

Notices to Members

March 1999

Notices

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NASD Notice to Members 99-20

SEC Approves Rule Change Increasing Position Limits On Standardized Equity Options; NASD Reminds Members Of Their Reporting Obligations When Trading Options

Suggested Routing

- Senior Management
- Advertising
- Continuing Education
- Corporate Finance
- Executive Representatives
- Government Securities
- Institutional
- Insurance
- Internal Audit
- Legal & Compliance
- Municipal
- Mutual Fund
- Operations
- Options
- Registered Representatives
- Registration
- Research
- Syndicate
- Systems
- Trading
- Training
- Variable Contracts

Executive Summary

On January 11, 1999, the Securities and Exchange Commission (SEC) approved amendments to National Association of Securities Dealers, Inc. (NASD[®]) Rule 2860(b)(3)(A), tripling the position limits on standardized (exchange-traded) equity options to make them equivalent to the limits on conventional (over-the-counter) equity options overlying the same security. These amendments were effective upon approval.

Separately, NASD Regulation's Market Regulation Department is reminding members of their reporting obligations when trading options.

Questions regarding the amendments to Rule 2860(b)(3)(A) may be directed to Gary L. Goldsholle, Assistant General Counsel, Office of General Counsel, NASD Regulation, Inc. (NASD RegulationSM) at (202) 728-8104; and questions regarding members' reporting obligations may be directed to Joseph Alotto, Supervisor, Market Regulation Department, NASD Regulation, at (301) 590-6845.

Tripling Standardized Equity Options Position Limits

NASD Rule 2860(b)(3)(A) governs members' activities in standardized, conventional, and FLEX equity options. Standardized options are exchange-traded options issued by the Options Clearing Corporation (OCC) that have standardized terms for strike prices, expiration dates, and the amount of the underlying security. Conventional options are any other options contracts not issued, or subject to issuance, by the OCC. Conventional options are also frequently referred to as over-the-counter options. FLEX equity options are exchange-traded options issued by OCC that give investors the ability, within specified limits, to

designate terms of the option (*i.e.*, the exercise price, exercise style, expiration date, or option type).

NASD Rule 2860(b)(3)(A) imposes a ceiling or position limit on the number of conventional and standardized equity options contracts in each class on the same side of the market (*i.e.*, aggregating long calls and short puts or long puts and short calls) that can be held or written by a member, a person associated with a member, a customer, or a group of customers acting in concert. NASD Rule 2860(b)(3)(A) provides that the position limits for equity options are determined according to a five-tiered system in which more actively-traded stocks with larger public floats are subject to higher position limits.

The SEC recently approved amendments tripling the limits for standardized equity options.¹ Under the new amendments, the five tiers are: 13,500; 22,500; 31,500; 60,000; and 75,000 contracts. These new limits conform the NASD's position limits for standardized equity options to the increased limits recently approved by the SEC for the options exchanges.² These new limits are also the same tiers that are in effect for conventional equity options. Members are reminded that the NASD's limits on standardized equity options are applicable only to those members who are not also members of the exchange on which the options are traded. Members that conduct a business in standardized options but are not members of the exchange on which such options are listed and traded are commonly referred to as "access" firms. By contrast, the NASD's limits on conventional equity options are applicable to all members.

Members also should note that as part of the recent amendments, NASD Regulation deleted the provisions of Rule 2860(b)(3)(A) that established that the limits for

conventional equity options are “three times” the limits for standardized equity options overlying the same security. This numerical relationship was established in a prior rule change³ that was designed to increase the limits on conventional equity options to correspond to the numerical limits that were previously in effect with respect to FLEX equity options.⁴ Under current rules, the position limits for standardized and conventional equity options are the same. Thus, the recent increase in limits for standardized equity option position limits did not correspondingly increase the position limits for conventional equity options.

NASD Reminds Members Of Their Reporting Obligations When Trading Options

Rule 2860(b)(5) addresses members’ options reporting obligations and is applicable to all standardized and FLEX option positions established by “access” firms or their customers, and all conventional option positions established by member firms and their customers. Rule 2860(b)(5) requires members to file a report with the NASD if the member’s account, a customer’s account, or an associated person’s account establishes an aggregate options position of 200 or more options contracts (whether long or short) of the put class and the call class on the same side of the market covering the same underlying security or index. In aggregating options on the “same side of the market,” long calls in any class of options should be combined with short puts on the same class and short calls should be combined with long puts to determine whether the member has a reporting obligation. Members should not “net out” long and short positions for the same class in the same account (*e.g.*, 200 contracts long and 200 contracts short in the same options class in the same account should *both* be reported).

Members have an obligation to report option positions in the following situations:

- A long and/or short position of 200 or more options contracts of the put class and the call class on the same side of the market is established in the account.
- There is an increase in a previously reported position (*e.g.*, from 225 to 250 contracts).
- There is a decrease in a previously reported position to a position of less than 200 contracts (*e.g.*, 225 contracts to 199 contracts). Once a position has been reduced to less than 200 contracts, no subsequent position reports would have to be filed until the account once again established a long and/or short position of 200 or more contracts of the put class and call class on the same side of the market.

Members are also reminded that intra-day option positions of 200 or more contracts of the put class and the call class on the same side of the market covering the same underlying security or index must be reported even if the position decreases to less than 200 contracts by the end of the day. For example, if an option position increases from 199 contracts to 225 contracts at 11:00 a.m., and then at 3:00 p.m. there is a decrease in the position from 225 contracts to 199 contracts, the member firm must file a report to reflect the position at 11:00 a.m. that exceeded 200 option contracts, even though the option position at the end of the day was less than 200 contracts. The member firm is also required to file a report reflecting the decrease in the option position.

To report an option position, members should complete the Option Position Summary Report

and file the report with NASD Regulation Market Regulation Department no later than each business day following the establishment of the reportable position. Following this *Notice* are a copy of the Option Position Summary Report, instructions, and a sample report.

Text Of Amendments

(Note: *New text is underlined; deletions are bracketed.*)

Rule 2860. Options.

(3) Position Limits

(A) Stock Options--Except in highly unusual circumstances, and with the prior written approval of the Association pursuant to the Rule 9600 Series for good cause shown in each instance, no member shall effect for any account in which such member has an interest, or for the account of any partner, officer, director or employee thereof, or for the account of any customer, an opening transaction through Nasdaq, the over-the-counter market or on any exchange in a stock option contract of any class of stock options if the member has reason to believe that as a result of such transaction the member or partner, officer, director or employee thereof, or customer would, acting alone or in concert with others, directly or indirectly, hold or control or be obligated in respect of an aggregate equity options position in excess of:

- (i) [4,500] 13,500 option contracts of the put class and the call class on the same side of the market covering the same underlying security, combining for purposes of this position limit long positions in put options with short positions in call options, and short positions in put options with long positions in call options; or
- (ii) [7,500] 22,500 options contracts of the put class and the call class on

the same side of the market covering the same underlying security, providing that the [7,500] 22,500 contract position limit shall only be available for option contracts on securities which underlie Nasdaq or exchange-traded options qualifying under applicable rules for a position limit of [7,500] 22,500 option contracts; or

(iii) [10,500] 31,500 option contracts of the put class and the call class on the same side of the market covering the same underlying security providing that the [10,500] 31,500 contract position limit shall only be available for option contracts on securities which underlie Nasdaq or exchange-traded options qualifying under applicable rules for a position limit of [10,500] 31,500 option contracts; or

(iv) [20,000] 60,000 options contracts of the put and the call class on the same side of the market covering the same underlying security, providing that the [20,000] 60,000 contract position limit shall only be available for option contracts on securities which underlie Nasdaq or exchange-traded options qualifying under applicable rules for a position limit of [20,000] 60,000 option contracts; or

(v) [25,000] 75,000 options contracts of the put and the call class on the

same side of the market covering the same underlying security, providing that the [25,000] 75,000 contract position limit shall only be available for option contracts on securities which underlie Nasdaq or exchange-traded options qualifying under applicable rules for a position limit of [25,000] 75,000 option contracts; or

* * *

(ix) Conventional Equity Options

a. For purposes of this paragraph (b), standardized equity options contracts of the put class and call class on the same side of the market overlying the same security shall not be aggregated with conventional equity options contracts or FLEX Equity Options contracts overlying the same security on the same side of the market. Conventional equity options contracts of the put class and call class on the same side of the market overlying the same security shall be subject to a position limit equal to the greater of:

1. [three times] the basic limit of [4,500] 13,500 contracts, or

2. [three times] any standardized equity options position limit as set forth in subparagraphs (b)(3)(A)(ii)

through (v) for which the underlying security qualifies or would be able to qualify.

b. In order for a security not subject to standardized equity options trading to qualify for an options position limit of more than [4,500] 13,500 contracts, a member must first demonstrate to the Association's Market Regulation Department that the underlying security meets the standards for such higher options position limit and the initial listing standards for standardized options trading.

Endnotes

¹64 Fed. Reg. 2930 (January 19, 1999).

²See 64 Fed. Reg. 1842 (January 12, 1999) (approving File Nos. SR-CBOE-98-25, SR-Amex-98-22, SR-PCX-98-33, and SR-Phlx-98-36).

³63 Fed. Reg. 23317 (April 28, 1998).

⁴Position limits on FLEX equity options have been eliminated pursuant to a two-year pilot program. See 62 Fed. Reg. 48638 (September 16, 1997).

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INSTRUCTIONS

NASD CONDUCT RULE: 2860-1 (5) REPORTING OF OPTION POSITIONS

This rule is applicable to member transactions in **exchange-listed options** which are effected on an "access" basis (i.e., transactions effected by NASD members that conduct a business in exchange listed options but which are not members of any option exchange upon which options are listed and traded) and to all member transactions in **conventional, over-the-counter option contracts**. This rule requires every member to file a report on each business day following the establishment of long and/or short positions of 200 or more option contracts of the put class and the call class on the same side of the market in the same underlying security in each account in which the member has an interest; in each account of a partner, officer, director or employee of such member; and, in each customer account. Positions of 200 or more contracts, long or short, of the same class, not just the same series, should be reported.

It is important to include the tax identification number (social security number) as well as other information for each person having an interest in the account. The symbol (P) should be used to identify put options and the symbol (C) should be used to identify call options under the heading "Option Class/Type".

In aggregating options on the "same side of the market" long calls in any class of options should be combined with short puts of the same class and short calls should be combined with long puts to determine a reportable position. Long and short positions for the same class should not be netted or combined (e.g., both 200 contracts long and 200 contracts short for the same class in the same account should be reported and 100 contracts long and 100 contracts short for the same class in the same account should not be reported).

An option position summary report should be filed in each of the following situations:

(a) a long and/or short position of 200 or more contracts of the put class and the call class on the same side of the market is established in an account;

(b) there is an increase in a previously reported position (e.g., from 250 contracts to 275 contracts); or,

(c) there is a decrease in a previously reported position to a position less than 200 contracts (e.g., from 250 contracts to 199 contracts). Once a position has been reduced to less than 200 contracts, no subsequent position report would have to be filed until the account once again established a long/and or short position of 200 or more contracts of the put class and the call class on the same side of the market.

For more information regarding this report, see NASD Rules of Conduct 2860-1 (5) - Reporting of Option Positions.

This form may be duplicated at your convenience. Copies may also be obtained from your local NASD Regulation, Inc. District Office.

Completed reports should be sent to the attention of **Karen Herlihy, Brian Shute, Syvera O'Pharrow, Susan Polaski or Katherine Price** at NASD Regulation, Inc., Market Regulation Department, 9513 Key West Ave. Rockville, MD 20850 or sent via facsimile to 301-590-6481.

Any questions regarding the NASD Regulation's reporting requirements should be directed to Joseph Alotto at 301-590-6845.

SAMPLE REPORT

NAME OF FIRM: ABC BROKERAGE **FIRM SYMBOL:** ABCD **TRADE DATE:** 3/12/97
PREPARED BY : JOE SMITH **PHONE:** 212-212-2121 **REPORT DATE:** 3/12/97
(Indicate counterparty to transaction if other than reporting firm.)

TAX ID or Social Sec. #			ACCOUNT INFORMATION			OPTION CONTRACT INFORMATION							UNDERLYING SECURITY				
			Account Number	Name	Address	Long/Short	Number of Contracts	Put/Call	Sym/bol	Trade Date	Expiration Date	Strike Price	Trade Price per Contract	No. of Shares per Contract*	Open/Close	Long/Short	Number of Shares
23-1234567			AA-12345-010	ABC BROKERAGE	100 MAIN STREET NEW YORK, NY	SHORT	50	CALL	XYZ	3/5/97	3/6/98	10.25	1.9375	0		LONG	90,000
			AA-98765-101	JOHN DOE	100 MAIN STREET NEW YORK, NY	LONG	250	CALL	XYZ	3/5/97	3/6/98	10.25	1.9375	0			
						LONG	500	CALL	XYZ	3/5/97	3/6/98	10.39	1.15	0			
						LONG	100	CALL	XYZ	3/6/97	3/9/98	10.00	1.4375	0			
						LONG	50	CALL	XYZ	3/12/97	3/13/98	9.88	1.25	0			

* required if other than 100 shares per contract

NASD Notice to Members 99-21

The Nasdaq Stock Market Eliminates The SOES Five-Minute Presumption

Suggested Routing

- Senior Management
- Advertising
- Continuing Education
- Corporate Finance
- Executive Representatives
- Government Securities
- Institutional
- Insurance
- Internal Audit
- Legal & Compliance
- Municipal
- Mutual Fund
- Operations
- Options
- Registered Representatives
- Registration
- Research
- Syndicate
- Systems
- Trading
- Training
- Variable Contracts

Executive Summary

On January 13, 1999, The Nasdaq Stock Market, Inc. (Nasdaq®), filed a rule change with the Securities and Exchange Commission (SEC or Commission) that would eliminate the single investment decision aggregation presumption for Small Order Execution SystemSM (SOESSM) orders entered within five minutes of each other contained in National Association of Securities Dealers, Inc. (NASD®) *Notice to Members 88-61*.¹ The elimination of the presumption is effective immediately.

Questions regarding the elimination of the five-minute presumption should be directed to Robert E. Aber, Senior Vice President and General Counsel, Office of General Counsel, The Nasdaq Stock Market, at (202) 728-8290; or Thomas P. Moran, Assistant General Counsel, Office of General Counsel, The Nasdaq Stock Market, at (202) 728-8401.

Background And Summary

SOES was developed in 1984 to provide a simple and efficient means to execute the small agency orders of public customers at the inside quote. Trading is done automatically and is negotiation-free. SOES participation is mandatory for all Market Makers in Nasdaq National Market® securities and each Nasdaq issue is assigned a maximum SOES order share size limit of either 200, 500, or 1,000 shares which is determined by the particular trading characteristics of that security.

NASD Rule 4730(c)(3) prohibits the splitting of orders larger than the applicable SOES maximum share size order limit into smaller parts so as to make any of those smaller parts eligible for entry into SOES. For example, it is a violation of NASD rules to break up a 5,000-share order for a Nasdaq security having a 1,000-share SOES order entry limit into five separate 1,000-share seg-

ments and then enter each of those five 1,000-share segments into SOES. Likewise, the splitting of a 5,000-share order into a 4,000-share SelectNetSM order and a 1,000-share SOES order would, in Nasdaq's view, also violate the prohibition on order splitting.

In *Notice to Members 88-61*, the NASD, interpreting Rule 4730(c)(3), established a presumption that orders entered within five minutes of each other into any Nasdaq system were based on a single investment decision and that the share amounts purchased or sold by those trades were to be aggregated together to determine if the orders, when combined, violated Rule 4730's limits on SOES usage.

On January 13, 1999, Nasdaq filed a proposed rule change to eliminate the single investment decision aggregation presumption. Nasdaq eliminated the presumption in response to SEC concerns raised in communications with Nasdaq staff and NASD senior management about various aspects of the presumption including what the Commission perceived as the lack of guidelines as to how the presumption could ever be rebutted.² The Commission also questioned the continued use of such a presumption given the advent of the Actual Size Rule (ASR). The ASR now allows Market Makers to display the actual size of their trading interest in their quotes and replaced previous mandates that Market Makers display a minimum share size equal to the SOES order size of the quoted security.

Given the SEC's concerns about the practicability of rebutting the presumption, and the ASR's removal of artificial mandatory minimum quote increments which now increase the ability of Market Makers to manage their exposure to automatic order

execution, Nasdaq has determined to eliminate the presumption.

While eliminating the single investment decision presumption, it is important to note that the restrictions on splitting up larger orders to obtain SOES access contained in NASD Rule 4730(c)(3) remain in effect and, if violated, may still serve as the basis for disciplinary action by NASD Regulation, Inc. The elimination of

the presumption changes only the procedures for enforcing the rule, and makes no changes to the rule's substantive mandates. In short, the splitting of larger orders into smaller parts to obtain SOES access remains prohibited.

Endnotes

¹ See SEC Release No. 34-41015 (February 3, 1999), 64 FR 6415 (February 9, 1999).

² Letter from Richard R. Lindsey, Director, United States Securities and Exchange Commission, to Robert E. Aber, Vice President and General Counsel, The Nasdaq Stock Market, Inc. dated June 16, 1997.

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NASD Notice to Members 99-22

Maximum SOES Order
Sizes Set To Change
April 1, 1999

Suggested Routing

- Senior Management
- Advertising
- Continuing Education
- Corporate Finance
- Executive Representatives
- Government Securities
- Institutional
- Insurance
- Internal Audit
- Legal & Compliance
- Municipal
- Mutual Fund
- Operations
- Options
- Registered Representatives
- Registration
- Research
- Syndicate
- Systems
- Trading
- Training
- Variable Contracts

Executive Summary

Effective April 1, 1999, the maximum Small Order Execution SystemSM (SOESSM) order sizes for 383 Nasdaq National Market[®] (NNM) securities will be revised in accordance with National Association of Securities Dealers, Inc. (NASD[®]) Rule 4710(g).

For more information, please contact Nasdaq[®] Market Operations at (203) 378-0284.

Description

Under Rule 4710, the maximum SOES order size for an NNM security is 1,000, 500, or 200 shares, depending on the trading characteristics of the security. The Nasdaq Workstation II[®] (NWII) indicates the maximum SOES order size for each NNM security. The indicator "NM10," "NM5," or "NM2" displayed in NWII corresponds to a maximum SOES order size of 1,000, 500, or 200 shares, respectively.¹

The criteria for establishing maximum SOES order sizes are as follows:

- (1) a 1,000-share maximum order size shall apply to NNM securities on SOES with an average daily non-block volume of 3,000 shares or more a day, a bid price of less than or equal to \$100, and three or more Market Makers;
- (2) a 500-share maximum order size shall apply to NNM securities on SOES with an average daily non-block volume of 1,000 shares or more a day, a bid price of less than or equal to \$150, and two or more Market Makers; and
- (3) a 200-share maximum order size shall apply to NNM securities with an average daily non-block volume of less than 1,000 shares a day, a bid price of less than or equal to

\$250, and two or more Market Makers.

In accordance with Rule 4710, Nasdaq periodically reviews the maximum SOES order size applicable to each NNM security to determine if the trading characteristics of the issue have changed so as to warrant an adjustment. Such a review was conducted using data as of December 31, 1998, pursuant to the aforementioned standards. The maximum SOES order-size changes called for by this review are being implemented with three exceptions.

- First, issues were not permitted to move more than one size level. For example, if an issue was previously categorized in the 1,000-share level, it would not be permitted to move to the 200-share level, even if the formula calculated that such a move was warranted. The issue could move only one level to the 500-share level as a result of any single review.
- Second, for securities priced below \$1 where the reranking called for a reduction in the level, the maximum SOES order size was not reduced.
- Third, for the top 50 Nasdaq securities based on market capitalization, the maximum SOES order sizes were not reduced, regardless of whether the reranking called for a reduction.

In addition, with respect to initial public offerings (IPOs), the SOES order-size reranking procedures provide that a security must first be traded on Nasdaq for at least 45 days before it is eligible to be reclassified.

Thus, IPOs listed on Nasdaq within the 45 days prior to December 31, 1998, were not subject to SOES order-size reranking procedures.

Following is a listing of the 383 NNM issues that will have the maximum SOES order size changed on April 1, 1999.

Endnote

¹ Previously, Nasdaq Market Makers were required to maintain a minimum quotation

size for an NNM security in an amount equal to the maximum SOES order size for that security. See generally, NASD Rule 4613(a)(1) - (2). On July 15, 1998, the Securities and Exchange Commission approved an amendment to NASD Rule 4613(a)(1)(C), which reduced the minimum quotation size for all Nasdaq securities to one normal trad-

ing unit when a Market Maker is not displaying a limit order, and which thus eliminated the requirement that Market Makers quote a size equal to the maximum SOES order size.

