JULY 2006

Notice to Members

Notices

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Disciplinary and Other NASD Actions

NASD

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Notice to Members

JULY 2006

SUGGESTED ROUTING

Chief Compliance Officer
Legal and Compliance
Operations
Senior Management

KEY TOPICS

NASD Rule 3070 System Requirements

ACTION REQUIRED

NASD Rule 3070 System Requirements

Technical Changes in the Reporting of Statistical and Summary Information Regarding Customer Complaints and Disclosure Events pursuant to Rule 3070

Executive Summary

NASD Rule 3070(c) requires members to report to NASD statistical and summary information regarding customer complaints by the 15th calendar day of the month following the calendar quarter's end (*e.g.,* by April 15 for the first quarter) in which customer complaints are received by the member. The information reported by members provides NASD with important regulatory information that assists with the timely identification of potential sales practice and operational problems.

The Rule significantly parallels comparable provisions of New York Stock Exchange (NYSE) Rule 351(d), and it exempts members that are currently subject to the requirements of Rule 351(d) to ensure that there is no regulatory duplication for dual NASD/NYSE members. In an effort to make the filing requirements of NASD 3070(c) and NYSE 351(d) more uniform and enhance the regulatory value of the information, the following data fields are being modified in the 3070 system file layout:

DATA FIELDS	XML FILE TAG NAMES
Complaint Number	<id>
Complaint Date	<date>
Branch	<branch-id>
Contact Phone Number	<phone-number>
Contact Name	<first-name> <last-name>
Customer Account Number	<account-number>
Customer Name	<first-name> <last-name>
Allegation Activity Period	<activity-date> <activity-date2>
Total Amount	<amount>
Dispute Amount	<dsptd-amt> <dsptd-amt-flag>
Security Symbol/Description	<symbol> <iss-descrpt>
Response Date	<response-date>

Testing and Implementation of the Changes to the 3070 System

The changes to the 3070 System fields listed above will be effective on Friday, December 15, 2006.

NASD recognizes that the changes to the 3070 System may require members to make modifications to their systems and processes. Members will have an opportunity to test their program changes as of October 23, 2006 using the Regulation Filing Applications test site, which can be found on NASD's Web site at *https://regfilingtest.nasd.com.*

Questions/Further Information

Questions regarding technical requirements may be directed to NASD's Gateway Call Center at (800) 321-NASD. Other questions regarding these changes and Rule 3070 may be directed to David Troutner at (202) 728-8069.

Background and Discussion

Attached to this *Notice* is a chart of the revised 3070 import XML file format that will be effective for fourth quarter 2006 reporting of 3070(c) complaint information. Note that some of the Rule 3070(a) disclosure event fields will be modified in order to maintain data structure consistency in the 3070 system.

The following is a description of the data fields being modified:

Complaint Number

Change: This field is currently not mandatory and accepts a maximum of eight numeric characters. It will become a mandatory field, and will be expanded to accept 30 alphanumeric characters.

Guidance: This is the member's unique identification for the complaint.

Complaint Date

Change: The field format will change from "mm/dd/yyyy" to "yyyy/mm/dd."

Guidance: This is the date the complaint letter is first received by the member, not when a particular department of the member receives it. If the complaint is received after business hours and is time-stamped the next day, that date may be used as the receipt date. Members may utilize a date-stamp/time-stamp machine to reflect the date/time of receipt, or manually write it in if no other means is available. If no evidence of the date and time of receipt are reflected on the document, then the date of the letter will be viewed as the date of receipt.

Branch

Change: The branch identification field will change from numerical to alphanumeric characters.

Guidance: This field is mandatory. Use the assigned CRD Branch Number. You may type in "HOME" if the complaint is related to a home office that does not meet the Branch Office definition and therefore does not have a CRD Branch Number.

Contact Phone Number

Change: This field will change to alphanumeric characters.

Contact First Name

Change: This field will change from alpha to alphanumeric characters.

Contact First Last

Change: This field will change from alpha to alphanumeric characters.

Customer Account Number

Change: This field will be expanded from 15 alpha characters to accept a maximum of 50 alphanumeric characters.

Guidance: This is the account number relating to the customer's account referenced in the complaint. This will remain an optional field.

Customer Name

Change: There are two fields for customer name. The customer's last name field will be expanded from 30 alpha characters to accommodate a maximum of 255 alphanumeric characters, and is mandatory. The customer's first name field will be reformatted from alpha characters to accommodate a maximum of 30 alphanumeric characters.

Guidance: Members must provide the name of the complaining investor.

- When the customer is not a proper name: For institutional or "for the benefit of" type accounts, the account title must be entered in the last name field the way the account is reflected on the organization's books and records. Do not abbreviate the account title.
- Third-party complaints: Enter the term "third party" or use the customer's name in the last name field.
- Attorney writing on behalf of client: Enter the customer's name.
- Investment advisory accounts: Enter the entire title. For example, "ABC Advisory for the Benefit of Joe Doe."
- Anonymous complaints: Write "anonymous" in the last name field.

Allegation Activity Period

Change: The two fields for the dates that the alleged activity of the problem began and ended will be reformatted from "mm/dd/yyyy" to "yyyy/mm/dd."

Guidance: The allegation activity period is required for all complaints if stated within the body of the letter or gleaned from enclosed information such as an account statement or confirmation. The system will allow zeros in the month or day fields for those instances where all such precise dates are not known (for example, when the specific day of the month is not know, but the month and year is known, you may enter "yyyy/mm/00").

The activity "from" date must be less than or equal to the filing submission date. The activity "to" date must be less than or equal to the filing submission date and equal or subsequent to the activity "from" date. For example, when the alleged activity is for a specific day, the activity "from" and "to" dates will be the same.

Total Amount

Change: This field will no longer be mandatory.

Guidance: This will now be an optional field for the total amount of the investment involved in the complaint.

Dispute Amount

Change: The alleged compensatory damages should be classified as follows:

- Enter the specified amount (if included in complaint) $ _____ .

Otherwise:

- Select the radio button when the compensatory damages amount is not specified but is believed to be $5,000 or more, or if you cannot determine the amount per a good faith effort.
- Select the radio button when the compensatory damages amount is not specified but is believed to be under $5,000, or when it is determined there is no alleged or potential monetary damages related to the dispute.

Guidance: **Members must provide the amount of alleged compensatory damage in the complaint for sales practice complaints. If a specific amount is included in the complaint, it must be used. When a specific amount is not included, members are required to make a good faith estimate in order to select either "$5,000 or more" or "under $5,000."**

Security Description

Change: The system will now allow for the entry of up to three valid securities symbols. If a symbol is not available, there are fields for up to three entries for securities descriptions of up to 255 alphanumeric characters each.

Guidance: **This field is for the description of the security related to the predominant alleged problem in the complaint. If the security has a symbol, it must be used. If a complaint is not related to a security, then "not applicable" must be used and placed in the security description field (<iss-descrpt>). If the security name is included in the complaint but the symbol is not included, the symbol should be obtained by the member. For instances where there are no security symbols, such as variable annuities, free-form text must be utilized to identify the security. A maximum of three securities relating to the predominant problem and product allegation can be included.**

Response Date

Change: The date format will change from "mm/dd/yyyy" to "yyyy/mm/dd.

Guidance: **This is the date the member responded to the complaint. This field remains voluntary (not a required field).**

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ATTACHMENT A

3070 Import File Format

Shaded rows indicate fields that are changing effective December 15, 2006.

Like HTML, in the XML format, every open tag must have a close tag. While indention is not necessary, it does allow potential debugging of a faulty script to be easier.

Complaints

In order to import a filing containing one or more Complaints the file must adhere to the following XML file format:

Tag Name	Max Lng	Format	Rqrd/ Optnl	Notes
<filings-3070>			R	Container for 3070 filings
<complaint>			R	Container for complaint
<id>	30	A/N	R	Member firm's unique ID for this complaint
<date>	10	yyyy/mm/dd	R	Date complaint was received
<firm-id>	8	number	R	Firm's CRD #
<branch-id>	12	A/N	R	Use the assigned CRD branch code, or chose "HOME" if complaint is related to home office.
<branch-zip>	5	number	R	
<contact>			R	Container for contact info
<phone-number>	20	A/N	R	Contact's phone number
<first-name>	30	A/N	R	First name
<last-name>	30	A/N	R	Last name
<related-to>			R	Container for related-to information. You must select at least one option.
<other>	1	number	O	If complaint is related to other, use the value '1.'
<rep>	1	number	O	If complaint is related to rep, use the value '1.'
<firm>	1	number	O	If complaint is related to firm, use the value '1.'
<affiliate>	1	number	O	If complaint is related to affiliate, use the value '1.'
<product>	2	number	R	Product code
<problem>	2	number	R	Problem code
<customer>			R	Container for customer info
<account-number>	50	A/N	O	Customer's account number
<first-name>	30	A/N	O	First name
<last-name>	255	A/N	R	Last name

Tag Name	Max Lng	Format	Rqrd/ Optnl	Notes
<activity-date>	10	yyyy/mm/dd	R	First date of allegation activity. The activity from date must be equal or prior to the filing submission date. The system will allow zeros in the month or day fields for those instances where all such precise dates are not known (for example, when the specific day of the month is not know, but the month and year is known, you may enter "yyyy/mm/00").
<activity-date2>	10	yyyy/mm/dd	R	Last date of allegation activity. The activity to <activity-date2> must be equal or prior to the filing submission date and equal or subsequent to the activity from <activity-date> field entry. The system will allow zeros in the month or day fields for those instances where all such precise dates are not known (for example, when the specific day of the month is not know, but the month and year is known, you may enter "yyyy/mm/00"). If the activity is alleged or known to be ongoing, you should provide an explanation in the <comment> field.
<transaction>			R	Container for transaction info
<amount>	12	number	O	Amount of the transaction
<disputed-amount>			R	Container for the disputed amount information. NOTE: Required for sales practice complaints.
<dsptd-amt-flag>	1	number	R	Use 0 – exact amount is entered in < dsptd-amt > Use 1 – <disputed-amount> is estimated to be $5,000 or more / cannot determine Use 2 – <disputed-amount> is estimated to be under $5,000
<dsptd-amt>	12	number	O	Amount in dispute (required if <Dsptd-amt-flag> contains a zero, otherwise not allowed).
<securities>			R	Container for securities Information
<security>			R	Container for each security. Must supply at least one security entry. Can supply up to three securities. Use only one of the following two fields for each security being reported.
<symbol>	14	alpha	O	Enter a known symbol. Alphabetic characters and periods (.) are allowed. Do not use in conjunction with the <iss-descrpt > field.
<iss-descrpt>	255	A/N	O	Use this to provide the security description (or NOT APPLICABLE if not security related) if the issue symbol is not known.
<investigator>			O	Container for investigator name
<first-name>	30	alpha	O	First name
<last-name>	30	alpha	O	Last name

Tag Name	Max Lng	Format	Rqrd/ Optnl	Notes
<response-date>	10	yyyy/mm/dd	O	Date that your firm responded to this complaint.
<representative>			O	Container for rep information. NOTE: If <rep> value is "1," then these values are required.
<id>	12	number	O	Rep CRD ID. If <rep> value is "1," then this value is required.
<location>			O	Container for rep location. If <rep> value is "1", then this value is required.
<city>	15	alpha	O	If <rep> value is "1," then this value is required.
<state>	2	alpha	O	If <rep> value is "1," then this value is required.
<zip>	5	number	O	If <rep> value is "1," then this value is required.
<supervisor>			O	Container for rep's supervisor. If <rep> value is "1," then this value is required.
<first-name>	30	alpha	O	First name. If <rep> value is "1," then this value is required.
<last-name>	30	alpha	O	Last Name. If <rep> value is "1," then this value is required.
<employed>	1	number	O	Code = 1 for Y, 0 for N. If <rep> value is "1," then this value is required.
<comment>	255	text	O	Free-form comment.

