

INFORMATIONAL

Disciplinary Decisions

SEC Approves Rule Change To Permit Publication Of All Final Litigated Decisions Issued By The Office Of Hearing Officers, The National Adjudicatory Council, And The NASD Board; **Effective Date: July 10, 2000**

SUGGESTED ROUTING

The Suggested Routing function is meant to aid the reader of this document. Each NASD member firm should consider the appropriate distribution in the context of its own organizational structure.

- Legal & Compliance
- Senior Management

KEY TOPICS

- Disciplinary Decisions
- Interpretive Material 8310-2

Executive Summary

The National Association of Securities Dealers, Inc. (NASD[®]) publishes disciplinary decisions that meet certain criteria; these criteria are outlined in Interpretive Material 8310-2 (the Interpretation). On May 15, 2000, the Securities and Exchange Commission (SEC) approved a change to the Interpretation to permit publication of all final, litigated decisions issued by the Office of Hearing Officers (OHO), the National Adjudicatory Council (NAC), and the NASD Board. Under the approved change, a decision that does not satisfy the enumerated criteria of the Interpretation will be released, but will not identify the parties to the decision. The rule change becomes effective on July 10, 2000, but permits publication of all final, litigated decisions issued after August 7, 1997, the effective date of the current NASD Code of Procedure.¹ Attachment A includes the amendments to the Interpretation.

Questions/Further Information

Questions regarding this *Notice* should be directed to Sarah Williams, Assistant General Counsel, Office of General Counsel, NASD Regulation, Inc. (NASD RegulationSM), at (202) 728-8083.

Discussion

Some, but not all, NASD disciplinary decisions are currently released to the public. The Interpretation permits the NASD to release to the public any disciplinary decision that:

- (1) imposes a suspension, cancellation, or expulsion of a member;
- (2) imposes a suspension or revocation of the registration of any associated person;

- (3) imposes a suspension or bars a member or associated person from association with all members;
- (4) imposes monetary sanctions of \$10,000 or more on a member or associated person;
- (5) contains an alleged violation of a Designated Rule; or
- (6) involves a significant policy or enforcement determination where the release of such matter is deemed by the President of NASD Regulation to be in the public interest.

Because disciplinary decisions provide guidance in the interpretation and enforcement of NASD rules, it is in the public interest to make available all final, litigated decisions issued by the OHO, the NAC, and the NASD Board. Accordingly, the SEC approved amendments to the Interpretation to provide for the publication of these decisions. However, the names of the parties and other identifying information mentioned in decisions that do not meet the current enumerated publication criteria, as outlined in the Interpretation (and listed above), will be redacted from these decisions. These amendments do not apply to Settlements; Letters of Acceptance, Waiver, and Consent; and Minor Rule Violation Plan letters. The amendments will have no impact on the information contained in the Web Central Registration Depository (CRDSM) system, and disclosed to a requesting party pursuant to Interpretive Material 8310-2(b).

When this rule change becomes effective, all final, litigated OHO, NAC, and NASD Board decisions issued after August 7, 1997 (the effective date of the current NASD Code of Procedure) will be publicly available.

Attachment A

Text Of Amendments

(Note: New text is underlined.)

IM-8310-2. Release of Disciplinary Information

(d) (1) The Association shall release to the public information with respect to any disciplinary decision issued pursuant to the Rule 9000 Series imposing a suspension, cancellation or expulsion of a member; or suspension or revocation of the registration of a person associated with a member; or suspension or barring of a member or person associated with a member from association with all members; or imposition of monetary sanctions of \$10,000 or more upon a member or person associated with a member; or containing an allegation of a violation of a Designated Rule; and may also release such information with respect to any disciplinary decision or group of decisions that involve a significant policy or enforcement determination where the release

of information is deemed by the President of NASD Regulation, Inc. to be in the public interest. The Association also may release to the public information with respect to any disciplinary decision issued pursuant to the Rule 8220 Series imposing a suspension or cancellation of the member or a suspension of the association of a person with a member, unless the National Adjudicatory Council determines otherwise. The National Adjudicatory Council may, in its discretion, determine to waive the requirement to release information with respect to a disciplinary decision under those extraordinary circumstances where the release of such information would violate fundamental notions of fairness or work an injustice. The Association may release to the public information on any other final, litigated, disciplinary decision issued pursuant to the Rule 8220 Series or Rule 9000 Series, not specifically enumerated in this paragraph, regardless of sanctions imposed, so long as the names of the parties and other identifying information is redacted.

Endnote

¹See *Special Notice to Members 97-55*.

©2000, National Association of Securities Dealers, Inc. (NASD). All rights reserved. Notices to Members attempt to present information to readers in a format that is easily understandable. However, please be aware that, in case of any misunderstanding, the rule language prevails.