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Maximum SOES Order Size Changes In NNM Securities All Issues In Alphabetical Order By Security Name (Effective April 1, 1999)

Symbol	Security Name	Old Level	New Level	Symbol	Security Name	Old Level	New Level
SRCEP	1ST SOURCE CAP I P	500	200	BMCCP	BANDO MCGLOC PFD A	200	500
TCHC	21ST CENTURY HLDG	200	500	BNSC	BANK OF SANTA CLAR	200	500
TFSM	24/7 MEDIA INC	500	1000	BWFC	BANK WEST FIN CORP	500	1000
A				BKFR	BANKFIRST CORP	200	500
ACLNF	A C L N LIMITED	500	1000	BAYB	BAY BANCSHARES	1000	500
ABGX	ABGENIX INC	500	1000	BCSB	BCSB BANKCORP	500	1000
ACTU	ACTUATE SOFTWARE	500	1000	BEBE	BEBE STORES INC	500	1000
ADGO	ADAMS GOLF INC	500	1000	BNHNA	BENIHANA INC A	500	1000
AAABB	ADMIRALTY BCP B	200	500	BYND	BEYOND.COM CORP	500	1000
ALGX	ALLEGIANCE TELECOM	500	1000	BEERF	BIG ROCK BREWERY LTD	200	500
ALLN	ALLIN COMMUNICATION	1000	500	BVEW	BINDVIEW DEV CORP	500	1000
AHAA	ALPHA INDS INC	500	1000	RINO	BLUE RHINO CORP	500	1000
AIRS	AMERICAN AIRCARRIE	500	1000	BOGN	BOGEN COMMUN INT	500	1000
AXTI	AMERICAN XTAL TECH	500	1000	BOGNW	BOGEN COMMUN WT	500	1000
AMPI	AMPLICON INC	1000	500	BORAY	BORAL LTD ADS	500	200
AFSC	ANCHOR FIN CORP	500	1000	BPFH	BOSTON PVT FIN	1000	500
ANDR	ANDERSEN GROUP INC	500	200	BOYD	BOYD BROS TRANS IN	1000	500
ANSR	ANSWERTHINK CONS	500	1000	BNBC	BROAD NATL BNCP	500	1000
ASYCF	ARCHITEL SYST CORP	500	1000	BCST	BROADCAST.COM	500	1000
ARSCW	ARIS CORP WTS	500	1000	BRCM	BROADCOM CORP CL A	1000	500
ASYM	ASYMETRIX LEARNING	500	1000	C			
ATPC	ATHEY PRODUCTS CP	1000	500	CBBI	C B BANCSHARES	1000	500
ADSC	ATLANTIC DATA SVCS	500	1000	CEMX	C E M CP	1000	500
AIII	AUTOLOGIC INFO INT	500	1000	CERB	C E R B C O INC	1000	500
AXHM	AXIOHM TRANS SOL	200	500	CFCI	C F C INTL INC	500	1000
AZTC	AZTEC TECH PTNRS	500	1000	FLYAF	C H C HELICO CL A	500	200
B				CNBF	C N B FINANCIAL CP	1000	500
BESIF	B E SEMICON ORD SHRS	200	500	CRHCY	C R H PLC ADR	500	1000
BFEN	B F ENTERPRISES IN	200	500	CSP1	C S P INC	1000	500
BHAG	B H A GP HLDGS	500	1000	CIBN	CALIFORNIA IND BNC	200	500
BNBCP	B N B CAP TR PFD	500	200	CNEBF	CALL-NET ENTRPR CL B	200	500
BBAR	BALANCE BAR CO	500	1000	CNTL	CANTEL INDS INC	1000	500
BPAO	BALDWIN PIANO ORGA	500	1000	CCBG	CAPITAL CITY BANK	1000	500
				CSWC	CAPITAL SOUTHWEST	500	1000
				CPRK	CAPROCK COMM	200	500
				CANI	CARREKER-ANTINORI	500	1000

Symbol	Security Name	Old Level	New Level	Symbol	Security Name	Old Level	New Level
CRRB	CARROLLTON BANCORP	200	500	E			
CASA	CASA OLE' RESTRS I	1000	500	EGLB	EAGLE BANCGROUP IN	500	1000
CECX	CASTLE ENERGY CP	1000	500	EWBX	EARTH WEB INC	200	500
CLPA	CELL PATHWAYS INC	200	500	ELON	ECHELON CORP	500	1000
CFAC	CENTRAL FIN ACCEPT	500	1000	ECLP	ECLIPSYS CORP	500	1000
CITZ	CFS BANCORP INC	500	1000	ELBO	ELECTRONICS BOUT	500	1000
CHERA	CHERRY CP CL A	1000	500	ENBRF	ENBRIDGE INC	500	200
CNBA	CHESTER BANCORP IN	1000	500	ENGEF	ENGEL GNRL DEV SE	500	1000
CITC	CITADEL COMMUN CP	500	1000	ENSR	ENSTAR INC	1000	500
CHCOP	CITY HLDG CAP TR	200	500	ENTU	ENTRUST TECHS INC	200	500
CIVC	CIVIC BANCORP	1000	500	EQSB	EQUITABLE FED SAV	500	1000
CLKB	CLARK/BARDES HLDGS	200	500	ESBF	ESB FINANCIAL	1000	500
CLRS	CLARUS CORP	500	1000	ESCA	ESCALADE INC	1000	500
CCHE	CLINICHEM A	500	1000	EMCC	EUROPEAN MICRO HLD	500	1000
CMGI	CMG INC	1000	500	EXCO	EXCO RESOURCES INC	200	500
CNYF	CNY FINANCIAL CP	200	500				
CTBP	COAST BANCORP	500	200	F			
CTSH	COGNIZANT TECH SOL	500	1000	FMCO	F M S FINANCIAL CP	1000	500
CSON	COHESION TECHS	500	1000	FSBI	FIDELITY BANCORP I	200	500
CLTX	COLLATERAL THERAP	500	1000	FFFLP	FIDELITY CAP TR I	500	1000
COBZ	COLORADO BUS BCSHS	500	1000	FMST	FINISHMASTER INC	500	1000
CBBO	COLUMBIA BANCORP	200	500	FBSI	FIRST BANCSHARES I	500	200
CFKY	COLUMBIA FIN KY	1000	500	FBCG	FIRST BKG CO SE GA	200	500
CMTO	COM21 INC	500	1000	BUSE	FIRST BUSEY CL A	200	500
CLBK	COMMERCIAL BANKSHR	1000	500	FFES	FIRST FED S L E.HT	500	1000
CFIC	COMMUNITY FIN CP	500	1000	THFF	FIRST FIN CP (IN)	1000	500
CFBC	COMMUNITY FIRST BN	1000	500	FTFN	FIRST FIN CP (RI)	200	500
CDIR	CONCEPTS DIRECT	500	1000	FFIN	FIRST FINL BKSHS I	500	1000
COOP	COOPERATIVE BKSHS	500	1000	FFHS	FIRST FRANKLIN CP	500	200
COMMF	CORECOMM LTD	200	500	FGHC	FIRST GEORG HLDGS	1000	500
DLVRY	CORTECS PLC ADS	500	1000	FKAN	FIRST KANSAS FIN	500	1000
CULS	COST-U-LESS INC	500	1000	CASH	FIRST MIDWST FIN I	1000	500
CRRC	COURIER CP	1000	500	FMSB	FIRST MUTUAL SVGS	1000	500
CYOE	COYOTE NETWORK SYS	200	500	FRGB	FIRST REGIONAL BNC	500	200
CRDT	CREDITRUST CORP	500	1000	FUNC	FIRST UNITED CORP	1000	500
CTBIP	CTBI PFD CAP TRUST	500	200	FLBK	FLORIDA BANKS INC	500	1000
CMLS	CUMULUS MEDIA INC	500	1000	FCIN	FLOUR CITY INTL	500	1000
CURTF	CURTIS INTL LTD	200	500	FKKY	FRANKFORT FRST	1000	500
COOL	CYBERIAN OUTPOST	500	1000	FSVBP	FRANKLIN FIN PD A	1000	500
D				FREEY	FREEPAGES GR PLC ADR	200	500
DECC	D & E COMMUNICATIO	500	1000	FTBK	FRONTIER FIN CORP	1000	500
DLTDF	DELPHI INTL LTD	200	500	FFHH	FSF FINANCIAL CP	1000	500
DCBI	DELPHOS CITIZENS B	1000	500	FTNB	FULTON BANCORP INC	500	1000
DCBK	DESERT COMMUNITY B	500	200	G			
DRIV	DIGITAL RIVER INC	500	1000	GLDBP	GBCI CAP TR PFD	200	500
DOCDF	DOCDATA NV	500	1000	GFLSP	GCB CAP TRUST PFD	200	500
DXCPO	DYNEX CAPITAL PFD B	500	1000	GENBB	GENESEE CP B	500	1000

Symbol	Security Name	Old Level	New Level	Symbol	Security Name	Old Level	New Level
GZMO	GENZYME MOLEC	200	500	IYCOY	ITO YOKADO CO ADR	500	1000
GCTY	GEOCITIES	500	1000	CMIV	IVI CHECKMATE CORP	500	1000
GSCI	GEOSCIENCE CP	1000	500	XOSY	IXOS SOFTWARE ADS	200	500
GIGX	GIGA INFO GROUP	500	1000				
GFCO	GLENWAY FIN CP	500	200	J			
GBLX	GLOBAL CROSSING	500	1000				
GISX	GLOBAL IMAGING SYS	500	1000	JEFFP	J B I CAPITAL TR PFD	500	200
VINT	GOLDEN ST VINT B	500	1000	JPSP	JPS PACKAGING CO	500	1000
GNCNF	GORAN CAPITAL INC	500	1000	JPST	JPS TEXTILE GRP	500	1000
GUCO	GRAND UNION CO	200	500				
GTPS	GREAT AMER BNCP IN	1000	500	K			
GFLS	GREATER COMMUNITY	500	1000				
H				KASP	KASPER ASL LTD	500	1000
				KESI	KENTUCKY ELEC STEE	500	1000
HPSC	H P S C INC	1000	500	KNAP	KNAPE AND VOGT MFG	1000	500
HACHA	HACH COMPANY CL A	500	1000	NITE	KNIGHT/TRIMARK GR	500	1000
HAHN	HAHN AUTOMOTIVE	200	500	KOSS	KOSS CP	1000	500
HCRC	HALLWOOD CONS RES	500	200	L			
HNBC	HARLEYSVILLE NATL	500	1000				
HFGI	HARRINGTON FIN GRP	1000	500	LXBK	L S B BANCSHARES N	1000	500
HAVA	HARVARD IND NEW	200	500	LABH	LAB HOLDINGS INC	1000	500
HAST	HASTINGS ENT INC	500	1000	LAND	LANDAIR CORP	200	500
HMLK	HEMLOCK FED FIN CO	1000	500	LARK	LANDMARK BSCHS INC	500	200
HTBK	HERITAGE COMMERCE	500	200	LWIN	LEAP WIRELESS	200	500
HBNK	HIGHLAND BANCORP	500	200	LGSAF	LGS GROUP CL A	200	500
HORT	HINES HORTICULTURE	500	1000	LIBB	LIBERTY BANCORP	500	1000
HOEN	HOENIG GP INC	1000	500	LIQB	LIQUI BOX CP	500	1000
HLGCF	HOLLINGER INC	500	200	LMIA	LMI AEROSPACE INC	500	1000
HEPH	HOLLIS-EDEN PHARM	500	1000	LONDY	LONDON INTL PLC ADR	200	500
HOLO	HOLOPAK TECHS INC	500	1000	LICB	LONG ISLAND FIN	500	1000
HBFW	HOME BANCORP	1000	500	LSBI	LSB FINANCIAL CP	500	200
HLFC	HOME LOAN FINL CP	500	1000	M			
HCAR	HOMETOWN AUTO CL A	500	1000				
HCOW	HORIZON ORGANIC HD	500	1000	MFRI	M F R I INC	500	1000
HRBT	HUDSON RVR BNCP	500	1000	MLCH	M L C HOLDINGS INC	500	1000
I				MKFCF	MACKENZIE FIN CP	500	200
				MTLX	MARINE TRANSPORT	500	1000
ICOGF	ICO GLOBAL COMM	500	1000	FMARP	MARINER CAP TR PFD	500	1000
IDGB	IDG BOOKS WRLDWIDE	500	1000	MVII	MARK VII INC	1000	500
INDBP	INDEP CAP TR I PFD	200	500	MARSA	MARSH SUPERMARKETS A	1000	500
INDYY	INDEP ENERGY ADS	500	1000	MARSB	MARSH SUPERMARKETS B	500	1000
INHO	INDEPENDENCE HLDG	500	200	MASB	MASSBANK CP	500	1000
IHIIZ	INDUSTRIAL HLDG WT	200	500	MAGR	MASTER GRAPICS INC	500	1000
IMGK	INTERACTIVE MAGIC	500	1000	MATE	MATEWAN BCSHS INC	200	500
INTG	INTERGROUP CP THE	200	500	MAXE	MAX ERMAS RESTR IN	1000	500
IPLY	INTERPLAY ENT CORP	500	1000	MAXC	MAXCO INC	500	1000
IVBK	INTERVISUAL BOOKS	500	1000	MXTR	MAXTOR CORP	500	1000
ICUB	INTL INTEGRATION	500	1000	MFLR	MAYFLOWER CO OP BK	200	500
ISKO	ISCO INC	500	1000	MDCA	MDC COMMUN CORP	200	500

Symbol	Security Name	Old Level	New Level	Symbol	Security Name	Old Level	New Level
MBIA	MERCHANTS BNCP IL	1000	500	PERM	PERMANENT BNCP INC	500	1000
MRET	MERIT HOLDING CP	1000	500	PHLYL	PHIL CONS GR PRIDE	500	200
METFP	METROPOLITAN CAP	1000	500	PILT	PILOT NETWORK SVC	500	1000
MSTR	MICROSTRATEGY INC	500	1000	PHFCP	PITT HOME CAP TR	200	500
MDST	MID-STATE BCSH	500	1000	POSIF	POINT OF SALE LTD	500	1000
MBSI	MILLER BUILDING SY	1000	500	PNTE	POINTE FINCL CORP	500	1000
MNMD	MINIMED INC	1000	500	BPOPP	POPULAR INC PFD A	500	200
MMAN	MINUTEMAN INTL INC	200	500	PLSIA	PREMIER LASER SY	500	1000
MIPS	MIPS TECHS INC	500	1000	PRENP	PRICE ENTERPR PFD	200	500
MCRI	MONARCH CASINO	500	1000	PSMT	PRICESMART INC	1000	500
MUEL	MUELLER PAUL CO	500	200	PDII	PROF DETAILING INC	500	1000
LABL	MULTI COLOR CP	500	1000	PRSP	PROSPERITY BNCSSH	200	500
N				PAMC	PROVIDENT AMER	200	500
NSDB	N S D BANCORP INC	200	500	PSBI	PSB BANCORP INC	500	1000
NSSC	NAPCO SEC SYS INC	1000	500	PULB	PULASKI FINL CORP	500	1000
NARA	NARA BANK N A	1000	500	PLFC	PULASKI FURNITURE	500	1000
NADX	NATL DENTEX CP	500	1000	Q			
NTOL	NATROL INC	500	1000	QCFB	Q C F BANCORP INC	500	200
FLYR	NAVIGANT INTL INC	500	1000	QLGC	QLOGIC CP	1000	500
NERAY	NERA AS ADR	500	1000	R			
NTBK	NET.BANK INC	200	500	RGFCP	R&G FIN CP PFD A	200	500
NETG	NETGRAVITY INC	500	1000	RAGS	RAG SHOPS INC	1000	500
NSOL	NETWORK SOLUTIONS	1000	500	RWKS	RAILWORKS CORP	500	1000
NBSC	NEW BRUNSWICK SCI	1000	500	RBOW	RAINBOW RENTALS	500	1000
NRTI	NOONEY REALTY TRUS	500	200	RDGE	READING ENT INC	500	1000
NSYS	NORTECH SYSTEMS IN	1000	500	RIGX	REALTY INFO GROUP	500	1000
NOVB	NORTH VALLEY BNCP	500	1000	REBC	REDWOOD EMPIRE BCP	200	500
NEIB	NORTHEAST IND BNCP	1000	500	RBCAA	REPUBLIC BCP CL A	500	1000
NSCF	NORTHSTAR COMPUTER	500	1000	RSTO	RESTORATION HARDWR	500	1000
TONSF	NOVAMERICAN STEEL	500	1000	RTSTD	RIGHT START INC (THE)	500	1000
O				RIFL	ROYAL PRECISION INC	500	1000
OLGR	OILGEAR CO	200	500	RUSMF	RUSSELL METALS	500	200
ODFL	OLD DOMINION FREIG	1000	500	S			
OLCWF	OLICOM A/S WTS	500	1000	SGVB	S G V BANCORP INC	500	200
FIBR	OSICOM TECH	500	1000	STVI	S T V GROUP INC	500	1000
OWOS	OWOSSO CP	500	1000	SAVB	SAVANNAH BNCP INC	500	200
P				SCCX	SCC COMMUNICATIONS	500	1000
PBCI	PAMRAPO BNCP INC	1000	500	SAVO	SCHULTZ SAV O STOR	500	1000
PGEOF	PARADIGM GEOPHYS	500	1000	STIZ	SCIENTIFIC TECH IN	500	1000
PCCIP	PCC CAPITAL I PFD	200	500	SCOT	SCOTT AND STRINGF	1000	500
PNNW	PENNICHUCK CP	200	500	SEWY	SEAWAY FOOD TOWN I	1000	500
PPCO	PENWEST PHARM	500	1000	SNFCA	SECURITY NATL FINL A	200	500
PSFC	PEOPLES-SIDNEY FIN	1000	500	SEVN	SEVENSON ENVIRONME	1000	500
PEBK	PEOPLES BANK	200	500	SFNCA	SIMMONS FIRST NATL A	1000	500
PEBO	PEOPLES BNCP INC	1000	500	SKYEY	SKYEPHARMA PLC	500	1000

Symbol	Security Name	Old Level	New Level	Symbol	Security Name	Old Level	New Level
SECBY	SOCIETE EUR ADS B	200	500	ULTI	ULTIMATE SOFTWARE	500	1000
SWRX	SOFTWARES INC	500	1000	UCFC	UNITED COMM FIN CP	500	1000
SOMR	SOMERSET GP INC TH	200	500	UNEWY	UNITED NEWS & MEDIA	500	200
SFFS	SOUND FED BANCORP	200	500	UNTY	UNITY BANCORP INC	200	500
SMBC	SOUTHERN MO BNCP I	1000	500				
OKSB	SOUTHWEST BNCP INC	1000	500	V			
SPZN	SPEIZMAN INDS INC	1000	500	VSEC	V S E CP	200	500
STHLY	STET HELL ADS	500	1000	VDRY	VACU DRY CO	200	500
SCSAY	STOLT COMEX ADS	500	1000	VNGI	VALLEY NATL GASES	1000	500
SUBK	SUFFOLK BNCP	500	1000	VALU	VALUE LINE INC	500	1000
SNBCP	SUN CAPITAL TR PFD	500	200	VTRAO	VBC CAPITAL I CAP	500	200
SNBCO	SUN CAPITL TR II	200	500	VENT	VENTURIAN CP	500	1000
SUNH	SUNDANCE HOMES INC	500	1000	VITX	VI TECHNOLOGIES	500	1000
SNRS	SUNRISE TECHNOLOGIES	500	1000	VLGEA	VILLAGE SUPER MKT A	1000	500
SPPR	SUPERTEL HOSPITALI	500	1000	VBNJ	VISTA BANCORP INC	1000	500
SIVBP	SVB CAPITAL I PFD	500	1000	W			
SVBF	SVB FIN SVCS INC	500	200	WVFC	W V S FINANCIAL CP	1000	500
SWMAY	SWEDISH MATCH AB ADR	500	1000	WBCO	WASHINGTON BKG CO	500	1000
SYNM	SYNTROLEUM CORP	500	1000	WCNX	WASTE CONNECTIONS	500	1000
T				WEFC	WELLS FINANCIAL CP	1000	500
THRD	T F FINANCIAL CP	500	1000	WCSTF	WESCAST INDS INC A	200	500
TSATB	TCI SAT ENT SER B	200	500	WEBK	WEST ESSEX BANCORP	200	500
TSRC	TECHNISOURCE INC	500	1000	WOFC	WESTERN OHIO FIN	1000	500
TBFC	TELEBANC FIN CP	500	1000	WTFCP	WINTRUST CAP PFD	200	500
TIWIF	TELESYSTEM INTL	500	1000	WORK	WORKFLOW MGMT INC	500	1000
TERN	TERAYON COMMUN SYS	200	500	WHRTF	WORLD HEART CORP	500	1000
TGLO	THEGLOBE.COM INC	200	500	X			
THTL	THISTLE GROUP HLDG	500	1000	XCED	XCEED INC	500	1000
TWNE	TOWNE SVCS INC	500	1000	Z			
TRKA	TRAK AUTO CP	500	1000	ZVXI	ZEVEX INTL INC	200	500
TRED	TREADCO INC	500	1000				
TBCOL	TRIATHALON BD DEP SH	500	200				
TFCO	TUFCO TECHS INC	500	1000				
TWTR	TWEETER HOME ENT	500	1000				
U							
UFPT	U F P TECH INC	500	1000				
UCBH	UCBH HOLDINGS INC	200	500				

NASD Notice to Members 99-23

SEC Approves New
Arbitration Fees; Effective
March 18, 1999

Suggested Routing

- Senior Management
- Advertising
- Continuing Education
- Corporate Finance
- Executive Representatives
- Government Securities
- Institutional
- Insurance
- Internal Audit
- Legal & Compliance
- Municipal
- Mutual Fund
- Operations
- Options
- Registered Representatives
- Registration
- Research
- Syndicate
- Systems
- Trading
- Training
- Variable Contracts

Executive Summary

On February 16, 1999, the Securities and Exchange Commission (SEC) approved amendments to the fee schedules for customer and member arbitrations contained in Rules 10205 and 10332 of the National Association of Securities Dealers, Inc. (NASD[®]) Code of Arbitration Procedure (Code). This is the first increase in these fees since 1990. The filing fees and hearing session deposits are being increased to permit the NASD to cover more of its costs of operating the arbitration forum from revenue generated by the users of the forum; however, a large portion of the operating costs are covered by surcharges and other fees imposed only on members. In addition, even though filing fees and hearing session deposits are being increased, the small percentage of arbitration fee revenue paid by customers versus the large percentage paid by members will remain approximately the same as in the past. Arbitrator honoraria are also being increased in order to attract and retain qualified arbitrators willing to devote the time necessary to thoroughly consider arbitration claims.