DISCLOSURES

Tag Name	Max Lng	Format	Rqrd/ Optnl	Notes
<filings-3070>				Container for 3070 filings
<disclosure>				Container for disclosure
<id>	30	A/N	R	Member firm's unique ID for this disclosure
<date>	10	yyyy/mm/dd	R	Date disclosure was discovered
<firm-id>	8	number	R	Firm's CRD #
<branch-id>	12	A/N	R	Use the assigned CRD branch code, or chose "HOME" if complaint is related to home office.
<contact>			R	Container for contact info
<phone-number>	20	A/N	R	Contact's phone number
<first-name>	30	A/N	R	First name
<last-name>	30	A/N	R	Last name
<related-to>			R	Container for related-to information. You must select at least one option.
<other>	1	number	O	If complaint is related to other, use the value '1.'
<rep>	1	number	O	If complaint is related to rep, use the value '1.'
<firm>	1	number	O	If complaint is related to firm, use the value '1.'
<affiliate>	1	number	O	If complaint is related to affiliate, use the value '1.'
<event>	2	number	R	
<product>	2	number	O	Required if Event Code = 2
<customer>			R	Container for customer info
<account-number>	50	A/N	O	Customer's account number
<first-name>	30	A/N	O	First name
<last-name>	255	A/N	R	Last name
<activity-date>	10	yyyy/mm/dd	R	First date of allegation activity. Must be equal or prior to the <date> field entry. The system will allow zeros in the month or day fields for those instances where all such precise dates are not known (for example, when the specific day of the month is not know, but the month and year is known, you may enter "yyyy/mm/00").
<activity-date2>	10	yyyy/mm/dd	R	Last date of allegation activity. Must be equal or prior to the filing submission date and equal or subsequent to the activity from <activity-date> field entry. The system will allow zeros in the month or day fields for those instances where all such precise dates are not known (for example, when the specific day of the month is not know, but the month and year is known, you may enter "yyyy/mm/00"). If the activity is alleged or known to be ongoing, you should provide an explanation in the <comment> field.

Tag Name	Max Lng	Format	Rqrd/ Optnl	Notes
<transaction>			O	Container for transaction information. Required if Event Code = 2.
<amount>	12	number	O	Required if event code = 2. Amount of the transaction in whole dollars. Use zero if not applicable.
<disputed-amount>			O	Container for the disputed amount information. NOTE: Required if event code = 2.
<Dsptd-amt-flag>	1	number	O	Required if event code = 2. Use 0 – exact amount is entered in < dsptd-amt > Use 1 – <disputed-amount> is estimated to be $5,000 or more / cannot determine Use 2 – <disputed-amount> is estimated to be under $5,000
<dsptd-amt>	12	number	O	Amount in dispute (required if <Dsptd-amt-flag> contains a zero, otherwise not allowed).
<securities>			O	Container for securities Information. Required if Event Code = 2.
<Security>			O	Container for each security. Must supply at least one security entry. Can supply up to three securities. Use only one of the following two fields for each security being reported.
<symbol>	14	alpha	O	Enter a known symbol. Alphabetic characters and periods (.) are allowed. Do not use in conjunction with the <iss-descrpt>field.
<iss-descrpt>	255	A/N	O	Use this to provide the security description (or NOT APPLICABLE if not security related) if the issue symbol is not known.
<investigator>			O	Container for investigator name
<first-name>	30	alpha	O	First name
<last-name>	30	alpha	O	Last name
<response-date>	10	yyyy/mm/dd	O	Date that your firm responded to this complaint.
<representative>			O	Container for rep information. NOTE: If <rep> value is "1," then these values are required.
<id>	12	number	O	Rep CRD ID. If <rep> value is "1," then this value is required.
<location>			O	Container for rep location. If <rep> value is "1." then this value is required.
<city>	15	alpha	O	If <rep> value is "1," then this value is required.
<state>	2	alpha	O	If <rep> value is "1," then this value is required.
<zip>	5	number	O	If <rep> value is "1," then this value is required.
<supervisor>			O	Container for Rep's supervisor. If <rep> value is "1," then this value is required.
<first-name>	30	alpha	O	First name. If <rep> value is "1," then this value is required.
<last-name>	30	alpha	O	Last name. If <rep> value is "1," then this value is required.

Tag Name Lng	Max	Format Optnl	Rqrd/	Notes
<employed>	1	number	O	Code = 1 for Y, 0 for N. If <rep> value is "1," then this value is required.
<disciplinary-action>	1	alpha	O	Required if Event Code = 10. Use W = Withholding of Commissions, T = Termination, F = Imposition of Fines, S = Suspension
<comment>	255	Text	O	Freeform comment
<statutory-disqualification>			O	Container for SD information. Required if Event Code = 9.
<party-first-name>	30	alpha	O	First Name. Required if Event Code = 9.
<party-last-name>	30	alpha	O	Last Name. Required if Event Code = 9.
<party-company>	10	alpha	O	Required if Event Code = 9.
<relationship>	1	alpha	O	Required if Event Code = 9. Use A = Affiliate, F = Firm, O = Other, R = Representative
<explanation>	50	alpha	O	Required if Event Code = 9.
<case-disposition>	1	alpha	O	Required if Event Code = 7. Use A = Award, J = Judgment, S = Settlement

Notice to Members

JULY 2006

SUGGESTED ROUTING

Legal & Compliance

Operations

Registration

Training

KEY TOPICS

Limited Principal – Direct Participation Programs (Series 39)

Limited Principal – Financial and Operations (Series 27)

Limited Principal – Introducing Broker-Dealer Financial and Operations (Series 28)

Limited Representative – Direct Participation Programs (Series 22)

Limited Representative – Equity Trader (Series 55)

Rule 1022(b)

Rule 1022(c)

Rule 1022(e)

Rule 1032(c)

Rule 1032(f)

GUIDANCE

Qualification Examinations

Revisions to the Series 22, 27, 28, 39 and 55 Examination Programs; **Implementation Date: August 15, 2006**

Executive Summary

NASD has revised the following examination programs:

- Limited Representative – Direct Participation Programs (Series 22);
- Limited Principal – Financial and Operations (Series 27);
- Limited Principal – Introducing Broker-Dealer Financial and Operations (Series 28);
- Limited Principal – Direct Participation Programs (Series 39); and
- Limited Representative – Equity Trader (Series 55).[1]

The changes are reflected in study outlines that are available on the NASD Web site (*www.nasd.com/brokerqualifications*). The changes will appear in examinations administered starting on August 15, 2006.

Questions/Further Information

Questions concerning this *Notice* may be directed to Carole Hartzog, Senior Qualifications Specialist, NASD Testing and Continuing Education Department (TCE), at (240) 386-4678; Elaine Warren, Lead Analyst, TCE, at (240) 386-4679; Eva Cichy, Senior Qualifications Analyst, TCE, at (240) 386-4680; or Karen Bescher, Senior Qualifications Analyst, TCE, at (240) 386-4677.

Background and Discussion

Section 15A(g)(3) of the Securities Exchange Act of 1934 requires NASD to prescribe standards of training, experience and competence for persons associated with NASD members. In accordance with that provision, NASD has developed examinations, and administers examinations developed by other self-regulatory organizations, that are designed to establish that persons associated with NASD members have attained specified levels of competence and knowledge. NASD periodically reviews the content of the examinations to determine whether revisions are necessary or appropriate in view of changes pertaining to the subject matter covered by the examinations.

NASD staff and committees of industry representatives recently reviewed the Series 22, 27, 28, 39 and 55 examination programs. As a result of these reviews, and as discussed in greater detail below, NASD has revised the examination programs to reflect changes to the laws, rules and regulations covered by the examinations and to better reflect the duties and responsibilities of the individuals who are taking these examinations.

Series 22

NASD Rule 1032(c) provides that an associated person of a member firm who meets the definition of "representative" in Rule 1031 may register with NASD as a Limited Representative – Direct Participation Programs if 1) the individual's activities in the investment banking and securities business are limited solely to the solicitation, purchase and/or sale of equity interests in or debt of direct participation programs as defined in Rule 1022(e)(2) and 2) the individual passes the Series 22 qualification examination.

NASD has revised the Series 22 study outline to add a section on the Securities and Exchange Commission (SEC) Form S-1 registration. NASD also has added a section on NASD Rule 2370 (Borrowing from or Lending to Customers) and a section on like-kind exchanges.

In addition, NASD has removed the sections on Section 4(3) under the Securities Act of 1933 and SEC Rule 174; NASD Rules 1040 (Registration of Assistant Representatives and Proctors) and 1110 (formerly Registration of Government Securities Principals and Representatives); and NASD Certificate of Incorporation.

NASD has made these changes to the entire content of the Series 22 examination, including the selection specifications and question bank. The number of questions on each section of the Series 22 examination remains the same. In addition, the number of questions on the examination remains at 100, and candidates continue to have 2 1/4 hours (135 minutes) to complete the exam. Also, each question continues to count one point, and each candidate must correctly answer 70 percent of the questions to receive a passing grade.

Series 27

Pursuant to NASD Rule 1022(b), member firms that have a minimum net capital requirement of $250,000 under SEC Rules 15c3-1(a)(1)(ii) and 15c3-1(a)(2)(i), as well as members that have a minimum net capital requirement of $150,000 under SEC Rule 15c3-1(a)(8), are required to designate as a Limited Principal – Financial and Operations those individuals associated with them who are responsible for the members' financial and operational management, including, but not limited to, final approval and responsibility for the accuracy of financial reports submitted to regulators. In addition, Rule 1022(b) provides that the chief financial officer of such firms must be a Limited Principal – Financial and Operations. The Series 27 examination is an NASD exam that qualifies an individual to function as a Limited Principal – Financial and Operations.

NASD has revised the Series 27 study outline to add sections on Municipal Securities Rulemaking Board (MSRB) Rules G-8(g) (Transactions in Municipal Fund Securities), G-14 (Reports of Sales and Purchases), G-15(f) (Minimum Denominations), G-15(g) (Forwarding Official Communications), G-17 (Conduct of Municipal Securities Activities), G-37 (Political Contributions and Prohibitions on Municipal Securities Business) and G-32(b) (Inter-Dealer Disclosure Requirements).

NASD has added a section on SEC Regulation SHO, including Rules 200 (Definition of "Short Sale" and Marking Requirements) and 203 (Borrowing and Delivery Requirements).

NASD also has added sections on NASD Rules 1150 (Executive Representatives), 2350 (Broker-Dealer Conduct on the Premises of Financial Institutions), 2370, 3012 (Supervisory Control System), 3013 (Annual Certification of Compliance and Supervisory Processes), 3510 (Business Continuity Plan) and 9800 (Temporary Cease and Desist Orders).

In addition, NASD has revised the study outline to remove the sections on NASD Rules 1110, 2320 (Best Execution and Interpositioning), 3370 (Purchases), 11100(d) (CUSIP Number), 11110 (Uniform Practice Committees), 11120 (Definitions), 11180 (formerly Use of Trade Acceptance and Reconciliation Service) and 11830 (formerly Mandatory Close-Out for Short Sales). Further, NASD has removed the following two subsections of the Insider Trading and Securities Fraud Enforcement Act of 1988 section: Investigatory Assistance to Foreign Securities Authorities and Cooperation with Foreign Authorities and International Organizations in Enforcement.

NASD also has removed the sections on Form X17F-1A (Report for Missing, Lost, Stolen, or Counterfeit Securities), NASD Certificate of Incorporation and Articles VII, XII, XIII and XV of the NASD By-Laws.

NASD has modified the number of questions on several sections of the Series 27 study outline as follows:

- Keeping and Preservation of Records and Broker-Dealer Financial Reporting Requirements: decreased from 16 to 15 questions;
- Customer Protection: decreased from 37 to 36 questions;
- Municipal Securities Rulemaking Board Regulations: decreased from 10 to 9 questions;
- Uniform Practice Rules: decreased from 15 to 12 questions; and
- Other Relevant Regulations and Interpretations: increased from 15 to 21 questions.

NASD also has changed the title of Section 5 from "Federal Reserve Board Regulations" to "Extension of Credit in the Securities Industry."

