notice to his firm describing the proposed transactions, his proposed role therein, and stating whether he had received, or would receive, selling compensation in connection with the transactions. **(NASD Case #C05000062)**

Milton D. Albuquerque (CRD #3064806, Registered Representative, Santa Monica, California) was barred from association with any NASD member in any capacity. The sanction was based on findings that Albuquerque failed to respond to NASD requests for information. **(NASD Case #C02000040)**

Michael Henry Antell (CRD #2707953, Registered Representative, Brooklyn, New York) was fined \$5,000 and barred from association with any NASD member in any capacity. The fine must be paid before reassociating with a member firm. The sanctions were

based on findings that Antell effected private securities transactions without providing notice to, or receiving permission from, his firm and made material misrepresentations and improper price predictions to public customers to induce the customers to purchase securities. The findings also stated that Antell effected the purchase of a security in the account of a public customer without the customer's knowledge, authorization, or consent. In addition, the NASD found that Antell failed to respond to NASD requests to appear for on-the-record interviews. **(NASD Case #C10000118)**

Frederick Walter Azeltine (CRD #1969813, Registered Supervisor, Denver, Colorado) was fined \$10,000, suspended from association with any NASD member in any capacity for 30 days, and ordered to disgorge \$65.20 for making unsuitable recommendations. Azeltine was also fined \$10,000, suspended from association with any NASD member in any capacity for 15 days, and ordered to disgorge \$820.65 for making negligent price predictions. The sanctions were based on findings that Azeltine made unsuitable recommendations to a public customer concerning the purchase of a security and should have known that the security was speculative and that his recommendation was unsuitable. The findings also stated that Azeltine negligently induced public customers to purchase a security by making price predictions when he knew that there was no reasonable basis for his predictions since the stock was speculative.

Azeltine's suspensions began December 18, 2000, and concluded at the close of business on January 31, 2001. **(NASD Case #C3A000016)**

David Michael Beall (CRD #2002860, Registered Principal, Jericho, New York) was barred from association with any NASD member in any capacity. The sanction was based on findings that Beall failed to appear for an NASD on-the-record interview and failed to respond to NASD requests for information and documents. **(NASD Case #CAF000032)**

Charles Wayne Berry (CRD #1300104, Registered Representative, Portsmouth, Virginia) submitted a Letter of Acceptance, Waiver, and Consent in which he was barred from association with any NASD member in any capacity. Without admitting or denying the allegations, Berry consented to the described sanction and to the entry of findings that he facilitated the withdrawal of funds from an insurance client's annuity and a variable appreciable life insurance contract, without the knowledge or consent of the customer. Furthermore, the NASD found that Berry endorsed the disbursement checks with the customer's name, without her specific authorization, and deposited the proceeds into his personal bank account, thereby commingling the customer's funds with his personal funds. **(NASD Case #C07000067)**

Donald Richard Bisson (CRD #817246, Registered Representative, Windsor, Connecticut) submitted a Letter of Acceptance, Waiver, and Consent in which he was fined \$5,000, suspended from association with any NASD member in any capacity for six months, and ordered to disgorge \$4,200 to public customers. Payment of the fine and satisfactory proof of disgorgement, with interest, must be made before reassociating with a member firm or before requesting relief from any statutory disqualification. Without admitting or

denying the allegations, Bisson 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 firm.

Bisson's suspension began January 16, 2001, and will conclude on July 15, 2001. **(NASD Case #C11000031)**

George Evans Brooks (CRD #1066557, Registered Representative, Charlotte, North Carolina) was censured, fined \$25,000, and barred from association with any NASD member in any capacity. The sanctions were based on findings that Brooks failed to respond to NASD requests for information. **(NASD Case #C07980057)**

Gary Byron Callas (CRD #1438843, Registered Representative, Troy, Michigan) submitted a Letter of Acceptance, Waiver, and Consent in which he was fined \$5,000, suspended from association with any NASD member in any capacity for two years, and ordered to disgorge \$20,000 in commissions to public customers. The fine must be paid and proof of disgorgement shall be a prerequisite before any application for reentry into the securities industry will be considered. Without admitting or denying the allegations, Callas consented to the described sanctions and to the entry of findings that he participated in private securities transactions, for compensation, and failed to give written notice of his intention to engage in such activities to his firm, and failed to receive written approval from his firm, prior to engaging in such activities.

Callas' suspension began January 16, 2001, and will conclude at the close of business on January 15, 2003. **(NASD Case #C8A000074)**

Michael John Cambareri (CRD #2070535, Registered Principal, Mount Kisco, New York) submitted a Letter of Acceptance, Waiver, and Consent in which he was fined \$15,000 and suspended from association with any NASD member in any capacity for three months. Without admitting or denying the allegations, Cambareri consented to the described sanctions and to the entry of findings that he falsified a variable annuity contract application by signing the name of a customer on the application without the customer's prior knowledge, authorization, or consent and certifying on the application that he had witnessed the customer signing the application. The findings also stated that Cambareri made a false statement to his firm in that he represented he was unaware of who signed the application when, in fact, he knew that he had signed it.

Cambareri's suspension began February 5, 2001, and will conclude at the close of business on June 4, 2001. **(NASD Case #C10000213)**

Virgle Lee Chappell (CRD #1078740, Registered Representative, Mustang, Oklahoma) submitted a Letter of Acceptance, Waiver, and Consent in which he was fined \$5,000 and suspended from association with any NASD member in any capacity for 60 days. The fine must be paid before reassociating with a member firm or before requesting relief from any statutory disqualification. Without admitting or denying the allegations, Chappell consented to the described sanctions and to the entry of findings that he signed the names of public customers to property and casualty-related insurance forms without the knowledge or consent of the customers and submitted the forms to an insurance company associated with his firm.