The filing fee and hearing session deposit increases will be effective on March 18, 1999, for all cases filed on or after the effective date of the amendments. The arbitrator honoraria increases will be effective for arbitrators appointed to hear cases filed on or after the effective date of the amendments. The text of the amendments, including the new fee schedules, follows this *Notice*.

Questions regarding this *Notice* may be directed to Tom Wynn, Associate Director, Office of Dispute Resolution, NASD Regulation, Inc. (NASD RegulationSM) at (212) 858-4392; or Elliott R. Curzon, Assistant General Counsel, NASD Regulation, at (202) 728-8451.

Background

Since its adoption of the Code in 1968, the NASD has subsidized a substantial portion of the cost of the arbitration program from general member assessment revenue. The current filing fee and hearing session deposit schedules in the Code have been in effect since 1990. Under the current schedule, only a relatively small portion of the cost of the program is paid by filing fees and hearing session deposits.

Because the NASD believes that the cost of the arbitration process should be borne by the users of the program, the organization has been engaged in an effort to develop a fee structure that accomplishes that goal without imposing significant burdens on public customers who bring arbitration claims to the NASD's forum. The first step toward that goal occurred in January 1998 when the NASD adopted a new process fee imposed entirely on member firms named as parties to arbitration proceedings (see *Notice to Members 98-01* (January 1998)). In addition, in July 1997, the NASD substantially increased the surcharge on members named as parties to arbitration proceedings. Both of these fees shift much of the cost of the arbitration program from general membership assessment revenue collected from all NASD members to specific fees imposed on members which are parties to arbitration proceedings.

The final step in revamping the fee structure is to increase the filing fees and hearing session deposits required for customer arbitrations and member arbitrations. In all cases, the NASD is attempting as much as possible to match the filing fees to the actual costs the NASD incurs in the average case. Similarly, the new hearing session deposit amounts reflect the NASD's actual costs of conducting hearings. Also, the initial costs to customers filing

arbitration claims will not increase substantially relative to the amount of the claim. Finally, because the NASD's experience shows that the large majority of fees assessed by arbitrators in an award are assessed against members and not customers, the NASD believes that the overall impact of the fee increases on customers will be small.

Text Of Amendments

(Note: New text is underlined; deletions are bracketed.)

IM-10104. Arbitrator's Honorarium

All persons [serving on panels of arbitrators pursuant to Rule 10104 of] selected to serve as arbitrators pursuant to the Association's Code of Arbitration Procedure shall be paid an honorarium for each hearing session (including a prehearing conference) in which they participate [while in the performance of said duties].

The honorarium shall be \$[150]200 for [a single] each hearing session [, \$225 for a double session], \$50 for travel to a canceled hearing, and \$[50]75 per day additional honorarium to the chairperson of the panel. The honorarium for a case not requiring a hearing [is \$75 per case] shall be \$125.

10205. Schedule of Fees for Industry and Clearing Controversies

(a) At the time of filing a Claim, Counterclaim, Third Party Claim, or Cross-Claim in an industry or clearing controversy which is required to be submitted to arbitration before the Association as set forth in Rule 10201, above, a party who is a member shall pay a non-refundable filing fee and shall remit a hearing session deposit to the Association in the amounts stated in paragraph (k) unless such fee or deposit is specifically waived by the Director of Arbitration. A party who is an associated person shall pay a non-refundable filing fee and shall pay a hearing session deposit in the amounts specified for customer claimants in Rule 10332. If the associated person is a joint claimant with a member, the member shall pay a non-refundable filing fee and shall pay a hearing session deposit in the amounts specified in paragraph (k) of this Rule. Where multiple hearing sessions are required, the arbitrator(s) may require any of the parties to make additional hearing deposits for each additional hearing session. In no event shall the amount deposited by all parties per hearing session exceed the amount of the largest initial hearing deposit made by any party under the paragraph (k) below.

(b) No change

(c) No change

(d) No change

(e) If the dispute, claim, or controversy does not involve, disclose, or specify a money claim, the non-refundable filing fee assessed on a party who is a member shall be \$500. If the dispute, claim, or controversy does not involve, disclose, or specify a money claim, the hearing session deposit to be remitted by a party shall be \$1000 [\$600]. These amounts may be adjusted by the Director of Arbitration or the panel of arbitrators may require the maximum amount specified in the schedule [\$1,000].

(f) No change

(g) No change

(h) No change

(i) If an eligible matter is submitted for arbitration as a large and complex case, under the procedures set forth in Rule 10334, or under procedures agreed upon by the parties, following the Administrative Conference specified in Rule 10334(b), the fees and deposits for such matter shall be those set forth in the schedule of fees for claims over \$10,000,000 [\$5,000,000].

(j) No change

(k) Schedule of Fees

Schedule of Fees

Amount in Dispute (Exclusive of Interest and Expenses)	Claim Filing Fee	Deposit for Cases to be Decided on the Paper Record		Hearing Session Deposit	
		[Simplified ¹]	One Arbitrator ^{1[2]}	Three Arbitrators ^{2[3]}	
\$.01 -- \$1,000	\$ 200 [500]	\$ 25 [75]	\$ 25 [300]	NA	
\$1,000.01-\$2,500	\$ 300 [500]	\$ 50 [75]	\$ 50 [300]	NA	
\$2,500.01-\$5,000	\$ 400 [500]	\$ 125 [75]	\$ 125 [300]	NA	
\$5,000.01-\$10,000	\$ 500	\$ 250 [75]	\$ 250 [300]	NA	
\$10,000.01-\$25,000	\$ 750	\$ 300	\$ 450	NA	
\$25,000.01-\$30,000	\$1,000 [500]	NA	\$ 450 [300]	\$ 600	
\$30,000.01-\$50,000	\$1,000 [500]	NA	\$ 450 [300]	\$ 600	
\$50,000.01- \$100,000	\$1,000 [500]	NA	\$ 450 ³ [300 ⁴]	\$ 750 [600]	
\$100,000.01-\$500,000	\$1,000 [500]	NA	\$ 450 ³ [300 ⁴]	\$1,125 [750]	
\$500,000.01-\$1,000,000	\$1,250	NA	\$ 450 ³	\$1,200	
\$1,000,000.01-\$5,000,000	\$2,000 [500]	NA	\$ 450 ³ [300 ⁴]	\$1,200 [1,000]	
[Over]\$5,000,000.01-					
\$10,000,000.00	\$2,500 [500]	NA	\$ 450 ³ [300 ⁴]	\$1,200 [1,500]	
Over \$10,000,000	\$5,000	NA	\$ 450 ³	\$1,200	

¹Simplified Arbitration (Without Hearing)]

^{1[2]}The dispute is resolved by o[A]ne a[A]rbitrator per hearing session, including pre-hearing conferences. [(Per Hearing Session)]

^{2[3]}The dispute is resolved by t[T]hree [or more] a[A]rbitrators per hearing session. [(Per hearing session)]

^{3[4]}Fee applies only to p[P]re-hearing c[C]onferences [Only] with a single arbitrator.

* * * *

10332. Schedule of Fees for Customer Disputes

(a) No change

(b) No change

(c) No change

(d) No change

(e) If the dispute, claim, or controversy does not involve, disclose, or specify a money claim, the non-refundable filing fee for a public customer shall be \$250 and the non-refundable filing fee for an industry party shall be \$500[.00]. The hearing session deposit to be remitted by a party shall be \$1000 [\$600]

or such greater or lesser amount as the Director of Arbitration or the panel of arbitrators may require, but shall not exceed the maximum amount specified in the schedule

(f) No change

(g) No change

(h) If an eligible matter is submitted for arbitration as a large and complex case under the procedures set forth in Rule 10334, or under procedures agreed upon by the parties, following the Administrative Conference specified in Rule 10334(b), the fees and deposits for such matter shall be those set forth in the schedule of

fees for claims over \$10,000,000 [\$5,000,000].

(i) No change

(j) No change

(k) Schedule of Fees

For purposes of the schedule of fees, the term "claim" includes Claims, Counterclaims, Third Party Claims, and Cross-Claims. Any such claim made by a customer or associated person is treated as a customer claim for purposes of the schedule of fees. Any such claim made by a member [or associated person of a member] is an industry claim.

Customer or Associated Person Claimant

Amount in Dispute (Exclusive of Interest and Expenses)	Claim Filing Fee	Deposit for Cases to be Decided on the Paper Record		Hearing Session Deposit	
		[Simplified ¹]	One Arbitrator ^{1[2]}	Three Arbitrators ^{2[3]}	
\$.01 -- \$1,000	\$ 25 [15]	\$ 25 [15]	\$ 25 [15]	NA	
\$1,000.01-\$2,500	\$ 25	\$ 50 [25]	\$ 50 [25]	NA	
\$2,500.01-\$5,000	\$ 50	\$ 125 [75]	\$ 125 [100]	NA	
\$5,000.01-\$10,000	\$ 75	\$ 250 [75]	\$ 250 [200]	NA	
\$10,000.01-\$25,000	\$125 [100]	\$ 300 [NA]	\$ 450	NA	
\$25,000.01-\$30,000	\$150	NA	\$ 450 [300]	\$ 600 [400]	
\$30,000.01-\$50,000	\$175 [120]	NA	\$ 450 [300]	\$ 600 [400]	
\$50,000.01-\$100,000	\$225 [150]	NA	\$ 450 ³ [300 ⁴]	\$ 750 [500]	
\$100,000.01-\$500,000	\$300 [200]	NA	\$ 450 ³ [300 ⁴]	\$1,125 [750]	
\$500,000.01-\$1,000,000	\$375 [250]	NA	\$ 450 ³ [300 ⁴]	\$1,200 [1,000]	
\$1,000,000.01-\$3,000,000	\$500	NA	\$ 450 ³	\$1,200	
\$3,000,000.01-\$5,000,000	\$600	NA	\$ 450 ³	\$1,200	
[Over]\$5,000,000.01- \$10,000,000	\$600 [300]	NA	\$ 450 ³ [300 ⁴]	\$1,200 [1,500]	
Over \$10,000,000	\$600	NA	\$ 450 ³	\$1,200	

¹Simplified Arbitration (Without Hearing)]

^{1[2]}The dispute is resolved by o[O]ne a[A]rbitrator per hearing session, including pre-hearing conferences. [(Per Hearing Session)]

^{2[3]}The dispute is resolved by t[T]hree [or more] a[A]rbitrators per hearing session. [(Per hearing session)]

^{3[4]}Fee applies only to p[P]re-hearing c[C]onferences [Only] with a single arbitrator.

Member [Industry] Claimant

Amount in Dispute (Exclusive of Interest and Expenses)	Claim Filing Fee	Deposit for Cases to be Decided on the Paper Record		Hearing Session Deposit	
		[Simplified ¹]	One Arbitrator ^{1[2]}	Three Arbitrators ^{2[3]}	
\$.01 -- \$1,000	\$ 200 [500]	\$ 25 [75]	\$ 25 [300]	NA	
\$1,000.01-\$2,500	\$ 300 [500]	\$ 50 [75]	\$ 50 [300]	NA	
\$2,500.01-\$5,000	\$ 400 [500]	\$ 125 [75]	\$ 125 [300]	NA	
\$5,000.01-\$10,000	\$ 500	\$ 250 [75]	\$ 250 [300]	NA	
\$10,000.01-\$25,000	\$ 750	\$ 300	\$ 450	NA	
\$25,000.01-\$30,000	\$1,000 [500]	NA	\$ 450 [300]	\$ 600	
\$30,000.01-\$50,000	\$1,000 [500]	NA	\$ 450 [300]	\$ 600	
\$50,000.01- \$100,000	\$1,000 [500]	NA	\$ 450 ³ [300 ⁴]	\$ 750 [600]	
\$100,000.01-\$500,000	\$1,000 [500]	NA	\$ 450 ³ [300 ⁴]	\$1,125 [750]	
\$500,000.01-\$1,000,000	\$1,250		\$ 450 ³	\$1,200	
\$1,000,000.01-\$5,000,000	\$2,000 [500]	NA	\$ 450 ³ [300 ⁴]	\$1,200 [1,000]	
[Over]\$5,000,000.01- \$10,000,000	\$2,500 [500]	NA	\$ 450 ³ [300 ⁴]	\$1,200 [1,500]	
Over \$10,000,000	\$5,000		\$ 450 ³	\$1,200	

¹Simplified Arbitration (Without Hearing)]

^{1[2]}The dispute is resolved by o[O]ne a[A]rbitrator per hearing session, including pre-hearing conferences. [(Per Hearing Session)]

^{2[3]}The dispute is resolved by t[T]hree [or more] a[A]rbitrators per hearing session. [(Per hearing session)]

^{3[4]}Fee applies only to p[P]re-hearing c[C]onferences [Only] with a single arbitrator.

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NASD Notice to Members 99-24

Fixed Income Pricing System Additions, Changes, And Deletions As Of January 21, 1999

Suggested Routing

- Senior Management
- Advertising
- Continuing Education
- Corporate Finance
- Government Securities
- Institutional
- Insurance
- Internal Audit
- Legal & Compliance
- Municipal
- Mutual Fund
- Operations
- Options
- Registered Representatives
- Registration
- Research
- Syndicate
- Systems
- Trading
- Training
- Variable Contracts

As of January 21, 1999, the following bonds were added to the Fixed Income Pricing SystemSM (FIPS[®]).

Symbol	Name	Coupon	Maturity
ADLA.GL	Adelphia Communications Corp. Series B	8.125	07/15/03
AECR.GA	American Eco Corp. Series B	9.625	05/15/08
AEUS.GA	Aetna Industries Inc.	11.875	10/01/06
AKIH.GA	Aki Holding Corp.	13.500	07/01/09
AMCU.GA	American Communication LLC Series B	10.250	06/30/08
APOA.GA	Apcoa Inc.	9.250	03/15/08
ARIP.GA	American President Co. Ltd	7.125	11/15/03
ARIP.GB	American President Co. Ltd	8.000	01/15/24
ATAC.GB	Aftermarket Technology Corp.	12.000	08/01/04
AVHC.GA	Advance Holding Corp. Series B	12.875	04/15/09
AVSR.GA	Advance Stores Inc. Series B	10.250	04/15/08
AVUS.GA	Advanta Capital Trust I Series B	8.990	12/17/26
BCEG.GA	Bank of New England Corp.	0.000	07/15/49
BCEG.GB	Bank of New England Corp.	9.875	09/15/99
BCEG.GC	Bank of New England Corp.	9.500	02/15/49
BCEG.GD	Bank of New England Corp.	8.750	04/01/99
BCEG.GE	Bank of New England Corp.	8.850	03/01/99
BCFD.GA	Brand Scaffold Services Inc.	10.250	02/15/08
BNCC.GA	BNC Corp. Inc.	8.625	05/31/04
BSPO.GA	Bell Sports Inc.	11.000	08/15/08
BYX.GA	Bayou Steel Corp.	9.500	05/15/08
CGM.GA	Congoleum Corp.	8.625	08/01/08
CGO.GB	Atlas Air Inc.	9.250	04/15/08
CHCA.GE	Chancellor Media Corp.	9.000	10/01/08
CILP.GA	Calair LLC/Calair Cap Corp.	8.125	04/01/08
CKMH.GB	Clark Material Handling Co. Series D	10.750	11/15/06
CKRM.GC	Clark R&M Inc.	8.625	08/15/08
CLUA.GA	Cluett American Corp. Series B	10.125	05/15/08
CMS.GF	CMS Energy Corp.	7.500	01/15/09
CNNB.GA	Colonial National Bank USA	7.000	08/01/03
COYN.GA	Coyne International Enterprises Corp.	11.250	06/01/08
CPN.GE	Calpine Corp.	7.875	04/01/08
CPVU.GA	Cooperative Computing Inc.	9.000	02/01/08
CVDU.GA	Covad Comm. Grp Inc. Series B	13.500	03/15/08
DBWR.GA	Dobson Wireline Co.	12.250	06/15/08
DCUC.GA	Decora Industries Inc. Series B	11.000	05/01/05
DHDG.GA	DTI Holdings Group LP Series B	12.500	03/01/08
DHI.GC	Horton (D.R.) Inc.	8.000	02/01/09
DVI.GB	DVI Inc.	9.875	02/01/04
EGEO.GA	Eagle Geophysical Inc. Series B	10.750	07/15/08
EPLC.GA	Epic Resort LLC/Cap Corp. Series B	13.000	06/15/05
ESCQ.GA	ESI Tractebel Acquisition Corp.	7.990	12/30/11
EVHC.GA	Everest Healthcare Svs Corp.	9.750	05/01/08
EXDS.GB	Exodus Communications Inc.	11.250	07/01/08
FCLU.GA	Focal Communications Corp. Series B	12.125	02/15/08

Symbol	Name	Coupon	Maturity
FHGP.GA	Falcon Holding Group LP Series B	8.375	04/15/10
FHGP.GB	Falcon Holding Group LP Series B	9.285	04/15/10
FNRV.GA	Fine Air Services Inc.	9.875	06/01/08
FOIL.GC	Forest Oil Corp.	10.500	01/15/06
FWLD.GA	Firstworld Communication Inc.	13.000	04/15/08
FXIL.GA	Flexitronics Intl Ltd. Series B	8.750	10/15/07
GBHN.GA	Global Health Science Inc.	11.000	05/01/08
GBIX.GA	Globix Corp.	13.000	05/01/05
GCKG.GA	Graham Packaging/GPC Cap Series B	10.750	01/15/09
GHCK.GA	Graham Packaging Co./GPC Cap Corp. Series B	8.750	01/15/08
GNBU.GA	Glenborough Properties LP Series B	7.625	03/15/05
GRVW.GA	Grove Worldwide LLC/Cap Inc.	9.250	05/01/08
GSCW.GA	GS Escrow Corp.	6.750	08/01/01
GSCW.GB	GS Escrow Corp.	7.000	08/01/03
GSCW.GC	GS Escrow Corp.	7.125	08/01/05
HBCR.GA	Harborside Healthcare Corp.	11.000	08/01/08
HDCO.GA	Hadco Corp.	9.500	06/15/08
HMIT.GA	Home Interiors & Gifts Inc.	10.125	06/01/08
HNYC.GA	Henry Co. Series B	10.000	04/15/08
HRCH.GA	Hard Rock Hotel Inc. Series B	9.250	04/01/05
ICFP.GA	Intl Comfort Products Hldgs Inc. Series B	8.625	05/15/08
ICGV.GA	ICG Service Inc.	9.875	05/01/08
IESC.GA	Indesco International Inc.	9.750	04/15/08
IHMD.GA	Imperial Home Decor Group Inc. Series B	11.000	03/15/08
IHSC.GA	Insight Health Svs Corp. Series B	9.625	06/15/08
INHG.GA	Iron Age Holdings Corp.	12.125	05/01/09
INSL.GA	Insilco Holding Co.	14.000	08/15/08
IPCG.GA	Impac Group Inc. Series B	10.125	03/15/08
IPSC.GB	ImpSat Corp.	12.375	06/15/08
IRNP.GA	Iron Age Corp.	9.875	05/01/08
IRUC.GA	Intramedias Communication Corp.	14.000	10/27/07
JNET.GA	Jones International Networks Ltd.	11.750	07/01/05
JRGE.GA	Jorgensen Earle M. Co. Series B	9.500	04/01/05
KOGC.GC	Kelley Oil & Gas Corp. Series D	10.375	10/15/06
LDHG.GA	Lodestar Holdings Inc.	11.500	05/15/05
LENF.GC	Lenfest Communications Inc.	7.625	02/15/08
LENF.GD	Lenfest Communications Inc.	8.250	02/15/08
LFFU.GA	Lifestyle Furnishings Inc.	10.875	08/01/06
LNHG.GA	Lin Holdings Corp.	10.000	03/01/08
LNR.GB	LNR Property Corp.	10.500	01/15/09
LNTV.GA	Lin Television Corp.	8.375	03/01/08
MCUM.GA	Michael Petroleum Corp. Series B	11.500	04/01/05
MRSM.GA	Morris Materials Handling Inc.	9.500	04/01/08
MTLM.GA	Metal Management Inc.	10.000	05/15/08
NERU.GA	NE Restaurant Co. Inc.	10.750	07/15/08
NFF.GA	Neff Corp.	10.250	06/01/08
NRTY.GA	Norton McNaughton Inc.	12.500	06/01/05
NTLQ.GA	National Equipment Svs Inc. Service B	10.000	11/30/04

Symbol	Name	Coupon	Maturity
OXAU.GB	Oxford Automotive Inc.	10.125	06/15/07
PHCO.GA	Philipp Brothers Chemicals Inc.	9.875	06/01/08
PKVW.GA	Park N View Inc. Series B	13.000	05/15/08
PLHY.GA	Pierce Leahy Command Co.	8.125	05/15/08
PLWC.GA	Plainwell Inc. Series B	11.000	03/01/08
PNHG.GA	Pen Holdings Inc. Series B	9.875	06/15/08
PRD.GA	Polaroid Corp.	11.500	02/15/06
PSRI.GA	Phase Metrics Inc.	10.750	02/01/05
PVH.GB	Philips Van Heusen Corp.	9.500	05/01/08
PZEW.GA	PX Escrow corp.	9.625	02/01/06
QSRI.GA	Queen Sand Resources Inc.	12.500	07/01/08
RHNY.GA	R. H. Donnelly Inc.	9.125	06/01/08
RHYC.GA	Rhythms Net Connections Inc. Series B	13.500	05/15/08
RMDP.GA	Renaissance Media Cap Corp.	10.000	04/15/08
RSAU.GA	The Restaurant Co.	11.250	05/15/08
RSV.GA	Rental Service Corp.	9.000	05/15/08
SAMC.GA	Samsonite Corp.	10.750	06/15/08
SGLS.GA	Safelite Glass Corp. Series B	9.875	12/15/06
SHUF.GA	Schuff Steel Co.	10.500	06/01/08
SKLN.GA	Safety-Kleen Svcs	9.250	06/01/08
SKS.GB	Saks Incorp.	7.375	02/15/19
SMUI.GA	Simonds Industries Inc.	10.250	07/01/08
SPCY.GA	Spincycle Inc.	12.750	05/01/05
SPLC.GA	Splitrock Services Inc. Series B	11.750	07/15/08
SWW.GA	Sitel Corp.	9.250	03/15/06
SYTG.GA	Styling Technology Corp.	10.875	07/01/08
TCOM.GB	Tele-Commun Inc. Series E	10.250	09/30/00
THYH.GA	Thermadyne Holdings Corp.	9.875	06/01/08
TLLP.GE	Toll Corp.	8.125	02/01/09
TLNU.GA	Talon Automotive Group Inc. Series B	9.625	05/01/08
TODR.GA	Tri-State Outdoor Media Group Inc.	11.000	05/15/08
TSIC.GA	Tropical Sportswear Intl Corp. Series A	11.000	06/15/08
TSUB.GA	Treasure Bay Gaming & Resort Inc.	12.000	08/01/06
UHSP.GA	Universal Hospital Svs Inc.	10.250	03/01/08
UMPR.GA	Universal Compression Inc.	9.875	02/15/08
USOF.GA	US Office Products Co.	9.750	06/15/08
USXG.GA	US Xchange LLC	15.000	07/01/08
UVCG.GA	Universal Compression Holdings Inc.	11.375	02/15/09
VCMK.GA	Victory Markets Inc.	12.500	03/15/00
VNDH.GA	Vendell Healthcare Inc.	12.000	05/15/00
VYTL.GA	Viatel Inc.	12.500	04/15/08
VYTL.GB	Viatel Inc.	11.250	04/15/08
WAX.GD	Waxman Industries Inc.	13.750	06/01/99
WBB.GF	Webb (Del) Corp.	10.250	02/15/10
WCOH.GA	Westworld Comm Healthcare Inc.	14.375	12/01/00
WFSG.GB	Wilshire Financial Service Group Inc.	13.000	01/01/04
WIRL.GA	Wireless One Inc.	13.000	10/15/03
WIRL.GB	Wireless One Inc.	13.500	08/01/06
WNRU.GA	Winthrop Resources Corp.	9.500	07/01/03

Symbol	Name	Coupon	Maturity
WPTL.GA	Webster Capital Trust II Series B	10.000	04/01/27
WSFL.GA	Western Financial Bank	8.875	08/01/07
WSFS.GA	WSFS Financial Corp. Series B	11.000	12/31/05
WSIN.GA	Wesco International Inc. Series B	11.125	06/01/08
YOUA.GA	Young America Corp. Series B	11.625	02/15/06

As of January 21, 1999, the following bonds were deleted from FIPS.

