Notices to Members December 1998

Notices

98-96	NASD Elaborates On Member Firms' Supervision Responsibilities For Trade Reporting And	
	Market-Making Activities	731
98-97	Notice Of Increase In Advertising Review Fees	737
98-98	SEC Approves Rule Change Relating To Mutual Fund Breakpoint Sales	739
98-99	SEC Issues No-Action Letter On Proprietary Accounts Of Introducing Broker/Dealers	741
98-100	FOCUS Filing Due Dates For 1999	751
98-101	NASD Requests Comment On Proposed Amendments To Disclosure Questions On Forms U-4 And U-5; Comment Period Expires January 15, 1999	753
98-102	Calculating Margin For Day-Trading And Cross-Guaranteed Accounts	759
98-103	Maximum SOES Order Sizes Set To Change January 1, 1999	765
98-104	Fixed Income Pricing System Additions, Changes, And Deletions As Of October 23, 1998	773
98-105	NASD 1999 Holiday Schedule	775
98-106	Trade Date-Settlement Date Schedule For 1999	777
98-107	NASD Reminds Members Of Their Obligations To Disclose Mutual Fund Fees	783
Discipli	inary Actions Disciplinary Actions Reported For December	785
For You	ur Information Treasury Makes New Mailing Lists Available Via The Internet	801
	Comment Period Extended	802



© 1998, National Association of Securities Dealers, Inc. (NASD). All rights reserved.

NASD is a registered service mark of the National Association of Securities Dealers, Inc. MediaSource is a service mark of the NASD. Central Registration Depository (CRD) is a service mark of the NASD and the North American Securities Administrators Association, Inc. (NASAA). NASD Regulation is a service mark of NASD Regulation, Inc. Nasdaq, Nasdaq National Market, OTC Bulletin Board, and The Nasdaq Stock Market are registered service marks of The Nasdaq Stock Market, Inc. Automated Confirmation Transaction (ACT) Service, Fixed Income Pricing System (FIPS), The Nasdaq SmallCap Market, and Small Order Execution System (SOES) are service marks of The Nasdaq Stock Market, Inc.

NASD Notices to Members is published monthly by NASD Corporate Communications, Kim Dineen, Editor, NASD Editorial Services Department, 1735 K Street, NW, Washington, DC 20006-1500, (202) 728-8370. No portion of this publication may be copied, photocopied, or duplicated in any form or by any means, except as described below, without prior written consent of the NASD. Members of the NASD are authorized to photocopy or otherwise duplicate any part of this publication without charge only for internal use by the member and its associated persons. Nonmembers of the NASD may obtain permission to photocopy for internal use through the Copyright Clearance Center (CCC) for a \$3-per-page fee to be paid directly to CCC, 222 Rosewood Drive, Danvers, MA 01923. Annual subscriptions cost \$225; single issues cost \$25. Send a check or money order (payable to the National Association of Securities Dealers, Inc.) to NASD MediaSource, P.O. Box 9403, Gaithersburg, MD 20898-9403, or to phone in an order using American Express, MasterCard, or Visa charge, call (301) 590-6142, Monday to Friday, 9 a.m. to 5 p.m., Eastern Time. Back issues may be ordered by writing NASD, Support Services Department, 1735 K Street, NW, Washington, DC 20006-1500 or by calling (202) 728-8061.

NASD Notices to Members (December 1996 to current) are also available on the Internet at www.nasdr.com.

NASD Elaborates On Member Firms' Supervision Responsibilities For Trade Reporting And Market-Making Activities

Suggested Routing

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

Executive Summary

During the last two years, NASD Regulation, Inc. (NASD Regulation^{sм}) has imposed numerous and significant disciplinary actions against member firms for supervisory deficiencies, particularly in the areas of trade reporting and market-making activities. Indeed, much of the recent focus in the area of written supervisory procedures has been in the context of NASD Regulation's Trading and Market Maker Surveillance (TMMS) examination process. Accordingly, the purpose of this Notice is to reiterate for members in the context of trading and marketmaking activities the requirements of National Association of Securities Dealers, Inc. (NASD®) Rule 3010, the supervision rule, concerning a member firm's obligation to establish, maintain, and enforce a supervisory system and written supervisory procedures which reflect that system.1

Establishing, maintaining, and enforcing written supervisory procedures is a cornerstone of self-regulation within the securities industry. Supervisory procedures reasonably designed to achieve compliance with applicable rules, and to detect and deter rule violations by a member firm and its associated persons, enable the firm to identify and respond to regulatory concerns in a manner that can reduce the risk of disciplinary action by NASD Regulation.² Moreover, appropriately designed and implemented supervisory systems and written supervisory procedures serve as a "frontline" defense to protect investors from fraudulent trading practices and help to ensure that members are complying with rules designed to promote the transparency and integrity of the market. As a result, effective supervisory systems within member firms enhance investor confidence and, in turn, promote the fairness, liquidity, and efficiency of the market for all market participants.

As markets evolve and become more complex, it is essential that firms have in place effective supervisory systems and written supervisory procedures. At most member firms frontline supervisors have responsibilities for firm revenues in addition to their supervisory responsibilities with regard to applicable laws, rules, and regulations. Appreciating both the significance and the compatibility of these dual responsibilities, NASD Regulation believes that an effective supervisory system contemplated by Rule 3010 includes a strong overall commitment on the part of supervisors to establish and maintain clearly defined procedures for compliance with applicable laws, rules, and regulations, and a climate of intolerance for lax compliance by the persons they supervise.

NASD Rule 3010 requires each member to establish, maintain, and enforce written supervisory procedures with respect to the types of business in which it engages, which "are reasonably designed to achieve compliance with applicable securities laws and regulations, and with applicable NASD Rules "3 Because many of the failure to supervise charges recently imposed on members have been for inadequacies revealed in the TMMS examination process, in the trade reporting, market making, and equity order handling areas, this Notice focuses on elements of adequate supervisory procedures and systems in these areas. Given the differences among member firms in terms of their business mixes, and the fact that compliance with NASD Rule 3010 can be achieved through a variety of procedures and systems, this Notice only addresses some of the general elements that member firms should consider in assessing their supervisory systems and written procedures. NASD Regulation is not mandating any particular type or method of supervision. Nor is the Notice designed to provide a checklist of

steps guaranteed to constitute adequate written supervisory procedures. NASD Regulation will continue to examine closely member firms' supervisory systems and written procedures and, where appropriate, initiate disciplinary action against both firms and their supervisory personnel for failure to adopt, implement, and enforce appropriate supervisory procedures.

If you have any questions about this *Notice*, please call the Legal Section of the Market Regulation Department, NASD Regulation, at (301) 590-6410.