Chappell's suspension began February 5, 2001, and will conclude at the close of business on April 5, 2001. **(NASD Case #C05000056)**

Michael Henry Christ (CRD #1664410, Registered Principal, Lynbrook, New York) was barred from association with any NASD member in any capacity. The sanction was based on findings that Christ failed to respond to NASD requests to appear for on-the-record interviews. **(NASD Case #C10000132)**

George Christodolou a/k/a George Christo (CRD #2614231, Registered Principal, Staten Island, New York) submitted an Offer of Settlement in which he was fined \$10,000, suspended from association with any NASD member in any capacity for 18 months, and ordered to requalify by exam as a general securities representative within 90 days of the expiration of the suspension. If Christodolou fails to requalify within this period, he will be suspended from association with any NASD member in any capacity until he passes the exam. The fine must be paid prior to reassociating with a member firm or prior to requesting relief from any statutory disqualification. Without admitting or denying the allegations, Christodolou consented to the described sanctions and to the entry of findings that he executed transactions in the account of public customers without their prior knowledge, authorization, or consent.

Christodolou's suspension began February 5, 2001, and will conclude on August 4, 2002. **(NASD Case #C10000026)**

Pamela Marlene Cook (CRD #3234389, Associated Person, Montgomery, Alabama) submitted a Letter of Acceptance,

Waiver, and Consent in which she was barred from association with any NASD member in any capacity. Without admitting or denying the allegations, Cook consented to the described sanction and to the entry of findings that she forged the name of a bank customer on a promissory note form and misused the proceeds of the loan without the customer's knowledge or consent. **(NASD Case #C05010001)**

Robert Alan Corona (CRD #2366356, Registered Representative, Mountain View, California) submitted a Letter of Acceptance, Waiver, and Consent in which he was fined \$12,500 and suspended from association with any NASD member in any capacity for 10 days. Without admitting or denying the allegations, Corona consented to the described sanctions and to the entry of findings that he effected securities transactions for the account of a public customer without the customer's prior authorization or consent. The findings also stated that Corona recommended to a public customer purchases and sales of securities without having reasonable grounds for believing that his recommendations were suitable for the customer upon the basis of the facts disclosed by the customer as to other securities holdings, the customer's financial situation, and needs.

Corona's suspension began February 5, 2001, and concluded at the close of business on February 14, 2001. **(NASD Case #C01000039)**

Victor Vonzell Crumity (CRD #3054284, Registered Representative, Orlando, Florida) submitted a Letter of Acceptance, Waiver, and Consent in which he was barred from association with any NASD member in any capacity. Without admitting or

denying the allegations, Crumity consented to the described sanction and to the entry of findings that he issued an insurance policy loan disbursement check in the amount of \$2,000 to a public customer without a customer's request. The NASD found that Crumity converted the funds to his own use by depositing the funds into his personal business bank account without authorization from the customer. **(NASD Case #C07000097)**

Joseph J. Curtiss (CRD #2737054, Registered Representative, Delray Beach, Florida) submitted a Letter of Acceptance, Waiver, and Consent in which he was fined \$10,000 and suspended from association with any NASD member in any capacity for nine months. The fine must be paid before any application for reentry into the securities industry will be considered. Without admitting or denying the allegations, Curtiss consented to the described sanctions and to the entry of findings that he sold and purchased shares of stock in the account of a public customer, without obtaining prior authorization from the customer.

Curtiss' suspension began January 16, 2001, and will conclude at the close of business on October 15, 2001. **(NASD Case #C07000091)**

Michael Ying Deng (CRD #2338954, Registered Representative, Flushing, New York) submitted an Offer of Settlement in which he was barred from association with any NASD member in any capacity. Without admitting or denying the allegations, Deng consented to the described sanction and to the entry of findings that he deposited a \$1,000 insurance refund check payable to a public customer into his personal bank account without the knowledge,

authorization, or consent of the customer. **(NASD Case #C10000152)**

John T. Diasabeyagunawardena a.k.a John Abbey (CRD #2583857, Registered Representative, Metuchen, New Jersey) was barred from association with any NASD member in any capacity. The sanction was based on findings that he failed to respond to NASD requests for information. **(NASD Case #C07000055)**

David Erik Dickinson (CRD #2694576, Registered Representative, Birmingham, Alabama) submitted a Letter of Acceptance, Waiver, and Consent in which he was barred from association with any NASD member in any capacity. Without admitting or denying the allegations, Dickinson consented to the described sanction and to the entry of findings that he executed unauthorized transactions in the accounts of public customers without their knowledge or consent. **(NASD Case #C05000064)**

Mark Allen Dillon (CRD #1440226, Registered Representative, New Albany, Ohio) submitted a Letter of Acceptance, Waiver, and Consent in which he was barred from association with any NASD member in any capacity. Without admitting or denying the allegations, Dillon consented to the described sanction and to the entry of findings that he received a \$13,107.12 check payable to his firm representing wrap fee income, endorsed the check, deposited the proceeds into his personal bank, and used the proceeds for his own benefit without the knowledge or consent of the firm. **(NASD Case #C8B000021)**

Mikhail Domovich (CRD #2674406, Registered Representative, Brooklyn, New York) submitted a Letter of Acceptance, Waiver, and Consent in which he

was fined \$5,000, which includes disgorgement of \$1,225.40 in commissions earned, and suspended from association with any NASD member in any capacity for five business days. The fine must be paid before reassociating with a member firm or before requesting relief from any statutory disqualification. Without admitting or denying the allegations, Domovich consented to the described sanctions and to the entry of findings that he engaged in outside business activities without his firm's prior knowledge, authorization, or consent.