NASD has made these changes to the entire content of the Series 27 examination, including the selection specifications and question bank. The number of questions on the Series 27 examination remains at 145, and candidates continue to have 3 1/2 hours (210 minutes) to complete the exam. Also, each question continues to count one point, and each candidate must correctly answer 70 percent of the questions to receive a passing grade.

Series 28

In accordance with NASD Rule 1022(c), member firms that are subject to the net capital requirements of SEC Rule 15c3-1, other than those members that are subject to the net capital requirements of SEC Rules 15c3-1(a)(1)(ii), (a)(2)(i) or (a)(8), are required to designate as a Limited Principal – Introducing Broker-Dealer Financial and Operations those individuals associated with them who are responsible for the firms' financial and operational management, including, but not limited to, final approval and responsibility for the accuracy of financial reports submitted to regulators. In addition, Rule 1022(c) provides that the chief financial officer of such firms must be a Limited Principal – Introducing Broker-Dealer Financial and Operations. The Series 28 examination is an NASD examination that qualifies an individual to function as a Limited Principal – Introducing Broker-Dealer Financial and Operations.

NASD has revised the Series 28 study outline to add a section on MSRB Rule G-37. NASD also has added a section on SEC Regulation SHO, including Rules 200 and 203. NASD has added sections on NASD Rules 1150, 2350, 2370, 3012, 3013, 3510 and 9800.

In addition, NASD has revised the study outline to remove the sections on NASD Rules 1100 (Foreign Associates), 1110 and 2320. NASD also has removed the sections on Form X17F-1A, NASD Certificate of Incorporation and Articles VII, XII, XIII and XV of the NASD By-Laws.

Further, NASD has added a new section covering certain rules of the NASD Uniform Practice Code (Uniform Practice Rules). NASD has added the Uniform Practice Rules under Section 4 and has moved the section on Other Relevant Regulations and Interpretations (formerly under Section 4) to Section 5, a new section.

NASD has modified the number of questions on several sections of the Series 28 study outline as follows:

- Keeping and Preservation of Records and Broker-Dealer Financial Reporting Requirements: increased from 15 to 16 questions;
- Uniform Practice Rules (new section): 5 questions; and
- Other Relevant Regulations and Interpretations: increased from 24 to 28 questions.

NASD has made these changes to the entire content of the Series 28 examination, including the selection specifications and question bank. The number of questions on the Series 28 examination has increased from 85 to 95 questions. Candidates continue to have 2 hours (120 minutes) to complete the exam. Also, each question continues to count one point, and each candidate must correctly answer 70 percent of the questions to receive a passing grade.

Series 39

NASD Rule 1022(e) provides that an associated person of a member firm who meets the definition of "principal" in Rule 1021 may register with NASD as a Limited Principal – Direct Participation Programs if 1) the individual's activities in the investment banking and securities business are limited solely to the equity interests in or the debt of direct participation programs as defined in Rule 1022(e)(2); 2) the individual also is registered as either a General Securities Representative (Series 7) or a Limited Representative – Direct Participation Programs (Series 22); and 3) the individual passes the Series 39 qualification examination.

NASD has revised the Series 39 study outline to add a section on SEC Form S-1 registration. NASD also has added sections on NASD Rules 2370, 3012, 3013, 3510 and 3520 (Emergency Contact Information).

NASD has revised the study outline to remove the sections on Section 4(3) under the Securities Act of 1933 and SEC Rule 174; NASD Rules 1040, 1110 and 2750 (Transactions with Related Persons); and NASD Certificate of Incorporation.

NASD has modified the number of questions on each section of the Series 39 study outline as follows:

- Structure and Regulation of Direct Participation Program Offerings: decreased from 47 to 46 questions;
- Sales Supervision, General Supervision of Employees, Regulatory Framework of NASD: increased from 31 to 32 questions; and
- Compliance with Financial Responsibility Rules: increased from 17 to 22 questions.

NASD has made these changes to the entire content of the Series 39 examination, including the selection specifications and question bank. The number of questions on the Series 39 examination has increased from 95 to 100 questions, and candidates now have 2 1/4 hours (135 minutes) to complete the exam. Also, each question continues to count one point, and each candidate must correctly answer 70 percent of the questions to receive a passing grade.

Series 55

Pursuant to NASD Rule 1032(f), the Series 55 examination is required, with certain limited exceptions, for associated persons who are engaged in or directly supervise proprietary trading or the execution of transactions on an agency basis with respect to transactions in equity, preferred or convertible debt securities effected otherwise than on a securities exchange. There is an exception from the Series 55 examination requirement for any person associated with a member whose trading activities are conducted principally on behalf of an investment company that is registered with the SEC pursuant to the Investment Company Act of 1940 and that controls, is controlled by, or is under common control with the member.

NASD has revised the Series 55 study outline to add a section on Rules 600 (NMS Security Designation and Definitions), 602 (Dissemination of Quotations in NMS Securities), 604 (Display of Customer Limit Orders), 605 (Disclosure of Order Execution Information), 606 (Disclosure of Order Routing Information) and 612 (Minimum Price Increments) of SEC Regulation NMS.

NASD also has added sections on NASD Rules 2111 (Trading Ahead of Customer Market Orders) and 3380 (Order Entry and Execution Practices). NASD has modified the section on the NASDAQ Market Center – Execution Services to add specific references to NASD Rules 4701 (Definitions), 4704 (Opening Process for NASDAQ-Listed Securities), 4706 (Order Entry Parameters), 4707 (Entry and Display of Quotes/Orders), 4709 (NASDAQ Closing Cross), 4710 (Participant Obligations in the NASDAQ Market Center), 4714 (Routing NASDAQ-Listed Securities), 4715 (Adjustment of Open Quotes and/or Orders) and 4719 (Anonymity).

NASD has added a section on the NASDAQ Initial Public Offering Process (NASDAQ Head Trader Alert 2005-096) and has modified the section on SEC Regulation SHO to add specific references to Rules 200 and 203. Further, NASD has added references to the specific types of NASDAQ securities covered by the Series 55 examination, added two additional modifiers (.ST (Pre-Open and Aftermarket Trades Not Reported Within 90 Seconds) and .W (Stop Orders)) to the list of Trade Reporting Service modifiers and added a section on reporting cancelled trades.

In addition, NASD has revised the study outline to remove the following sections: SEC Rules 11Ac1-1 (formerly Dissemination of Quotations), 11Ac1-4 (formerly Display of Customer Limit Orders), 11Ac1-5 (formerly Disclosure of Order Execution Information) and 11Ac1-6 (formerly Disclosure of Order Routing Information); NASDAQ Levels 1, 2 and 3 Service; SEC Rule 10b-10 (Confirmation of Transactions); and NASD Rules 3360 (Short Interest Reporting), 3370 and 4643 (Customer Confirmations).

NASD has modified the number of questions on each section of the Series 55 study outline as follows:

- NASDAQ and Over-the-Counter Markets: decreased from 42 to 41 questions;
- NASDAQ Display, Execution and Trading Systems: increased from 15 to 17 questions;
- Trade Reporting Requirements: increased from 16 to 19 questions; and
- General Industry Standards: decreased from 27 to 23 questions.

NASD has made these changes to the entire content of the Series 55 examination, including the selection specifications and question bank. The number of questions on the Series 55 examination remains at 100, and candidates continue to have 3 hours (180 minutes) to complete the exam. Also, each question continues to count one point, and each candidate must correctly answer 70 percent of the questions to receive a passing grade.

Availability of Study Outlines

The study outlines for the revised examination programs are available on the NASD Qualifications Web page at *www.nasd.com/brokerqualifications*.

Endnote

1 *See* File Nos. SR-NASD-2006-082 (Proposed Rule Change Relating to Revisions to the Series 22 Examination Program); SR-NASD-2006-083 (Proposed Rule Change Relating to Revisions to the Series 27 Examination Program); SR-NASD-2006-084 (Proposed Rule Change Relating to Revisions to the Series 28 Examination Program); SR-NASD-2006-085 (Proposed Rule Change Relating to Revisions to the Series 39 Examination Program); and SR-NASD-2006-086 (Proposed Rule Change Relating to Revisions to the Series 55 Examination Program). These rule filings were filed with the SEC for immediate effectiveness on July 14, 2006.

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Notice to Members

JULY 2006

SUGGESTED ROUTING

Executive Representatives
Fixed Income
Investment Banking
Legal & Compliance
Operations
Research
Senior Management

KEY TOPICS

Research Conflicts of Interest
SEC Regulation Analyst Certification
Supervision
Rule 2711
Rule 3010

GUIDANCE

Research Analysts and Research Reports

NASD and NYSE Joint Interpretive Guidance on Fixed Income Research

Background

In December 2005, the New York Stock Exchange (NYSE) and NASD (the SROs) issued a joint report that assessed the effectiveness of the SRO research analyst conflict of interest rules.[1] Those rules apply only to equity research reports.[2] However, the joint report noted that the SROs would monitor the extent to which firms have adopted the Bond Market Association's (BMA) "Guiding Principles to Promote the Integrity of Fixed-Income Research" (Guiding Principles)[3], which are voluntary, principle-based guidelines designed to help firms manage potential conflicts of interest that may arise in the context of fixed income research activities. According to the BMA, the Guiding Principles were designed "to address the issue of research integrity in the fixed income markets in a manner that takes into account their unique characteristics."

The SROs note that voluntary trade association conduct standards are not the equivalent of sanctionable rules. As such, the SROs maintain the right to promulgate rules in the fixed income research area that may be different from, or analogous or additive to, the Guiding Principles. Nonetheless, the SROs regard as a worthy objective trade association efforts to promote aspirational standards and agree with the BMA that the Guiding Principles "serve as a helpful reference point as firms review and modify their own fixed income research practices." The SROs therefore believe a review of compliance with the Guiding Principles helps to inform consideration of whether more definitive rules are needed to regulate fixed income research.[4]

To that end, the SROs conducted examinations of certain member organizations to assess how those firms have addressed conflicts of interest with respect to fixed income research. The examinations found many instances in which firms had failed to adhere to the Guiding Principles. Even more significantly, the examinations discovered several instances where firms failed to establish, maintain and enforce written supervisory procedures in the fixed income research area—a fundamental obligation under SRO rules[5]—or comply with existing SEC Regulation Analyst Certification (Regulation AC).[6] A general synopsis of the examination results follows.

Questions/Further Information

Questions or comments concerning this *Notice* may be directed as follows:

NASD: Philip Shaikun, Associate Vice President and Associate General Counsel, Regulatory Policy and Oversight, at (202) 728-8451.

NYSE: William Jannace (212) 656-2744, Stephen Kasprzak (212) 656-5226 and Erika Lazar (212) 656-4591.

Supervision

Instances were noted in which member organizations did not have effective written supervisory procedures for fixed income research in place pursuant to the SRO supervision rules and BMA Guiding Principle 4.10.1, which provide that firms should establish appropriate written policies and procedures to supervise fixed income research analysts. This Principle follows from the broader guideline found in Principle 4.10, which states that firms should allocate sufficient supervisory resources to promote the integrity of the fixed income research process.

In other cases, member organizations had supervisory procedures in place but failed to enforce them. For example, instances were noted in which fixed income research analysts made public appearances without documented approval by a supervisor, as required by the firm's written supervisory procedures. Further, several instances were noted in which analysts maintained outside personal investment accounts that were not approved by their legal and compliance departments, though such approval was required by the firm's written supervisory procedures. Apart from violating the member organizations' internal policies, these infractions are inconsistent with BMA Principle 4.5, which suggests that firms impose personal trading restrictions on fixed income research analysts to manage conflicts of interest.[7]

Disclosures

The examination results revealed that the most prevalent failure among member organizations with respect to the Guiding Principles involved the inadequacy of disclosures contained in fixed income research reports. BMA Guiding Principle 4.6[8] lists certain disclosures that should be included in a fixed income research report to inform investors of potential conflicts of interest that may affect fixed income research. These disclosures include: whether the analyst's compensation is based on such factors as the firm's overall performance, or the profitability or revenues of the fixed income department or the asset class covered by the analyst; whether the analyst or certain relatives have a financial interest in the security that is the subject of the research report (other than investment grade sovereigns); whether the analyst is affiliated with the issuer; whether the firm or its affiliates has managed or co-managed a public or Rule 144A offering for the issuer within the past 12 months; whether the firm trades or may trade as principal in the securities that are the subject of the research report; and, if the report contains ratings established by the firm, the meaning of those ratings. Instances were noted in which firms failed to include tailored disclosures in research reports specific to a subject company and/or did not include all of the necessary relevant disclosures. Blanket or boilerplate disclosures should not be used in a fixed income research report when more specific disclosures are necessary to alert investors to specific conflicts.

