

YEAR 2000 UPDATE

SEC Reporting Requirement

In July of this year, the National Association of Securities Dealers, Inc. (NASD[®]) issued *Special Notice to Members 98-63* alerting members to a new reporting requirement imposed by an amendment to Securities and Exchange Commission (SEC) Rule 17a-5. The SEC rule amendment requires broker/dealers to file two Year 2000 reports using the new BD-Y2K Form. The first report was due to the SEC and designated examining authority (DEA) on or before August 31, 1998. The second report is due April 30, 1999.

The SEC and the NASD are working closely with all the self-regulatory organizations as well as the Securities Industry Association (SIA) to improve their ability to identify potential Year 2000 failures. Much of this work will be accomplished through careful analysis of the two reports required by the SEC of both broker/dealers and transfer agents.

The NASD strongly encourages those member firms that did not meet the August 31 deadline to submit the Year 2000 report immediately. The NASD sent out over 1,500 letters notifying NASD member firms that failed to comply with the SEC Year 2000 reporting requirement that the NASD and SEC will file disciplinary actions as appropriate. As of September 22, 195 firms were still delinquent in filing the Form BD-Y2K. The NASD and the SEC will be taking appropriate disciplinary action against these firms.

Broker/Dealer Contingency Plans

As the NASD and its member firms prepare their systems and applications to operate successfully in the face of the Year 2000 challenge, contingency planning is an essential step that should not be neglected. Contingency planning for Year 2000 occurs at different levels for member firms. Each broker/dealer is responsible for developing a written plan that ensures business continuity through the Year 2000.

Currently, contingency plans are being developed by industry associations like the Federal Reserve Board and SIA. The SIA has formed a policy-level contingency planning committee of experts to examine contingencies that might arise should computer programs and other automated systems not correctly recognize the century date change. The committee will focus on (1) developing steps to cushion the pressures on financial markets, financial institutions, and clearance and settlement systems that arise the last couple of weeks leading up to 2000 and first couple of weeks into 2000, and (2) developing contingency arrangements for maintaining business continuity during the century date change.

According to industry guidelines, organizations should begin constructing their contingency plans by the end of 1998 and spend 1999 detailing results and preparing business operations where needed. If you are not sure what a contingency plan is or when it would be useful, it is similar to Murphy's Law—be prepared for anything that could go wrong. For example, what will you do if you rely on public transportation, and it doesn't work on January 1, 2000? Or, if you rely on satellite feeds for clock synchronization, and they don't operate? Or, if your local telecommunications company were unable to function, how would you notify your customers? Lastly, how would you manage an orderly shutdown of your business?

The following column displays a high-level outline of the contents of a sample contingency plan. We share this with NASD member firms solely as an example.

Year 2000 contingency plans should include:

- 1 *The objective of the plan (e.g., continue normal operations, continue in a degraded mode, abort the function as quickly and safely possible, etc.)*
- 2 *Criteria for invoking the plan (e.g., missing a renovation milestone, reaching a Year 2000-related failure date, experiencing serious system failures, inability of a vendor to provide required service, etc.).*
- 3 *Schedule of activities, dependencies, and resources required from triggering events.*
- 4 *Expected life of the events (How long can operations continue in contingency operating mode?).*
- 5 *Roles, responsibilities, and authority.*
- 6 *Procedures for invoking contingency mode.*
- 7 *Procedures for operating in contingency mode.*
- 8 *Resource plan for operating in contingency mode (e.g., staffing, scheduling, materials, supplies, facilities, temporary hardware and software, communications, etc.).*
- 9 *Criteria for returning to normal operating mode.*
- 10 *Procedures for returning to normal operating mode.*
- 11 *Procedures for recovering lost business events or data.*

To find out more about contingency planning and legal issues surrounding the Year 2000 challenge, attend the Year 2000 Legal Seminars being held October 13 (Chicago), October 20 (Atlanta), and November 3 (New York City). This Year 2000 legal seminar will also be featured at the annual NASD Regulation Fall Securities Conference being held November 4-6 in San Francisco.

For more information on required Year 2000 reporting, help in developing a member firm Year 2000 contingency planning, and/ or details about Year 2000 workshops, contact the NASD Year 2000 Program Office by e-mail at y2k@nasd.com or by calling its toll-free number, at (888) 227-1330.