Domovich's suspension began January 16, 2001, and concluded at the close of business on January 22, 2001. **(NASD Case #C10000219)**

Bruce Michael Ellis (CRD #1011492, Registered Principal, Bellevue, Washington) was barred from association with any NASD member in any capacity. The sanction was based on findings that Ellis failed to respond to NASD requests for information. **(NASD Case #C3B000011)**

Matthew Gidcumb Fowler (CRD #2544080, Registered Representative, Mt. Carmel, Illinois) submitted a Letter of Acceptance, Waiver, and Consent in which he was fined \$5,000 and suspended from association with any NASD member in any capacity for 10 days. The fine must be paid before any application for reentry into the securities industry will be considered. Without admitting or denying the allegations, Fowler consented to the described sanctions and to the entry of findings that he failed to properly handle customer funds in that he received and deposited customer checks made payable to an escrow account over which he had control, and subsequently forwarded the customers' funds to appropriate clearing firms.

Fowler's suspension began January 16, 2001, and concluded at the close of business on January 25, 2001. **(NASD Case #C8A000076)**

Craig Carter Fronk (CRD #2271067, Registered Principal, Laguna Niguel, California) was fined \$10,000, and suspended from association with any NASD member in any capacity for 30 days, for permitting an individual to actively engage in the management of a securities business without being registered as a securities principal. In addition, Fronk was barred from association with any NASD member in any capacity, and ordered to pay \$5,000, plus interest, in restitution to a public customer for making untrue statements of material facts and omitting to disclose material facts to public customers in connection with their purchases of securities. Fronk was also barred from association with any NASD member in any capacity, and ordered to pay \$35,000, plus interest, in restitution to a public customer for recommending to the customer the purchase of securities without having reasonable grounds for believing that such recommendations were suitable for the customer. Payment of the fine and the restitution must be made before any application for reentry into the securities industry will be considered. Fronk's bar became effective December 29, 2000. **(NASD Case #C02970012)**

Dennis Lloyd Gagliardi (CRD #1817217, Registered Representative, Hamilton, Ohio) submitted a Letter of Acceptance, Waiver, and Consent in which he was fined \$15,000, suspended from association with any NASD member in any capacity for one year, and ordered to pay \$7,273.58, plus interest, in restitution to public customers. Payment of the fine and proof of payment of the restitution, plus interest, shall be a prerequisite

before reassociating with a member firm or before requesting relief from any statutory disqualification. Without admitting or denying the allegations, Gagliardi consented to the described sanctions and to the entry of findings that he sold promissory notes to public customers away from his firm, failed to provide his firm with detailed written notice of the transactions, his role therein, and to receive permission from the firm to engage in the transactions.

Gagliardi's suspension began January 16, 2001, and will conclude at the close of business on January 15, 2002. **(NASD Case #C8B000020)**

Richard Gordon Garrard (CRD #2983167, Registered Representative, Silver Spring, Maryland) submitted a Letter of Acceptance, Waiver, and Consent in which he was barred from association with any NASD member firm in any capacity. Without admitting or denying the allegations, Garrard consented to the described sanction and to the entry of findings that, without authorization, he caused transfers of funds totaling \$6,325.50 to be made from a proprietary account of a bank affiliated with his firm to his personal checking account. **(NASD Case #C9A000044)**

Barry Michael Gerst (CRD #718034, Registered Representative, Little Falls, New Jersey) submitted a Letter of Acceptance, Waiver, and Consent in which he was fined \$10,000 and suspended from association with any NASD member in any capacity for three months. Without admitting or denying the allegations, Gerst consented to the described sanctions and to the entry of findings that he directed a sales agent under his supervision to sign a life insurance policy application that falsely rep-

resented that the agent had witnessed a customer sign the application. Furthermore, the findings stated that Gerst signed his name on an amendment form to a life insurance policy falsely representing that he had witnessed the customer sign such a form. The NASD found that Gerst had not witnessed the customer sign the form in his presence. Gerst also provided false and/or misleading investigative testimony to the NASD during an on-the-record interview.

Gerst's suspension began January 22, 2001, and will conclude at the close of business on April 20, 2001. **(NASD Case #C9B000023)**

Patrick Joseph Gillespie (CRD #2515660, Registered Representative, Deer Park, New York) was barred from association with any NASD member in any capacity. The sanction was based on findings that Gillespie failed to respond to NASD requests for information. **(NASD Case #C10000101)**

Joseph John Giordano (CRD #2684597, Registered Representative, Centereach, New York) was fined \$15,000, suspended from association with any NASD member in any capacity for one year, barred from association with any NASD member in any capacity, and ordered to pay \$35,179.79, plus interest, in restitution to public customers. The fine must be paid and proof of restitution must be provided before reassociating with a member firm. The sanctions were based on findings that Giordano executed unauthorized trades in the accounts of public customers without discretionary trading authority, and, in order to execute unauthorized trades in furtherance of a fraudulent scheme, failed to follow a customer's instructions to send him stock certificates for a security that he had

previously purchased. The findings also stated that Giordano canceled a customer's stockholding without authorization and made a specific price prediction to a public customer about an unseasoned security without an adequate, accurate, or reasonable basis for the prediction.

Giordano's bar became effective December 27, 2000. **(NASD Case #CAF000021)**

Averell Golub (CRD #2083375, Registered Representative, Brooklyn, New York) was fined \$10,000, suspended from association with any NASD member in any capacity for one year, and ordered to pay \$20,527.48, plus interest, in restitution to a public customer within 60 days from the date of the National Adjudicatory Council (NAC) decision. The NAC imposed the sanctions following appeal and call for review of an Office of Hearing Officers (OHO) decision. The sanctions were based on findings that Golub engaged in material misrepresentations to public customers regarding a security, failed to disclose any negative information about the issuer, and fraudulently induced the customers to purchase the security.