Discussion

Requirements Of NASD Rule 3010

NASD Rule 3010 provides that each NASD member must "establish and maintain a system to supervise the activities of each registered representative and associated person that is reasonably designed to achieve compliance with applicable securities laws and regulations, and with the rules of this Association."4 In addition to the creation of supervisory systems, Rule 3010 also requires member firms to establish, maintain, and enforce companion written supervisory procedures.⁵ Thus, a member and/or individual can violate NASD Rule 3010 in several different ways. Specifically, it is a violation if the member and/or individual fails to establish and maintain a supervisory system and/or fails to describe the operation of that system in written supervisory procedures. In addition, it is a violation if the member and/or individual fails to enforce a supervisory system and/or written supervisory procedures. Either type of violation can occur in the absence of an underlying rule violation.

There is an important distinction between written guidelines for com-

pliance and written supervisory procedures. Guidelines for compliance generally set forth the applicable rules and describe prohibited practices.6 While such compliance guidelines certainly serve a valuable regulatory purpose, and can represent an important element of an effective supervisory system, compliance guidelines in and of themselves do not constitute an adequate supervisory system or procedures. Beyond compliance guidelines, member firms must also adopt written supervisory procedures that describe the actual supervisory system established by the firm to achieve compliance with applicable rules and regulations. Specifically, the firm's written supervisory procedures should include a description of the controls and procedures used by the firm to deter and detect misconduct and improper activity. The written supervisory procedures should also identify the specific personnel who perform the various supervisory functions.

A firm's supervisory system may include a range of techniques and controls in addition to formal reviews and examinations of exception reports, which always should be included. For example, an effective supervisory system can include the maintenance of a comprehensive training and continuing education program that promotes a thorough understanding by associated persons of the applicable laws, rules, and regulations. In addition, elements of an effective supervisory system can include internal and external audits, and periodic reviews by "audit committees" or similar bodies constituted to evaluate a firm's controls. It can also include less formal monitoring and oversight by a qualified supervisor, or designee, actively involved in the business. Ultimately, an effective supervisory system may be comprised of many different elements, both objective --

such as regular reviews of specific areas of activity – and subjective, including placing competent, qualified, and experienced individuals in supervisory roles. In addition, a tone should be set from the top of the firm that lax compliance with – and deliberate violation of – laws, rules, and regulations will not be tolerated.

The supervisory system should be designed to ensure that delegated responsibilities are diligently exercised. Policies and procedures are not sufficient if there are no auditing systems to determine whether they are being followed as described.

Accordingly, written supervisory procedures should describe the following:

- a) specific identification of the individual(s) responsible for supervision either by name or by title and position;
- b) the supervisory steps and reviews to be taken by the appropriate supervisor this need not be a detailed description, but it should identify any exception reports and/or other documents being reviewed and the substantive area being reviewed (e.g., Limit Order Protection, trade reporting, etc.). If a member firm employs automated systems as part of its supervisory system, those systems should also be generally described.
- c) the frequency of such reviews this should be more specific than simply providing for "a review" or "a review from time to time." The frequency of reviews should be described, e.g., daily, weekly, monthly, quarterly, or annually (how frequently a firm conducts any such reviews will depend upon the nature, type, or level of firm activity in that particular area); and

d) how such reviews shall be **documented** – the firm should describe how the review will be documented, for example, initialing order tickets, initialing blotters, or filling out review logs. The procedures should also provide for the documentation of steps taken as a result of supervisory reviews (e.g., trades broken, restitution for best execution violations, etc.). The staff recognizes that there are a variety of ways, in addition to those noted, that reviews can be documented as having been conducted, particularly where the review is conducted online. Firms should document reviews in a manner sufficient to demonstrate to firm management and regulators that a review has been conducted.

Subject Areas Typically Addressed In The Written Supervisory Procedures Of Firms Engaged In Market-Making Activity

As the staff has pointed out during the course of TMMS examinations, the written supervisory procedures and supervisory systems of firms engaged in market-making activities must address, at a minimum, trading practice rules (i.e., passive market making, best execution, firm quote rule compliance, limit order protection, short-sale rules, markups and markdowns, and the Securities and Exchange Commission's [SEC] Order Handling Rules), trading systems such as Small Order Execution System[™] (SOES[™]) and SelectNet[™], trade reporting, Automated Confirmation Transaction System[™] (ACT[™]) Rules compliance, and any other material aspect of the firm's market-making business.

In August 1996, the SEC issued a Report of Investigation that detailed deficiencies in the NASD's performance of its duty to oversee The Nasdaq Stock Market® (Section 21(a) Report). As a result, NASD Regulation has been examining carefully member firm policies, practices, and procedures that encompass all of the areas referenced in the Section 21(a) Report. In particular, NASD Regulation has been looking closely at whether a firm's written supervisory procedures address the following subject areas:

- pricing conventions;
- size conventions;
- coordination of quotations, trades, and trade reports;
- exchange of proprietary and customer information;
- improper collaboration and coordination of Market Maker activities:
- failure to honor quotations;
- harassment;
- late and inaccurate trade reporting;
 and
- other trading rules and regulations that relate to market-making activities.

In addition, both the NASD and the SEC have recently emphasized the importance of a broker/dealer's best execution obligations. Whether a firm has fulfilled these obligations depends upon the different facts and circumstances present at each member firm. Nevertheless, as the SEC has repeatedly stated, to comply with the supervisory obligations that flow from best execution, a supervisory system must provide a mechanism for regularly and rigorously comparing execution quality likely to be obtained from different markets or Market Makers, and for determining that such analyses are performed.

Obligation To Update And Amend Written Supervisory Procedures And Supervisory Systems Upon The Implementation Of Rule Changes; Awareness Of Market Practices

Members must keep abreast of changes in laws, rules and regulations, market practices, and indicated patterns of non-compliance and must modify their supervisory procedures and systems as necessary. In this connection, NASD Rule 3010(b)(3) provides that "each member shall amend its written supervisory procedures as appropriate within a reasonable time after changes occur in applicable securities laws and regulations, including the Rules of this Association." What constitutes a "reasonable time" depends on, among other things, the complexity of the rule change and the changes (if any) required to be made in the supervisory system, the magnitude of any such changes, the extent to which the rule change imposes new requirements or modifies pre-existing requirements, and the amount of advance notice provided about the effective date of the rule change. In this connection, NASD Regulation believes that significant rule changes generally are promulgated and approved in a manner that affords members sufficient time to prepare for implementation of the rule change.

When rule changes necessitate a modification of a member firm's supervisory system and written supervisory procedures, a firm can comply with NASD Rule 3010(b)(3) by preparing and distributing a supplemental memorandum or other similar document describing the modification or amendment being made and updating in some manner relevant supervisory materials.