Symbol	Name	Coupon	Maturity
AEN.GD	AMC Entertainment Inc.	11.875	08/01/00
AFIT.GA	Affinity Group Inc.	11.500	10/15/03
BLE.GA	Bradlees Inc.	11.000	08/01/02
BLE.GB	Bradlees Inc.	9.250	03/01/03
CARS.GA	Carrols Corp.	11.500	08/15/03
CNLP.GF	Connecticut Light & Power Co.	5.500	02/01/99
ELAY.GA	Electro-Audio Dynamics Inc.	12.875	02/01/99
FNWH.GC	First Nationwide Hldgs Inc.	9.125	01/15/03
LIRP.GA	Liggett Group Inc. Del	11.500	02/01/99
MCAB.GA	Marcus Cable Co./Cap Corp. III	11.875	10/01/05
RDFL.GA	RailRoad Finl Corp.	10.000	01/31/99
REB.GA	Redwood Empire Bancorp	8.500	01/15/04
SPRT.GB	Sprint Spectrum LP	11.000	08/15/06
STN.GA	Station Casinos Inc.	9.625	06/01/03
STN.GB	Station Casinos Inc.	9.625	06/01/03
TBOT.GA	Texas Bottling Group Inc.	9.000	11/15/03
WDCP.GA	World Color Press Inc.	9.125	03/15/03
WPSN.GA	West Point Stevens Inc.	8.750	12/15/01
WPSN.GB	West Point Stevens Inc.	9.375	12/15/05

As of January 21, 1999, changes were made to the symbols of the following FIPS bonds:

New Symbol	Old Symbol	Name	Coupon	Maturity
INLP.GA	INSL.GA	Insilco Corp.	10.250	08/15/07
SSNI.GA	SAMC.GA	Samsonite Corp.	11.125	07/15/05

All bonds listed above are subject to trade-reporting requirements. Questions pertaining to FIPS trade-reporting rules should be directed to Stephen Simmes, Market Regulation, NASD RegulationSM, at (301) 590-6451.

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

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NASD Notice to Members 99-25

Good Friday: Trade Date—Settlement Date Schedule

Good Friday: Trade Date—Settlement Date Schedule

The Nasdaq Stock Market® and the securities exchanges will be closed on Good Friday, April 2, 1999. "Regular way" transactions made on the business days noted below will be subject to the following schedule:

<u>Trade Date</u>	<u>Settlement Date</u>	<u>Reg. T Date*</u>
March 29	April 1	April 6
30	5	7
31	6	8
April 1	7	9
2	Markets Closed	—
5	8	12

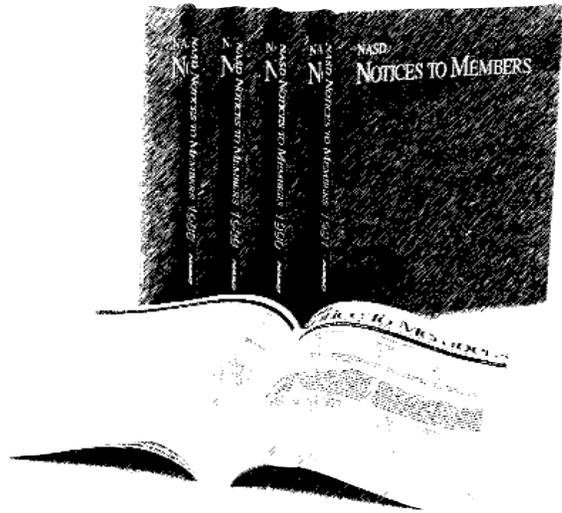
*Pursuant to Sections 220.8(b)(1) and (4) of Regulation T of the Federal Reserve Board, a broker/dealer must promptly cancel or otherwise liquidate a customer purchase transaction in a cash account if full payment is not received within five business days of the date of purchase or, pursuant to Section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

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Suggested Routing

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- Municipal
- Mutual Fund
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- Options
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- Registration
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- Syndicate
- Systems
- Trading
- Training
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Bound To Be Noticed.

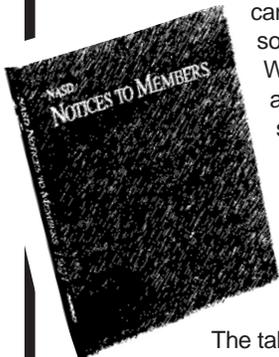


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NASD[®]

Parent of The Nasdaq-Amex Market Group

NASD Rule Filing Status

Rule Filing Status As
Of March 4, 1999

NASD Rule Filing Status

The following is a list of rule filings by the National Association of Securities Dealers, Inc. (NASD® or Association) that are pending at the Securities and Exchange Commission (SEC); recently have been approved and have not been announced in a *Notice to Members*; or recently have been withdrawn. The information is current as of March 4, 1999. Copies of rule filings (and any amendments thereto), the SEC release publishing the rule proposal for comment, and the SEC release approving the rule change are available from the SEC Public Reference Room at (202) 942-8090, or from Christopher Leigh, NASD Office of General Counsel, at (202) 728-8236 or via e-mail at leighc@nasd.com (in certain cases a fee may be required). NASD rule changes are not effective until approved by the SEC.

Rule Filings That Have Not Been Published For Comment By The SEC

99-12

Amend Rule 7010 to establish a fee for a voluntary trading data distribution facility, named Nasdaq Post DataSM, accessible to NASD members, buy-side institutions (Qualified Institutional Buyers [QIBs]¹) and market data vendors through its "NasdaqTrader.com" Web Site.

99-11

Amend Rules 4611, 4613, 4618, 4619, 4620, 4632, and Series 4700 to re-establish SelectNetSM as an order delivery and negotiation system for Nasdaq National Market® (NNM) securities and make numerous changes to the current rules relating to the trading of NNM securities.

99-09

Amend Rule 4613 to permit the separate display of customer orders by Market Makers in Nasdaq®

through a Market Maker agency identification symbol.

99-08

Amend Rules 10201 and 10202, and adopt new Rule 3080 and new Rule Series 10210 to enhance the dispute resolution process for the handling of employment discrimination disputes, and to expand disclosure to employees concerning the arbitration of all disputes.

99-07

Submission of proposed Discovery Guide for use in arbitration proceedings to improve the discovery process in NASD-sponsored securities arbitrations. The Discovery Guide consists of introductory and instructional text, and 14 Document Production Lists.

99-05

Amend Rule 2520 relating to margin for exempted borrowers, good faith accounts, joint back office arrangements and options transactions.

99-02

Amend IM-2110-1 and Rule 2720 to clarify the definition of "public offering" to include all offerings of securities exempt from SEC registration under SEC Rule 504.

99-01

Amend Schedule A to the NASD By-Laws and Rule 2710 to simplify the fee structure for public offerings filed under Rules 2710, 2720, and 2810.

98-96

Amend Form U-4, the Uniform Application for Securities Industry Registration or Transfer, and Form U-5, the Uniform Termination Notice for Securities Industry Termination. Comments solicited in *Notice to Members (NtM) 98-101*.

98-74

Amend Rule 3110 to require

additional disclosure in pre-dispute arbitration agreements regarding the arbitration process, including possible limits on eligibility of claims and availability of punitive damages; to require member firms to provide certain information regarding arbitration and pre-dispute arbitration agreements to customers upon request; and to clarify the rule regarding use of choice-of-law provisions in pre-dispute arbitration agreements.

98-55

Amend Section 8 of Schedule A of the NASD By-Laws with respect to the collection of SEC transaction fees (SEC Fees).

98-40

Amend Rule 3350 governing short sales in NNM securities to allow Market Makers and broker/dealers to engage in certain customer facilitating, liquidity-providing transactions (Facilitation Exemption).

98-11

Adopt IM-2210-5, Presentation of Mutual Fund and Variable Contract-Related Performance Information, and amend Rule 2210 and IM-2210-2 to permit the presentation of related performance information (other than manager performance information) in mutual fund and variable product sales material, subject to certain conditions designed to make the presentation fair, balanced, and not misleading.

Rule Filings That Have Been Published For Comment But Have Not Been Approved By The SEC

99-04

Adopt new Rule 2315, which requires members to review current issuer information prior to recommending a transaction to a customer in an over-the-counter (OTC) equity security. Additionally, the proposed rule change would

amend NASD Rule 6740 to permit members to submit a certification to the Association that states that the member has conducted a review of specified information and has fulfilled its SEC Rule 15c2-11 obligations for documents that currently reside on the SEC's EDGAR database. Published for comment by the SEC in Release No. 34-41075 (February 19, 1999); 64 F.R. 10037 (March 1, 1999). Comment period expires March 22, 1999.

98-94

Amend Rule 11890 to conform the time frame for requesting a clearly erroneous adjudication for pre-opening transactions. Published for comment by the SEC in Release No. 34-40992 (January 28, 1999); 64 F.R. 5846 (February 5, 1999). Comment period expired February 26, 1999.

98-88

Code of Procedures for review of Nasdaq Listing Determinations. Amendment to NASD Rule 4800 Series. Published for comment by the SEC in Release No. 34-40874 (December 31, 1998); 64 F.R. 1258 (January 8, 1999). Comment period expired January 29, 1999.

98-85

Adopt new Rules 4990 through 4998 to establish the Nasdaq Application, a new electronic trading system based on the innovative information processing technology provided by Opti-Mark Technologies, Inc. Published for comment by the SEC in Release No. 34-40835 (December 28, 1998); 64 F.R. 549 (January 5, 1998). Comment period expired January 26, 1999.

98-80

Adopt Rule 9800 Series to establish procedures to enable NASD Regulation to issue temporary cease and desist orders. The proposed rule change also would grant NASD

Regulation authority to take expedited disciplinary actions when temporary or permanent cease and desist orders are violated. Amendment No. 1 filed with the SEC on December 5, 1998. Published for comment by the SEC in Release No. 34-40826 (December 22, 1998); 63 F.R. 71984 (December 30, 1998). Comment period expired March 1, 1999.

98-61

Amend Rule 6420 to eliminate an unnecessary provision relating to the reporting of transactions in exchange-listed securities traded in the third market. Published for comment by the SEC in Release No. 34-40360 (August 21, 1998); 63 F.R. 46267 (August 31, 1998). Comment period expired September 25, 1998.

98-59

Amend the trade reporting rules, Rules 4632, 4642, 4652, 6620, with respect to "risk-less" principal transactions by Market Makers. Published for comment by the SEC in Release No. 34-40382 (August 28, 1998); 63 F.R. 47337 (September 4, 1998). Comment period expired September 25, 1998.

98-49

Amend Rule 10335 to make it a permanent part of the Code of Arbitration. Amendment No. 1 filed with the SEC on September 9, 1998. Amendment No. 2 filed with the SEC on September 10, 1998. Amendment No. 3 filed with the SEC on December 3, 1998. Published for comment by the SEC in Release No. 34-40441 (September 15, 1998); 63 F.R. 50611 (September 22, 1998). Comment period expired October 13, 1998.

98-44

Amend Rule 1060 and create new Interpretative Material, IM-3010, to codify existing practice by exempting from registration persons whose

securities business is limited to certain limited marketing activities and specify supervisory requirements for members concerning such unregistered persons. Published for comment by the SEC in Release No. 34-40784 (December 15, 1998); 63 F.R. 70173 (December 18, 1998). Comment period expired January 8, 1999.

98-32

Amend Rule 2210 to exclude independently-prepared research reports from the filing requirements of Rule 2210. Amendment No. 1 filed with the SEC on May 13, 1998. Published for comment by the SEC in Release No. 34-40074 (June 4, 1998); 63 F.R. 32690 (June 15, 1998). Comment period expired July 6, 1998.

98-20

Amend Rule 11860 to permit members to use the facilities of a Qualified Electronic Vendor for electronic confirmation and affirmation of depository eligible transactions. Published for comment by the SEC in Release No. 34-39831 (April 6, 1998); 63 F.R. 18057 (April 13, 1998). Comment period expired May 4, 1998. Comment period extended by the SEC in Release No. 34-39944 (May 1, 1998); 63 F.R. 25531 (May 8, 1998). Comment period expired June 3, 1998.

98-18

Adopt a new membership Rule 1150 that would provide NASD members with qualified immunity in arbitration proceedings for statements made in good faith in certain disclosures filed with the NASD on Forms U-4 and U-5. Published for comment by the SEC in Release No. 34-39892 (April 21, 1998); 63 F.R. 23321 (April 28, 1998). Comment period extended in SEC Release No. 34-40005 (May 19, 1998); 63 F.R. 29050 (May 27, 1998). Comment period expired June 19, 1998.

98-17

Amend Rules 4611, 4613, 4618, 4619, 4620, 4632, 4642, and adopt new Rule 4900 Series to establish an integrated order delivery and execution system. The new system would replace the existing Small Order Execution SystemSM (SOESSM) and SelectNet service, while retaining certain features of each in a combined infrastructure. It also will feature a voluntary limit order book. In addition, a component of the new system will permit institutions to obtain direct electronic access to The Nasdaq Stock Market[®] through a sponsored arrangement with a Nasdaq Market Maker. Amendment No. 1 filed with the SEC on March 3, 1998. Published for comment by the SEC in Release No. 34-39718 (March 4, 1998); 63 F.R. 12124 (March 12, 1998). Comment period expired April 2, 1998. Comment extended in SEC Release No. 34-39794 (March 25, 1998); 63 F.R. 15471 (March 31, 1998). Comment period extended to May 8, 1998.

98-14

Amend Rules 2820 and 2830 to: 1) provide maximum aggregate sales charge limits for fund of funds arrangements; 2) permit mutual funds to charge installment loads; 3) prohibit loads on reinvested dividends; 4) impose redemption order requirements for shares subject to contingent deferred sales loads; and 5) eliminate duplicative prospectus disclosure. Amendment No. 1 filed with the SEC on March 12, 1998. Amendment No. 2 filed with the SEC on June 10, 1998. Published for comment by the SEC in Release No. 34-40310 (August 7, 1998); 63 F.R. 43974 (August 17, 1998). Comment period expired September 8, 1998.

98-08

Amend trade reporting Rules 4623, 4632, 4652, 6420, and 6620. The proposals would: 1) implement a

new trade report modifier to identify trades effected at a prior reference price; 2) eliminate the 10,000-share limitation on individual trades that may be "bunched" for trade reporting purposes; 3) require electronic communications networks (ECNs) to be responsible for reporting all trades executed within the ECN; and 4) address risk-less principal trades involving exchange-listed securities traded in the Third Market. Published for comment by the SEC in Release No. 34-40047 (June 2, 1998); 63 F.R. 30791 (June 5, 1998). Comment period expired June 26, 1998.

97-89

Adopt a new interpretation to Rule 2210 to permit the use by members and associated persons of bond mutual fund volatility ratings in supplemental sales literature on an interim 18-month pilot basis. Published for comment by the SEC in Release No. 34-40627 (November 2, 1998); 63 F.R. 60431 (November 9, 1998). The comment period expired November 30, 1998.

97-76

Amend Rule 3230 to: 1) establish standards for the disposition of written customer complaints about introducing member firms that are received by clearing firms; 2) govern how exception reports are made available to introducing firms and retained by clearing firms; and 3) permit introducing firms to write checks on their clearing firm's account. Amendment No. 1 filed with the SEC on November 19, 1997. Amendment No. 1 filed with the SEC on November 19, 1997. Published for comment by the SEC in Release No. 34-39349 (November 21, 1997); 62 F.R. 63589 (December 1, 1997). Comment period expired December 22, 1997.

97-61

Adopt new IM-2240-2: Application of

the NASD Mark-Up Policy to Transactions in Government and Other Debt Securities. Published for comment by the SEC in Release No. 34-40511 (September 30, 1998); 63 F.R. 54169 (October 8, 1998). Comment period expired December 7, 1998.

97-58

Amend Rule 3350 to implement Short Sale Rule on a permanent basis. Published for comment by the SEC in Release No. 34-38979 (August 26, 1997); 62 F.R. 46537 (September 3, 1997). Comment period expired September 24, 1997.

97-47

Adopt new rule, 10336, to the Code of Arbitration Procedure to cap punitive damages at the lesser of twice compensatory damages or \$750,000. Amendment No. 1 filed with the SEC on October 17, 1997. Amendment No. 2 filed with the SEC on November 14, 1997. Published for comment by the SEC in Release No. 34-39371 (November 26, 1997); 62 F.R. 64428 (December 5, 1997). Comment period expired December 29, 1997.

97-44

Amend Rule 10304 of the Code of Arbitration Procedure (Eligibility Rule) to retain current six-year eligibility rule, provide that all claims shall be eligible for arbitration unless challenged, eliminate involuntary bifurcation of claims, and eliminate election of remedies. Amendment No. 1 filed with the SEC on July 14, 1997. Amendment No. 2 filed with the SEC on July 18, 1997. Amendment No. 3 filed with the SEC on December 3, 1997. Amendment No. 4 filed with the SEC on December 18, 1997. Published for comment by the SEC in Release No. 34-39487 (December 23, 1997); 63 F.R. 588 (January 6, 1998). Comment period expired January 27, 1998.

97-12

Amend Rule 2340 relating to the disclosure of values for direct participation program and real estate investment trust securities on customer account statements.

Published for comment by the SEC in Release No. 34-38451 (March 27, 1997); 62 F.R. 15945 (April 3, 1997). Comment period expired April 24, 1997. Amendment No. 1 filed with the SEC on June 26, 1997.

Submission dated June 26, 1997, responds to comments. Amendment No. 2 filed with the SEC on July 7, 1997.

96-47

Amend Rule 10304, Code of Arbitration Procedure, to establish interim policy of referring eligibility determinations to the arbitrators and to eliminate eligibility determinations by the staff pending adoption of final eligibility rule. Published for comment by the SEC in Release No. 34-38060 (December 18, 1996); 61 F.R. 68081 (December 26, 1996). Comment period expired January 16, 1997.

96-43

Amend Rules 4613, 4623, 4710, 4730, 6330, and IM-4613 to modify SOES and SelectNet to implement the SEC's Order Handling Rules. Published for comment by the SEC in Release No. 34-38008 (December 2, 1996); 61 F.R. 64549 (December 5, 1996). Comment period expired December 26, 1996. Amendment No. 1 filed with SEC on January 9, 1997. Partial approval granted by the SEC in Release No. 34-38156 (January 10, 1997); 62 F.R. 2415 (January 16, 1997).

Rule Filings Approved By The SEC

99-10

Amend the NASDR and Nasdaq By-Laws to increase from 8 to 10 the maximum number of directors on the boards of those corporations. Notice of filing and immediate effectiveness

published by the SEC in Release No. 34-41026 (February 8, 1999); 64 F.R. 7223 (February 12, 1999). Comment period expired March 5, 1999.

99-06

Explanation of Nasdaq's decision to cease the practice of using a fifth character identifier with a symbol of foreign securities. Notice of filing and immediate effectiveness published by the SEC in Release No. 34-41076 (February 19, 1999); 64 F.R. 9552 (February 26, 1999). Comment period expires March 19, 1999.