Analyst Certifications

The examinations also found instances in which member organizations failed to comply with the requirements set forth in Regulation AC, which applies equally to fixed-income and equity research. Specifically, member organizations issued reports[9] that did not include the requisite analyst certifications in connection with research reports or that included references to analyst certifications that were insufficient because they did not direct the reader to the correct place to find the certification. Failures were similarly noted with respect to certifications required in connection with public appearances.[10]

Conclusion

The SROs appreciate industry initiatives like the BMA Guiding Principles that foster better compliance policies within firms. In considering whether to engage in more definitive rulemaking, the SROs will continue to monitor the extent to which firms have adopted and adhered to the Guiding Principles or other supervisory systems regarding fixed-income research conflicts of interest that are reasonably designed to achieve compliance with applicable SRO rules and securities laws and regulations.

Endnotes

1 *See* "Joint Report by NASD and the NYSE on the Operation and Effectiveness of the Research Analyst Conflict of Interest Rules" at *www.nasd.com/web/groups/rules_regs/documents/rules_regs/nasdw_015803.pdf and www.nyse.com/pdfs/rajointreport.pdf.*

2 NASD Rule 2711 (Research Analysts and Reports) and NYSE Rule 472 (Communications with the Public).

3 *See* "Guiding Principles To Promote Integrity of Fixed Income Research," May 2004, *www.bondmarkets.com/assets/files/Guiding_Principles_for_Research.pdf.*

4 As the joint report noted, anti-fraud statutes, as well as existing SRO rules such as NYSE Rules 401 (Business Conduct), 476(a)(6) (allowing for disciplinary proceedings against a member organization for "conduct or proceeding inconsistent with just and equitable principles of trade"), and NASD Rule 2110 (which requires that members "observe high standards of commercial honor and just and equitable principles of trade") can reach and address any egregious conduct involving fixed income research.

5 *See* NYSE Rule 342 (Offices Approval, Supervision and Control) and NASD Rule 3010 (Supervision).

6 17 CFR 242.500 et seq.

7 Note also that NYSE Rule 407 (Transactions – Employees of Members, Member Organizations and the Exchange) prohibits any employee of a member organization to "establish or maintain any securities or commodities account…at another member or member organization, or a domestic or foreign non-member broker-dealer, investment adviser, bank, other financial institution, or otherwise without the prior written consent of another person designated by the member or member organization under NYSE Rule 342 (b)(1) to sign such consents and review such accounts." NASD Rule 3050 (Transactions for or by Associated Persons) requires an associated person to notify his or her employer member in writing when opening a securities account at a broker-dealer.

8 "Firms and research analysts should promote investor awareness of potential research analyst conflicts of interest by disclosing in fixed income research reports and/or elsewhere certain material factors that may be viewed as potentially affecting the integrity of specific security recommendations or investment conclusions."

9 17 CFR 242.501.

10 17 CFR 242.502.

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Disciplinary and Other NASD Actions

REPORTED FOR JULY

NASD® has taken disciplinary actions against the following firms and individuals for violations of NASD rules; federal securities laws, rules and regulations; and the rules of the Municipal Securities Rulemaking Board (MSRB). The information relating to matters contained in this *Notice* is current as of the end of June 2006.

Firm Fined, Individual Sanctioned

Pyramid Funds Corporation (CRD #3110, Albany, New York) and James Thomas Biondo (CRD #1291016, Registered Representative, Loundonville, New York) submitted a Letter of Acceptance, Waiver and Consent in which the firm was censured and fined $10,000 jointly and severally with Biondo, and Biondo was barred from association with any NASD member in any principal or supervisory capacity. Without admitting or denying the findings, the firm and Biondo consented to the described sanctions and to the entry of findings that Biondo served as the firm's president and a member of the Board of Directors without registering as a principal by taking and passing the appropriate qualification examination. **(NASD Case #E9B2005013001)**

Firms and Individuals Fined

Capital Growth Financial, LLC (CRD # 41040, Boca Raton, Florida) and Michael Scott Jacobs (CRD #1818665, Registered Principal, Boca Raton, Florida) submitted a Letter of Acceptance, Waiver and Consent in which the firm and Jacobs were censured, and the firm was fined $55,000, $10,000 of which was jointly and severally with Jacobs. Without admitting or denying the findings, the respondents consented to the described sanctions and to the entry of findings that the firm failed to conduct independent testing for compliance with its anti-money laundering (AML) procedures, failed to designate independent individuals to conduct testing and failed to maintain evidence that it had filed one suspicious activity report. The findings stated that the firm issued research reports that failed to provide sound bases for evaluating the company as a potential investment by failing to discuss risk factors associated with the company, disclose the time periods for the price targets indicated in the reports and failed to disclose the percentage of securities the firm rated as "buy," "sell" or "hold." The firm, acting through Jacobs, reduced the minimum for a private placement offering and provided for the offering to close when the reduced minimum was met, and after modifying the offering, the firm failed to afford existing investors the opportunity to withdraw their investments based on the offering's modification. **(NASD Case# E072005004301)**

Fordham Financial Management, Inc. (CRD #20996, New York, New York) and Harvey Joel Latzen (CRD #709950, Registered Principal, West Babylon, New York) submitted a Letter of Acceptance, Waiver and Consent in which the firm and Latzen were censured and fined $15,000 jointly and severally. Without admitting or denying the findings, the firm and Latzen consented to the described sanctions and to the entry of findings that the firm, acting through Latzen, failed to report statistical and summary information regarding customer complaints as NASD Rule 3070(c) required. **(NASD Case #E102005014702)**

Firms Fined

ACAP Financial Inc. (CRD #7731, Salt Lake City, Utah) submitted a Letter of Acceptance, Waiver and Consent in which the firm was censured, fined $20,000 and required to revise its written supervisory procedures regarding trade reporting. Without admitting or denying the findings, the firm consented to the described sanctions and to the entry of findings that it failed, within 90 seconds after execution, to transmit last sale reports of transactions in Over-the-Counter (OTC) equity securities through the NASDAQ Market Center, and failed to designate some of them as late. The findings stated that the firm incorrectly designated last sale reports of transactions in OTC equity securities reported to NASDAQ as ".SLD" within 90 seconds of execution. The findings also stated that the firm's supervisory system failed to provide for supervision reasonably designed to achieve compliance with respect to applicable securities laws, regulations and NASD rules concerning trade reporting. **(NASD Case #20050001145-01)**

AmSouth Investment Services, Inc. (CRD #15692, Birmingham, Alabama) submitted a Letter of Acceptance, Waiver and Consent in which the firm was censured and fined $100,000. Without admitting or denying the findings, the firm consented to the described sanctions and to the entry of findings that it failed to establish and maintain a system reasonably designed to supervise its registered representatives situated in remote branch locations in connection with the sale of variable annuities and mutual funds. The deficiencies in the supervisory system contributed to the firm's failure to detect a registered representative's circumvention of the firm's suitability review procedures. **(NASD Case #E052004025802)**

Carolina Capital Markets, Inc. (CRD #38156, Chapel Hill, North Carolina) submitted a Letter of Acceptance, Waiver and Consent in which the firm was censured and fined $12,500. Without admitting or denying the findings, the firm consented to the described sanctions and to the entry of findings that it failed to report to the Trade Reporting and Compliance Engine (TRACE) transactions in TRACE-eligible securities executed on a business day during TRACE system hours within 45 minutes of execution time. The findings stated that the firm double-reported TRACE-eligible securities transactions to TRACE. The findings also stated that the firm's supervisory system failed to provide for supervision reasonably designed to achieve compliance with respect to applicable securities laws, regulations and NASD rules concerning TRACE reporting. **(NASD Case #20050001886-01)**

Choice Investments, Inc. (CRD #17665, Austin, Texas) submitted a Letter of Acceptance, Waiver and Consent in which the firm was censured and fined $20,000. Without admitting or denying the findings, the firm consented to the described sanctions and to the entry of findings that it failed to report transactions in TRACE-eligible securities executed on a business day during TRACE system hours that the firm was required to report to TRACE within 45 minutes of execution time. The findings stated that the firm failed to report the correct trade execution time for transactions in TRACE-eligible securities to TRACE, and failed to show the correct execution time on brokerage order memoranda. The findings also stated that the firm failed to enforce its written supervisory procedures that specified the proper procedure for reporting TRACE-eligible securities to TRACE and recording execution times on brokerage order memoranda. **(NASD Case #20050001802-01)**

GFI Securities, LLC (CRD #19982, New York, New York) submitted a Letter of Acceptance, Waiver and Consent in which the firm was censured, fined $49,500 and required to revise its written supervisory procedures concerning trade reporting. Without admitting or denying the findings, the firm consented to the described sanctions and to the entry of findings that it failed to report transactions in TRACE-eligible securities executed on a business day during TRACE system hours to TRACE within 45 minutes of execution time. The findings stated that the firm failed to accept or decline transactions in eligible securities as the Order Entry

Identification (OEID) within 20 minutes after execution. The findings also stated that the firm failed to enforce its written supervisory procedures for trade reporting that specified that a designated supervisor would perform a daily review and document it on the Supervisory Checklist, and that Compliance would conduct a monthly review of the ACT Compliance Report Cards. The findings also included that the firm failed, within 90 seconds after execution, to transmit last reports of transactions in OTC Equity securities through NASDAQ, and reported last sale reports it was not required to report. NASD found that the firm failed, within 90 seconds after execution, to transmit last sale reports of transactions in OTC Equity securities through NASDAQ, and failed to designate the reports as late. NASD also found that the firm's supervisory system failed to provide for supervision reasonably designed to achieve compliance with respect to applicable securities laws, regulations and NASD rules concerning TRACE and trade reporting. **(NASD Case #20050001788-01)**

Gilford Securities, Inc., (CRD #8076, New York, New York) submitted a Letter of Acceptance, Waiver and Consent in which the firm was censured and fined $12,500. Without admitting or denying the findings, the firm consented to the described sanctions and to the entry of findings that the order tickets for transactions the firm effected were inaccurately time stamped. The findings stated that the firm failed to update, or timely update, former representatives' Uniform Termination Notice for Securities Industry Registration Forms (Forms U5) to disclose material information. **(NASD Case #E102002027301)**

Goldman, Sachs & Co. (CRD #361, New York, New York) submitted a Letter of Acceptance, Waiver and Consent in which the firm was censured and fined $20,000. Without admitting or denying the findings, the firm consented to the described sanctions and to the entry of findings that, with respect to public customer short sale orders in a common stock and firm proprietary accounts, it failed to make and/or annotate an affirmative determination that it would receive delivery of the security on a customer's behalf or that the firm could borrow the security on a customer's behalf for delivery by the settlement date. The findings stated that the firm failed to report short sale transactions executed in a common stock with a short sale modifier, and incorrectly reported short sale transactions to NASDAQ as short sale exempt. **(NASD Case #20041000178-01)**

Maximum Financial Investment Group, Inc. (CRD #40096, Southfield, Michigan) submitted a Letter of Acceptance, Waiver and Consent in which the firm was censured, fined $15,000 and required to revise its written supervisory procedures regarding NASD Conduct Rules 3110(b)(1) (marking customer tickets), 3350 (bid test) and 3370 (prompt receipt of securities), and Marketplace Rule 6130(d)(6) (trade report input). Without admitting or denying the findings, the firm consented to the described sanctions and to the entry of findings that it accepted customer short sales orders in common stocks and, for each order, failed to make/annotate an affirmative determination that it would receive delivery of the security on the customer's behalf or that the firm could borrow the security on the customer's behalf for delivery by the settlement date. The findings stated that the firm's supervisory system did not provide for supervision reasonably designed to achieve compliance with respect to applicable securities laws, regulations and NASD rules concerning NASD Conduct Rules 3110(b)(1) (marking customer tickets), 3350 (bid test) and 3370 (prompt receipt of securities), and Marketplace Rule 6130(d)(6) (trade report input). **(NASD Case #20050007801-01)**