Supervisory Responsibilities Of Firms That Enter Into Give-up Or Other Arrangements

Many member firms enter into giveup or other arrangements that allow another firm to report trades on their behalf. Although a firm may allow another firm to perform its trade reporting responsibilities, the firm has the ultimate obligation to report trades in compliance with the rules and to supervise its activities to detect and deter violations of the trade reporting and ACT rules. These obligations cannot be contracted away. Thus, any firm that agrees to allow another firm to report trades on its behalf must establish, maintain, and enforce supervisory procedures which allow it to determine that the other firm is reporting those transactions in compliance with the rules. In this connection, NASD Regulation notes that executing "Attachment 2" to the ACT agreement does not relieve a member firm of any of its obligations in this area.

Use Of Automation As Part Of A Firm's Supervisory System

Written supervisory procedures may incorporate the use of automated systems to assist in determining compliance with applicable rules. As part of its supervisory system, a firm must test and monitor such systems periodically to determine that they are operating properly. In addition, personnel using the systems should be trained so that they understand how the systems work. For example, programmers should be advised of the regulatory requirements the system is being designed to address. Supervisory and compliance personnel should understand the system's capabilities and limitations. These principles apply whether or not the system software is designed by the firm or purchased from an

outside source. Additionally, when purchasing or designing a system, the firm should determine that such a system can reasonably assist the member firm in meeting its supervisory obligations. A system programming error or the failure of software need not result in a charge of failure to supervise if the firm has in place an effective supervisory procedure reasonably designed to detect such errors or failures. Indeed. the existence of an appropriate supervisory system that detects a particular error or failure and permits the firm to take appropriate remedial action may in certain instances be a mitigating factor in determining the necessity and severity of disciplinary action. Despite the means or procedures to detect system errors or failures, however, repeated system failures or errors without corrective action would weigh heavily against any mitigation that such procedures may provide.

Automated Assistance From NASD Regulation And Nasdaq

In a number of areas, resources are provided by NASD Regulation and Nasdaq to assist member firms in meeting their supervisory responsibilities. For example, NASD Regulation presently seeks to contact member firms engaged in underwriting activities on a real-time basis if it detects trading or quotation activity that may be inconsistent with the SEC's "passive market-making" rule, Rule 103 under Regulation M.

Additionally, NASD Regulation and Nasdaq provide the membership with transaction and market data that may be accessed through the Nasdaq TraderSM Web Site (www.nasdaqtrader.com) on the Proprietary Trading Data Web page. Information currently available includes monthly "report cards" that compare a firm's level of late trade reporting to industry-wide averages

and the member's direct peers. The "report card" also provides similar information with respect to the firm's compliance with the firm quote rule and the best execution rule. Through this Web Site, members also have access to daily share volume reports for a broker/dealer, daily share volume reports for a security, monthly summaries, and historical research reports such as Market Maker Price Movement Reports and Equity Trade Journals.

The provision of such reports and trade information by NASD Regulation and Nasdaq do not obviate the need for member firm supervision. Nevertheless, member firms may appropriately incorporate such resources into the overall design and implementation of their written supervisory procedures and systems.

Common Supervisory Deficiencies Noted During TMMS Examinations

To assist the membership in developing adequate written supervisory procedures, the following are examples of supervisory procedures most frequently found to be deficient by the staff during the course of TMMS examinations. Merely avoiding these bad practices in no way ensures that a firm's written procedures will be found to be adequate. Avoiding these particular practices, however, could assist member firms significantly in developing adequate written supervisory procedures.

1. The Written Supervisory
Procedures Merely Recite the
Applicable Rules: The staff has
observed many instances where the
written supervisory procedures
merely recite applicable NASD and
SEC rules without any description of
a procedure that will achieve
compliance with those rules. While

such documents can be an important component of a member firm's supervisory system, duplicating or restating the rules and identifying prohibited activities, without describing a procedure to determine whether there is compliance with those rules, is not sufficient to serve as the firm's written supervisory procedures.

- 2. Failure to Designate Responsible Supervisory Personnel in the Procedures: The staff has observed instances where firms have failed to designate the person or persons responsible for conducting supervision in each type of business. The specific person charged with conducting a particular review or procedure should be identified – either by name or by title.7 Merely stating that the "Compliance Department," "Trading Department," or a "principal" will conduct the review is not sufficient. The procedures should state, for example, that "John Doe will review" or "the Head Trader will review." Additionally, the person designated to carry out the review should be adequately experienced and qualified to do so.
- 3. Failure to Describe the Review Process Adequately: As stated above, the supervisory steps and reviews do not necessarily have to be set forth in a detailed description. Nevertheless, the staff has observed instances where the description of the supervisory procedure or review has been so vague that firm management, firm supervisory personnel, and regulators cannot determine what the review entails. For example, it is not sufficient to provide that "John Doe will review for compliance with all NASD trade reporting rules, limit order protection, etc."
- **4. Failure to Document Reviews:** The staff has observed instances where firms have failed to preserve

and maintain the documentation that reflects the fact that particular supervisory reviews have been conducted.

- **5. Failure to Denote Specifically the Frequency of Reviews:** The staff has observed instances where firms have failed to designate the frequency with which particular supervisory reviews are conducted.⁸
- 6. Failure to Monitor Adequately the Performance of Automated Compliance Systems: The staff has observed instances where firms have failed to test periodically the performance of automated trade execution, reporting, and other automated compliance systems that assist the firm in complying with applicable rules.
- 7. Failure to Monitor Adequately the Performance of Service Bureaus and Other Members to Which the Firm has Delegated its Trade Reporting Responsibility: The staff has observed instances where firms have failed to implement procedures to review periodically the accuracy and timeliness of trade reporting conducted by another member or service bureau on the firm's behalf.
- 8. Failure to Reflect Supervisory Systems in the Firm's Written Supervisory Procedures: The staff has observed instances where firms that in fact have effective supervisory systems in place fail to describe them in the firm's written supervisory procedures. It has also been the staff's experience that firms which conduct effective supervisory reviews sometimes fail to describe them in their written supervisory procedures. This is particularly true for firms that use automated systems to ensure compliance with applicable rules. Such systems should be generally described in the firm's written supervisory procedures.

- 9. Failure to Describe the Steps the Firm Will Take When Potential Deficiencies are Identified: The staff has reviewed written supervisory procedures that fail to describe the steps a supervisor should take when deficiencies are found. Because each situation may have aggravating or mitigating factors, general procedures, versus specific steps to be taken, will be adequate for purposes of the written supervisory procedures. For example, the procedures may indicate that the supervisor will discuss the matter with the compliance, audit, or legal department and the supervisor and/or representatives from one or more of these other areas will follow up with the registered person or persons involved to determine the reason for a deficiency, the possible need for further training, etc.
- 10. Failure to Update Procedures Within a Reasonable Period to Reflect New Regulatory Requirements or Firm

Procedures: The staff has observed numerous instances where members have failed to establish and maintain written supervisory procedures by the effective date of a new rule.