Golub's suspension began January 16, 2001, and will conclude at the close of business on January 15, 2002. **(NASD Case #C10990024)**

Alan Paul Hans, Sr. (CRD #236095, Registered Representative, Mount Laurel, New Jersey) submitted a Letter of Acceptance, Waiver, and Consent in which he was barred from association with any NASD member in any capacity. Without admitting or denying the allegations, Hans consented to the described sanction and to the entry of findings that he failed to respond to an NASD request for information. **(NASD Case #C9A000045)**

Daniel Richard Howard (CRD #1112346, Registered Representative, Cambridge, Massachusetts) was fined \$17,500 and suspended from association with any NASD member in any capacity for two years for unsuitable recommendations. He was also fined \$7,500 and suspended from association with any NASD member in any capacity for 90 days for inaccurate Forms U-4. The suspensions shall run concurrently. The NAC imposed the sanctions following appeal of an OHO decision. The sanctions were based on findings that Howard made unsuitable recommendations to a public customer and failed to update his Form U-4 to disclose that he was the subject of a complaint, investigation, or proceeding.

Howard has appealed this action to the SEC and the sanctions are not in effect pending consideration of the appeal. **(NASD Case #C11970032)**

Lewis Nathan Howard (CRD #251275, Registered Principal, Hawthorne, New Jersey) submitted an Offer of Settlement in which he was suspended from association with any NASD member in any capacity for two years and ordered to pay \$181,848.84 in restitution to public customers. Satisfactory proof of payment of restitution, with interest, must be made before any application for reentry into the securities industry will be considered. Without admitting or denying the allegations, Howard consented to the described sanctions and to the entry of findings that, while exercising control over customers' accounts, he used discretion and recommended to customers numerous purchases and sale transactions in various securities without having reasonable grounds for believing that such transactions were suitable for customers in

view of the size and frequency of the transactions, the nature of the account, and the customers' financial situation and needs.

Howard's suspension began February 5, 2001, and will conclude at the close of business on February 4, 2003. **(NASD Case #C9B000018)**

Randy Ray Hughes (CRD #2656598, Registered Representative, Racine, Wisconsin) was barred from association with any NASD member in any capacity. The sanction was based on findings that Hughes received a \$1,450 check from a public customer with instructions from the customer to apply the funds to his variable annuity account. Hughes cashed the check and used the proceeds for his own benefit. Hughes also failed to respond to NASD requests for information. **(NASD Case #C8A000041)**

Thomas Eugene Janowski (CRD #803681, Registered Representative, Chicago, Illinois) was barred from association with any NASD member in any capacity. The sanction was based on findings that Janowski failed to respond to NASD requests for information. **(NASD Case #C8A000047)**

Christy Porter Johnson (CRD #3157609, Registered Representative, Sacramento, California) was barred from association with any NASD member in any capacity. The sanction was based on findings that Johnson failed to respond to NASD requests for information. **(NASD Case #C01000016)**

Morris Malone Johnson, Jr. (CRD #2541001, Registered Representative, Huntsville, Alabama) was barred from association with any NASD member in any capacity. The sanction was based

on findings that Johnson effected unauthorized transactions in the accounts of public customers and failed to respond to NASD requests for information. **(NASD Case #C05000026)**

Kenneth Ray Jones (CRD #1815672, Registered Representative, Cincinnati, Ohio) was barred from association with any NASD member in any capacity. The sanction was based on findings that Jones failed to respond to NASD requests for information. **(NASD Case #C8B000010)**

Percival Anthony Jones, Sr. (CRD #2506769, Registered Representative, Los Angeles, California) was barred from association with any NASD member in any capacity, and ordered to pay \$3,000, plus interest, in restitution to a public customer. The sanctions were based on findings that Jones received \$3,000 cash from a public customer for investment purposes, failed to follow the customer's instructions and, instead, converted the funds to his own use and benefit. Jones also failed to respond to NASD requests for information. **(NASD Case #C02000036)**

Carl Dan Killian, Jr. (CRD #1340080, Registered Representative, Hohokus, New Jersey) submitted a Letter of Acceptance, Waiver, and Consent in which he was fined \$16,900, which includes \$6,900 in disgorgement of commissions, and suspended from association with any NASD member in any capacity for 18 months. The fine and disgorgement must be paid before reassociating with a member firm or before requesting relief from any statutory disqualification. Without admitting or denying the allegations, Killian consented to the described sanctions and to the entry of findings that he exercised discretionary

authority in transactions in a public customer's account without prior written authorization and engaged in trading in the account that was excessive in view of the customer's objectives, financial situation, and nature of the account. The findings also stated that Killian, using his discretion, purchased and sold securities in the account of a public customer that were unsuitable in view of the size and frequency of the transactions and did not have reasonable grounds for believing that the recommended transactions were suitable for the customer based upon the customer's financial situation, investment objectives, and financial needs.

Killian's suspension began February 5, 2001, and will conclude on August 4, 2002. **(NASD Case #C10010003)**

Johnny Duane Kovalcik (CRD #858051, Registered Representative, Baton Rouge, Louisiana) submitted a Letter of Acceptance, Waiver, and Consent in which he was fined \$5,000 and suspended from association with any NASD member in any capacity for six months. The fine must be paid before reassociating with a member firm or before requesting relief from any statutory disqualification. Without admitting or denying the allegations, Kovalcik consented to the described sanctions and to the entry of findings that he participated in private securities transactions without providing his firm with prior written notice describing the proposed transactions, his proposed role therein, and stating whether he had received, or would receive, selling compensation in connection with the transactions.