Multi-Financial Securities Corporation (CRD #10299, Denver, Colorado) submitted a Letter of Acceptance, Waiver and Consent in which the firm was censured and fined $17,500. Without admitting or denying the findings, the firm consented to the described sanctions and to the entry of findings that it failed to implement a written AML program reasonably designed to achieve and monitor compliance with the requirements of the Bank Secrecy Act and the regulations promulgated thereunder. The findings stated that the firm failed to establish and maintain a supervisory system or written supervisory procedures reasonably designed to enable it to prevent and detect excessive commission charges on mutual fund liquidations. **(NASD Case #E3A2005000101)**

National Financial Services, LLC (CRD #13041, Boston, Massachusetts) submitted a Letter of Acceptance, Waiver and Consent in which the firm was censured, fined $55,000 and ordered to pay $2,395.57, plus interest, in restitution to public customers. Without admitting or denying the findings, the firm consented to the described sanctions and to the entry of findings that it failed, in transactions for or with a customer, to use reasonable diligence to ascertain the best inter-dealer market, and failed to buy or sell in such a market so

that the resultant price to its customer was as favorable as possible under prevailing market conditions. The findings stated that the firm failed to display, within 30 seconds, customer limit orders in NASDAQ securities in its public quotation, when each such order was at a price that would have improved the firm's bid or offer in each security, and the size of the order represented more than a *de minimis* change in relation to the size associated with the firm's bid or offer in each security; or when, upon initial receipt, the order was not displayable but later became displayable; or when the order was initially displayed properly but was later undisplayed without being executed, routed or cancelled. **(NASD Case #20050000991-01)**

NYLife Securities Inc. (CRD # 5167, New York, New York) submitted a Letter of Acceptance, Waiver and Consent in which the firm was censured and fined $150,000. Without admitting or denying the findings, the firm consented to the described sanctions and to the entry of findings that it failed to retain emails for required periods of time in violation of Section 17(a) of the Securities Exchange Act of 1934 and Rule 17a-4 promulgate thereunder. **(NASD Case #EAF0401160003)**

Orion Securities (USA) Inc. (CRD #38108, Toronto, Ontario, Canada) submitted a Letter of Acceptance, Waiver and Consent in which the firm was censured, fined $50,000 and required to review its procedures regarding the preservation of electronic mail communications for compliance with NASD rules and federal securities laws and regulations, and to have an officer certify that the firm has implemented compliant systems and procedures. Without admitting or denying the findings, the firm consented to the described sanctions and to the entry of findings that it permitted its registered persons to use instant messaging to communicate with its institutional clients, but failed to maintain and preserve the communications. In determining the amount of the fine, NASD took into account the demonstrable corrective action undertaken by the firm before the staff commenced its examination. **(NASD Case #E112005017301)**

Paradigm Capital U.S. Inc. (CRD #104425, Toronto, Ontario, Canada) submitted a Letter of Acceptance, Waiver and Consent in which the firm was censured, fined $75,000 and required to review its procedures regarding the preservation of electronic mail communications for compliance with NASD rules and federal securities laws and regulations, and to have an officer certify that the firm has implemented compliant systems and procedures. Without admitting or denying the findings, the firm consented to the described sanctions and to the entry of findings that it permitted registered representatives to use instant messaging and wireless handheld devices to send electronic communications, but failed to preserve the communications as required by SEC Rule 17a-4. In determining the amount of the fine, NASD took into account the demonstrable corrective action undertaken by the firm before the staff commenced its examination. **(NASD Case #E112005017402)**

Pulse Trading, Inc. (CRD #104022, Boston, Massachusetts) submitted a Letter of Acceptance, Waiver and Consent in which the firm was censured, fined $50,000 and required to review its procedures regarding the preservation of electronic mail communications for compliance with NASD rules and federal securities laws and regulations, and to have an officer certify that the firm has implemented compliant systems and procedures. Without admitting or denying the findings, the firm consented to the described sanctions and to the entry of findings that it utilized a vendor to maintain and preserve registered persons' instant messages, but the vendor failed to capture and/or retain all of the messages. The findings stated that the firm failed to maintain and preserve all electronic communications as SEC Rule 17a-4 requires. In determining the amount of the fine, NASD took into account the demonstrable corrective action undertaken by the firm before the staff commenced its examination. **(NASD Case #E112005000601)**

Pyramid Financial Corp. (CRD #23181, Cupertino, California) submitted a Letter of Acceptance, Waiver and Consent in which the firm was censured, fined $25,000, required to establish and implement procedures reasonably designed to verify the adequacy and effectiveness of its system for retaining emails, and the president of the firm is required to certify on a periodic basis, for a year and a half, that the firm is retaining electronic communications. Without admitting or denying the findings, the firm consented to the described sanctions and to the entry of findings that the firm, which maintains one office with four registered persons, failed to preserve, for a period of time, communications it sent and received relating to its

business, and retain evidence that communications it sent were approved by a principal. **(NASD Case #E0120050069-02)**

Raymond James Ltd (USA), Inc. (CRD #25853, Toronto, Ontario, Canada) submitted a Letter of Acceptance, Waiver and Consent in which the firm was censured, fined $50,000 and required to review its procedures regarding the preservation of electronic communications for compliance with federal securities laws, regulations and NASD rules, and to have an officer certify that the firm has implemented compliant systems and procedures. Without admitting or denying the findings, the firm consented to the described sanctions and to the entry of findings that it did not maintain and preserve all electronic communications as required by SEC Rule 17a-4. In determining the amount of the fine, NASD took into account the demonstrable corrective action undertaken by the firm before the staff commenced its examination. **(NASD Case #E112005000901)**

Schonfeld Securities, LLC (CRD #23304, Jericho, New York) submitted a Letter of Acceptance, Waiver and Consent in which the firm was censured and fined $15,000. Without admitting or denying the findings, the firm consented to the described sanctions and to the entry of findings that it submitted an inaccurate short interest position report to NASD. The findings stated that the firm transmitted Route or Combined Order/Route Reports to the Order Audit Trail System℠ (OATS℠) that contained either inaccurate, incomplete or improperly formatted data. **(NASD Case #20041000231-01)**

Sunstate Equity Trading, Inc. (CRD #43571, Tampa, Florida) submitted a Letter of Acceptance, Waiver and Consent in which the firm was censured and fined $15,000. Without admitting or denying the findings, the firm consented to the described sanctions and to the entry of findings that it failed to timely report Reportable Order Events (ROEs) to OATS. The findings stated that the firm submitted reports with respect to equity securities traded on the NASDAQ Stock Market to OATS that were not in the NASD-prescribed electronic format. The findings also stated that OATS rejected the reports, and notice of these rejections was made available to the firm on the OATS Web site, but the firm failed to correct or replace most of the reports. The findings also included that the firm failed to enforce its written supervisory procedures that specified that the designated principal would conduct a daily review of the OATS Web site for ROE and Firm Order Reports (FORE) rejections. **(NASD Case #20042000235-01)**

Individuals Barred or Suspended

Majied Ad Alzid (CRD #4710052, Registered Representative, Flint, Michigan) was barred from association with any NASD member in any capacity. The sanction was based on findings that Alzid improperly used customer funds and failed to respond to NASD requests for information and documents. The findings stated that Alzid received $77,000 from a public customer to open an annuity account, opened a checking account and a brokerage account under an assumed name, deposited the customer's funds in the checking account and began trading in the brokerage account using funds from the checking account without the customer's consent. The findings also stated that Alzid placed equity trades using another registered representative's number without authorization or proper license to do so. NASD found that Alzid failed to fully respond to NASD requests for information. **(NASD Case #C8A050041/C8A2005050041)**

Thomas Dean Bade (CRD #1957919, Registered Principal, Glendale, Arizona) was barred from association with any NASD member in any capacity. The sanction was based on findings that Bade willfully failed to disclose material information on his Uniform Registration for Securities Industry Registration or Transfer (Form U4). **(NASD Case #E3A2004034901)**

Timothy Patrick Barry (CRD #2267209, Registered Representative, Appleton, Wisconsin) submitted a Letter of Acceptance, Waiver and Consent in which he was fined $12,578.10, which includes disgorgement of $2,578.10 in commissions, and suspended from association with any NASD member in any capacity for 10 weeks. Without admitting or denying the findings, Barry consented to the described sanctions and to the entry of findings that he recommended and effected Class B share mutual fund purchases for a public customer without reasonable grounds for believing that the resultant transactions were suitable for the customer in that Class A shares would have been more beneficial to the customer. The findings stated that Barry engaged in outside business activities for compensation without

providing his member firm with prior written notice while he was employed there.

The suspension in any capacity is in effect from June 19, 2006 through August 27, 2006. **(NASD Case #E8A2003084802)**

Neal Albert Bohlman (CRD #3227546, Registered Principal, St. Louis, Missouri) submitted a Letter of Acceptance, Waiver and Consent in which he was barred from association with any NASD member in any capacity. Without admitting or denying the findings, Bohlman consented to the described sanction and to the entry of findings that, pursuant to a scheme to ultimately obtain money and property by false means, he forged a customer's name on a Wire Funds Authorization form and wired $46,322 from the customer's securities account to the customer's checking account without the customer's authorization. The findings stated that Bohlman contacted the customer and falsely advised him of a clerical error of $45,000-50,000 on his monthly securities account statement and that he would resolve the issue, but he never returned the money to the customer's account. The findings also stated that Bohlman failed to respond to NASD requests for information. **(NASD Case #20050004969-01)**

Shawn Douglas Burke (CRD #1463381, Registered Representative, Mechanicsburg, Pennsylvania) was barred from association with any NASD member in any capacity. The sanction was based on findings that Burke misused or converted public customers' funds in that he deposited $313,256.84 into a bank account he controlled. The findings stated that Burke failed to respond to NASD requests for information and documents. **(NASD Case #2005000924701)**

Phillip Austin Christian (CRD #4504875, Registered Representative, Hoboken, New Jersey) was barred from association with any NASD member in any capacity. The sanction was based on findings that Christian failed to respond to NASD requests for information. The findings stated that Christian engaged in an outside business activity without providing his member firm with prior written notice. **(NASD Case #C1020050061)**

Adrian Cooper (CRD #3271084, Registered Representative, Edmond, Oklahoma) was barred from association with any NASD member in any capacity. The sanction was based on findings that Cooper received $40,000 from a public customer to invest in securities, but instead converted the funds to his own use and benefit without the customer's knowledge or consent. The findings stated that Cooper failed to respond to NASD requests for information. **(NASD Case #E052004028001)**

John Joseph Doria (CRD #826504, Registered Representative, Orlando, Florida) submitted an Offer of Settlement in which he was censured, fined $35,000, suspended from association with any NASD member in any capacity for six months and barred from participating, directly or indirectly, in any public or private offering or transaction involving a penny stock. The fine must be paid before Doria reassociates with any NASD member following the suspension, or before he requests relief from any statutory disqualification. Without admitting or denying the allegations, Doria consented to the described sanctions and to the entry of findings that he aided and abetted the manipulation of Over-the-Counter Bulletin Board (OTCBB) stocks by certain of his member firm's customers. The findings stated that Doria aided and abetted the manipulation of securities by placing wash sales and matched trades in OTCBB stock in and between the group of interrelated accounts at his member firm at the direction of his customers. The findings also stated that Doria knew, or was reckless in not knowing, that his customers were engaged in manipulating the stock. The matched trades Doria placed were reported to the OTCBB, grossly inflating and distorting the bona fide volume of trading in the OTCBB stocks, and created the false appearance of trading volume and market interest in the stocks.