11. Failure to Preserve and Maintain Written Supervisory Procedures That Were in Effect During Past Time Periods in Accordance with SEC Rules 17a-3 and 17a-4: The staff has reviewed instances where members allege that written supervisory procedures were in effect for a specified business line during a specified time period, but were unable to document that the procedures actually existed at that time.

Firms should review their existing supervisory systems and written supervisory procedures in light of the guidance provided in this *Notice*. Deficiencies in supervisory systems should be addressed immediately.

Endnotes

¹For additional guidance concerning NASD Rule 3010, see *Notices to Members 88-84* and *89-34*.

²Self-imposed disciplinary action at the firm level is an integral part of the self-regulatory process – one that often constitutes a mitigating factor with respect to sanctions. However, self-imposed disciplinary action does not necessarily preclude the imposition of appropriate sanctions by NASD Regulation where it is deemed warranted after review of the facts and circumstances regarding a particular matter.

³NASD Rule 3010(b)(1).

⁴NASD Rule 3010(a).

⁵See NASD Rule 3010(b) (1) and (2).

⁶ See In Re Bryant, Securities Exchange Act Release No. 32357, 54 SEC Docket 345.

⁷It should be noted that NASD Rule 3010(b)(2) provides that a member firm shall maintain on an internal record the names of all persons who are designated as supervisory personnel and the dates for which such designation is or was effective.

⁸NASD Rule 3010 clearly does not require, however, that a member firm must review *all* of its trading activity for compliance with applicable rules. In these instances, the following have been found insufficient:

- a) reviews will be conducted as warranted or as needed;
- b) reviews will be conducted from time to time:
- c) reviews will be conducted regularly; and
- d) reviews will be conducted on a "spot check" basis.

© 1998, National Association of Securities Dealers, Inc. (NASD). All rights reserved.

Notice Of Increase In Advertising Review Fees

Suggested Routing

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

Executive Summary

On November 2, 1998, NASD Regulation, Inc. (NASD Regulation[™]) filed amendments for immediate effectiveness with the Securities and Exchange Commission (SEC) that will amend Section 13 of Schedule A to the By-Laws of the National Association of Securities Dealers, Inc. (NASD[®]) to increase the review charge for advertisements, sales literature, and other such material filed or submitted to the NASD Advertising Regulation Department. The increase is effective on January 1, 1999.

Questions regarding this *Notice* may be directed to Thomas A. Pappas, Director, Advertising Regulation Department, NASD Regulation, at (202) 728-8330, or Robert J. Smith, Assistant General Counsel, Office of General Counsel, NASD Regulation, at (202) 728-8176.

Discussion

The Advertising/Investment Companies Regulation Department (the Department) evaluates member firms' advertisements and sales literature for compliance with applicable rules of the NASD, SEC, Municipal Securities Rulemaking Board, and Securities Investors Protection Corporation. These public communications include print, television, and radio advertisements, or electronic communications such as Web sites. They also include brochures, form letters, direct mail, and telemarketing scripts.

Approximately 1,450 member firms submitted sales material last year, either voluntarily or pursuant to a rule requirement. Significant increases in filing volume and workload have made ever increasing demands on the Department's operations. For example, between 1994 (the last time advertising fees were amended) and 1997, the number of communications reviewed in the filings and

spot check programs increased 43 percent, from 42,681 to 61,096. The Department expects filing volume to continue to increase in subsequent years.

In order to enhance its operations and to continue to provide timely, high-quality reviews, NASD Regulation intends to dedicate additional staff and resources to the Department, as well as to other departments whose programs are related to the regulation of member communications with the public. The cost of the additional staff and resources will be covered by an increase in the basic charge for reviewing submitted material from \$50 to \$75.

Text Of Amendments

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

Schedule A to the NASD By-Laws

Section 13—[Service] Review Charge for Advertisement, Sales Literature, and Other Such Material Filed or Submitted

There shall be a [service] review charge for each and every item of advertisement, sales literature, and other such material, whether in printed. video, electronic or other form. filed with or submitted to the Association, except for items that are filed or submitted in response to a written request from the Association's Advertising Regulation Department issued pursuant to the spot check procedures set forth in the Association's Rules as follows: (1) for printed material reviewed, [\$50.00] \$75.00, plus \$10.00 for each page reviewed in excess of 10 pages; and (2) for video or audio media, [\$50.00] \$75.00, plus \$10.00 per minute for each minute of tape reviewed in excess of 10 minutes.

Where a member requests expedited review of material submitted to the Advertising Regulation department there shall be a [service] review charge of \$500.00 per item plus \$25 for each page reviewed in excess of 10 pages. Expedited review shall be

completed within three business days, not including the date the item is received by the Advertising Regulation Department, unless a shorter or longer period is agreed to by the Advertising Regulation Department. The Advertising Regulation Depart-

ment may, in its sole discretion, refuse requests for expedited review.

© 1998, National Association of Securities Dealers, Inc. (NASD). All rights reserved.

SEC Approves Rule Change Relating To Mutual Fund Breakpoint Sales

Suggested Routing

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

Executive Summary

On November 10, 1998, the Securities and Exchange Commission (SEC) approved amendments to the National Association of Securities Dealers, Inc. (NASD®) Interpretive Memorandum 2830-1 (IM-2830-1) to clarify the application of the mutual fund breakpoint sales rule to modern portfolio investment strategies. The amendments are effective immediately.

Questions regarding this *Notice* may be directed to Joseph E. Price, Director, Corporate Financing, NASD Regulation, Inc. (NASD Regulation^{5M}), at (202) 728-8877, or Robert J. Smith, Assistant General Counsel, Office of General Counsel, NASD Regulation, at (202) 728-8176.

Discussion

In the context of mutual fund sales, a "breakpoint" is that point at which the sales charge is reduced for quantity purchases of fund shares. NASD Rule IM-2830-1 prohibits sales of mutual fund shares in amounts below breakpoints, if such sales are made "so as to share in higher sales charges." The application of this standard depends on the purpose, or intent, of the member recommending the transaction. Accordingly, whether a breakpoint sales violation has occurred must depend on facts and circumstances that provide evidence of intent.

Recently, NASD Regulation considered the application of IM-2830-1 to modern portfolio investment strategies that utilize many different mutual funds with varying investment objectives. The amendments specify more precisely those facts and circumstances the staff will consider when examining whether trades that miss breakpoints, but are made pursuant to bona fide asset allocation programs, may have violated NASD rules.