Kovalcik's suspension began January 16, 2001, and will conclude on July 15, 2001. **(NASD Case #C05000063)**

Robert Elliot Leder (CRD #2573928, Associated Person, Wantagh, New York) submitted a Letter of Acceptance, Waiver, and Consent in which he was fined \$5,000 and suspended from association with any NASD member in any capacity for one year. The fine must be paid before reassociating with a member firm or before requesting relief from any statutory disqualification. Without admitting or denying the allegations, Leder consented to the described sanctions and to the entry of findings that he willfully failed to disclose a material fact on a Form U-4.

Leder's suspension began January 16, 2001, and will conclude at the close of business on January 15, 2002. **(NASD Case #C10000221)**

John Everett Lewis (CRD #1364973, Registered Representative, Tiffin, Ohio) submitted a Letter of Acceptance, Waiver, and Consent in which he was barred from association with any NASD member in any capacity. Without admitting or denying the allegations, Lewis consented to the described sanction and to the entry of findings that he sold investment contracts totaling \$2,458,804 and failed to provide his firm with any notice of the transactions, his role therein, or to receive written permission to engage in the transactions. **(NASD Case #C8B000022)**

Paul H. Lukert (CRD #1609795, Registered Representative, Wyckoff, New Jersey) submitted a Letter of Acceptance, Waiver, and Consent in which he was fined \$10,000 and suspended from association with any NASD member in any capacity for 30 days. The fine must be paid before any application for reentry into the securities industry will be considered. Without admitting or denying the allegations, Lukert consented

to the described sanctions and to the entry of findings that he exercised effective control over a public customer's account and recommended to the customer numerous purchase and sale transactions in various securities without having reasonable grounds for believing that such transactions were suitable for the customer in view of the size and frequency of the transactions and the nature of the accounts. The findings also stated that Lukert exercised discretion in the customer's account without having obtained prior written authorization from the customer and prior written acceptance of the account as discretionary by his firm.

Lukert's suspension began February 5, 2001, and will conclude at the close of business on March 6, 2001. **(NASD Case #C9B000041)**

Jeffrey McConnell (CRD #2545034, Registered Principal, West Palm Beach, Florida) submitted a Letter of Acceptance, Waiver, and Consent in which he was barred from association with any NASD member in any principal capacity. In light of the financial status of McConnell, no monetary sanctions have been imposed. Without admitting or denying the allegations, McConnell consented to the described sanction and to the entry of findings that he failed to enforce and comply with his firm's written supervisory procedures relating to the supervision of registered representatives at a branch office. **(NASD Case #C07000098)**

Jon Robert McDowell (CRD #4069640, Registered Representative, Minneapolis, Minnesota) was barred from association with any NASD member in any capacity. The sanction was based on findings that McDowell willfully misrepresented and intentionally failed to disclose a material fact on

a Form U-4. The findings also stated that McDowell failed to respond to NASD requests for information. **(NASD Case #CAF000035)**

Sean Peter McManus (CRD #2169076, Registered Representative, Boynton Beach, Florida) was barred from association with any NASD member in any capacity. The sanction was based on findings that McManus purchased shares of stock in the accounts of public customers without the customers' knowledge or consent. **(NASD Case #C02000025)**

Wayne Mills (CRD #1055303, Registered Representative, Edina, Minnesota) submitted a Letter of Acceptance, Waiver, and Consent in which he was barred from association with any NASD member in any capacity. Without admitting or denying the allegations, Mills consented to the described sanction and to the entry of findings that he failed to respond to an NASD request to appear for an on-the-record interview. **(NASD Case #CMS000256)**

Robert Arnold Mosby (CRD #861055, Registered Principal, Richmond, Virginia) submitted an Offer of Settlement in which he was fined \$10,000 and suspended from association with any NASD member in any capacity for 90 days. The fine must be paid before any application for reentry into the securities industry will be considered. Without admitting or denying the allegations, Mosby consented to the described sanctions and to the entry of findings that he recommended to a public customer the purchase of securities that were unsuitable, given the customer's investment objectives and financial situation.

Mosby's suspension began February 5, 2001, and will conclude at the close of business on May 5, 2001. **(NASD Case #C07000050)**

Jim Newcomb (CRD #1376482, Registered Principal, Fort Collins, Colorado) was fined \$32,000 and suspended from association with any NASD member in any capacity for two years. The NAC imposed the sanctions following appeal of an OHO decision. The sanctions were based on findings that Newcomb engaged in private securities transactions, for compensation, without providing prior written notice of his intention to participate in the transactions to, and receiving permission from, his firm.

Newcomb has appealed this action to the SEC and the sanctions are not in effect pending consideration of the appeal. **(NASD Case #C3A990050)**

James Michael Nicholson (CRD #1876182, Registered Representative, Stony Point, New York) submitted a Letter of Acceptance, Waiver, and Consent in which he was barred from association with any NASD member in any capacity. Without admitting or denying the allegations, Nicholson consented to the described sanction and to the entry of findings that he furnished the NASD with a false and misleading response to a request for information and failed to respond to NASD requests for information. **(NASD Case #C9B000043)**

Claudia Jean Olson (CRD #3120767, Registered Representative, Dallas, Texas) submitted a Letter of Acceptance, Waiver, and Consent in which she was fined \$5,000 and suspended from association with any NASD member in any capacity for 60 days. The fine must be paid before reassociating with a member firm or before requesting relief from any statutory disqualification. Without admitting or denying the allegations, Olson consented to the described sanc-

tions and to the entry of findings that she executed unauthorized stock transactions in the account of a public customer without the account trustee's knowledge or consent.