The suspension in any capacity is in effect from June 19, 2006 through December 18, 2006. **(NASD Case #EAF04001900)**

Michael Patrick Fantetti (CRD #1474403, Registered Representative, Scottsdale, Arizona) was fined $25,000 and suspended from association with any NASD member in any capacity for one year. The sanctions were based on findings that Fantetti recommended and executed securities transactions in public customers' accounts without having reasonable

grounds for believing the transactions were suitable based on the customers' financial circumstances and needs.

The suspension in any capacity is in effect from June 5, 2006 through June 4, 2007. **(NASD Case #C3A20040030/E3A20020182)**

Laurence James Finn (CRD #1261659, Registered Principal, Coto de Caza, California) submitted a Letter of Acceptance, Waiver and Consent in which he was fined $7,759 and suspended from association with any NASD member in any capacity for 10 business days. Without admitting or denying the findings, Finn consented to the described sanctions and to the entry of findings that he recommended and effected securities transactions in public customers' accounts without having a reasonable basis for believing the transactions were suitable based on the customers' financial objectives, situations and needs.

The suspension in any capacity was in effect from June 19, 2006 through June 30, 2006. **(NASD Case #E0220040312-01)**

Suzette Marine Francis (CRD #4305137, Registered Representative, Queens, New York) submitted a Letter of Acceptance, Waiver and Consent in which she was barred from association with any NASD member in any capacity. Without admitting or denying the findings, Francis consented to the described sanction and to the entry of findings that she forged public customers' signatures on banking applications, including credit card applications and applications for lines of credit. The findings stated that Francis failed to respond to NASD requests for information. **(NASD Case #20050017770-02)**

Jerome Louis Galant (CRD #4771234, Associated Person, Dallas, Texas) submitted a Letter of Acceptance, Waiver and Consent in which he was fined $35,000, which includes disgorgement of $25,000, and suspended from association with any NASD member in any capacity for 30 business days. The fine must be paid before Galant reassociates with any member firm following the suspension, or before he requests relief from any statutory disqualification. Without admitting or denying the findings, Galant consented to the described sanctions and to the entry of findings that, as a member firm's research analyst, he prepared and issued research reports covering common stocks in which he held positions, and maintained buy recommendations in his reports even though he was selling the securities as they continued to increase in value. The findings stated that Galant prepared research reports for a member firm that failed to comply with the Regulation Analyst Certification Rule, and failed to include the meaning of each rating the firm used in its rating system, the distribution of its ratings and a price chart.

The suspension in any capacity is in effect from June 19, 2006 through July 31, 2006. **(NASD Case #E062004003003)**

Henry Horace Godbee, III (CRD #2284452, Registered Principal, North Little Rock, Arkansas), Rodney Gilbert Graves (CRD #4181629, Registered Principal, Little Rock, Arkansas) and Alex Lance Wittenburg (CRD #4278127, Registered Representative, North Little Rock, Arkansas) submitted a Letter of Acceptance, Waiver and Consent in which the respondents were fined $30,000, jointly and severally, and suspended from association with any NASD member in any capacity for 60 days. Without admitting or denying the findings, the respondents consented to the described sanctions and to the entry of findings that they exercised discretion in public customers' accounts without their member firm's prior written authorization.

Their suspensions in any capacity will be in effect from July 17, 2006 through September 14, 2006. **(NASD Case #E052004029501)**

Frank Peter Grasso (CRD 1047250, Registered Principal, Sayville, New York) was suspended from association with any NASD member in any capacity for nine months, fined $10,000, and must requalify by exam before acting in any registered capacity. The sanction was based on findings that Grasso entered false public customer addresses on variable annuity applications in order to obtain annuities for New York residents that were not approved for sale in the State of New York.

The suspension in any capacity is in effect from June 5, 2006 through March 2, 2007. **(NASD Case #CLI20050016)**

Donald Eric Heilbrun, Sr. (CRD #2335698, Registered Principal, Mission Hills, California) submitted a Letter of Acceptance, Waiver and Consent in which he was barred from association with any NASD member in any capacity. Without admitting or denying the findings, Heilbrun consented to the described sanction and to the entry of findings that he participated in a private securities transaction without providing prior written notice to, and receiving prior written approval from, his member firm. The findings stated that Heilbrun effected securities transactions in a public customer's account based upon the oral trading instructions he had received from a third party, and failed to provide prior notice to, or receive prior written approval from, his member firm to permit him to accept trading instructions from a third party. **(NASD Case #20050011263-01)**

Michael Todd Hinchliffe (CRD #4686652, Registered Representative, Portland, Oregon) submitted a Letter of Acceptance, Waiver and Consent in which he was fined $5,000 and suspended from association with any NASD member in any capacity for 60 days. The fine must be paid before Hinchliffe reassociates with any NASD member following the suspension, or before he requests relief from any statutory disqualification. Without admitting or denying the findings, Hinchliffe consented to the described sanctions and to the entry of findings that, without the customers' knowledge or consent, he affixed or caused to be affixed public customers' signatures, as trustees of a family trust, to a Request For Transfer of Assets in order to effect the transfer of the trust's assets from another broker-dealer to his member firm.

Hinchliffe's suspension in any capacity is in effect from July 3, 2006 through August 31, 2006. **(NASD Case #2005002008601)**

Paul Martin Hoag (CRD #2217083, Registered Representative, Holland, Ohio) was barred from association with any NASD member in any capacity. The sanction was based on findings that Hoag failed to respond to NASD requests for documents and information. NASD found that Hoag engaged in an outside business activity for compensation without disclosing it to his member firm or updating his member firm's outside business activity disclosure form. **(NASD Case #E8A2004101701)**

Michael Oliver Hogan (CRD #2226687, Registered Representative, Charlotte, North Carolina) submitted a Letter of Acceptance, Waiver and Consent in which he was barred from association with any NASD member in any capacity. Without admitting or denying the findings, Hogan consented to the described sanction and to the entry of findings that he completed forms requesting withdrawals from a public customer's variable annuity, and forged the customer's signature on the withdrawal forms and blank checks without the customer's knowledge or authorization, thereby converting $167,000 to his own use and benefit. **(NASD Case #2005002035401)**

Michael Ta-Zen Huang (CRD #4570554, Registered Representative, Atlanta, Georgia) was barred from association with any NASD member in any capacity. The sanction was based on the finding that Huang failed to respond to NASD requests for information. The finding stated that Huang misrepresented his identity by using another registered representative's computer password to complete a firm-required continuing education session for the other registered representative. **(NASD Case #2005000476101)**

Issa Odeh Ishaq (CRD #2774510, Registered Representative, Canton, Michigan) submitted a Letter of Acceptance, Waiver and Consent in which he was fined $5,000 and suspended from association with any NASD member in any capacity for 10 business days. Without admitting or denying the findings, Ishaq consented to the described sanctions and to the entry of findings that he received checks from public customers to pay for insurance premiums that were forwarded to the insurance company with the incorrect account number, and were then misrouted to Ishaq's account. The findings stated that the funds remained in Ishaq's account until the customers discovered their funds had not been deposited into their accounts or applied to pay for their policies.

The suspension in any capacity is in effect from July 3, 2006 through July 17, 2006. **(NASD Case #E8A2003053701)**

Dennis Jordan (CRD# 1420210, Registered Principal, Chipley, Florida) submitted an Offer of Settlement in which he was fined $27,500, suspended from association with any NASD member in any capacity for 18 months, required to pay $98,000, plus interest, in restitution to public customers, and must requalify

by exam in any capacity before he seeks registration. The fine and restitution amounts must be paid before Jordan reassociates with any NASD member following the suspension, or before he requests relief from any statutory disqualification. Without admitting or denying the findings, Jordan consented to the described sanctions and to the entry of findings that he engaged in the unregistered offer and sale of securities that he owned to public customers. The findings stated that Jordan failed to prepare and preserve required books and records in connection with the unregistered offer and sale of securities. The findings also stated that Jordan failed to reasonably supervise a representative's sales activities to prevent fraudulent sales practices and ensure compliance with recordkeeping and confirmation requirements.

Jordan's suspension is in effect from June 5, 2006 through December 4, 2007. **(NASD Case# E072003092501)**

William Edward Kassar, Jr. (CRD #2245223, Registered Principal, Lattingtown, New York) submitted an Offer of Settlement in which he was fined $10,000, ordered to pay $57,086.38 in restitution, suspended from association with any NASD member in any capacity for six months, and required to requalify by exam as a general securities representative. Without admitting or denying the allegations, Kassar consented to the described sanctions and to the entry of findings that he engaged in excessive trading in public customers' accounts in light of their objectives, financial situations and needs. The findings stated that Kassar effected, or caused to be effected, unsuitable transactions or trading on margin in public customers' accounts without their prior knowledge, authorization or consent. The findings also stated that Kassar settled a customer complaint without his member firm's knowledge or consent.

The suspension in any capacity is in effect from June 19, 2006 through December 18, 2006. **(NASD Case #CLI050003/ELI2004009805)**

William A. Kendall (CRD #2195972, Registered Representative, Abington, Massachusetts) submitted a Letter of Acceptance, Waiver and Consent in which he was barred from association with any NASD member in any capacity. Without admitting or denying the findings, Kendall consented to the described sanction and to the entry of findings that he entered into lending arrangements with customers and failed to inform his member firm or to obtain the firm's permission, contrary to the firm's written supervisory procedures that prohibit its representatives from borrowing money from customers. The findings stated that Kendall failed to appear for an NASD on-the-record interview. **(NASD Case #2005003111201)**

Young Min Kim (CRD #1087988, Registered Principal, Rossmoor, California) submitted a Letter of Acceptance, Waiver and Consent in which he was fined $25,000, suspended from association with any NASD member in any capacity for three months and barred from association with any NASD member in any principal or supervisory capacity. Without admitting or denying the findings, Kim consented to the described sanctions and to the entry of findings that he was associated with a member firm and participated in securities transactions while he was suspended from association with any member firm.

The suspension in any capacity will be in effect from July 17, 2006 through October 16, 2006. **(NASD Case #E022004017603)**

Russell John Kramer (CRD #2365564, Registered Representative, Grimes, Iowa) submitted a Letter of Acceptance, Waiver and Consent in which he was fined $5,000 and suspended from association with any NASD member in any capacity for three months. Without admitting or denying the findings, Kramer consented to the described sanctions and to the entry of findings that he engaged in outside business activities for compensation without providing prompt written notice to his member firm.

Kramer's suspension in any capacity is in effect from June 5, 2006 through September 4, 2006. **(NASD Case# 2005001902001)**

Gordon Ralph Kutz, III (CRD #2566712, Registered Representative, Trucksville, Pennsylvania) submitted a Letter of Acceptance, Waiver and Consent in which he was fined $5,000 and suspended from association with any NASD member in any capacity for four months. The fine must be paid before Kutz reassociates with any NASD member firm following the suspension, or before he requests relief from any statutory disqualification. Without admitting or denying the findings, Kutz consented to the described sanctions and to the entry of findings that he engaged in business activities for

compensation outside the scope of his business relationship with his member firm without providing prompt written notice of his activities.

The suspension in any capacity is in effect from June 19, 2006 through October 18, 2006. **(NASD Case #2005000537401)**

Justin James Lee (CRD #4552388, Registered Representative, Lawrence, Massachusetts) submitted a Letter of Acceptance, Waiver and Consent in which he was barred from association with any NASD member in any capacity. Without admitting or denying the findings, Lee consented to the described sanction and to the entry of findings that he executed transactions in a public customer's account without the customer's authorization or consent. The findings stated that Lee failed to appear for an on-the-record interview. **(NASD Case #2006004344801)**

Guang Lu (CRD #2691821, Registered Representative, Gaithersburg, Maryland) was barred from association with any NASD member in any capacity. The U.S. Court of Appeals affirmed the sanction imposed in the SEC decision, which had upheld the National Adjudicatory Council (NAC) decision that imposed the bar. The Court of Appeals upheld findings that Lu used discretionary authority in a public customer's account without prior authorization to do so, and failed to provide written notice to the executing member firm and his member firm that he was exercising discretion in an account that was opened at another member firm. The findings included that Lu provided a false answer on his Form U4. **(NASD Case #C9A20020052)**

Sergio Magana, Jr. (CRD #4738232, Registered Representative, Hammond, Indiana) submitted a Letter of Acceptance, Waiver and Consent in which he was fined $5,000 and suspended from association with any NASD member in any capacity for three months. The fine must be paid before Magana reassociates with any NASD member following the suspension, or before he requests relief from any statutory disqualification. Without admitting or denying the findings, Magana consented to the described sanctions and to the entry of findings that he failed to disclose material information on his Form U4.