NASD Regulation believes that, under most circumstances, sales under a breakpoint pursuant to a bona fide asset allocation program would not constitute a breakpoint violation. Because investors generally can benefit from asset-based investment strategies, such strategies should not be discouraged. The amendments provide that, for purposes of determining whether a sale was made in a dollar amount below a breakpoint in order to share in a higher commission, the NASD will consider the facts and circumstances of the sale, including whether the member has retained records that demonstrate that the trade was executed in accordance with a bona fide asset allocation program and that customers were informed that they may not receive breakpoint reductions that otherwise would be available.

Text Of Amendments

(Note: New text is underlined.)

IM-2830-1 "Breakpoint" Sales

The sale of investment company shares in dollar amounts just below the point at which the sales charge is reduced on quantity transactions so as to share in the higher sales charges applicable on sales below the breakpoint is contrary to just and equitable principles of trade.

Investment company underwriters and sponsors, as well as dealers, have a definite responsibility in such matters and failure to discourage and to discontinue such practices shall not be countenanced.

For purposes of determining whether a sale in dollar amounts just below a breakpoint was made in order to share in a higher sales charge, the Association will consider the facts and circumstances, including, for example, whether a member has retained records that demonstrate

that the trade was executed in accordance with a bona fide asset allocation program that the member offers to its customers:

• which is designed to meet their

diversification needs and investment goals; and

• under which the member discloses to its customers that they may not

qualify for breakpoint reductions that are otherwise available.

© 1998, National Association of Securities Dealers, Inc. (NASD). All rights reserved.

SEC Issues No-Action Letter On Proprietary Accounts Of Introducing Broker/Dealers

Suggested Routing

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

Executive Summary

On November 3, 1998, the Securities and Exchange Commission (SEC) issued a No-Action Letter to clarify its position under SEC Rule 15c3-1 (Net Capital Rule) regarding the capital treatment of assets in the proprietary account of an introducing broker/dealer (PAIB) held by a clearing broker/dealer. The letter allows introducing broker/dealers to include PAIB assets as allowable assets in their net capital computations, provided the clearing broker/dealer establishes a separate reserve account for PAIB assets in accordance with SEC Rule 15c3-3 (Customer Protection Rule) and both the introducing broker/dealer and the clearing broker/dealer enter into a written agreement whereby the clearing broker/dealer will perform the PAIB calculation in accordance with the provisions, procedures, and interpretations set forth in the letter. Firms must begin adhering to the requirements stated in the No-Action Letter on June 1, 1999; until then introducing broker/dealers may continue their current practice of treating PAIB assets as allowable.

A copy of the No-Action Letter is attached. Questions concerning this *Notice* may be directed to Samuel Luque, Jr., Associate Director, Member Regulation, NASD Regulation, Inc. (NASD Regulation[™]), (202) 728-8472, or Susan DeMando, Regional Compliance Supervisor, Member Regulation, NASD Regulation, (202) 728-8411.

Background

The Net Capital Rule requires broker/dealers to have sufficient liquid capital to protect the assets of customers and to meet their obligations to other broker/dealers. In calculating net capital, broker/dealers begin with their net worth and then make various positive and negative adjustments. The Customer Protection Rule requires broker/dealers that carry customer accounts to maintain physical possession or control of all customer fully paid and excess margin securities, and periodically to compute and set aside in a special reserve bank account a certain amount of money that is customer money or money obtained from using customer securities.

Introducing broker/dealers typically include their proprietary cash and securities held by their clearing firms as allowable assets in calculating their net capital. However, clearing broker/dealers are not required to maintain physical possession or control of these PAIB assets, or include them as customer credits in their customer reserve formula calculation, because the Customer Protection Rule specifically excludes broker/dealers from the definition of "customer." Therefore, since clearing broker/dealers are free of these customer-protection restrictions, it is possible for them to treat PAIB assets as their own. In fact. clearing broker/dealers have never been precluded from using PAIB assets in the normal course of their business. However, this means that introducing broker/dealers may have assets that are not always readily available to them. Under the Net Capital Rule, any assets "not readily convertible into cash" must be deducted from net worth and should be classified as non-allowable assets when calculating net capital.

This situation prompted concerns by NASD Regulation and the New York Stock Exchange (NYSE) that both an introducing broker/dealer and a clearing broker/dealer may be using the same proprietary assets in conducting their individual businesses. NASD Regulation and the NYSE requested the SEC to clarify its position regarding PAIBs.

Treatment Of Assets Held In A PAIB

In order for an introducing broker/dealer to treat its PAIB assets as allowable

NASD Notice to Members 98-99

Variable Contracts

December 1998

assets in calculating its net capital, the introducing firm and its clearing broker/dealer must enter into a written agreement providing that the clearing broker/dealer will perform the PAIB calculation in accordance with the following provisions:

- 1. A clearing broker/dealer must perform a computation for PAIB assets (PAIB reserve computation) of all its introducing broker/dealers in accordance with the customer reserve computation set forth in the Customer Protection Rule (customer reserve formula) with the following modifications:
 - A. Any credit (including a credit applied to reduce a debit) that is included in the customer reserve formula cannot be included as a credit in the PAIB reserve computation:
 - B. Note E(3) to Rule 15c3-3a which reduces debit balances by one percent under the basic method and subparagraph (a)(1)(ii)(A) of the Net Capital Rule which reduces debit balances by three percent under the alternative method will not apply; and
 - C. Neither Note E(1) to Rule 15c3-3a nor NYSE Interpretation /04 to Item 10 of Rule 15c3-3a regarding securities concentration charges is applicable to the PAIB reserve computation.
- 2. The PAIB reserve computation must include all the proprietary accounts of all introducing broker/dealers covered by the PAIB Agreement. All PAIB assets must be kept separate and distinct from customer assets under the customer reserve formula in the Customer Protection Rule.
- 3. The PAIB reserve computation must be prepared within the same time frames as those prescribed by

- the Customer Protection Rule for the customer reserve formula.
- 4.The clearing broker/dealer must establish and maintain a separate "Special Reserve Account for the Exclusive Benefit of Customers" with a bank in conformity with the standards of paragraph (f) of the Customer Protection Rule (PAIB Reserve Account). Cash and/or qualified securities as defined in the customer reserve formula must be maintained in the PAIB Reserve Account in an amount equal to the PAIB reserve requirement.
- 5. If the PAIB reserve computation results in a deposit requirement, the requirement can be satisfied to the extent of any excess debit in the customer reserve formula of the same date. However, a deposit requirement resulting from the customer reserve formula cannot be satisfied with excess debits from the PAIB reserve computation.
- 6. Within two business days of entering into any PAIB Agreement, an introducing broker/dealer must notify its designated examining authority (DEA) in writing that it has entered into such an agreement with a clearing broker/dealer.
- 7. Commissions receivable and other receivables of an introducing broker/dealer from its correspondent clearing broker/dealer (excluding clearing deposits) that are otherwise allowable assets under the Net Capital Rule are not to be included in the PAIB reserve computation, provided the amounts have been clearly identified as receivables on the books and records of the introducing broker/dealer and as payables on the books of the clearing broker/dealer.
- 8. The proprietary account of an introducing broker/dealer that is a guaranteed subsidiary of a clearing broker/dealer or that guarantees a