Olson's suspension began February 5, 2001, and will conclude at the close of business on April 5, 2001. **(NASD Case #C05000066)**

Sean Charles Paley (CRD #2801588, Registered Principal, Atlanta, Georgia) was barred from association with any NASD member in any capacity. The sanction was based on findings that Paley forged customer signatures on his firm's Rep/Dealer Change Authorization forms to designate himself as the representative of record for mutual fund accounts and variable life insurance policies that the customers had with the firm, and submitted the forms to his firm without the customers' knowledge or consent. The findings also stated that Paley created fictitious applications and agreements on behalf of non-existent individuals and submitted them to his firm to create the appearance of production and to generate commissions. The NASD also found that Paley failed to respond to NASD requests for information. **(NASD Case #C05000046)**

Thomas Harlan Peacock (CRD #358711, Registered Representative, Allentown, Pennsylvania) submitted a Letter of Acceptance, Waiver, and Consent in which he was suspended from association with any NASD member in any capacity for 30 days. Without admitting or denying the allegations, Peacock consented to the described sanction and to the entry of findings that he exercised effective control over the account of a public customer and recommended, or implicitly

recommended, securities transactions to the customer without having reasonable grounds for believing that the transactions were suitable based upon the size and frequency of the transactions and the nature of the account.

Peacock's suspension began February 5, 2001, and will conclude at the close of business on March 6, 2001. **(NASD Case #C9A000043)**

Teo Van Pham (CRD #4008622, Registered Representative, Los Angeles, California) was barred from association with any NASD member in any capacity. The sanction was based on findings that Pham provided false responses on his Form U-4. **(NASD Case #C02000049)**

Michael Anthony Pipkins (CRD #1489038, Registered Principal, Murrietta, California) was barred from association with any NASD member in any capacity. The sanction was based on findings that Pipkins received a \$10,000 cashier's check from a customer to invest on the customer's behalf. Pipkins cashed the check but never invested the funds on the customer's behalf or returned the funds to the customer. Pipkins also failed to respond to NASD requests for information. **(NASD Case #C02000051)**

Benjamin Ruiz (CRD #2634016, Registered Representative, Ft. Lauderdale, Florida) was barred from association with any NASD member in any capacity. The sanction was based on findings that Ruiz failed to respond to NASD requests for information. **(NASD Case #C07000048)**

Rick Ray Ruppert (CRD #2122885, Registered Principal, Las Vegas, Nevada) submitted an Offer of Settlement in which he was fined \$5,000 and suspended

from association with any NASD member in any capacity for 15 months. The fine must be paid before any application for reentry into the securities industry will be considered. Without admitting or denying the allegations, Ruppert consented to the described sanctions and to the entry of findings that he received \$3,000 in cash from public customers for investment purposes, failed to apply the customer funds promptly to any investment, and instead, used the funds to purchase bank cashiers checks to fund Roth IRA accounts for the customers. Ruppert also failed to respond to NASD requests for information.

Ruppert's suspension began February 5, 2001, and will conclude at the close of business on May 4, 2002. **(NASD Case #C02000023)**

John David Schema (CRD #1478172, Registered Representative, Grass Valley, California) submitted a Letter of Acceptance, Waiver, and Consent in which he was suspended from association with any NASD member in any capacity for one year. In light of Schema's financial status, no monetary sanctions have been imposed. Without admitting or denying the allegations, Schema consented to the described sanctions and to the entry of findings that he participated in a private securities transaction without providing prior written notice to, or obtaining written approval from, his firm.

Schema's suspension began January 16, 2001, and will conclude at the close of business on January 15, 2002. **(NASD Case #C04000038)**

Joseph Paul Schmidt, Jr. (CRD #1059547, Registered Representative, Oregon City, Oregon) was barred from association with any NASD member in any capacity.

The sanction was based on findings that Schmidt failed to respond to NASD requests for information. **(NASD Case #C3B000013)**

Ronald Silas (CRD #1047209, Registered Representative, San Bruno, California) was barred from association with any NASD member in any capacity. The sanction was based on findings that Silas received a \$30,000 check from public customers for investment purposes and converted the funds to his own use and benefit. Silas also failed to respond to NASD requests for information. **(NASD Case #C02000041)**

Gordon Erik Sokich (CRD #2579331, Registered Representative, Dobbs Ferry, New York) was suspended from association with any NASD member in any capacity for six months. In light of Sokich's financial status, no monetary sanction has been imposed. The sanction was based on findings that Sokich failed to submit sufficient funds or securities to cover the cost of margin transactions effected by him in his personal account at a member firm.

Sokich's suspension began January 2, 2001, and will conclude at the close of business on July 2, 2001. **(NASD Case #C10000091)**

Edward Sereno Viola (CRD #2211525, Registered Representative, New York, New York) submitted a Letter of Acceptance, Waiver, and Consent in which he was barred from association with any NASD member in any capacity. Without admitting or denying the allegations, Viola consented to the described sanction and to the entry of findings that he effected transactions in the account of a public customer without the customer's prior knowledge, authorization, or consent. **(NASD Case #C10000222)**

Robert Jay Voges (CRD #2565539, Registered Representative, Ormond Beach, Florida) was barred from association with any NASD member in any capacity. The sanction was based on findings that Voges received a \$5,000 check from a public customer to pay her mortgage and \$5,000 in cash from the customer to be deposited into the customer's checking account. Voges failed to deposit the cash into the customer's checking account and, in an attempt to conceal his misconduct, transferred \$5,000 from the customer's brokerage account into her checking account, without her authorization. Voges also failed to respond to NASD requests for information. **(NASD Case #C07000053)**

Pamela Harlan Wilson (CRD #1337224, Registered Representative, Burbank, California) submitted a Letter of Acceptance, Waiver, and Consent in which she was fined \$10,000 and suspended from association with any NASD member in any capacity for 10 business days. Without admitting or denying the allegations, Wilson consented to the described sanctions and to the entry of findings that she engaged in a private securities transaction without prior written notice to, and approval from, her firm.