The suspension in any capacity is in effect from July 3, 2006 through October 2, 2006. **(NASD Case #2005002079001)**

James Curtis McCauley (CRD #1830591, Registered Principal, Longview, Texas) submitted a Letter of Acceptance, Waiver and Consent in which he was barred from association with any NASD member in any capacity. Without admitting or denying the findings, McCauley consented to the described sanction and to the entry of findings that he received checks totaling $74,665.90 from a public customer to purchase securities and instead, converted the funds to his own use and benefit. **(NASD Case #2005001759801)**

Christopher Rodger Mone (CRD #3012524, Registered Representative, Concord, Ohio) submitted a Letter of Acceptance, Waiver and Consent in which he was barred from association with any NASD member in any capacity. Without admitting or denying the findings, Mone consented to the described sanction and to the entry of findings that he failed to respond to NASD requests for information. **(NASD Case #20050024934-01)**

Richard William Radez (CRD #825664, Registered Representative, Brownsburg, Indiana) submitted a Letter of Acceptance, Waiver and Consent in which he was barred from association with any NASD member in any capacity. Without admitting or denying the findings, Radez consented to the described sanction and to the entry of findings that he employed fraudulent sales practices in the course of recommending and selling the common stock of an unseasoned OTCBB security. The findings stated that when Radez recommended purchases of the security, he made false representations and omissions of material facts as well as baseless and unrealistic price projections. The findings also stated that Radez recommended the security without reviewing the company's available current publicly filed financial statements and current material business information, and without determining if there was a reasonable basis for the recommendation. The findings also included that Radez made unauthorized purchases of the security in public customers' accounts. NASD found that Radez engaged in a business activity outside the scope of his relationship with his member firm and failed to provide written notice to his firm. NASD also found that Radez failed to respond to NASD requests for documents and to testify truthfully in NASD on-the-record interviews. **(NASD Case #20050000292-01)**

Anthony Carl Richter (CRD #4026945, Registered Representative, Appleton, Wisconsin) submitted a Letter of Acceptance, Waiver and Consent in which he was fined $5,000 and suspended from association with any NASD member in any capacity for 10 business days. Without admitting or denying the findings, Richter consented to the described sanctions and to the entry of findings that he engaged in outside business activities for compensation, and failed to give prior written notice to his member firm.

The suspension in any capacity is in effect from July 3, 2006 through July 17, 2006. **(NASD Case #E8A2003084807)**

Frank R. Rivera (CRD #2765152, Registered Representative, Toa Alta, Puerto Rico) submitted a Letter of Acceptance, Waiver and Consent in which he was fined $7,500 and suspended from association with any NASD member in any capacity for 10 business days. Without admitting or denying the findings, Rivera consented to the described sanctions and to the entry of findings that he effected unauthorized transactions in a deceased public customer's account without authorization of the customer's estate or the beneficiary of the account to engage in such transactions. The findings stated that Rivera did not adhere to his firm's policies and procedures regarding the handling of an account upon notification of a customer's death that required for the account to be frozen and that all pending transactions and outstanding orders be immediately canceled.

The suspension in any capacity was in effect from June 19, 2006 through June 30, 2006. **(NASD Case #E072004085101)**

David Lynn Robinson (CRD #2878944, Registered Representative, Cincinnati, Ohio) was fined $10,000 and suspended from association with any NASD member in any capacity for two years. The sanctions were based on findings that Robinson willfully failed to amend his Form U4 to disclose material facts, and failed to timely respond to NASD requests for information.

The suspension in any capacity is in effect from June 5, 2006 through June 4, 2008. **(NASD Case #20050009671)**

Scott Harland Skalisky (CRD #3188928, Registered Representative, Baton Rouge, Louisiana) submitted a Letter of Acceptance, Waiver and Consent in which he was barred from association with any NASD member in any capacity. Without admitting or denying the findings, Skalisky consented to the described sanction and to the entry of findings that he transferred public customers' mutual fund positions into securities accounts he had established for the customers without their knowledge or authorization, and forged their signatures on the transfer request forms. The findings stated that Skalisky failed to respond to an NASD request for information. **(NASD Case #2005002289001)**

Steven M. Strube (CRD #4407032, Registered Representative, Larsen, Wisconsin) submitted a Letter of Acceptance, Waiver and Consent in which he was fined $5,000 and suspended from association with any NASD member in any capacity for 10 business days. Without admitting or denying the findings, Strube consented to the described sanctions and to the entry of findings that he engaged in outside business activities for compensation, and failed to give prior written notice to his member firm.

The suspension in any capacity is in effect from July 3, 2006 through July 17, 2006. **(NASD Case #E8A2003084804)**

Daniel Tirado (CRD #4897119, Associated Person, Dearborn Heights, Michigan) was barred from association with any NASD member in any capacity. The sanction was based on findings that Tirado willfully failed to disclose material information on his Form U4, and failed to respond to NASD requests for information. **(NASD Case #2005000224601)**

Todd Michael Tomac (CRD #2944790, Registered Principal, Grand Rapids, Michigan) submitted a Letter of Acceptance, Waiver and Consent in which he was fined $5,000 and suspended from association with any NASD member in any capacity for two months. The fine must be paid before Tomac reassociates with any member firm following the suspension or before requesting relief from any statutory disqualification. Without admitting or denying the findings, Tomac consented to the described sanctions and to the entry of findings that he engaged in outside business activities for compensation, and failed to give prompt written notice to his member firm.

The suspension in any capacity is in effect from July 3, 2006 through September 2, 2006. **(NASD Case #2005003621101)**

Scott John Van DeHey (CRD #1868621, Registered Representative, Neenah, Wisconsin) submitted a Letter of Acceptance, Waiver and Consent in which he was fined $10,000 and suspended from association with any NASD member in any capacity for 60 days. Without admitting or denying the findings, Van DeHey consented to the described sanctions and to the entry of findings that he engaged in outside business activities for compensation, and failed to give prior written notice to his member firm.

The suspension in any capacity is in effect from July 3, 2006 through August 31, 2006. **(NASD Case #E8A2003084809)**

LaCedric DeShawn Williams (CRD #3104753, Registered Representative, Cedar Hill, Texas) submitted a Letter of Acceptance, Waiver and Consent in which he was fined $10,000 and suspended from association with any NASD member in any capacity for six months. The fine must be paid before Williams reassociates with any NASD member following the suspension, or before he requests relief from any statutory disqualification. Without admitting or denying the findings, Williams consented to the described sanctions and to the entry of findings that he misled public customers into believing that he was a registered person with the firm when, in fact, he was not, and made recommendations regarding their investments, upon which the customers acted. The findings stated that Williams failed to disclose to a public customer that, in connection with the liquidation of her variable annuity, she would incur a surrender charge.

The suspension in any capacity is in effect from July 3, 2006 through January 2, 2007. **(NASD Case #E0620040296-01)**

Joseph Edward Zeglowitsch, III (CRD #4921581, Associated Person, Pittsburgh, Pennsylvania) was barred from association with any NASD member in any capacity. The sanction was based on findings that Zeglowitsch failed to respond to NASD requests for information. The findings stated that Zeglowitsch willfully failed to disclose material information on his Form U4. **(NASD Case #2005001533901)**

Individual Fined

Quinton Turner Wilkinson (CRD #4631571, Registered Principal, New York, New York) submitted a Letter of Acceptance, Waiver and Consent in which he was censured and fined $10,000. The fine must be paid before Wilkinson reassociates with a member firm, or before he requests relief from any statutory disqualification. Without admitting or denying the findings, Wilkinson consented to the described sanctions and to the entry of findings that he, while acting on behalf of his member firm, failed to file an annual audited report in a timely manner as SEC Rule 17a-5 required. **(NASD Case #E102004015501).**

Complaints Filed

NASD issued the following complaints. Issuance of a disciplinary complaint represents the initiation of a formal proceeding by 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.

Dean Russel Baker (CRD #4493790, Registered Representative, Coral Springs, Florida) was named as a respondent in an NASD complaint alleging that he engaged in a pattern of cold calling public customers in an attempt to induce them to open accounts and purchase shares through an online auction of company stock. The complaint alleges that Baker knowingly or recklessly made baseless price predictions and omissions of material facts to his customers and did not inform them of certain conflicts of interest. The complaint also alleged that Baker effected transactions in customers' accounts without their prior authorization, knowledge or consent. **(NASD Case # E072004052202)**

Mark Vernon Brown (CRD #2233771, Registered Representative, New Port Richey, Florida) was named as a respondent in an NASD complaint alleging that he forged public customers' signatures on letters that authorized the transfer of funds to pre-existing annuities the customers owned, and forged a customer's signature on an annuity application. The complaint alleged that Brown executed transactions

in customers' accounts without their prior knowledge or authorization. The complaint also alleges that Brown falsely represented to his member firm that the source of the funds for the additional investments into the pre-existing variable annuities of customers was from a money market fund, without disclosing that these funds initially came from 1035 exchange distributions from pre-existing annuities. In addition, the complaint alleges that Brown acted with scienter in connection with the transactions in the accounts in that he knew that he forged their signatures on various documents, executed unauthorized trades, that the accounts had lower values than what he was representing, and that the customers were incurring surrender charges in connection with the distributions from their annuities or, at a minimum, he was recklessly indifferent to whether the customers knew that he was forging their signatures, executing unauthorized trades in their accounts, that he misrepresented the true values of their accounts and that they were incurring charges in connection with the distributions. The complaint further alleges that Brown recommended that customers liquidate portions of variable annuities held in their accounts and used the proceeds from those sales to purchase additional shares of other variable annuities without having a reasonable basis for his recommendations and resultant transactions. Moreover, the complaint alleges that Brown failed to comply with an NASD request to provide sworn testimony. **(NASD Case #2005000931301)**

Greater Metropolitan Investment Services, Inc. (CRD #17452, Bedminster, New Jersey) and James Thomas Patten (CRD #1143818, Registered Principal, Bernardsville, New Jersey) were named as respondents in an NASD complaint alleging that they entered matching and crossing trades between sellers and buyers, each of which was the firm's customer, in order to artificially and arbitrarily raise the price of a security. The complaint also alleges that the firm and Patten, directly or indirectly, by use of means or instrumentalities of interstate commerce, intentionally or recklessly employed a device, scheme or artifice to defraud or engaged in an act, practice or course of business that operated or would operate as a fraud or deceit in connection with the purchase or sale of a security. The complaint further alleges that the firm and Patten published or circulated communications which purported to report transactions in a security when they did not believe, or had no reasonable basis to believe, that the transactions were bona fide securities purchases or sales. In addition, the complaint alleges that the firm and Patten improperly marked customer buy and sell order tickets as unsolicited orders when in fact they had solicited the customers to buy or sell the securities. Moreover, the complaint alleges that the firm and Patten countenanced a supervisory system that, in practice, did not apply or monitor procedures with regard to Patten's trading activities and thereby failed to establish, maintain or enforce a system to supervise the activities of each representative and associated person reasonably designed to achieve compliance with applicable securities laws, regulations and NASD rules. Furthermore, the complaint alleges that the firm failed to establish, maintain and enforce written procedures reasonably designed to achieve compliance with anti-fraud and recordkeeping provisions of securities laws, regulations and NASD rules. The complaint further alleges that the firm failed to reasonably supervise Patten's trading activity in the security and his improper marking of order tickets as unsolicited. **(NASD Case #2005000245601)**