- clearing broker/dealer (*i.e.*, guarantees all liabilities and obligations) is to be excluded from the PAIB reserve computation.
- 9. Upon discovery that any deposit made to the PAIB Reserve Account did not satisfy its deposit requirement, a clearing broker/dealer shall by facsimile or telegram immediately notify its DEA and the SEC. Unless a corrective plan is found to be acceptable by the SEC and the DEA, the clearing broker/dealer must provide written notification within five business days of the date of discovery to its introducing broker/dealers that PAIB assets held by the clearing broker/dealer will not be deemed allowable assets for net capital purposes. The letter should also state that if the introducing broker/dealer wishes to continue to count its PAIB assets as allowable, it has until the last business day of the month following the month in which the notification was made to transfer all PAIB assets to another clearing broker/dealer. However, if the deposit deficiency is remedied before the time at which the introducing broker/dealer must transfer its PAIB assets to another clearing broker/dealer, the introducing broker/dealer may choose to keep its assets at the original clearing broker/dealer.

Interpretations

In addition, the No-Action Letter stipulates that certain interpretations are applicable to PAIBs. These interpretations were developed in conjunction with representatives from the Capital and Clearing Firm Committees of the Securities Industry Association. See the attached No-Action Letter for details.

© 1998, National Association of Securities Dealers, Inc. (NASD). All rights reserved



UNITED STATES SECURITIES AND EXCHANGE COMMISSION WASHINGTON, D.C. 20549

November 3, 1998

Mr. Raymond J. Hennessy Vice President New York Stock Exchange, Inc. Member Firm Regulation 20 Broad Street New York, New York 10005

Mr. Thomas Cassella Vice President NASD Regulation, Inc. 1735 K Street, NW Washington, D.C. 20006-1500

Re: Proprietary Accounts of Introducing Brokers and Dealers

Dear Messrs. Hennessy and Cassella:

The New York Stock Exchange, Inc. ("NYSE") and NASD Regulation, Inc. ("NASDR") have raised concerns regarding the capital treatment of assets of brokerdealers that introduce their proprietary accounts on a fully disclosed basis ("introducing brokers") to other broker-dealers ("clearing brokers") for clearance and settlement. You have advised us that under certain circumstances an introducing broker and its correspondent clearing broker may each utilize the same proprietary assets of the introducing broker in their individual operations. You have requested that the Division of Market Regulation ("Division") clarify its position as to the capital treatment of assets in the proprietary account of an introducing broker ("PAIB") held by a clearing broker, and you propose a methodology under which introducing brokers may properly account for PAIB assets for purposes of the net capital computation required by Rule 15c3-1 ("net capital rule").

I. BACKGROUND

A. Rules 15c3-1 and 15c3-3

Rule 15c3-1 requires every broker-dealer to maintain at all times specified minimum levels of liquid assets, or net capital, sufficient to enable a firm that falls below its minimum requirement to liquidate in an orderly fashion. The rule is designed

¹ 17 CFR 240.15c3-1.

to protect the customers of a broker-dealer that fails. To compute its current amount of liquid assets, a broker-dealer begins with its net worth and then makes various positive and negative adjustments to arrive at its net capital. This amount is then compared against the firm's minimum net capital requirement. If a firm's net capital computation yields an amount less than its minimum net capital requirement, the firm must immediately cease doing business.

Rule 15c3-3 ("customer protection rule") generally requires every broker-dealer that carries customer accounts to maintain physical possession or control of all fully-paid and excess margin securities. The customer protection rule also requires firms to make a periodic computation ("customer reserve formula") to ascertain the amount of money it holds that is either customer money or money obtained from the use of customer securities (i.e., customer credits). If customer credits exceed the amount customers owe the firm (i.e., customer financing or debits), the broker-dealer must deposit the excess in a special reserve bank account for the exclusive benefit of its customers. In this way, Rule 15c3-3 protects customer funds and securities held at a broker-dealer by requiring firms to maintain possession or control of customer securities, and by permitting firms to use customer money only to the extent necessary to finance customer related business.

B. Treatment of Assets Held in a PAIB

In addition to the regular customer accounts held by a clearing broker on behalf of the introducing broker, an introducing broker itself may maintain a proprietary trading account, or PAIB, with a clearing broker. When computing its net capital, an introducing broker typically includes its proprietary cash and securities held by the clearing broker as allowable assets. However, because the customer protection rule specifically excludes brokers and dealers from the definition of "customer," the clearing broker is not subject to the restrictions of Rule 15c3-3 with regard to PAIB assets. Therefore, a clearing broker is not required to maintain the physical possession or control of PAIB assets, nor is the clearing broker restricted as to its use of PAIB assets which, if attributable to "customers," would constitute customer credits in the customer reserve formula.

Consequently, this interaction between the net capital rule and the customer protection rule serves to permit an introducing broker to treat PAIB assets as allowable assets for purposes of Rule 15c3-1 while a clearing broker can exclude these assets as credits from the customer reserve formula. In effect, this permits clearing brokers to use the same PAIB assets free of the restrictions imposed by Rule 15c3-3 that are otherwise applicable to a broker-dealer's use of customer funds and securities. In

² 17 CFR 240.15c3-3(a)(1). Rule 15c3-3 reads, in pertinent part, that "[t]he term [customer] shall not include a broker or dealer or a registered municipal securities dealer."

effect, the clearing broker can treat the assets as their own, free of any restrictions. Consequently, the assets may not be readily available to the introducing broker if its correspondent clearing broker fails or otherwise experiences financial difficulties. This result is inconsistent with subparagraph (c)(2)(iv) of net capital rule which requires that assets "not readily convertible into cash" be deducted from a broker-dealer's net worth, and accordingly, PAIB assets should be considered as non-allowable assets, and an introducing broker should deduct such assets from its net worth when calculating its net capital.

