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REGULATION

NASD Regulation, Inc.
Corporate Financing Department
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Washington, DC 20006
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May 21, 1999

Joshua Kans, Attorney
Division of Market Regulation
Securities and Exchange Commission
450 Fifth Street, N.W.
Washington, D.C. 20549-1001

Re: **SR-NASD-99-02, Amendment No. 1**
Proposed Rule Change Regarding SEC Rule 504 Offerings

Dear Mr. Kans:

Pursuant to Rule 19b-4, NASD Regulation, Inc. is hereby submitting Amendment No. 01 to SR-NASD-99-02 to amend the rule language originally submitted. Attached hereto is the revised text of the proposed rule change, which is intended to entirely replace the rule language originally submitted. Your review of this submission has been appreciated.

If you have any questions, please contact me at (202) 974-2700 and rothwels@nasd.com. The fax number of the Corporate Financing Department is (202) 974-2732.

Very truly yours,

Suzanne E. Rothwell, Chief Counsel
Corporate Financing Department

TEXT OF PROPOSED RULE CHANGE

[Proposed new language is underlined; proposed deletions are in brackets.]

IM-2110-1. “Free-Riding and Withholding”

* * *

(I) Explanation of Terms

The following explanation of terms is provided for the assistance of members. Other words which are defined in the By-Laws and Rules shall, unless the context otherwise requires, have the meaning as defined therein.

(1) Public Offering

The term public offering shall mean any primary or secondary distribution of securities made pursuant to a registration statement or offering circular including exchange offers, rights offerings, offerings made pursuant to a merger or acquisition, straight debt offerings, offerings pursuant to SEC Rule 504, and all other securities distributions of any kind whatsoever, except any offering made pursuant to an exemption from registration under Sections 4(1), 4(2) or 4(6) of the Securities Act of 1933, as amended, or pursuant to Rule 504 if the securities are “restricted securities” under SEC Rule 144(a)(3) [(unless considered a public offering in the states where offered)], Rule 505, or Rule 506 adopted under the Securities Act of 1933, as amended. The term public offering shall exclude exempted securities as defined in Section 3(a)(12) of the Act, and debt securities (other than debt securities convertible to common or preferred stock) and financing instrument-backed securities that are

rated by a nationally recognized statistical rating organization in one of its four highest generic rating categories. The term public offering shall exclude secondary offerings by an issuer, or any security holder of the issuer, of actively-traded securities.

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2710. Corporate Financing Rule - Underwriting Terms and Arrangements

(a) No change.

(b) Filing Requirements

(1) - (7) No change.

(8) Exempt Offerings

Notwithstanding the provisions of subparagraph (1) above, the following offerings are exempt from this Rule, Rule 2720, and Rule 2810. Documents and information relating to the following offerings need not be filed for review:

(A) securities exempt from registration with the Commission pursuant to the provisions of Sections 4(1), 4(2) or 4(6) of the Securities Act of 1933, as amended, or pursuant to Rule 504 [(unless considered a public offering in the states where offered)] if the securities are “restricted securities” under SEC Rule 144(a)(3), Rule 505, or Rule 506 adopted under the Securities Act of 1933, as amended;

* * *

(9) Offerings Required to be Filed

Documents and information relating to all other public offerings including, but not

limited to, the following must be filed with the Association for review:

(A) - (C) No change.

(D) securities exempt from registration with the Commission pursuant to Section 3(a)(11) of the Securities Act of 1933, as amended[, which is considered a public offering in the state where offered];

(E) securities exempt from registration with the Commission pursuant to Rule 504 adopted under the Securities Act of 1933, as amended, [which is considered a public offering in the states where offered] unless the securities are “restricted securities” under SEC Rule 144(a)(3);

* * *

2720. Distribution of Securities of Members and Affiliates -- Conflicts of Interest

(a) General No change.

(b) Definitions

For purposes of this Rule, the following words shall have the stated meanings:

(1) - (13) No change.

(14) Public offering -- any primary or secondary distribution of securities made pursuant to a registration statement or offering circular including exchange offers, rights offerings, offerings made pursuant to a merger or acquisition, straight debt offerings, offerings pursuant to SEC Rule 504, and all other securities distributions of any kind whatsoever, except any offering made pursuant to an exemption from registration under Sections 4(1), 4(2) or 4(6) of the Securities Act of 1933, as amended, or pursuant to SEC Rule 504

[(unless considered a public offering in the states where offered)] if the securities are “restricted securities” under SEC Rule 144(a)(3), SEC Rule 505, or SEC Rule 506 adopted under the Securities Act of 1933, as amended. The term public offering shall exclude exempted securities as defined in Section 3(a)(12) of the Act.

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