Adam Chamroeurn Heng (CRD #2831137, Registered Representative, Brooklyn, New York) was named as a respondent in an NASD complaint alleging that he executed unauthorized trades, used margin without customers' knowledge or authorization, and failed to follow customer instructions to close customers' accounts. The complaint also alleges that Heng acted with scienter in connection with the unauthorized trading in the customer's accounts in that he knew the trading at issue was conducted without authorization or, at a minimum, he was recklessly indifferent to whether the customers had authorized the trades and knew he engaged in a pattern of unauthorized trading. The complaint further alleges that Heng failed to comply with an NASD request to appear and complete an on-the-record testimony. **(NASD Case #E072004051101)**

Brian James Kelly (CRD #2270427, Registered Representative, Severna Park, Maryland) was named as a respondent in an NASD complaint alleging that he exercised effective control over a public customer's personal account and recommended stock transactions for the account that were excessive and effected using an excessive margin amount. The complaint also alleges that Kelly, directly or indirectly, by use of any means or instrumentalities of interstate commerce or of the mails,

knowingly or recklessly used or employed, in connection with the purchase or sale of securities, manipulative or deceptive devices or contrivances; and knowingly or recklessly effected transactions in, or induced the purchase or sale of, securities by means of manipulative, deceptive or other fraudulent devices or contrivances. The complaint further alleges that Kelly engaged in short-term, frequent securities purchases and sales in a public customer's personal account without a reasonable basis for believing that the transactions were suitable for the customer based on the frequency of the transactions, the nature of the customer's account, and his financial situation and needs, and effected transactions through the excessive use of margin which was unsuitable for the customer. In addition, the complaint alleges that Kelly exercised discretion in the customer's account without his member firm's prior written acceptance of the account as discretionary, and misled his firm that he had exercised discretion by falsely answering compliance-related questionnaires. **(NASD Case #E9A2004048801)**

William Andrew Malloy (CRD #1492864, Registered Principal, Matthews, North Carolina) was named as a respondent in an NASD complaint alleging that he engaged in securities transactions without providing written notification to his member firm. The complaint also alleges that Malloy entered into an agreement with a public customer to receive a portion of the profits from trading in the customer's account, therefore he directly or indirectly impermissibly shared the profits of a customer's account without obtaining prior written authorization from his member firm to accept such compensation, and without making any financial contribution to the customer's account. The complaint further alleges that Malloy engaged in excessive trading and churning in the public customer's account. In addition, the complaint alleges that Malloy, by the use of any means or instrumentality of interstate commerce or of the mails, intentionally or recklessly engaged in manipulative or deceptive devices or contrivances in connection with the purchase or sale of securities, and intentionally or recklessly effected transactions in, or induced the purchase or sale of, securities by means of manipulative, deceptive or other fraudulent devices or contrivances. Moreover, the complaint alleges that Malloy settled a customer complaint without his member firm's knowledge or consent and failed to respond to NASD requests for information. **(NASD Case #ELI2004008101)**

Richard James Morgan (CRD #3056196, Registered Representative, Missouri City, Texas) was named as a respondent in an NASD complaint alleging that he failed to respond to NASD requests to appear for an on-the-record interview. The complaint also alleges that Morgan effected stock and option transactions in public customers' accounts without their written authorization to use discretion in their accounts and without his member firm's written acceptance of the accounts as discretionary. The complaint further alleges that Morgan exercised discretion to effect excessive unsuitable stock and option transactions in public customers' accounts. **(NASD Case #E0620040265-01)**

Jae Young Oh (CRD #4576773, Registered Representative, Los Angeles, California) was named as a respondent in an NASD complaint alleging that he prepared and sent a falsified account statement misrepresenting that it was the actual current account statement to a public customer. The complaint alleges that Oh failed to respond to NASD requests for information. **(NASD Case #20050009134-01)**

The Truman Group Inc. (CRD #10764, Delray Beach, Florida) Steven Matthew Labadie (CRD #3149829, Registered Representative, Boca Raton, Florida), Robert Sean Paruch, Jr. (CRD #3139293, Registered Representative, Bay Harbor Island, Florida) and Kenneth Jason Saluk (CRD #2470891, Registered Representative, Lighthouse Point, Florida) were named as respondents in an NASD complaint alleging that the firm, acting through Saluk, Labadie and Paruch, offered and sold shares of common stocks to public customers when there was no registration statements filed or in effect with the SEC with respect to the common stocks as required by Section 5 of the Securities Act of 1933, and the stock was not exempt from any registration requirements. The complaint alleged that the firm, acting through Labadie, Paruch and Saluck engaged in acts operating as a fraud or deceit in connection with the purchase or sale of securities. The complaint also alleges that the firm, acting through Saluk, Labadie and Paruch, misused public customers' funds intended to pay for their stock purchases. The complaint also alleges that the firm allowed Saluk, Labadie and Paruch to solicit investors to purchase securities without the benefit of a General Securities Representative registration. The complaint further alleged that the firm allowed Saluk to supervise, solicit and conduct the firm's business, and actively

engaged in the management of the firm's securities business without the benefit of a General Securities Principal registration. In addition, the complaint alleged that Saluk failed to comply with an NASD request to appear for on-the-record testimony. **(NASD Case #EFL2004000401)**

David Lee Steadman (CRD #2371970, Registered Representative, Virginia Beach, Virginia) was named as a respondent in an NASD complaint alleging that Steadman signed public customers' names to documents without their authorization or consent, causing the unauthorized withdrawal of funds and the redemption of a mutual fund. The complaint also alleges that Steadman failed to appear for an NASD on-the-record interview. **(NASD Case #2005000613301)**

Firms Suspended for Failure to Supply Financial Information

The following firm was suspended from NASD membership for failing to comply with formal written requests to submit financial information to NASD. The action was based on the provisions of NASD Rule 9552.

(The date the suspension commenced is listed after the entry. If the firm has complied with the requests for information, the listing also includes the date the suspension concluded.)

America First Associates Corp.
Stewart Manor, New York
(May 26, 2006)

Individuals Barred Pursuant to NASD Rule 9552(h)

Nathan Paul Araujo
West Palm Beach, Florida
(June 26, 2006)

Fred Korahais
Glen Cove, New York
(June 26, 2006)

Peter Korahais
Glen Cove, New York
(June 26, 2006)

Sangam Ramesh Patel
San Jose, California
(June 19, 2006)

Larry Lamar Snow
Jackson, Mississippi
(June 12, 2006)

Emily Sun Wong
Mt. Laurel, New Jersey
(June 26, 2006)

Individuals Suspended Pursuant to NASD Rule 9552(d)

(The date the suspension began is listed after the entry. If the suspension has been lifted, the date follows the suspension date.)

Michael Benjamin Evans
Roosevelt, New York
(June 7, 2006)

Sean Matthew McCarthy
Boston, Massachusetts
(June 5, 2006)

David Frederick Patton
Goliad, Texas
(June 12, 2006)

Barton Lee Richardson
Lebanon, Ohio
(June 21, 2006)

Steven H. Rubin
Brookline, Massachusetts
(June 5, 2006)

Robert Craig Rudder
Warren, Michigan
(June 7, 2006)

Individuals Suspended Pursuant to NASD Rule Series 9554 for Failure to Comply with an Arbitration Award or a Settlement Agreement

(The date the suspension began is listed after the entry. If the suspension has been lifted, the date follows the suspension date.)

Marc Amato
Strongsville, Ohio
(February 28, 2006 to June 20, 2006)

Michael Samuel Bell
Boca Raton, Florida
(April 18, 2006 to June 6, 2006)

Grady Michael Crump
Oak Ridge, North Carolina
(June 5, 2006)

NASD Fines LaSalle Street Securities $200,000 for Supervisory Violations Related to Fraudulent Schemes Perpetrated by Broker Frank Devine

Firm Suspended from Hiring Representatives with a Disciplinary History, Must Retain Independent Consultant to Correct Supervisory System Deficiencies

NASD fined LaSalle Street Securities, Inc. of Elmhurst, IL, $200,000 for failing to adequately supervise Frank Devine, a former representative of the firm who began serving a 13-year prison sentence after pleading guilty to federal wire and tax fraud charges for defrauding investors in a Ponzi scheme. A federal judge also ordered Devine to pay nearly $3 million in restitution to his victims. Earlier this month, an Illinois judge handed Devine a concurrent 15-year state prison sentence in a state criminal case arising from the same misconduct.

Also as part of the action, NASD ordered LaSalle Street to retain an independent consultant to establish adequate supervisory systems and procedures, and suspended the firm from hiring brokers with any disciplinary history until such time as the firm has implemented appropriate supervisory systems.

In related actions, NASD has barred Devine from the securities industry for life for operating fraudulent investment schemes, converting funds and failing to respond to requests for information. It has also barred the LaSalle principal assigned to supervise Devine, Gerald Martin, from serving in any supervisory or principal capacity with any NASD-registered firm. In addition, NASD suspended Martin in all capacities for 90 days and fined him $5,000.

"Devine's misconduct escaped detection in large part because of the firm's deficient supervisory system and procedures," said James Shorris, NASD Executive Vice President and Head of Enforcement. "NASD rules require firms to establish systems and procedures to reasonably supervise brokers, to ensure compliance with securities laws and regulations. And regulators have repeatedly emphasized the need for heightened supervision of brokers with known regulatory problems or customer complaints. But LaSalle Street had no significant supervisory procedures in those areas and never took any steps to meaningfully supervise Devine—and Devine was able to exploit those deficiencies to carry out his fraudulent schemes."

NASD found that in June 1998, when LaSalle Street hired Devine, he disclosed to the firm that NASD was investigating his termination by his previous firm for engaging in unauthorized and undisclosed outside business activities. In September 1998, Devine received formal written notification from NASD that it intended to pursue disciplinary action against him. Despite being aware of the NASD investigation, and knowing that Devine maintained a separate business account and operated various outside businesses, LaSalle Street allowed Devine to work from his home with no on-site supervision.

Following a hearing and several appeals—including to the Securities and Exchange Commission, which took its final action in December 2002—Devine was found to have sold viatical contracts without the knowledge of, or authorization from, his previous employing firm. He was suspended for 90 days, fined $34,825 and required to requalify by examination before he could associate with an NASD-registered firm. Devine served his suspension in early 2003, and then reassociated with LaSalle Street where he continued to work until September 2004. During the entire six-year period that Devine was employed with LaSalle Street, the firm allowed him to work from his home, did not place him under any form of heightened supervision and did not conduct a single inspection of his office. LaSalle Street

also failed to properly investigate red flags indicating possible misconduct by Devine. Devine made inconsistent disclosures to the firm about his outside business activities and his separate business account beginning in 1999, which the firm failed to follow up on. Further, Devine's production declined precipitously in 2003 and 2004, when his annual compensation from LaSalle Street plummeted from six figures to under $1,000. When questioned by the firm, Devine told LaSalle Street that he was being paid "very, very well" as a political consultant, but that he could not provide details because he was working for the U.S. Government. LaSalle Street did not investigate further.

NASD found that while LaSalle Street employed Devine, he operated several fraudulent schemes including one involving the purchase and resale of luxury automobiles, one involving the sale of real estate and another involving an initial public offering. Devine converted the funds he collected from friends, acquaintances and others to his own personal use. None of these schemes was approved by LaSalle Street or known by the firm. Devine's supervisor, Martin, invested approximately $80,000 in two of Devine's schemes, but did not inform the firm of his investment and did not determine whether any LaSalle Street customers serviced by Devine had also invested.

In addition to its failure to reasonably supervise Devine, NASD also found that LaSalle Street failed to establish an adequate supervisory system and procedures for supervising activities of brokers working in small, geographically dispersed offices, including brokers with disciplinary histories. Other than having a "goal" of inspecting each non-branch office location once every three years, LaSalle Street did not have procedures for supervising brokers like Devine, who were working in remote office locations. Further, LaSalle Street did not provide supervisors with any formal instruction or training, and there was no supervisory manual or supervisory procedures for managers to follow.

In settling these matters, LaSalle Street, Devine and Martin have neither admitted nor denied the charges, but consented to the entry of NASD's findings.