Wilson's suspension began February 5, 2001, and will conclude at the close of business on February 16, 2001. **(NASD Case #C02000070)**

Andre Desean Woodley, Sr. (CRD #3108258, Registered Representative, Virginia Beach, Virginia) was barred from association with any NASD member in any capacity. The sanction was based on findings that Woodley provided false responses and willfully misrepresented and failed to disclose

material facts on his Form U-4. The findings also stated that Woodley failed to respond to NASD requests for information. **(NASD Case #CAF000034)**

Howard Charles Zelin (CRD #1616516, Registered Principal, Boynton Beach, Florida) was barred from association with any NASD member in any capacity. The sanction was based on findings that Zelin failed to respond to NASD requests to appear for on-the-record interviews and failed to respond truthfully to an NASD request for information. **(NASD Case #CAF000026)**

Individuals Fined

Charles Melville Blair (CRD #22803, Registered Representative, Toluca Lake, California) was censured and fined \$10,000. The sanctions were based on findings that a member firm, acting under the direction and control of Blair, engaged in a securities business while failing to maintain its minimum net capital. **(NASD Case #C02000035)**

Mario Arthur Romano (CRD #1578054, Registered Representative, Colts Neck, New Jersey) submitted a Letter of Acceptance, Waiver, and Consent in which he was censured and fined \$17,008, which includes disgorgement of \$7,008 in commissions earned. Without admitting or denying the allegations, Romano consented to the described sanctions and to the entry of findings that he exercised discretionary power in the account of a public customer without the customer's prior written authorization and the acceptance of the discretionary account by his firm. **(NASD Case #C10000216)**

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.

Paul Louis Anderson (CRD #2837647, Registered Representative, Rock Hill, South Carolina) was named as a respondent in an NASD complaint alleging that he credited his personal bank account \$9,000 using his employment position at the bank and his work computer, and withdrew the \$9,000 credited to his account through a series of withdrawals from automated teller machines. In addition, the complaint alleges that Anderson failed to respond to an NASD request for information. **(NASD Case #C07010002)**

Michael Paul Cilmi (CRD #1289290, Registered Principal, South Cairo, New York) was named as a respondent in an NASD complaint alleging that he effected unauthorized transactions in the accounts of public customers without their knowledge or consent and in the absence of written or oral authorization to exercise discretion in the accounts. **(NASD Case #C10000220)**

Christopher Ronald DiGregorio (CRD #2754779, Registered Representative, Staten Island, New York) was named as a respondent in an NASD complaint alleging that he executed unauthorized transactions in the accounts of a public customer. **(NASD Case #C9B000042)**

Jeffrey Booth Hodde (CRD #247308, Registered Principal, Summit, New Jersey) was named as a respondent in an NASD complaint alleging that he effected a transaction in the account of a public customer without the customer's prior knowledge, authorization, or consent. The complaint also alleges that Hodde failed to respond to NASD requests for information. **(NASD Case #C10010005)**

Terence Louis Killea (CRD #2310356, Registered Representative, Coventry, Rhode Island) was named as a respondent in an NASD complaint alleging that he received checks totaling at least \$84,500 from public customers to invest in a high-yield investment or an initial public offering, and, instead, endorsed and cashed the checks, and used the funds for his own use and benefit. **(NASD Case #C11010001)**

Tam Thanh Le (CRD #3132393, Registered Representative, Balch Springs, Texas) was named as a respondent in an NASD complaint alleging that he received a \$2,000 check from a public customer to purchase a variable annuity, failed to execute the purchase of the annuity, and, instead, without the customer's knowledge or consent, misused the funds by applying the proceeds to pay premiums on insurance policies belonging to other customers. The complaint also alleges that Le failed to respond to NASD requests for information. **(NASD Case #C05010002)**

Chung Suk Oh (CRD #2838370, Registered Representative, New York, New York) was named as a respondent in an NASD complaint alleging that he effected unauthorized transactions in the account of a public customer without the customer's prior knowledge, autho-

zation, or consent. The complaint also alleges that Oh failed to respond to NASD requests for information. **(NASD Case #C10010009)**

Samuel Michael Rodio, II (CRD #2919945, Registered Representative, Katy, Texas) was named as a respondent in an NASD complaint alleging that he requested a check be drawn against the account of public customers and represented that he would mail the check to the customers. The complaint further alleges that \$5,312.98 in funds were withdrawn from the account of the customers without their knowledge, authorization, or consent, and a check in the same amount and in the name of the customers was issued and received by Rodio who failed to deliver the check. The NASD alleges that Rodio endorsed the check and deposited the funds into his personal bank account without the customers' knowledge, authorization, or consent. In addition, the complaint alleges that Rodio failed to respond completely to NASD requests for information and documentation. **(NASD Case #C06000039)**

Greg Dennis Sanfilippo (CRD #2628773, Registered Representative, Staten Island, New York) was named as a respondent in an NASD complaint alleging that he effected transactions in the account of a public customer without the customer's prior knowledge or consent. **(NASD Case #C05000065)**

Firm Canceled

The following firm was canceled from membership in the NASD for failure to comply with formal written requests to submit financial information to the NASD. The action was based on the provisions of NASD Rule 8210 and Article VII, Section 2 of the NASD

By-Laws. The date the cancellation commenced is listed after the entry.