II. PROPOSAL

- A. <u>PAIB Agreement</u>: You believe that under certain circumstances, it may be appropriate for an introducing broker to be permitted to treat such assets as allowable for purposes of the net capital rule. Accordingly, you have proposed the methodology set forth below as an elective procedure to be followed by an introducing broker and its correspondent clearing broker that would permit the introducing broker to treat its PAIB assets as allowable assets for purposes of its net capital calculation. Specifically, you propose that for an introducing broker to treat its PAIB assets held at a clearing firm as allowable for purposes of the net capital rule, an introducing broker and its correspondent clearing broker must agree (in writing) to perform the PAIB calculation in accordance with the following provisions ("PAIB Agreement"):
 - 1. A clearing broker must perform a computation for PAIB assets ("PAIB reserve computation") of all its introducing brokers in accordance with the customer reserve computation set forth in Rule 15c3-3 ("customer reserve formula") with the following modifications:
 - A. Any credit (including a credit applied to reduce a debit) that is included in the customer reserve formula cannot be included as a credit in the PAIB reserve computation;
 - B. Note E(3) to Rule 15c3-3a which reduces debit balances by 1% under the basic method and subparagraph (a)(1)(ii)(A) of the net capital rule which reduces debit balances by 3% under the alternative method will not apply; and
 - C. Neither Note E(1) to Rule 15c3-3a nor NYSE Interpretation /04 to Item 10 of Rule 15c3-3a regarding securities concentration charges is applicable to the PAIB reserve computation.
 - 2. The PAIB reserve computation must include all the proprietary accounts of all introducing brokers covered by the PAIB Agreement. All PAIB assets must be kept separate and distinct from customer assets under the customer reserve formula in Rule 15c3-3.

- 3. The PAIB reserve computation must be prepared within the same time frames as those prescribed by Rule 15c3-3 for the customer reserve formula.
- 4. The clearing broker must establish and maintain a separate "Special Reserve Account for the Exclusive Benefit of Customers" with a bank in conformity with the standards of paragraph (f) of Rule 15c3-3 ("PAIB Reserve Account"). Cash and/or qualified securities as defined in the customer reserve formula must be maintained in the PAIB Reserve Account in an amount equal to the PAIB reserve requirement.
- 5. If the PAIB reserve computation results in a deposit requirement, the requirement can be satisfied to the extent of any excess debit in the customer reserve formula of the same date. However, a deposit requirement resulting from the customer reserve formula cannot be satisfied with excess debits from the PAIB reserve computation.
- 6. Within two business days of entering into any PAIB Agreement, an introducing broker must notify its designated examining authority in writing that it has entered into such agreement with a clearing broker.
- 7. Commissions receivable and other receivables of an introducing broker from its correspondent clearing broker (excluding clearing deposits) that are otherwise allowable assets under the net capital rule are not to be included in the PAIB reserve computation, provided the amounts have been clearly identified as receivables on the books and records of the introducing broker and as payables on the books of the clearing broker.
- 8. The proprietary account of an introducing broker that is a guaranteed subsidiary of a clearing broker or who guarantees a clearing broker (i.e., guarantees all liabilities and obligations) is to be excluded from the PAIB reserve computation.
- 9. Upon discovery that any deposit made to the PAIB Reserve Account did not satisfy its deposit requirement, a clearing broker shall by facsimile or telegram immediately notify its designated examining authority and the Securities and Exchange Commission ("Commission"). Unless a corrective plan is found acceptable by the Commission and the designated examining authority, the clearing broker must provide written notification within 5 business days of the date of discovery to its introducing brokers that PAIB assets held by the clearing broker will not be deemed allowable assets for net capital purposes. The letter should also state that if the introducing broker wishes to continue to count its

PAIB assets as allowable, it has until the last business day of the month following the month in which the notification was made to transfer all PAIB assets to another clearing broker. However, if the deposit deficiency is remedied before the time at which introducing broker must transfer its PAIB assets to another clearing broker, the introducing broker may choose to keep its assets at the clearing broker.

- B. <u>Interpretations</u>: In addition, you have proposed the following interpretations regarding the PAIB reserve computation that were developed in conjunction with representatives from the Capital and Clearing Firm Committees of the Securities Industry Association. The interpretations are as follows:
 - 1. Credits included in the PAIB reserve computation that result from the use of PAIB securities pledged to meet intra-day margin calls in a cross margin account established between The Options Clearing Corporation and any regulated commodity exchange can be reduced to the extent that the excess margin held by the other clearing corporation in the cross margin relationship is used the following business day to replace the PAIB securities that were previously pledged. In addition, balances resulting from a cross margin account which are segregated pursuant to Commodities Future Trading Commission regulations need not be included in the PAIB reserve computation.
 - 2. Deposits received prior to a transaction pending settlement³ which are \$5 million or greater for any single transaction or \$10 million in aggregate can be excluded as credits from the PAIB reserve computation if such balances are placed and maintained in a separate PAIB Reserve Account by 12 noon eastern time ("ET") on the following business day.

 Thereafter, the money representing any such deposits may be withdrawn to complete the related transactions without performing a new PAIB reserve computation.
 - 3. Clearing deposits required to be maintained at registered clearing agencies may be included as debits in the PAIB reserve computation to the extent the percentage of the deposit, which is based upon the clearing agency's aggregate deposit requirements (e.g., dollar trading volume),

For example, large deposits could include moneys accumulated prior to underwritings, required at foreign clearing facilities, or for settlement of domestic transactions requiring federal funds in which next day funds were originally deposited.

This account would be in addition to any other reserve account maintained by the clearing broker under this no-action letter or otherwise.

that relates to the proprietary business of introducing brokers can be identified.

- 4. Any clearing broker that does not carry "customers" as defined by Rule 15c3-3 or conduct a proprietary trading business must still obtain the PAIB Agreement from its introducing brokers. But as long as such clearing broker does not have a PAIB deposit requirement, it may make its PAIB reserve computation monthly rather than weekly. If a clearing broker computing on a monthly basis has, at the time of any required computation, a PAIB deposit requirement, the clearing broker shall thereafter compute weekly until four successive weekly computations are made, none of which is made at a time when the clearing broker had a PAIB deposit requirement.
- 5. A credit balance resulting from a PAIB reserve computation can be reduced by the amount that items representing such credits are swept into money market funds or mutual funds of an investment company registered under the Investment Company Act of 1940 on or prior to 10 a.m. ET on the deposit date provided that the credits swept into any such fund are not subject to any right, charge, security interest, lien, or claim of any kind in favor of the investment company or the clearing broker. Any credits which have been swept into money market funds or mutual funds must be maintained in the name of a particular introducing broker or for the benefit of an introducing broker. This treatment of credit balances applies only to the PAIB reserve computation and does not apply to the customer reserve formula.
- 6. Carrying brokers that clear the PAIB accounts of their correspondents through an affiliate or third party clearing broker must include these PAIB accounts balances and the omnibus PAIB account balance in their computation provided the clearing broker agrees in writing to (1) perform a computation for PAIB assets as described in IIA, and (2) include the omnibus PAIB account balance in its computation.

You also propose that, on a case by case basis, the designated examining authority ("DEA") of a clearing broker may grant extensions of time regarding compliance with the terms of the PAIB Agreement as set forth in this letter if the DEA is satisfied the broker-dealer is acting in good faith and that exceptional circumstances warrant the extension. The DEA may confer with the staff of the Commission before granting an extension. The designated examining authority must maintain a summary of the justification for the extensions in a manner similar to the treatment of extensions granted under Rule 15c3-3(n).