98-99

Amend Rule 7010 to establish a fee for a compliance and trading data report distribution facility accessible to members through the NasdaqTrader.com Web Site. Notice of filing and immediate effectiveness published by the SEC in Release No. 34-40983 (January 27, 1999); 64 F.R. 5329 (February 3, 1999). Comment period expired February 24, 1999.

98-98

Amend Nasdaq's practices concerning Market Maker quotations in Nasdaq securities that are being quoted for the first time after an initial public offering (IPO). Under the proposal, the pre-opening period for the initial display of Market Maker quotes will be extended to 15 minutes prior to the commencement of trading to permit the development of orderly quotations, with provision for a single additional 15-minute extension of the pre-opening period if the market is locked or crossed at the conclusion of the first 15-minute period. Accelerated approval granted by the SEC in Release No. 34-40968 (January 22, 1999); 64 F.R. 4729 (January 29, 1999). Comment period expired February 19, 1999.

98-97

Amend Rule 10335 of the Code of

Arbitration Procedure to extend the effectiveness of the rule for six months. Pilot rule now due to expire July 3, 1999. Accelerated approval granted by the SEC in Release No. 34-40846 (December 28, 1998); 64 F.R. 548 (January 5, 1999). Comment period expired January 26, 1999.

98-95

Amend Schedule A of the NASD By-Laws to reduce fees for the Regulatory Element of the Continuing Education requirements of Rule 1120 and to correct a cross-reference. Notice of filing and immediate effectiveness published by the SEC in Release No. 34-40851 (December 28, 1998); 64 F.R. 554 (January 5, 1999). Comment period expired January 26, 1999.

98-93

Amend Rule 10333(d) to change the time when members must pay the pre-hearing process fee in an arbitration. The fee now becomes payable when the parties are notified of the pre-hearing conference. Previously the fee was due and payable when the pre-hearing conference was held. Notice of filing and immediate effectiveness published by the SEC in Release No. 34-40933 (January 11, 1999); 64 F.R. 3142 (January 20, 1999). Comment period expired February 10, 1999.

98-92

Amend Rule 2860(b)(3)(A) to triple the position limits on standardized (exchange-traded) equity options and make them equivalent to the limits on conventional OTC equity options overlying the same security. Accelerated approval granted by the SEC in Release No. 34-40932 (January 11, 1999); 64 F.R. 2930 (January 19, 1999). Comment period expired February 9, 1999.

98-91

Amend Rule 10321 to modify the

earliest date to file document and information requests in arbitration proceedings from 20 business days to 45 calendar days after service of the Statement of Claim or upon filing of the Answer, whichever is earlier. Notice of filing and immediate effectiveness published by the SEC in Release No. 34-40954 (January 19, 1999); 64 F.R. 3993 (January 26, 1999). Comment period expired February 16, 1999.

98-87

Amend Schedule A to the NASD By-Laws and Rule 2710 to delete the provision mandating that Corporate Financing filing fees be paid in the form of a check or money order. Notice of filing and immediate effectiveness published by the SEC in Release No. 34-40706 (November 24, 1998); 63 F.R. 66618 (December 2, 1998). Comment period expired December 23, 1998.

98-86

Amend Rules 112, 120, 1060, 1100, 3010, 6120, and 10101 and Interpretive Material 2110-4, 2210-4, 2420-1, 2420-2, and 2440, to correct cross-references to the NASD By-Laws. Notice of filing and immediate effectiveness published by the SEC in Release No. 34-40718 (November 30, 1998); 63 F.R. 67499 (December 7, 1998). Comment period expired December 28, 1998.

98-84

Amend Rule 7010(l) to extend, through March 31, 1999, the fees currently charged for the execution of transactions in SelectNet. Notice of filing and immediate effectiveness published by the SEC in Release No. 34-40783 (December 15, 1998); 63 F.R. 70177 (December 18, 1998). Comment period expired January 8, 1999.

98-79

Amend Rule IM-4120-1 regarding Nasdaq issuers' disclosure

responsibilities when using the Internet to disseminate material news about the company. Published for comment by the SEC in Release No. 34-40771 (December 10, 1998); 63 F.R. 69701 (December 17, 1998). Comment period expired January 7, 1999. Approved by the SEC in Release No. 34-40988 (January 28, 1999); 64 F.R. 5331 (February 3, 1999).

98-78

Amend Rule 2860(b)(3)(A)(vii) to make permanent the Association's Equity Option Hedge Exemption, which has been operating as a pilot program since 1990. Published for comment by the SEC in Release No. 34-40652 (November 9, 1998); 63 F.R. 63764 (November 16, 1998). Comment period expired December 7, 1998. Approved by the SEC in Release No. 34-40814 (December 21, 1998); 63 F.R. 71534 (December 29, 1998).

98-73

Amend Rule 7010 to make permanent the \$21.25 monthly per port fee for subscribers who receive Nasdaq Level 1 service through automated voice response services. Published for comment by the SEC in Release No. 34-40547 (October 15, 1998); 63 F.R. 56055 (October 20, 1998). Comment period expired November 10, 1998. Approved by the SEC in Release No. 34-40689 (November 19, 1998); 63 F.R. 65626 (November 27, 1998).

98-72

To extend for one year: 1) the pilot term of the Nasdaq International Service; and 2) the effectiveness of certain rules (International Rules) that are unique to the Service. With this filing, the pilot period for the Service and the International Rules would be extended through October 8, 1999. Notice of filing and immediate effectiveness published by the SEC in Release No. 34-40528

(October 6, 1998); 63 F.R. 55165 (October 14, 1998). Comment period expired November 4, 1998.

98-70

Amend Rule 7090 to add a logon identification fee for subscribers to Nasdaq's Mutual Fund Quotation System (MFQS or Service) that use the MFQS to transmit to Nasdaq fund-pricing and other required information. Amendment No. 1 filed with the SEC on October 1, 1998. Published for comment by the SEC in Release No. 34-40543 (October 15, 1998); 63 F.R. 55909 (October 19, 1998). Comment period expired November 9, 1998. Approved by the SEC in Release No. 34-40694 (November 19, 1998); 63 F.R. 65832 (November 30, 1998).

98-68

Revise the interpretation of the definition of "ACT Eligible Security" in Rule 6110(a) to include all securities designated as PORTALSM securities pursuant to Rule Series 5320 (The PORTAL Market Rules) to the extent transactions in such PORTAL securities are voluntarily submitted to Automated Confirmation Transaction ServiceSM (ACTSM) solely for reconciliation, comparison, and/or clearance and settlement. Notice of filing and immediate effectiveness published by the SEC in Release No. 34-40424 (September 8, 1998); 63 F.R. 49623 (September 16, 1998). Comment period expired October 16, 1998.

98-67

Statement of two policies regarding the NASD's oversight of American Stock Exchange LLC (Amex LLC) and the composition of the Board of Governors of Amex LLC. Published for comment by the SEC in Release No. 34-40443 (September 16, 1998); 63 F.R. 51108 (September 24, 1998). Comment period expired October 15, 1998. Approved by the SEC in Release No. 34-40462

(October 30, 1998); 63 F.R. 59819 (November 4, 1998).

98-65

Amend Rule 7010(l) to extend, through November 30, 1998, the fees charged for the execution of transactions in SelectNet. Notice of filing and immediate effectiveness published by the SEC in Release No. 34-40427 (September 10, 1998); 63 F.R. 49724 (September 17, 1998). Comment period expired October 8, 1998.

98-63

Amend the current fee schedule in Rule 7010(h)(2) for subscribers to the Nasdaq Workstation II[®] (NWII) service who are not NASD members. Amendment No. 1 filed with the SEC September 12, 1998. Amendment No. 2 filed with the SEC November 17, 1998. Published for comment by the SEC in Release No. 34-40521 (October 6, 1998); 63 F.R. 55167 (October 14, 1998). Comment period expired November 14, 1998. Approved by the SEC in Release No. 34-40716 (November 27, 1998); 63 F.R. 66619 (December 2, 1998).

98-62

Amend Rule 7010(h)(2) relating to NWII and network fees. The proposed rule change is intended to amend the current fee schedule for NWII service for NASD members only. The NASD and Nasdaq are filing a parallel rule filing to effect the same amendments to the NWII fee structure to apply to non-NASD members (See RF 98-63). The NASD and Nasdaq also are eliminating the Digital Interface Service fees as this service is no longer provided by the Association. Effective upon filing. Amendment No. 1 filed with the SEC on September 10, 1998. Published for comment by the SEC in Release No. 34-40434 (September 11, 1998); 63 F.R. 49937 (September 11, 1998). Comment period expired October 9, 1998.

98-53

Amend Rule 6800 to establish minimum requirements for the inclusion of closed-end mutual funds in Nasdaq's MFQS. Amendment No. 1 filed with the SEC on August 26, 1998. Published for comment by the SEC in Release No. 34-40380 (August 27, 1998); 63 F.R. 47336 (September 4, 1998). Comment period expired September 25, 1998. Approved by the SEC in Release No. 34-40519 (October 5, 1998); 63 F.R. 54740 (October 13, 1998).

98-47

Amend Rules 4632, 4642, 4652, 5109, 6120, 6140, 6420, 6620, 7010, 11180 to integrate the functionality of the Trade Acceptance and Reconciliation ServiceSM (TARSSM) into the ACT and implement certain enhancements to ACT. Notice of filing and immediate effectiveness published by the SEC in Release No. 34-40578 (October 23, 1998); 63 F.R. 57342 (October 27, 1998). Comment period expired November 17, 1998.

98-46

Amend IM-1000-4 to make a technical correction and amend the Plan of Allocations and Functions by NASD to Subsidiaries (Delegation Plan) to clarify NASD Regulation's authority to inspect the books and records of The Nasdaq Stock Market. Notice of filing and immediate effectiveness published by the SEC in Release No. 34-40252 (July 23, 1998); 63 F.R. 40759 (July 30, 1998). Comment period expired August 20, 1998.

98-45

Amend Rules 3010 and 3110 to delay the effective date of the provision in *NtM 98-11* addressing the review of incoming, non-electronic correspondence until Sept. 30, 1998. The delay will allow NASDR to address the regulatory concerns necessitating the review of

incoming, non-electronic correspondence and at the same time to respond to concerns raised by member firms about the difficulty of conducting such review. Notice of filing and immediate effectiveness published by the SEC in Release No. 34-40178 (July 7, 1998); 63 F.R. 37911 (July 14, 1998). Comment period expired August 4, 1998.

98-42

Amend Rule 10335 to extend the effectiveness of the rule for six months to January 3, 1999. Accelerated approval granted by the SEC in Release No. 34-40124 (June 24, 1998); 63 F.R. 36282 (July 2, 1998). Comment period expired on July 28, 1998.

98-37

Amend rule 7010(l) to extend through August 31, 1998, the fees currently charged for the execution of transactions in SelectNet. Notice of filing and immediate effectiveness published by the SEC in Release No. 34-40050 (June 1, 1998); 63 F.R. 31254 (June 8, 1998). Comment period expired June 29, 1998.

98-36

Amend the NASD Regulation By-Laws to permit one or more Industry members of the National Adjudicatory Council (NAC) to serve as at-large Industry members of the NAC, rather than requiring that all Industry members represent a region as is currently provided in the NASD Regulation By-Laws. Amendment No. 1 filed with the SEC on May 19, 1998. Published for comment by the SEC in Release No. 34-40062 (June 3, 1998); 63 F.R. 32033 (June 11, 1998). Comment period expired July 2, 1998. Approved by the SEC in Release No. 34-40213 (July 15, 1998); 63 F.R. 39619 (July 23, 1998).

98-34

Amend Rule 9514 to permit

members of NASD Regulation Office of Hearing Officers to oversee non-summary proceedings involving membership cancellations and suspensions related to failure to comply with an arbitration award settlement agreement. Amendment No. 1 filed with the SEC on May 4, 1998. Published for comment by the SEC in Release No. 34-39957 (May 1, 1998); 63 F.R. 26238 (May 12, 1998). Comment period expired on May 27, 1998. Approved by the SEC in Release No. 34-40026 (May 26, 1998); 63 F.R. 30789 (June 5, 1998).

98-31

Amend Rules 3010 and 3110 to implement the effective date of recently-approved amendments to these rules, with the exception of a provision in *NtM 98-11* regarding the review of incoming correspondence. The amendments allow firms to develop flexible procedures for the review of correspondence with the public. Notice of filing and immediate effectiveness published by the SEC in Release No. 34-39866 (April 14, 1998); 63 F.R. 19778 (April 21, 1998). Comment period expired May 12, 1998.

98-27

Adopt Interpretive Material (IM) to NASD Rule 4120 to codify, on a two-year pilot basis, the NASD's agreement to halt, upon the request of the SEC, all domestic trading in both the securities listed on Nasdaq and all equity and equity-related securities trading in the OTC market dealing with trading halts. IM-4120-3 replaces NASD IM-4120-2 which expired on December 31, 1997. Accelerated approval granted by the SEC in Release No. 34-39846 (April 9, 1998); 63 F.R. 18477 (April 15, 1998). Comment period expired on May 6, 1998.

98-25

Amend Rule 7010 to establish an annual, scaled administrative fee,

payable by Nasdaq market data distributors and vendors, for data usage, monitoring costs and other administrative expenses incurred by Nasdaq. Once effective, Nasdaq will suspend indefinitely its current contractual requirement that Nasdaq real-time data distributors and vendors provide an annual accountant-certified list of its subscribers who receive Nasdaq data. Published for comment by the SEC in Release No. 34-40035 (May 27, 1998); 63 F.R. 30276 (June 3, 1998). Comment period expired on June 24, 1998. Approved by the SEC in Release No. 34-40454 (September 22, 1998); 63 F.R. 51980 (September 29, 1998).

98-21

Amend Rule 4613(a)(1)(C) to permanently allow Market Makers to quote their actual size by reducing the minimum quotation size requirement for Market Makers in all securities listed on Nasdaq to one normal unit of trading (Actual Size Rule). Published by the SEC in Release No. 34-39760 (March 16, 1998); 63 F.R. 13894 (March 23, 1998). Comment period expired April 13, 1998. Approved by the SEC in Release No. 34-40211 (July 15, 1998); 63 F.R. 39322 (July 22, 1998).

98-19

Postpone the effective date of amendments to IM-8310-2 and Forms U-4 and U-5 to March 16, 1998. Notice of filing and immediate effectiveness published by the SEC in Release No. 34-39371 (March 6, 1998); 63 F.R. 12558 (March 11, 1998). Comment period expired April 3, 1998.

98-15

Amend Rule 2860(b) to establish that NASD member firms and their customers shall have the same position and exercise limits for FLEX Equity Options as the firms that are

members of the exchange on which such FLEX Equity Options trade. Accelerated approval granted by the SEC in Release No. 34-39668 (February 20, 1998); 63 F.R. 10057 (February 27, 1998). Comment period expired on April 3, 1998.

98-10

Amend Rules 3010 and 3110 to postpone indefinitely the effective date of recently approved amendments to these rules (See *NtM 98-11*) and to allow the NASDR an opportunity to consider comment letters received from the public. Notice of filing and immediate effectiveness published by the SEC in Release No. 34-39665 (February 13, 1998); 63 F.R. 9032 (February 23, 1998). Comment period expired March 16, 1998.

98-04

To change the interpretation of the Code of Arbitration Procedure such that claims relating to transactions in exempted securities, including government and municipal securities, may be submitted to the Office of Dispute Resolution for arbitration under the NASD's Code of Arbitration Procedure without limitation. Amendment No. 1 filed with the SEC on February 6, 1998. Amendment No. 2 filed with the SEC on March 30, 1998. Published for comment by the SEC in Release No. 34-39880 (April 16, 1998); 63 F.R. 20232 (April 23, 1998). Comment period expired May 14, 1998. Approved by the SEC in Release No. 34-40103 (June 19, 1998); 63 F.R. 34951 (June 26, 1998).

98-02

Amend Rule 2860(b)(3)(A)(vii)(c) to extend, until December 31, 1999, the Association's pilot program for exemptions from equity option position limits for certain hedged positions. Amendment No. 1 filed with the SEC on March 23, 1998. Accelerated approval granted by the

SEC in Release No. 34-39865 (April 14, 1998); 63 F.R. 19992 (April 22, 1998). Comment period expired May 13, 1998.

97-96

Amend Rule 10333(d) to adjust the Hearing Process Fee Schedule so that the amounts in dispute of the lowest brackets in the Rule 10333(d) Hearing Process Fee Schedule are consistent with the dollar amount at which the Pre-hearing Process Fee is imposed. Notice of filing and immediate effectiveness published by the SEC in Release No. 34-30504 (December 31, 1997); 63 F.R. 1134 (January 8, 1998). Comment period expired January 29, 1998.

97-79

Amend IM-10104, 10205 and 10332 of the Code of Arbitration Procedure to increase the arbitrator honoraria, arbitration filing fees, and hearing session deposits for intra-industry and public investor arbitrations. The proposed rule change will amend the fee schedules to graduate fees further according to the amount in dispute to reflect more closely the costs associated with resolving controversies. Amendment No. 1 filed with the SEC on November 12, 1997. Published for comment by the SEC in Release No. 34-39346 (November 21, 1997); 62 F.R. 63580 (December 1, 1997). Comment period expired December 22, 1997. Amendment No. 2 filed with the SEC on December 18, 1997. Approved by the SEC in Release No. 34-41056 (February 16, 1999); 64 F.R. 10041 (March 1, 1999).

97-20

Amend Rule 6440 to eliminate restrictions on members to accept stop orders and certain stop limit orders in exchange-listed securities. Published for comment by the SEC in Release No. 34-38429 (March 21, 1997); 62 F.R. 14953 (March 28, 1997). Comment period expired April

18, 1997. Amendment No. 1 filed with the SEC on April 1, 1997. Approved by the SEC in Release No. 34-39857 (April 15, 1998); 63 F.R. 19547 (April 20, 1998). Effective April 14, 1998.

Rule Filings That Have Been Withdrawn

98-83

Simplification of Corporate Finance filing fees. This filing was withdrawn on January 22, 1999, and replaced by rule filings 99-01 and 98-87.

98-71

Amend Rule 7010 to establish a pilot proprietary trading data distribution facility accessible to NASD members and qualified institutional buyers through its NasdaqTrader.com Web Site. Under the proposal, NASD member firms will be able to obtain data, verified for accuracy by ACT, regarding their trading volume in securities in which they report volume as well as disseminate some or all of that information to other users of the system. Published for comment by the SEC in Release No. 34-40542 (October 9, 1998), 63 FR 55909 (October 19, 1998). Withdrawn on November 5, 1998. Withdrawal announced by the SEC in Release No. 34-40658 (November 10, 1998); 63 F.R. 64136 (November 18, 1998).

98-50

Adopt Rules 2315 and 2360 to require members to review current issuer information prior to recommending a transaction to a customer in an OTC equity security and to provide certain disclosure information on the trade confirmation for customer transactions in an OTC equity security. This rule filing was withdrawn on January 13, 1999.

98-41

Amend Rule 4613(a)(5) to permit Market Makers to decrement their quoted size by the amount of a

preferenced SelectNet order if the Market Maker has programmed its trading system to execute automatically such orders upon receipt. This rule filing was withdrawn on July 16, 1998.

98-30

Amend Rule 3110 to: (1) change the definition of "institutional account" to include the accounts of investment advisers that, under new rules adopted by the SEC, are now required to register with the states; and (2) exclude certain customer accounts from the requirement to obtain certain tax and employment information from the customer. This rule filing was withdrawn on May 7, 1998.

98-24

Amend IM-8310-2 to clarify that NASD Regulation will continue to release information concerning civil

judgments and arbitration decisions in securities and commodities disputes involving public customers and registered persons or member firms. This rule filing was withdrawn on April 6, 1998.

98-12

Amend IM-2110-1 and Rules 2710 and 2720 to clarify the definition of a "Public Offering." Accelerated approval requested. This rule filing was withdrawn on April 27, 1998.

97-80

Amend Rule 2860(b) to exempt conventional equity option transactions that are intermediated by a member pursuant to Exchange Act Rule 15a-6(a)(3) from options position limits provided that the member reports such transactions to the Association in accordance with the options position reporting requirements. Published for

comment by the SEC in Release No. 34-39417 (December 9, 1997); 62 F.R. 65838 (December 16, 1997). Comment period expired January 6, 1998. This rule filing was withdrawn on July 13, 1998.

97-67

Amend Rule 2860 to align the NASD's position limit rules for conventional equity options with the position limit rules for FLEX Equity Options. This filing was withdrawn on February 13, 1998, and replaced by rule filing 98-23.

Endnote

¹For purposes of this service, Nasdaq will rely on the definition of "Qualified Institutional Buyer" found in Rule 144A of the Securities Act of 1933.

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Disciplinary Actions

Disciplinary Actions Reported For March

NASD Regulation, Inc. (NASD RegulationSM) has taken disciplinary actions against the following firms and individuals for violations of National Association of Securities Dealers, Inc. (NASD[®]) rules; federal securities laws, rules, and regulations; and the rules of the Municipal Securities Rulemaking Board (MSRB). Unless otherwise indicated, suspensions will begin with the opening of business on Monday, March 15, 1999. The information relating to matters contained in this *Notice* is current as of the end of February 19, 1999.

Firm Suspended, Individual Sanctioned

First Atlanta Securities, L.L.C. (Atlanta, Georgia) and James Andrew Steinkirchner (Registered Principal, Marietta, Georgia) submitted a Letter of Acceptance, Waiver, and Consent pursuant to which they were censured and fined \$10,000, jointly and severally. In addition, the firm was suspended from participating in any contingency offering for 30 days and thereafter until such time as it filed satisfactory revised written supervisory procedures governing the firm's participation in future contingency offerings with the NASD. Without admitting or denying the allegations, the respondents consented to the described sanctions and to the entry of findings that the firm, acting through Steinkirchner, failed to ensure the establishment of a proper escrow account in connection with its participation in a best efforts contingency offering and conducted a securities business while failing to maintain its required minimum net capital. The findings also stated that the firm, acting through Steinkirchner, participated in sales in the offering in an amount exceeding the maximum specified in the offering documents, and beyond the time period specified in the offering documents, without providing notice to prior investors, reconfirming their purchases or offering them rescission.