James W. Twohig & Company, Princeton, West Virginia (January 16, 2001)

Firm Suspended

The following firm was suspended from membership in the NASD for failure to comply with formal written requests to submit financial information to the NASD. The action was based on the provisions of NASD Rule 8210 and Article VII, Section 2 of the NASD By-Laws. The date the suspension 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.

Rockcrest Securities, LLC, Duncanville, Texas (January 16, 2001)

Firms Expelled For Failure to Pay Fines/Costs And/OR Provide Proof Of Payment In Connection With Violations

First Associated Securities Group, Chico, California (December 22, 2000)

Sharpe Capital, Inc., New York, New York (December 22, 2000)

Suspension Lifted

The NASD has lifted the suspension from membership on the date shown for the following firm because it has complied with formal written requests to submit financial information.

First International Capital LTD, Hamilton, Bermuda (December 18, 2000)

Individuals Whose Registrations Were Revoked For Failure To Pay Fines, Costs And/Or Provide Proof Of Payment In Connection With Violations

Crute, John M.W., Jr., Fort Stockton, Texas (December 22, 2000)

Dannenberg, Marc Jason, Thornwood, New York (December 22, 2000)

Liu, Husheng, Woodside, New York (December 22, 2000)

Martellaro, Carl, Chico, California (December 22, 2000)

Nemeth, Marc S., Brooklyn, New York (December 22, 2000)

Noland, Samuel T., Villa Rica, Georgia (December 22, 2000)

Onyejiaka, Nelson C., Southbound Brook, New Jersey (December 22, 2000)

Rogan, Steve J., Pagosa Spring, Colorado (December 22, 2000)

Individuals Suspended Pursuant To NASD Rule 9540 Series For Failure To Provide Information Requested Under NASD Rule 8210. (The date the suspension began is listed after the entry.)

Bailey, Richard Eugene, Cedar Rapids, Iowa (January 3, 2001)

Coleman, Monica L., Pasadena, Maryland (December 14, 2000)

Crookshank, Richard, Las Vegas, Nevada (December 14, 2000)

Cullen, Michael K., Fairview Heights, Illinois (January 3, 2001)

Fernandez, Roger Hannim, Vancouver, Washington (December 13, 2000)

Goodman, Barry, North Andover, Massachusetts (January 8, 2001)

Nonaka, Douglas Takeshi, Aiea, Hawaii (December 22, 2000)

St. Myer, Bradley David, Wexford, Pennsylvania (December 29, 2000)

Individual Suspended Pursuant To NASD Rule 9514(g) For Failure To Pay An Arbitration Award

(The date the suspension commenced is listed after the entry. If the individual has complied, the listing also includes the date the suspension concluded.)

Armijo, Anthony, San Mateo, California (December 12, 2000 - December 21, 2000)

NASD Regulation Bars John Fiero, Expels Fiero Brothers, Inc., and Imposes \$1 Million Fine For Illegal Short Sales, Market Manipulation and Extortion

NASD Regulation announced that an NASD Regulation Hearing Panel barred John Fiero, expelled his firm, Fiero Brothers, Inc. and ordered a fine of \$1 million for engaging in a fraudulent short selling, extortion and manipulation scheme.

On Feb. 6, 1998, NASD Regulation filed a complaint against Fiero and other co-conspirators alleging that they colluded to drive down the price of 10 Nasdaq securities underwritten by now-defunct Hanover Sterling & Co. during January 1995, and February 1995, through illegal short selling of those securities. This "bear raid" scheme involved Fiero and others obtaining nearly 1 million shares, units, and warrants from Hanover Sterling at below market prices through the use of threats and coercion to cover their illegally-created short positions. Ultimately, the short selling scheme led to the

failure of Hanover Sterling on Feb. 24, 1995, which was quickly followed by the collapse of its clearing firm, Adler, Coleman Clearing Corp., and the appointment of a Security Investors Protection Corporation trustee for Adler Coleman.

In the decision, the Hearing Panel found that Fiero participated in an extortion scheme by purchasing \$12.1 million of securities from Hanover, at prices \$866,500 below the then-prevailing market price. Fiero used these securities to cover his firm's short positions, and resold the rest, primarily to other short sellers involved in the scheme. Hanover agreed to sell the discounted securities to Fiero in attempt to end the shorting of the stocks.

The Hearing Panel also found that Fiero violated short selling rules from Jan. 20 through Feb. 23, 1995 by failing to make the required affirmative determinations prior to engaging in short sales of the Hanover Sterling stocks. NASD rules restrict "naked" short sales, that is selling a stock short without ensuring that the stock can be borrowed or otherwise provided for by settlement date, also known as an affirmative determination. The Hearing Panel concluded that Fiero was not entitled to the market maker exemption from the affirmative determination rule during the time his firm was registered as a market maker because it was not engaged in bona fide market-making transactions. Fiero manipulated the market for the Hanover securities through his purchases and resale of the extorted stock and his illegal, naked short selling.

The respondents have appealed this matter to NASD Regulation's National Adjudicatory Council (NAC) as of January 3, 2001.

For Your Information

Final Renewal Statements

Member firms' Final Renewal Statements became available in Web CRD on January 2, 2001. All payments or requests for refunds must be received by March 16, 2001. Final Renewal Statements can be retrieved under the "Renewals" menu item in Accounting. Also, all Final Renewal Rosters are available in Web CRD for viewing and printing in the firm's ReportMart.

Additional information regarding the 2001 Renewals Program is in the November 2000 and January 2001 *Notices to Members* and on the CRD Page of the NASD Regulation Web Site, www.nasdr.com.