The suspension began with the commencement of business on January 30, 1999, and concluded at the close of business on February 28, 1999.

Firms Fined, Individuals Sanctioned

Howe, Solomon & Hall, Inc. (Miami, Florida) and Christopher John Hall (Registered Principal, Miami, Florida) submitted a Letter of Acceptance, Waiver, and Consent pursuant to which the firm was censured, fined \$25,000, and required to retain an independent consulting firm mutually agreeable to both the firm and the NASD for one year. Hall was censured, fined \$25,000, suspended from association with any NASD member in any capacity for two years, and barred from association with any NASD member in any principal capacity with no right to reapply. Hall has the right to continue as a passive investor in the firm, even during the term of the suspension. If it is ever determined that the scope of Hall's involvement with the firm during the term of the suspension ever goes beyond that, he shall immediately, and without notice, be permanently barred in all capacities. Without admitting or denying the allegations, the respondents consented to the described sanctions and to the entry of findings that the firm miscalculated its allowable assets thereby causing the firm to have insufficient net capital. The findings also stated that Hall "parked" securities by executing fictitious trades designed to overstate the firm's net capital thereby enabling the firm to continue in business in ostensible compliance with the net capital rule.

J.J.B. Hilliard, W.L. Lyons, Inc. (Louisville, Kentucky), James Reid Allen (Registered Principal, Louisville, Kentucky) and Robert Clinton Oliver, Jr. (Registered Principal, Louisville, Kentucky) submitted a Letter of Acceptance,

Waiver, and Consent pursuant to which the firm was censured and fined \$25,000; Allen and Oliver were each censured, fined \$7,500, and suspended from association with the NASD in any principal capacity for 10 days. Without admitting or denying the allegations, the respondents consented to the described sanctions and to the entry of findings that the firm permitted Allen and Oliver to act in the capacity of a general securities principal prior to their properly qualifying and becoming registered in that capacity.

Keogler, Morgan & Co., Inc. (Atlanta, Georgia), Chris Stuart Guerin (Registered Principal, Marietta, Georgia), Douglas Albert Dyer (Registered Representative, Chattanooga, Tennessee), Craig Robert Smith (Registered Principal, Duluth, Georgia), and James Hugh Brennan, III (Registered Representative, Chattanooga, Tennessee) submitted Offers of Settlement pursuant to which the firm was censured, fined \$25,000, and required to pay back \$63,264 in excessive profits to public customers. Guerin was censured, fined \$10,000, and suspended from association with any NASD member as a registered principal for six months; Dyer was censured, fined \$10,000, and suspended from association with any NASD member in any capacity for 60 days; Smith was censured, fined \$10,000, and suspended from association with any NASD member as a registered principal for six months; and Brennan was censured and fined \$10,000.

Without admitting or denying the allegations, the respondents consented to the described sanctions and to the entry of findings that the firm, acting through Smith and Dyer, effected principal purchases of common stock from public customers at prices that were marked down

excessively. The firm, acting through Smith, failed to report trades within 90 seconds of execution without employing the requisite “.SLD” modifier, incorrectly reported wholesale trades as retail trades, and incorrectly reported the price on trades. Guerin and Brennan failed to supervise adequately the trading in common stock of Smith and Dyer, respectively, and failed to detect that Smith and Dyer were purchasing stock from the firm's retail customers subject to excessive markdowns. Furthermore, the NASD determined that Dyer effected securities transactions in the accounts of his customers without the customers' prior knowledge or authorization.

Navillus Securities, Inc. (West Conshocken, Pennsylvania) and William Joseph Sullivan, Jr. (Registered Principal, West Conshocken, Pennsylvania) submitted a Letter of Acceptance, Waiver, and Consent pursuant to which the respondents were censured and fined \$60,000, jointly and severally. Sullivan was suspended from association with any NASD member in any principal capacity and from performing any functions that require registration as a principal for four months, except that he is permitted to perform duties as a financial and operations principal for his firm during the period of suspension. Without admitting or denying the allegations, the respondents consented to the described sanctions and to the entry of findings that Navillus, acting through Sullivan, allowed trades to be entered through the Small Order Execution SystemSM (SOESSM) for accounts belonging to family members of the firm's registered representatives and failed to establish, maintain, and enforce proper supervisory procedures governing the entry of trades through SOES. The findings also stated that Navillus, acting through Sullivan,

conducted a securities business while failing to maintain its minimum required net capital and filed a FOCUS report with the NASD that was inaccurate and misleading in that it included a net capital amount for the firm that was overstated. In addition, Navillus, acting through Sullivan, failed to maintain sufficient records of order entry and execution times for securities transactions; failed to complete a written training plan for its Firm Element training requirement; and failed to conduct and complete its Firm Element training requirement.

Firms And Individuals Fined Austin Securities, Inc. (Forest Hills, New York) and Brian R. Mitchell (Registered Principal, Yorktown Heights, New York) submitted a Letter of Acceptance, Waiver, and Consent pursuant to which they were censured and fined \$10,000, jointly and severally. The firm was also required to disgorge \$14,007 in excessive profits to public customers. Without admitting or denying the allegations, the respondents consented to the described sanctions and to the entry of findings that the firm, acting through Mitchell, entered into municipal bond sale and purchase transactions with public customers. The findings also stated that bond sales and bond purchases were conducted with excessive markups and markdowns, respectively, in light of the circumstances surrounding the transactions. In addition, the firm, acting through Mitchell, failed to establish or maintain an adequate written supervisory procedure pertaining to the pricing of municipal securities.

Butler Larsen Pierce & Company, Inc. (San Francisco, California), Dane Allan Larsen (Registered Principal, Danville, California), and Eric Hall Zurla (Registered Representative, Glen Ridge, New Jersey) submitted an Offer of

Settlement pursuant to 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 Larsen, permitted individuals to perform the duties of registered persons when their registrations were inactive due to their failure to complete the Regulatory Element of the Continuing Education Program. The findings also stated that Zurla performed, and the firm and Larsen permitted him to perform, the duties of a registered person when Zurla's registration was inactive due to his failure to complete the Regulatory Element of the Continuing Education Program. Furthermore, the NASD determined that the firm, acting through Larsen, failed to establish and implement adequate written supervisory procedures to ensure compliance with the definition of municipal securities principals or representatives pursuant to MSRB Rule G-3.

Derby Securities, Inc. (New York, New York) and Otto Frederick Grote (Registered Principal, New Castle, New Hampshire) submitted a Letter of Acceptance, Waiver, and Consent pursuant to which they were censured and fined \$10,000, jointly and severally. In addition, the firm must pay \$18,240 in restitution to the appropriate parties. Without admitting or denying the allegations, the respondents consented to the described sanctions and to the entry of findings that the firm, acting through Grote, received checks totaling \$18,240 in selling concessions related to the public distribution of shares of stock from a member firm. However, Derby Securities, Inc. was not entitled to such concessions because it did not render any services to the member firm. Furthermore, the NASD determined that Derby Securities, Inc., acting through

Grote, failed to complete a training needs analysis and to develop written training plans concerning the Firm Element of the Continuing Education Program and failed to maintain written supervisory procedures for compliance with the Regulatory Element of the NASD's Continuing Education requirements. In addition, the NASD found that the firm, acting through Grote, failed to establish, maintain, and enforce proper written supervisory procedures concerning syndication and selling group participation, transactions in U. S. government securities, the conduct of annual compliance meetings, internal inspections to ascertain compliance with firm procedures, telephone solicitations, and insider trading (*i.e.*, Chinese Wall) procedures.

J. Alexander Securities, Inc. (Los Angeles, California) and James Alexander (Registered Principal, Los Angeles, California) submitted an Offer of Settlement pursuant to which they were censured and fined \$20,000, 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 under the direction and control of Alexander, allowed an individual to become and remain associated with the firm as a principal when he was barred by the Securities and Exchange Commission (SEC) from acting in the capacity of a securities principal for 14 months and required to apply for reinstatement in that capacity.

Pacific Continental Securities Corporation (Beverly Hills, California) and James Albert Allen (Registered Principal, Los Angeles, California) submitted a Letter of Acceptance, Waiver, and Consent pursuant to which they were censured and fined \$10,000, jointly and severally. The firm was also ordered to undertake to hire sufficient quali-

fied personnel to perform all the duties required to be performed by a financial and operations principal. Without admitting or denying the allegations, the respondents consented to the described sanctions and to the entry of findings that the firm, acting through Allen, in contravention of its Restriction Agreement with the NASD, changed its status to that of a fully computing firm subject to the provisions of the SEC Customer Protection Rule 15c3-3, but failed to obtain prior written approval from the NASD and to undertake to comply with the requirements of the Rule. Furthermore, the NASD found that the firm, acting through Allen, held customer funds and failed to establish a Special Reserve Bank Account for the Exclusive Benefit of Customers, and failed to make weekly computations of the amount required to be deposited into the Reserve Account due to inadequate financial and operational personnel to identify the deficiencies.

Shamrock Partners, Ltd. (Media, Pennsylvania) and James Thomas Kelly (Registered Principal, Newtown Square, Pennsylvania) were censured; fined \$15,000, jointly and severally; required to pay \$10,053.13 in restitution to customers, jointly and severally; required to demonstrate corrective action with regard to their markup and markdown policy; and to submit to a staff interview. The SEC imposed the sanctions following appeal of an August 1997 National Business Conduct Committee (NBCC) decision. The sanctions were based on findings that the firm, acting through Kelly, effected in a principal capacity purchases of common stock for public customers at prices that were not fair and reasonable in that the markdowns on the purchases exceeded five percent.

Triumph Securities Corporation (New York, New York) and Aubrey Theodore Stautberg, Jr. (Regis-

tered Principal, New York, New York) submitted a Letter of Acceptance, Waiver, and Consent pursuant to 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 Stautberg, failed to establish, maintain, and enforce written procedures to supervise the types of business in which it engages, and to supervise the activities of registered representatives, associated persons, and registered principals that are reasonably designed to achieve compliance with applicable securities laws, regulations, the NASD rules, and the Regulatory Element of the Continuing Education requirement. The findings also stated that the firm, acting through Stautberg, maintained the registration for individuals while they were not active in the securities business, and failed to file its annual audit reports on a timely basis.

Firms Fined

Capital Resources, Inc. (Washington, D.C.) submitted a Letter of Acceptance, Waiver, and Consent pursuant to which the firm was censured, fined \$13,500, and required to undertake to review and revise its written supervisory procedures to ensure that procedures are maintained, implemented, and enforced regarding private placements, contingency offerings, trading practices, and continuing education in a manner satisfactory to the NASD. Without admitting or denying the allegations, the firm consented to the described sanctions and to the entry of findings that it participated in contingency offerings and distributed offering materials that contained misleading information, failed to establish a bank escrow account, and failed to record receipt of customer funds for purchases of interests in contingency offerings on the firm's books and

records. The findings also stated that the firm failed to require all covered employees to complete the Firm Element of the Continuing Education requirement, to maintain records documenting the content of, and completion of, the Firm Element of the Continuing Education requirement, to conduct an annual needs analysis, and to develop a Firm Element Training Plan. Furthermore, the NASD found that the firm failed to indicate the limit order terms and conditions on order tickets to reflect that the customers' limit orders were changed to market orders, to time-stamp the order tickets at the time the orders were changed, and to record all the order terms and conditions of customer limit orders. Moreover, the firm failed to execute limit orders within 60 seconds of completing trades in the firm's market making account at prices equal to or better than the customers' protected prices, and failed to establish, maintain, and enforce proper supervisory procedures governing the above violations.

Dean Witter Reynolds Inc. (New York, New York) submitted a Letter of Acceptance, Waiver, and Consent pursuant to which the firm was censured, fined \$15,000, and required to pay \$262.30 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 transactions without using reasonable diligence to ascertain the best prevailing inter-dealer market for each relevant security so that the resultant price to the customer was as favorable as possible under prevailing market conditions. The findings also stated that the firm failed to provide, where it acted as principal for its own account, written notification to its customer disclosing that it acted as a Market Maker when executing the customer's transaction. Furthermore,

the NASD determined that the firm failed to provide, where it acted as principal for its own account, written notification disclosing the reported price to each of its customers.

IFC Holdings, Inc. (dba Invest Financial Corporation) (Washington, D.C.) submitted a Letter of Acceptance, Waiver, and Consent pursuant to which the firm was censured, fined \$75,000, and required to retain an independent consulting firm to conduct a review for one year of the firm's compliance and written supervisory procedures, in particular, but not limited to, procedures relating to conduct of branch office examinations. Without admitting or denying the allegations, the firm consented to the described sanctions and to the entry of findings that it failed to address, or failed to address adequately, written supervisory procedures regarding, among other things, insider trading, receipt of customer funds and securities, mutual fund breakpoints, variable annuities and variable life insurance, option customer's background and financial information, municipal securities markups and markdowns, customer complaint reporting, cold calling, sales supervision, and discretionary accounts. Also, the firm's written supervisory procedures failed to designate a principal responsible for the review of mutual funds, variable products, and unit investment trusts. Furthermore, the findings stated that the firm failed to inspect each branch office according to the cycle set forth in its written supervisory procedures. In addition, the firm failed to supervise and enforce its written supervisory procedures concerning daily transactions, mutual fund switches, branch office inspections, advertising and correspondence, and employees' accounts at other broker/dealers. The firm failed to have each registered representative participate in an annual compliance meeting. The findings also stated that the firm

failed to conduct a periodic examination of all customer accounts to detect and prevent irregularities or abuses, failed to report forgery accusations from customers within 10 business days as required by the NASD, and allowed an individual to function as acting chief administrative officer without being properly registered.

Mesirow Financial, Inc. (Chicago, Illinois) was fined \$15,000. The sanctions were based on findings that the firm failed to execute contemporaneously member-to-member customer limit orders to sell shares of stock after it sold shares for its own market-making account at a price equal to or better than said orders. Also, the firm failed to establish, maintain, and enforce adequate written supervisory procedures to achieve compliance with the rules and regulations applicable to limit orders.

PaineWebber Incorporated (Weehawken, New Jersey) submitted a Letter of Acceptance, Waiver, and Consent pursuant to which the firm was censured, fined \$50,000, and required to review its supervisory procedures regarding registration of personnel and to implement changes necessary to ensure that all persons actively engaged in the firm's investment banking or securities business, or in the management thereof, are properly registered with the NASD. Without admitting or denying the allegations, PaineWebber consented to the described sanctions and to the entry of findings that it failed to ensure that persons actively engaged in the firm's investment banking or securities business, or in the management thereof, were properly registered as general securities representatives or general securities principals with the NASD. PaineWebber also failed to establish, maintain, and enforce written supervisory procedures that would ensure the proper registration of individuals.

R. J. Steichen & Company (Minneapolis, Minnesota) submitted a Letter of Acceptance, Waiver, and Consent pursuant to which the firm was censured and fined \$12,500. Without admitting or denying the allegations, the firm consented to the described sanctions and to the entry of findings that it reported transactions to the Automated Confirmation Transaction ServiceSM (ACTSM) in violation of applicable securities laws and regulations regarding trade reporting. The findings also stated that the firm failed to establish, maintain, and enforce written supervisory procedures reasonably designed to achieve compliance with the applicable securities laws and regulations regarding trade reporting, ACT reporting, limit orders, books and records, registration, locked and crossed markets, SOES, the order handling rules, anti-competitive practices, and best execution.

SCA Development, Inc. (Birmingham, Alabama) submitted a Letter of Acceptance, Waiver, and Consent pursuant to which the firm was censured and fined \$20,000. Without admitting or denying the allegations, the firm consented to the described sanctions and to the entry of findings that it failed to handle customer funds properly in connection with a contingency offering in that it failed to establish a bank escrow account and accepted and forwarded investor checks directly to the issuer, and closed the offering prior to the sale of the requisite number of units. The NASD also determined that the firm failed to timely file a Form U-5 on behalf of an individual, and failed to establish, maintain, and enforce proper supervisory procedures concerning the establishment and use of bank escrow accounts in contingency offerings, the extension of contingency offering periods, proper registration of principals, and timely submissions of Forms U-5 for terminated individuals.

Smith Barney Inc. (Chicago, Illinois) submitted a Letter of Acceptance, Waiver, and Consent pursuant to which the firm was censured and fined \$15,000. Without admitting or denying the allegations, the firm consented to the described sanctions and to the entry of findings that it failed to enforce written supervisory procedures, and failed to supervise adequately and properly a registered representative. According to the findings, the firm failed to prevent the registered representative from making numerous sales of securities (hot issues) that traded at a premium in the immediate aftermarket to restricted persons, in contravention of the NASD Board of Governors' Free-Riding and Withholding Interpretation.

Individuals Barred Or Suspended

Jerald Fred Albin (Registered Representative, Independence, Missouri) submitted an Offer of Settlement pursuant to which he was censured, fined \$35,000, and barred from association with any NASD member in any capacity. Without admitting or denying the allegations, Albin consented to the described sanctions and to the entry of findings that he participated in private securities transactions without prior written notice to, and written approval and/or acknowledgment from, his member firm. The findings also stated that Albin failed to respond truthfully to NASD requests for information in that he provided the NASD with altered bank statements that contained inaccurate, false, and misleading information.

Brian Douglas Angiuli (Registered Principal, Port Washington, New York) was censured, fined \$15,000, suspended from association with any NASD member in any capacity for one year, and ordered to requalify by exam as a general securities representative. The National Adjudicatory Council (NAC) imposed the sanctions following appeal of a Philadel-

phia District Business Conduct Committee (DBCC) decision. The sanctions were based on findings that Angiuli executed unauthorized trades in the account of a public customer.

Angiuli has appealed this action to the SEC and the sanctions are not in effect pending consideration of the appeal.

Henderson Basco Berberabe (Registered Representative, West Covina, California) submitted a Letter of Acceptance, Waiver, and Consent pursuant to which he was censured, fined \$100,000, and barred from association with any NASD member in any capacity. Without admitting or denying the allegations, Berberabe consented to the described sanctions and to the entry of findings that he converted a total of \$58,000 from public customers through deceptive means. According to the findings, Berberabe obtained the signatures of the customers on blank or incomplete wire authorization forms and later completed the forms, without the knowledge or consent of the customers, in order to facilitate the unauthorized transfer of their funds into a personal brokerage account at a firm other than his employer. The funds were subsequently misused by Berberabe for his own benefit.

Philip Allen Bowsher (Registered Representative, Wapakoneta, Ohio) submitted a Letter of Acceptance, Waiver, and Consent pursuant to which he was censured, fined \$235,000, barred from association with any NASD member in any capacity, and required to pay \$45,133.50 in restitution to his member firm. Without admitting or denying the allegations, Bowsher consented to the described sanctions and to the entry of findings that he endorsed checks received from public customers into his own name totaling \$45,133.50 and failed to

remit their proceeds to his member firm, and instead, retained the funds for his own use and benefit.

Donald Clyde Bozzi (Registered Representative, Basking Ridge, New Jersey) was censured, fined \$30,000, and barred from association with any NASD member in any capacity. The NAC affirmed the sanctions following appeal of a New York DBCC decision. The sanctions were based on findings that Bozzi submitted life insurance applications that contained false information to his member firm. Bozzi also provided false information to the NASD.

Carol Brantley (Associated Person, Akron, Ohio) submitted a Letter of Acceptance, Waiver, and Consent pursuant to which she was censured, fined \$2,500, and barred from association with any NASD member in any capacity. Without admitting or denying the allegations, Brantley consented to the described sanctions and to the entry of findings that she submitted a materially false or inaccurate Form U-4 to her firm that failed to disclose a criminal conviction.

Charles Edward Brown (Associated Person, Chicago, Illinois) submitted a Letter of Acceptance, Waiver, and Consent pursuant to which he was censured, fined \$5,000, and suspended from association with any NASD member in any capacity for 60 days. Without admitting or denying the allegations, Brown consented to the described sanctions and to the entry of findings that he engaged in activities requiring registration as a general securities representative, general securities principal, and municipal securities principal without being registered in those capacities.

John Barrett Bryant (Registered Representative, Collierville, Tennessee) submitted an Offer of Settle-

ment pursuant to which he was censured, fined \$15,000, and barred from association with any NASD member in any capacity with the right to reapply in three years. Without admitting or denying the allegations, Bryant consented to the described sanctions and to the entry of findings that he received \$1,000 from a public customer for the purpose of investing in the customer's universal life policy account, failed to invest the funds in the account, and retained possession of the funds until a later date, without the customer's knowledge or consent. The findings also stated that Bryant sent correspondence to the customer that was misleading in that it overstated the funds maintained by the customer in the life insurance account by approximately \$1,000.

Peter Joseph Cammarano (Registered Principal, The Woodlands, Texas) submitted a Letter of Acceptance, Waiver, and Consent pursuant to which he was censured, fined \$25,000, and barred from association with any NASD member in any capacity. Without admitting or denying the allegations, Cammarano consented to the described sanctions and to the entry of findings that he failed to respond to an NASD request to appear and provide testimony.

Stephen Bruce Carlson (Registered Principal, Denver, Colorado) was censured, fined \$10,000, jointly and severally, with a member firm and barred from association with any NASD member in any capacity. The SEC imposed the sanctions following appeal of a September 1997 NBCC decision. The sanctions were based on findings that Carlson, acting for himself and on behalf of his firm, attempted to obtain stock at below market prices by means of threats, intimidation, and coercion.

Joseph Giulio Chiulli (Registered Principal, Lynbrook, New York)

was censured, suspended from association with any NASD member in any capacity for one year, and required to requalify by exam. The NAC imposed the sanctions following appeal of a New York DBCC decision. The sanctions were based on findings that Chiulli failed to preserve his member firm's books and records and failed to respond to an NASD request for information.

Chiulli has appealed this action to the SEC and the sanctions are not in effect pending consideration of the appeal.

Dickie Lynn Connors (Registered Representative, Kansas City, Missouri) submitted a Letter of Acceptance, Waiver, and Consent pursuant to which she was censured, fined \$50,000, and barred from association with any NASD member in any capacity. Without admitting or denying the allegations, Connors consented to the described sanctions and to the entry of findings that she withdrew funds totaling \$22,000 from the accounts of public customers without their knowledge or consent and converted the funds to her own use and benefit.

Eugene Joseph Cordano (Registered Principal, Brooklyn, New York) submitted an Offer of Settlement pursuant to which he was censured, fined \$25,000, barred from association with any NASD member in any capacity, and ordered to pay \$10,000 in restitution to public customers. Without admitting or denying the allegations, Cordano consented to the described sanctions and to the entry of findings that he executed transactions in the accounts of public customers without the customers' prior knowledge, authorization, or consent. The findings also stated that Cordano provided false information to the NASD during the course of its investigation.

Paul Cruz (Registered Representative, Colorado Springs, Colorado) and Lee Thomas Duran (Registered Principal, Colorado Springs, Colorado) submitted an Offer of Settlement pursuant to which they each were censured, fined \$2,000, and suspended from association with any NASD member in any capacity for 45 days. Without admitting or denying the allegations, the respondents consented to the described sanctions and to the entry of findings that they failed to respond to NASD requests for information in a timely manner.

Robert Henry Deighton, III (Registered Representative, Sarasota, Florida) submitted a Letter of Acceptance, Waiver, and Consent pursuant to which he was censured, fined \$5,000, and suspended from association with any NASD member in any capacity for 30 days. Without admitting or denying the allegations, Deighton consented to the described sanctions and to the entry of findings that he sold approximately \$155,000 in chattel mortgages to public customers for which he received commissions totaling \$7,775 without giving prior written notice to, and receiving written approval from, his member firm.

Joseph Anthony DiMattina (Registered Representative, Glenview, Illinois) submitted a Letter of Acceptance, Waiver, and Consent pursuant to which he was censured, fined \$5,000, and barred from association with any NASD member in any capacity. Without admitting or denying the allegations, DiMattina consented to the described sanctions and to the entry of findings that he received a check issued by his member firm to a public customer in the amount of \$432 to refund the customer for an initial premium paid on a life insurance policy that was canceled. The findings also stated that DiMattina signed the customer's name on the back of the check with-

out the customer's knowledge and consent, deposited the check in his personal account, and used the funds for some purpose other than for the benefit of the customer.

Edward Joseph Dorr (Associated Person, Amityville, New York) was censured, fined \$25,000, and barred from association with any NASD member in any capacity. The sanctions were based on findings that Dorr failed to respond to NASD requests for information.

Kai Fang (Registered Representative, Flushing, New York) submitted an Offer of Settlement pursuant to which he was censured, fined \$2,500, and suspended from association with any NASD member in any capacity for 30 days. Without admitting or denying the allegations, Fang consented to the described sanctions and to the entry of findings that he agreed to reimburse a public customer \$2,798.40 for a loss on a securities trade in the customer's account.

Daniel Charles Felter (Registered Representative, New York, New York) submitted a Letter of Acceptance, Waiver, and Consent pursuant to which he was censured, fined \$25,000, and barred from association with any NASD member in any capacity. Without admitting or denying the allegations, Felter consented to the described sanctions and to the entry of findings that he failed to respond to NASD requests for information.

Frederick Ernest Fischer, Jr. (Registered Representative, Tom's River, New Jersey) submitted a Letter of Acceptance, Waiver, and Consent pursuant to which he was censured, fined \$50,000, and barred from association with any NASD member in any capacity. Without admitting or denying the allegations, Fischer consented to the described

sanctions and to the entry of findings that he failed to respond to NASD requests for information.

Allen D. Fritz (Registered Representative, Wyandotte, Michigan) submitted a Letter of Acceptance, Waiver, and Consent pursuant to which he was censured, fined \$25,000, suspended from association with any NASD member in any capacity for two years, and required to pay \$4,889.56 in restitution to his member firm. Without admitting or denying the allegations, Fritz consented to the described sanctions and to the entry of findings that he effected numerous index option transactions in his personal margin account maintained at his member firm without depositing the required margin, which caused margin call notices to be issued by his firm's clearing firm. The NASD determined that Fritz made a practice of meeting margin calls by liquidating positions in his account.

Daniel Scott Fuchs (Registered Representative, Plainview, New York) was censured, fined \$7,500, and suspended from association with any NASD member in any capacity for 10 business days. The sanctions were based on findings that Fuchs purchased securities for the account of a public customer without the knowledge, authorization, or consent of the customer, and, in the absence of written or oral authorization to Fuchs, exercised discretion in the account.

James Michael Gallaer (Registered Representative, Patchogue, New York) submitted a Letter of Acceptance, Waiver, and Consent pursuant to which he was censured, fined \$20,000, and barred from association with any NASD member in any capacity. Without admitting or denying the allegations, Gallaer consented to the described sanctions and to the entry of findings that he

either refused or failed to execute sell orders put in by public customers and made baseless, unreasonable, and specific price predictions to public customers as to speculative securities, often predicting substantial price increases in a specified period of time. The findings also stated that Gallaer bought or sold securities for the accounts of public customers without obtaining the customers' authorization, and required public customers who desired to purchase units in initial public offerings (IPO) to buy common stock and/or warrants of the issuer in order to be permitted to buy IPO units.

Stephen K. M. Gourlay, Jr. (Registered Principal, Hicksville, New York) submitted an Offer of Settlement pursuant to which he was censured, fined \$20,000, suspended from association with any NASD member in any capacity for three months, suspended from acting as a principal or supervisor of a member firm for two years, ordered to pay \$38,646.25 in restitution to public customers, and required to requalify by exam as a general securities principal. Without admitting or denying the allegations, Gourlay consented to the described sanctions and to the entry of findings that he made fraudulent misrepresentations and omitted material facts in recommending the purchase of securities to public customers. The findings also stated that Gourlay effected unauthorized transactions in customer accounts.

Michael Dylan Gregory (Registered Representative, Scottsdale, Arizona) was censured, fined \$50,000, and barred from association with any NASD member in any capacity. The sanctions were based on findings that Gregory failed to disclose a reportable misdemeanor charge on Form U-4 applications.

Kory Evan Guglielminetti (Registered Representative, Staten

Island, New York) was censured, fined \$129,968.47, and barred from association with any NASD member in any capacity. The sanctions were based on findings that Guglielminetti cheated on his Series 7 exam by having an impostor take the Series 7 in his name. Guglielminetti also failed to respond truthfully to questions during an NASD interview.

Carl John Hagmaier (Registered Representative, San Luis Obispo, California) submitted an Offer of Settlement pursuant to which he was censured and barred from association with any NASD member in any capacity. Without admitting or denying the allegations, Hagmaier consented to the described sanctions and to the entry of findings that he received checks totaling \$120,000 from public customers for investment, deposited the checks into a bank account that he controlled, and misused the funds himself or permitted others to misuse the funds. In one instance, Hagmaier fabricated an account statement for the customer which falsely stated that her funds had been invested in a cash and stock fund. The findings also state that Hagmaier received contributions totaling approximately \$539,000 for the creation of a defined benefit plan and misused \$68,262.61 of the plan's funds for unrelated business and/or personal expenses. Hagmaier also approached public customers to purchase life insurance, took out loans totaling \$160,000 on the value of the policies, and forged the signatures of the customers on the loan checks without the knowledge or consent of the customers. Hagmaier also failed to respond to NASD requests for information.

Andrew Fensmark Harris (Registered Representative, Bronx, New York) was censured, fined \$5,000, suspended from association with any NASD member in any capacity for

six months, and ordered to requalify by exam as a general securities representative. The NAC imposed the sanctions following review of a New York DBCC decision. The sanctions were based on findings that Harris removed a piece of scratch paper on which he had written several exam questions and answers from a Series 7 exam.

Deborah Wertz Henke (Registered Representative, Newbury Park, California) was censured, fined \$61,000, barred from association with any NASD member in any capacity, and ordered to pay \$5,200 in restitution to a member firm. The sanctions were based on findings that Henke converted customer securities and failed to respond to NASD requests for information.

Harold Lee Jenkins (Registered Representative, Bronx, New York) was censured, fined \$250,000, barred from association with any NASD member in any capacity, and ordered to pay \$28,751.90 in restitution. The sanctions were based on findings that Jenkins solicited public customers to provide funds for investment in mutual funds and/or insurance products and, instead of investing the customers' funds on their behalf, deposited the checks into his own personal money market account. Jenkins also failed to appear for an NASD on-the-record interview.

Brian Keith Johnston (Registered Representative, Bremen, Ohio) submitted a Letter of Acceptance, Waiver, and Consent pursuant to which he was censured, fined \$120,222.90, barred from association with any NASD member in any capacity, and ordered to pay \$24,044.58 in restitution to an insurance company. Without admitting or denying the allegations, Johnston consented to the described sanctions and to the entry of findings that he

submitted fictitious annuity applications to an insurance company for people who did not exist and collected \$24,044.58 in advances on commissions to which he was not entitled.

Michael Andrew Kelleher (Registered Representative, Beverly, Massachusetts) submitted a Letter of Acceptance, Waiver, and Consent pursuant to which he was censured, fined \$10,000, and suspended from association with any NASD member in any capacity for 30 days. Without admitting or denying the allegations, Kelleher consented to the described sanctions and to the entry of findings that he provided inaccurate and misleading account information to a public customer on several occasions.

Gerald Kurt Kempa (Registered Representative, New York, New York) submitted a Letter of Acceptance, Waiver, and Consent pursuant to which he was censured, fined \$5,000, suspended from association with any NASD member in any capacity for five business days, ordered to disgorge \$67.72 in net commissions to the NASD, required to requalify by exam as a general securities representative, and ordered to make full restitution to a public customer in the amount of \$1,100, representing losses incurred and applicable interest. Failure to make complete restitution within 60 days will result in Kempa being barred from association with any member firm in any capacity until restitution is complete. Without admitting or denying the allegations, Kempa consented to the described sanctions and to the entry of findings that he effected the purchase of securities in a public customer's account without the customer's prior knowledge or consent.

Kenneth Craig Krull (Registered Principal, Marysville, Washington) was censured, fined \$20,000, barred

from association with any NASD member in any principal or supervisory capacity, suspended from association with any NASD member in any capacity for one year, ordered to pay \$81,705 in restitution to customers, and required to requalify by exam as a general securities representative. The SEC imposed the sanctions following appeal of a July 1997 NBCC decision. The sanctions were based on findings that Krull recommended unsuitable mutual fund switches in the accounts of public customers without having reasonable grounds for believing that such transactions were suitable for the customers in view of the frequency of the transactions, the type of transaction being recommended, and the customers' financial situations, circumstances, and needs.

On February 3, 1999, the SEC granted a stay of the sanctions for 60 days based upon Krull's stated intent to seek review of the SEC's order in the U.S. Court of Appeals for the Ninth Circuit. The principal and supervisory bars are not included in the stay order. In the event that Krull files a timely appeal, the SEC's order shall be further stayed to that extent pending determination of the appeal to the Court of Appeals.

Adam Drew Levy (Registered Principal, Old Westbury, New York) submitted a Letter of Acceptance, Waiver, and Consent pursuant to which he was censured, fined \$300,000, and barred from association with any NASD member in any capacity. Without admitting or denying the allegations, Levy consented to the described sanctions and to the entry of findings that he caused his firm and its representatives to repurchase securities for the firm's account before the completion of IPO distributions at prices slightly higher than the IPO transactions and to solicit public customers to purchase aftermarket securities while the firm

was still engaged in the distributions. The findings also stated that Levy caused his member firm and its representatives to engage in numerous sales practice abuses including, but not limited to, baseless price predictions or guarantees, failures to execute customer orders, and customer requirements to purchase aftermarket shares as a condition of receiving IPO units, and other high pressure tactics. Levy caused his firm and its registered representatives to manipulate the prices of securities in the aftermarket trading of those securities, which resulted in over \$8 million in illegal profits for the firm. Furthermore, the NASD found that Levy failed to supervise the activities of the firm's registered representatives to ensure compliance with applicable securities laws, regulations, and NASD rules.

Peter Liounis (Registered Representative, Brooklyn, New York) was censured, fined \$25,000, and barred from association with any NASD member in any capacity. The sanctions were based on findings that Liounis failed to respond to NASD requests for information.

Dean Joseph LoBrutto (Registered Representative, Rochester, New York) submitted a Letter of Acceptance, Waiver, and Consent pursuant to which he was censured, fined \$25,000, and barred from association with any NASD member in any capacity. Without admitting or denying the allegations, LoBrutto consented to the described sanctions and to the entry of findings that he failed to respond, or to respond truthfully, to NASD requests for information.

Henry Clay Lowry (Registered Representative, Orlando, Florida) submitted a Letter of Acceptance, Waiver, and Consent pursuant to which he was censured, fined \$25,000, barred from association with any NASD member in any

capacity, and ordered to disgorge \$80,000 to public customers. Without admitting or denying the allegation, Lowry consented to the described sanctions and to the entry of findings that he engaged in private securities transactions and failed to request, or receive, permission from his member firm to engage in such transactions.

Timothy Earl McGill, Sr. (Registered Representative, Shrewsbury, Pennsylvania) was censured, fined \$25,000, and barred from association with any NASD member in any capacity. The sanctions were based on findings that McGill failed to respond to NASD requests for information.

Patrick Thomas McRaith (Registered Representative, Chicago, Illinois) submitted a Letter of Acceptance, Waiver, and Consent pursuant to which he was censured, fined \$30,500, and barred from association with any NASD member in any capacity. Without admitting or denying the allegations, McRaith consented to the described sanctions and to the entry of findings that he received a \$4,100 check from a public customer with instructions to use the funds for a new annuity account. The NASD found that McRaith failed to follow the customer's instructions and used the funds for his own use and benefit by endorsing the check, depositing the funds into his personal bank account, and spending the funds, without the knowledge or consent of the customer.

David Amin Monawar (Registered Representative, East Hanover, New Jersey) was censured, fined \$25,000, and barred from association with any NASD member in any capacity. The sanctions were based on findings that Monawar failed to respond to NASD requests for information.

Vincent Michael Nerlino (Registered Representative, New York,

New York) submitted a Letter of Acceptance, Waiver, and Consent pursuant to which he was censured, fined \$10,000, and suspended from association with any NASD member in any capacity for 15 days. Without admitting or denying the allegations, Nerlino consented to the described sanctions and to the entry of findings that he engaged in an outside business activity by acting as a consultant and by sitting on the Board of Directors of a company in which his wife was a majority shareholder.

Thomas Andrew O'Malley (Registered Representative, East Grand Rapids, Michigan) submitted a Letter of Acceptance, Waiver, and Consent pursuant to which he was censured, fined \$193,000, and barred from association with any NASD member in any capacity. Without admitting or denying the allegations, O'Malley consented to the described sanctions and to the entry of findings that he received checks totaling \$31,546.75 from the securities account of a public customer, signed the customer's name to the checks, caused the checks to be deposited in an account in which he had a beneficial interest, and used the funds for some purpose other than the benefit of the customer without the customer's knowledge or consent. The findings also stated that O'Malley failed to respond to NASD requests for information.

Dennis Ray Owens (Registered Representative, Hamilton, Ohio) submitted a Letter of Acceptance, Waiver, and Consent pursuant to which he was censured, fined \$25,000, and barred from association with any NASD member in any capacity. Without admitting or denying the allegations, Owens consented to the described sanctions and to the entry of findings that he failed to respond adequately to NASD requests for information.

Calvin Patterson, III (Registered Representative, Peoria, Illinois) submitted a Letter of Acceptance, Waiver, and Consent pursuant to which he was censured, fined \$7,500, and suspended from association with any NASD member in any capacity for 10 days. Without admitting or denying the allegations, Patterson consented to the described sanctions and to the entry of findings that he effected numerous options transactions on a discretionary basis in the accounts of public customers without prior written authorization from the customers and written acceptance from his member firm. The findings also stated that Patterson effected options transactions without the authorization of a public customer after the customer requested Patterson liquidate her account.

Lawrence Joseph Penna (Registered Principal, Franklin Lakes, New Jersey) submitted an Offer of Settlement pursuant to which he was censured, fined \$25,000, and suspended from association with any NASD member in any capacity for two years. Without admitting or denying the allegations, Penna consented to the described sanctions and to the entry of findings that he failed to appear for testimony and failed to respond to NASD requests for information regarding his justification for failing to appear for scheduled testimony in a timely manner.

Steven Francis Perdie (Registered Principal, Port Jefferson Station, New York) was censured, fined \$25,000, and barred from association with any NASD member in any capacity. The sanctions were based on findings that Perdie failed to respond to NASD requests for information.

Sean Michael Perry (Registered Representative, Rancho Cucamonga, California) submitted a Letter of Acceptance, Waiver, and

Consent pursuant to which he was censured, fined \$1,000, and suspended from association with any NASD member in any capacity for 15 business days. Without admitting or denying the allegations, Perry consented to the described sanctions and to the entry of findings that he failed to disclose misdemeanors involving possession of a false identification and providing false identification to a police officer on his Form U-4 that he submitted to his member firm and the NASD.

Theodore Lester Pittman III (Registered Representative, McFarland, Wisconsin) was censured, fined \$20,000, and barred from association with any NASD member in any capacity. The NAC affirmed the sanctions following appeal of a Chicago DBCC decision. The sanctions were based on finding that Pittman failed to respond to NASD requests for information.

Michael Ploshnick (Registered Principal, Boca Raton, Florida) was censured, fined \$25,000, and barred from association with any NASD member in any capacity. The sanctions were based on findings that Ploshnick failed to respond to NASD requests for information and to provide testimony.

Milson Carroll Raver, Jr. (Registered Representative, Sea Girt, New Jersey) was censured, fined \$350,000, barred from association with any NASD member in any capacity, and ordered to pay \$15,000, plus interest, in restitution to public customers. The sanctions were based on findings that Raver used a fraudulent scheme to sell securities in that he deposited \$15,000 of public customers' monies intended for purchasing securities into a brokerage account he opened and controlled. Furthermore, Raver failed to segregate or hold the monies in an escrow account, used

the account to pay for personal expenses, withdrew all the money, and closed the account, without reimbursing the customers or delivering shares of stock to the customers. Raver also engaged in private securities transactions without giving prior written notice to his member firm and failed to respond to NASD requests for information.

Nelson Eric Roseland (Registered Representative, Oakland, California) was censured, fined \$67,500, and barred from association with any NASD member in any capacity. The sanctions were based on findings that Roseland made unsuitable recommendations to a public customer and exercised discretionary trading authority in the account of a public customer without prior written approval from the customer and his member firm. Roseland also failed to respond to NASD requests for information.

Robert Lowell Shatles (Registered Principal, Fort Salonga, New York) submitted a Letter of Acceptance, Waiver, and Consent pursuant to which he was censured, fined \$15,000, and suspended from association with any NASD member in any capacity for two months. Without admitting or denying the allegations, Shatles consented to the described sanctions and to the entry of findings that he allowed a firm to conduct a securities business by transacting with customers and making markets, while failing to maintain the minimum required net capital. The findings also stated that Shatles failed to record properly the firm's deficit net capital position on its financial books and records. In addition, Shatles failed to transmit notice of the firm's net capital deficiency to the SEC and the NASD and failed to file, and to file on a timely basis, the firm's FOCUS reports.

Robert Vincent Sherman (Registered Principal, Wheat Ridge, Colorado) submitted an Offer of Settlement pursuant to which he was censured, fined \$10,000, and suspended from association with any NASD member in any capacity for 30 days. Without admitting or denying the allegations, Sherman consented to the described sanctions and to the entry of findings that he repeatedly failed to make the required “affirmative determination” that certain securities he sold short would be delivered or available and could be borrowed.

Jeremy L. Slovik (Registered Representative, Bayshore, New York) submitted an Offer of Settlement pursuant to which he was censured and suspended from association with any NASD member in any capacity for two years. Without admitting or denying the allegations, Slovik consented to the described sanctions and to the entry of findings that he made material misrepresentations, omitted material information, and made fraudulent price predictions in the offer and sale of securities. The findings also stated that Slovik executed an unauthorized transaction in the account of a public customer.

Thomas W. Smith (Registered Principal, Portland, Oregon) submitted a Letter of Acceptance, Waiver, and Consent pursuant to which he was censured, fined \$10,000, and suspended from association with any NASD member in any capacity for two years. Without admitting or denying the allegations, Smith consented to the described sanctions and to the entry of findings that he submitted misleading documentation to his member firm to obtain reimbursements through the petty cash fund in his branch office. The findings also stated that Smith charged these expenses to his firm’s corporate account such that the firm was directly billed for these charges in

addition to the payments from petty cash. Smith obtained reimbursement in the amount of \$1,038.47; however, due to the nature of the firm’s procedures for reimbursing branch office expenses and its compensation arrangement with Smith, the actual benefit to Smith was \$951.99.

Timothy Patrick Sullivan (Registered Representative, Owings Mills, Maryland) submitted a Letter of Acceptance, Waiver, and Consent pursuant to which he was censured, fined \$100,000, and barred from membership with any NASD member in any capacity. Without admitting or denying the allegations, Sullivan consented to the described sanctions and to the entry of findings that he submitted applications for life insurance on the lives of public customers without their authorization and consent and affixed signatures purporting to be the customers to the applications and to policy delivery receipts. The findings also stated that Sullivan caused an insurance policy on the life of a public customer to be surrendered and its cash value applied to purchase an annuity. In connection with the surrender and purchase, Smith affixed the customer’s signature to the application and related documents without the authorization or consent of the customer.

John Anthony Tabone (Registered Representative, Auburn, New York) submitted a Letter of Acceptance, Waiver, and Consent pursuant to which he was censured and barred from association with any NASD member in any capacity. Without admitting or denying the allegations, Tabone consented to the described sanctions and the entry of findings that he changed the addresses of public customers to addresses under his control without the customers’ knowledge or consent, took unauthorized loans and other disbursements from variable and non-securities insurance policies

issued by his member firm, and converted the proceeds to his own use and benefit. The findings also stated that Tabone failed to apply funds given to him by public customers for insurance policy premiums, and, without the knowledge or consent of the customers, converted the funds to his own use and benefit. Tabone converted a total of \$253,573, of which \$24,435.28 was converted from non-securities insurance products. In furtherance of the conversion of funds, Tabone altered policy statements to reflect fictitious account values and gave these altered statements to the customers.

Matthew Lee Towers (Registered Representative, New York, New York) was censured, fined \$25,000, and barred from association with any NASD member in any capacity. The sanctions were based on findings that Towers failed to respond to NASD requests for information.

Sean Martin Towey (Registered Representative, Union City, New Jersey) was censured, fined \$25,000, and barred from association with any NASD member in any capacity. The sanctions were based on findings that Towey failed to respond to NASD requests for information.

James Arlie Tyson, Sr. (Registered Representative, Lake Park, Georgia) submitted a Letter of Acceptance, Waiver, and Consent pursuant to which he was censured, fined \$100,000, barred from association with any NASD member in any capacity, and ordered to pay \$304,399.61 in restitution to public customers. Without admitting or denying the allegations, Tyson consented to the described sanctions and to the entry of findings that a public customer gave him checks totaling \$20,000 for the purchase of shares in a company “if and when” the company went public. The find-

ings stated that Tyson gave the customer a "debenture" which carried an 11 percent interest rate and purportedly gave him the right to convert his investment into shares of stock. Instead of investing the customer's funds, Tyson converted them to his own use and benefit. In addition, Tyson converted a total of \$304,399.61 received from other public customers to his own use and benefit by telling the customers he was investing their funds in securities and evidenced the transactions by providing them with "Certificates of Direct Participation" he created that specified an investment amount, an annual yield, and a maturity date.

Rocco Anthony Vignola (Registered Representative, Bohemia, New York) was censured, fined \$15,000, and barred from association with any NASD member in any capacity. The sanctions were based on findings that Vignola forged a public customer's signature on an application for an insurance policy in the customer's name and submitted the application, without the customer's knowledge or authorization; forged the customer's signature on a check for \$908 which reflected the customer's credit resulting from the cash surrender of a separate insurance policy; and used a portion of the proceeds of that check to pay for the aforementioned unauthorized insurance policy.

Robert Lee Wallace (Registered Principal, Naples, Florida) was censured, fined \$5,000, and suspended from association with any NASD member in any capacity for 60 days. The SEC affirmed the sanctions following appeal of a January 1998 NAC decision. The sanctions were based on findings that Wallace published an advertisement for viatical settlements in a newspaper that contained misleading, unwarranted, and exaggerated statements and failed to disclose the risks associated

with the product being advertised.

Mark Jonathan Weisman (Registered Representative, Basking Ridge, New Jersey) submitted a Letter of Acceptance, Waiver, and Consent pursuant to which he was censured, barred from association with any NASD member in any capacity, and ordered to pay restitution in the amount of \$465,031.70 to his member firms or their insurance company parent organizations. Without admitting or denying the allegations, Weisman consented to the described sanctions and to the entry of findings that he effected the unauthorized withdrawal of \$465,031.70 in loan checks from the policies of policy holders and public customers without their knowledge or consent, and deposited these funds into his personal bank account.

Kellie Anne Will (Registered Representative, Derby, New York) submitted an Offer of Settlement pursuant to which she was censured, fined \$25,000, and barred from association with any NASD member in any capacity. Without admitting or denying the allegations, Will consented to the described sanctions and to the entry of findings that she failed to respond to NASD requests for information.

Paul Daniel Willette (Registered Representative, Eden Prairie, Minnesota) submitted a Letter of Acceptance, Waiver, and Consent pursuant to which he was censured, fined \$5,000, suspended from association with any NASD member in any capacity for 15 business days, and required to pay \$10,000 in restitution to a public customer. Willette must also submit to additional supervision by his member firm for 365 days following the suspension. Without admitting or denying the allegations, Willette consented to the described sanctions and to the entry of findings that he failed to disclose a

customer complaint and settlement with the customer on a Form U-4. The findings also stated that Willette exercised effective control over customer accounts and recommended to the customers numerous purchases and sales of securities without having reasonable grounds for believing that such recommendations were suitable for the customers in view of the size and frequency of the transactions, and the nature of the customers' accounts.

Andrew Scott Zeiger (Registered Representative, Fort Lauderdale, Florida) was censured, fined \$25,000, and barred from association with any NASD member in any capacity. The sanctions were based on findings that Zeiger failed to respond to NASD requests for information.

Individual Fined

David Madden Shehan (Registered Representative, Littleton, Colorado) submitted a Letter of Acceptance, Waiver, and Consent pursuant to which he was censured and fined \$12,500. Without admitting or denying the allegations, Shehan consented to the described sanctions and to the entry of findings that he sent correspondence to mutual fund wholesalers without prior approval from his member firm. According to the findings, the correspondence solicited funds for a firm-sponsored educational meeting by improperly promising access to mutual fund wholesalers who contributed to the meeting and denying access to those unwilling to contribute.

Decision Issued

The following decisions have been issued by the DBCC or the Office of Hearing Officers and have been appealed to or called for review by the NAC as of February 12, 1999. The findings and sanctions imposed in the decision may be increased,

decreased, modified, or reversed by the NAC. Initial decisions whose time for appeal has not yet expired will be reported in the next *Notices to Members*.

David Charles Baron, Jr. (Registered Principal, Clearwater, Florida) was censured, fined \$15,000, and suspended from association with any NASD member in any capacity for 45 days. The sanctions were based on findings that Baron failed to supervise a registered representative by allowing the individual to effect transactions in municipal securities without being registered.

Baron has appealed this action to the NAC and the sanctions are not in effect pending consideration of the appeal.

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.

Thomas John Dalton (Registered Principal, Levittown, New York) was named as a respondent in an NASD complaint alleging that he charged public customers markups and markdowns above his member firm's contemporaneous cost, totaling approximately \$793,919.97, at prices that were not fair and reasonable, taking into consideration all of the relevant factors. The complaint also alleges that Dalton effected transactions in, or induced the purchase or sale of, securities by means

of manipulative, deceptive, or other fraudulent devices or contrivances. The complaint alleges that Dalton failed to disclose to public customers that the prices at which his member firm was engaging in these transactions with its customers were not reasonably related to the prevailing market price of these securities.

Robert Louis Giardina (Registered Representative, Staten Island, New York) was named as a respondent in an NASD complaint alleging that he employed devices to defraud a public customer by making untrue statements of material fact or omitting to state material facts necessary to make the statements, in light of the circumstances in which they were made, not misleading. The complaint alleges that Giardina made material misrepresentations to a public customer in order to persuade the customer not to sell securities. The complaint also alleges that Giardina failed to respond timely to NASD requests for information and for on-the-record testimony.

Daniel J. Glass (Registered Principal, Lutz, Florida) was named as a respondent in an NASD complaint alleging that he effected securities transactions in a public customer's account without the customer's authorization and without discretionary authority over the account, and in response to the customer's complaints, paid the customer a total of \$2,124.99 for the losses incurred in connection with the unauthorized transactions.

Matthew Christopher Hawley (Registered Principal, Sleepy Hollow, New York) was named as a respondent in an NASD complaint alleging that he made material misrepresentations and failed to disclose material information to public customers in order to induce them to purchase securities. The complaint also alleges that Hawley made fraud-

ulent price predictions in connection with his recommendations and solicitations. The complaint alleges that Hawley effected transactions in public customer accounts without the prior authorization of the customers. The complaint also alleges that Hawley failed to execute a public customer's sell order.

Ricky Allen Lubinsky (Registered Principal, Fort Lauderdale, Florida) was named as a respondent in an NASD complaint alleging that he made unsuitable recommendations to a public customer based on the facts the customer disclosed as to her tax status, investment objective, and financial situation and needs. The complaint also alleges that Lubinsky failed to respond to NASD requests for information.

Machelle Rene May (Registered Principal, San Diego, California) was named as a respondent in an NASD complaint alleging that she made unauthorized withdrawals from her member firm's bank accounts totaling \$42,208.67 and converted those funds to her own personal use.

Thomas Robert Sanford (Registered Principal, Dana Point, California) was named as a respondent in an NASD complaint alleging that he effected unauthorized transactions in the accounts of public customers, and attempted to effect the purchase of securities in the account of another public customer without the customer's knowledge, authorization, or consent. The complaint also alleges that Sanford initiated unauthorized wire transfers totaling \$21,800 from the joint account of public customers, forged the customers' signatures on wire transfer instruction forms, and as a result, caused \$21,800 to be transferred from the customers' joint account to two bank accounts of which the customers had no beneficial or other interest.

Ronald Franklin Sivak (Registered Representative, Mobile, Alabama)

was named as a respondent in an NASD complaint alleging that he effected a transfer of funds in the amount of \$9,000 from the account of a public customer to the joint account of other public customers, without the knowledge or consent of the first customer. The complaint alleges that in connection with this activity, Sivak forged the signature of the first customer on an "Authorization to Journal Securities or Funds" form, without the customer's knowledge or consent. The complaint also alleges that Sivak failed to respond to NASD requests for information.

Dale Cochren Trask (Registered Representative, Swampscott, Massachusetts)

was named as a respondent in an NASD complaint alleging that after having been granted power of attorney over the financial affairs of a public customer afflicted with Alzheimer's and Parkinson's disease, he improperly converted \$157,250 of the customer's funds for his own use and benefit.

James Mitchell Vaughn (Registered Representative, Bellport, New York)

was named as a respondent in an NASD complaint alleging that he made material misrepresentations, omitted to disclose material information, and made fraudulent price predictions in connection with his solicitation of public customers to purchase securities. The complaint also alleges that Vaughn effected a transaction in the account of a public customer without the customer's authorization. The complaint also alleges that Vaughn failed to execute a sale of securities as instructed by a public customer.

Firms Suspended

The following firms were suspended from membership in the NASD for failure to comply with formal written

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

Barry F. Cohen & Company, Boca Raton, Florida (February 16, 1999)

Grigsby & Associates, San Francisco, California (February 4, 1999)

Firms Expelled For Failing To Pay Fines, Costs, And/OR Provide Proof Of Restitution In Connection With Violations

InterSecurities Limited, Nassau, Bahamas (February 5, 1999)

Plumwood Securities Corp., Libertyville, Illinois (February 5, 1999)

Strategic Resource Management, Inc., Aurora, Colorado (February 5, 1999)

Firm Suspended Pursuant To NASD Rule Series 9510 For Failing To Pay An Arbitration Award

Ash & Co., Inc., a/k/a Ash Financial Corp., Great Neck, New York (February 4, 1999)

M.S. Farrell & Company, Inc., New York, New York (January 25, 1999 - February 4, 1999)

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

Catsos, Jr., James E., Aventura, Florida (February 5, 1999)

DeSanto, Joseph F., Pompano Beach, Florida (February 5, 1999)

Mazzei, Frank R., Oceanport, New Jersey (January 29, 1999)

Moler, William A., Aurora, Colorado (February 5, 1999)

Individuals Suspended Pursuant To NASD Rule Series 9510 For Failure To Pay Arbitration Awards

Cox, Jeffrey L., Lemayne, Pennsylvania (February 1, 1999 - February 10, 1999)

Katz, Michael Alan, Bethpage, New York (February 10, 1999)

Zangara, Frank Jack, Hicksville, New York (February 17, 1999)

NASD Regulation And The New York Stock Exchange Jointly Fine Ragen MacKenzie, Inc. \$125,000

NASD Regulation and the New York Stock Exchange, Inc., as a result of a coordinated examination and investigation, announced that Ragen MacKenzie, Inc., has been censured and fined \$125,000 for violations arising from the processing of customer orders and has agreed to an appropriate undertaking regarding its procedures. The actions were brought by both self-regulatory organizations and the sanctions are jointly assessed.

The NYSE found that with respect to two securities listed on the Exchange, Ragen MacKenzie aggregated orders for the purchase of securities in customer accounts into blocks, and after shares were obtained, allocated the shares to customers at the average price at which the orders were filled. The NYSE found that the firm did not prepare order tickets to reflect orders, at

or near the time the block orders were entered did not possess documentation reflecting that the firm disclosed to its customers that it intended to aggregate orders, and then to allocate the shares purchased to its customers, after the close of the trading day, at the average price at which the shares were purchased.

NASD Regulation also found that in June and July of 1997, Ragen MacKenzie aggregated certain customer purchase and sale orders in seven Nasdaq stocks and executed such orders as block trades through its trading desk. After the execution of the block trades was completed, the firm's brokers allocated the shares at the average price among selected customer accounts for which the orders were placed. Ragen MacKenzie had no standardized process to prevent disparate allocations among customer accounts. NASD Regulation further found that, in violation of NASD rules and federal securities laws, the firm failed to prepare and maintain records reflecting details of individual customer orders including price and size of orders, and time of receipt and account identification information.

NASD Regulation and the NYSE also found that the firm failed to provide for appropriate supervision designed to prevent these violations.

Ragen MacKenzie, which neither admitted nor denied NASD Regulation's and the NYSE's allegations, has undertaken to have the audit committee of its parent company verify that a review of the firm's procedures has been conducted and that appropriate new procedures have been implemented to ensure compliance with applicable self-regulatory organization rules and the federal securities laws.

NASD Regulation Expels Biltmore Securities, Inc., Bars Two Principals For Microcap Fraud, And Obtains Restitution And Funds For Investors

NASD Regulation announced that it has expelled Biltmore Securities, Inc., of Ft. Lauderdale, Florida, from membership in the NASD, and permanently barred its two principals, Elliot Loewenstern and Richard Bronson, for engaging in fraudulent conduct and obtaining excessive underwriting compensation. The firm and its two principals have agreed to settle, without admitting or denying the allegations, several disciplinary actions involving the underwriting, distribution, or trading of the securities of five different issuers between November 1993 and December 1995.

As part of the settlement, the firm and its principals have agreed to return more than \$6 million to customers of the firm. Of this, \$3.3 million has been earmarked for customers who have recently reached settlements with the firm. An additional \$1.6 million of this money will be used to pay restitution to identified customers. The final \$1.1 million will be used to compensate customers of Biltmore who voluntarily participate in a mediation program specifically designed to mediate their claims against the firm.

Biltmore, Loewenstern, and Bronson will also pay fines of \$600,000, \$300,000, and \$100,000, respectively. NASD Regulation will collect the fines only after all obligations to customers under the settlement have been satisfied.

Violations

The settlement involves the following violations:

Manipulative Conduct. Biltmore Securities and Loewenstern

engaged in manipulative activity in connection with the IPOs of CSI Computer Specialists, Inc., and Terrace Holdings, Inc., underwritten by the firm. This activity violated the anti-fraud, anti-manipulation, and other provisions of the federal securities laws and NASD rules.

During both offerings, which took place in 1995, Loewenstern controlled the distribution of the IPOs and placed 31 percent of each offering with investors who he expected would sell the securities back to Biltmore as quickly as possible after trading began. Minutes after open market trading began, these shares were sold or "flipped" back to Biltmore at prices between \$.75 and \$2 above the IPO price. In addition, while the initial offering was still in progress, Biltmore agreed to purchase 725,000 shares from "insiders" of Terrace Holdings, for prices well below the price of the offering.

Once the IPO was completed and after-market trading began in each offering, Biltmore's sales force began an aggressive effort to sell the securities to the firm's retail customers. Biltmore and Loewenstern violated the securities laws and NASD rules by acting as a market maker in the aftermarket for each security before completing a bona-fide distribution of these IPOs. As a result of this misconduct, Biltmore illegally profited by almost \$1.8 million.

Fraudulently Failing to Disclose Adverse Interests. In 1993 and 1994, Biltmore awarded bonuses of publicly traded warrants of Healthcare Imaging Services, Inc., and United Restaurant, Inc., to Loewenstern, Bronson (in one instance), and other employees of the firm. Warrants entitle the holder to buy during a specified period a proportionate amount of common stock at a price which is usually higher than the market price at the time of issuance of the war-

rants. Shortly after the bonuses were awarded, the vast majority of the warrants were sold back to the firm. At the same time, Biltmore's brokers, acting under the direction of Loewenstern and/or Bronson, aggressively solicited Biltmore's public customers to purchase these warrants. They failed to disclose to those customers, as required by federal securities laws, the materially important fact that certain persons at the firm had a personal financial interest in the warrants being sold. As a result of purchasing these securities, Biltmore's customers suffered losses of more than \$1.6 million, which are being repaid as part of this settlement.

Excessive Underwriting Compensation and Related Misconduct.

Biltmore made more than \$2.6 million in illicit profits by collecting excessive underwriting compensation in violation of the NASD's Corporate Financing Rule. That Rule regulates the amount of compensation an underwriter can receive in an offering; requires firms to file certain information, including the amount of their proposed compensation, with the NASD prior to the commencement of an offering; and requires that the underwriting compensation be disclosed in the offering materials.

During late March 1994, Biltmore bought more than 7 million shares of

stock of Licon International, Inc., from an entity owned by three principals of Stratton Oakmont, Inc. Subsequently, the firm, acting through Loewenstern and Bronson, engaged in a public distribution of these shares by selling them to its customers. They did not comply with the Corporate Financing Rule under which they would have been entitled to receive \$984,330. Instead, the firm received over \$640,000 more than it should have received. In 1995, Biltmore and Loewenstern again violated the Corporate Financing Rule in connection with the distribution of the Terrace Holdings securities it obtained from "insiders" of the company in 1995 described above. In this case, the firm was entitled to underwriting compensation of \$755,332. Instead, it obtained more than \$2 million in excess of that amount.

Terms Of The Settlement

In addition to agreeing to the expulsion of Biltmore from the NASD, and permanent bars from the securities industry of Loewenstern and Bronson, they have agreed to give up their illicit profits to pay back some former customers with claims against the firm. Some of those funds will be used to finance a specially designed voluntary mediation program, sponsored by NASD Regulation's Media-

tion Department. The program may be used by customers with claims against the firm arising within the past six years. Certain limits have been set on the amounts that a particular investor may recover and the number of customers who benefit from the program will depend on the number and size of the claims actually mediated. All customers with existing claims against them will be provided notice of the terms of the mediation program. Customers may still opt to pursue their case in arbitration.

Customers who have questions concerning the details of this mediation program, may call Elizabeth McCoy, Assistant Director of Mediation at 888-NY-MEDI-8 (888-696-3348).

In addition, Biltmore, Loewenstern, and Bronson have agreed to repay customer losses of approximately \$1.6 million to some 150 customers in at least 25 states, who purchased United Restaurant warrants (between November 14-22, 1994 and January 5-20, 1995) or Healthcare Imaging warrants (between November 23-December 7, 1993). Customers with questions about this aspect of the settlement should call 888-275-7456.

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For Your Information

Amendments To Guidelines Regarding California Arbitration Proceedings

Information in *NASD Notice to Members 99-10* (February), which applies to NASD Regulation, Inc. (NASD RegulationSM) arbitration proceedings in California, and governs the activities of non-California attorneys, has been amended **and should be reviewed by anyone participating in a California arbitration proceeding**. The original Guidelines became effective on January 1, 1999.

Effective February 5, 1999, the NASD Regulation Office of Dispute Resolution (ODR) amended its Guidelines for non-California attorneys seeking to represent parties in arbitration proceedings in California. Non-California attorneys now must fulfill their obligations under the Guidelines, that is, associate with California counsel and file a Certification Form, **no later than 20 days before the first scheduled hearing on the merits**. The prior deadline was 45 days after service of the Statement of Claim. This means that non-California attorneys may participate fully in the arbitration proceeding without associating with local counsel or filing the Certification Form until 20 days before the first scheduled hearing on the merits, when they must comply with the Guidelines or be barred from representing their clients in the arbitration case. This change is consistent with Cal. Civ. Proc. Code § 1282.4.

Questions concerning this communication or *Notice to Members 99-10* may be addressed to Terri L. Reichert, Assistant General Counsel, Office of General Counsel, National Association of Securities Dealers, Inc. (NASD[®]), at (202) 728-8967, or by e-mail at reichert@nasd.com.

Misprint In 1998 Edition Of NASD Sanction Guidelines

The hard-copy, paper version of *NASD Sanction Guidelines* contains a misprint in the guideline for **Communications with the Public — Late Filing; Failing to File; Failing to Comply with Rule Standards or Use of Misleading Communications** (page 75, Sales Practices section of the 1998 edition of the *NASD Sanction Guidelines*). The Internet version, on the NASDR Web Site (www.nasdr.com) is correct.

Under the column titled “Suspension, Bar, or Other Sanctions,” for “Failure to File,” the second paragraph should read: “Also consider suspending the responsible individual in any or all capacities for up to **10** business days.” The current version inaccurately states “**five** business days.”

Under the column titled “Suspension, Bar, or Other Sanctions,” for “Late Filing,” the second paragraph should read: “Also consider suspending the responsible individual in any or all capacities for up to **five** business days.” The current version inaccurately states “**10** business days.”

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