III. CONCLUSION

Based on the foregoing, the Division will not recommend to the Commission that enforcement action be taken if an introducing broker includes PAIB assets as allowable assets in its net capital computation so long as the introducing broker and clearing broker adhere to the elective procedures regarding the PAIB Agreement and its attendant interpretations that are set forth in this letter. We understand that introducing and clearing brokers must make operational changes to comply with the terms of this letter; therefore, introducing firms may continue their current practice of treating PAIB assets as allowable until June 1, 1999.

You should be aware that this is a staff position with respect to enforcement only and does not purport to express any legal conclusions. This position is based solely on the foregoing description. Factual variations could warrant a different response, and any material change in the facts must be brought to the Division's attention. This position may be withdrawn or modified if the staff determines that such action is necessary for the protection of investors, in the public interest, or otherwise in furtherance of the purposes of the securities laws.

Sincerely,

Michael A. Macchiaroli

Michael a. Mauha

Associate Director

Audio Tape Order Form NASD Regulation, Inc. • Advertising Regulation Seminar

October 15-16, 1998 • Washington, DC

Please Check Session Numbers **Advertising Regulation Seminar** 109801 **General Session** 109806 Overview of General & Specific Standards 109802 **General Brokerage** 109807 Advanced Variable Insurance Products 109803 Filing Requirements & Review Procedures 109808 **Case Studies** 109804 **Fundamentals of Mutual Funds &** 109809 **Advanced Mutual Funds Variable Insurance Products** 109810 Hands-On Exercise 109805 **Internet & Electronic Communications** O 109811 **Open Forum Complete To Order Post-Conference Prices:** Number of Individual Sessions \$12.00 = \$ Complete Set of Conference Recordings _ x \$118.80 = \$ ____ Sessions Sub-total = \$ _ Sales Taxes: Maryland shipping addresses only = \$ Amount of Sales Taxes = \$ __ **Shipping Charges:** \$ 2.25 \$2.25 for the first session \$1.25 = \$ _____ \$1.25 for each additional session (\$6.00 maximum shipping charge) \$13.50 extra shipping charge for orders outside of the US Postal System = \$ __ Shipping Sub-total = \$ _____ Grand Total = \$ _____ **Your Name** Company MS/FI/Suite/Apt. # Zip Code City State Day Phone Fax E-mail For Mail or Fax Charge Card Orders: ■ MasterCard □ Visa □ Discover □ AMEX ☐ Check (payable to A.V.E.R. Associates) **Cardholder Name Card Number Cardholder Signature** Card Expiration Date

A.V.E.R. Associates, 6974 Ducketts Lane, Elkridge, MD 21075, Phone 410-796-8940, Fax 410-796-8962

Mail or Fax completed form and payment to:

Received Auth # & Date Shipped Updated

FOCUS Filing Due Dates For 1999

Suggested Douting

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

NASD Regulation, Inc. (NASD Regulation[™]) would like to remind members of their obligation to file the appropriate FOCUS reports by their due dates. The following schedule outlines due dates for 1999.

In particular, members are reminded that Schedule I of Form X-17A-5 for the 1998 calendar year must be filed electronically via PC FOCUS[™] by Wednesday, January 27, 1999. This due date applies to members regardless of their fiscal year end. Those firms that engage in municipal securities activities must disclose income from such activity under the NASD Miscellaneous Information section of the Schedule I form as it appears in PC FOCUS.

Anyone having difficulty filing FOCUS reports electronically can refer to Appendix A - Error Messages and Appendix B - Troubleshooting in the PC FOCUS User Guide (Version 2.01). In addition, Appendix E - Schedule I Informational Guide contains information on common errors and error resolution for Schedule I specifically.

Questions regarding the information to be filed can be directed to the appropriate District Office. Questions concerning software, hardware, or the transmission of the FOCUS filing can be directed to the NASD toll-free hotline at (800) 321-NASD.

Variable Contracts

FOCUS Reports Schedule For 1999

Schedule I for 1998 Year End Due Date

1998 FOCUS Schedule I January 27, 1999

Quarterly FOCUS Part II/IIA for 1998

Period Ending Due Date

December 31, 1998 January 27, 1999

Monthly And Fifth* FOCUS II/IIA Filings for 1999

Period Ending Due Date

January 31, 1999 February 24, 1999

February 28,1999 March 23, 1999

April 30, 1999 May 25, 1999

May 31, 1999 June 23, 1999

July 31, 1999 August 24, 1999

August 31, 1999 September 24, 1999

October 31, 1999 November 23, 1999

November 30, 1999 December 23, 1999

Quarterly FOCUS Part II/IIA Filings For 1999

Quarter Ending Due Date

March 31, 1999 April 26, 1999

June 30, 1999 July 26, 1999

September 30, 1999 October 25, 1999

December 31, 1999 January 27, 2000

Schedule I for 1999 Year End Due Date

1999 FOCUS Schedule I January 27, 2000

NASD Notice to Members 98-100

December 1998

^{*} A Fifth FOCUS report is an additional report that is due from a member whose fiscal year end is a date other than the calendar quarter. © 1998, National Association of Securities Dealers, Inc. (NASD). All rights reserved.

NASD Requests Comment On Proposed Amendments To Disclosure Questions On Forms U-4 And U-5; Comment Period Expires January 15, 1999

Suggested Routing

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

Executive Summary

NASD Regulation, Inc. (NASD RegulationsM) is proposing to amend disclosure questions on the Form U-4 and Form U-5 that were approved by the Securities and Exchange Commission (SEC) in July 1996, but have not been made effective pending the full implementation of the modernized Central Registration Depository (CRDSM), and is soliciting comment on the proposed amendments. First, NASD Regulation proposes to amend Question 22I(2) on the 1996 Form U-4 and Question 17B on the 1996 Form U-5 to require the reporting of any settlement for \$10,000 or more of an oral or written customer complaint alleging sales practice violations. The 1996 Forms U-4 and U-5 questions require such settlements to be reported only if the customer submits such a complaint in writing. Second, NASD Regulation proposes to amend Questions 14 and 15 on the 1996 Form U-5 to require a terminating firm to report certain criminal and regulatory actions on a former registered person that are initiated after that person is terminated if the action is in connection with events that occurred while the person was employed by or associated with the firm. The 1996 Form U-5 questions require a firm to report such actions only if the actions occurred while a person was employed by or associated with the firm. Finally, NASD Regulation proposes to amend Question 17 on the 1996 Form U-5, which requires a firm to report customer complaints filed against former registered persons, to harmonize it with the parallel question on the 1996 Form U-4 (i.e., Question 22I). This proposed change is designed to permit the archiving of customer complaints that are more than 24 months old and no longer reportable, regardless of whether the customer complaint is reported on Form U-4 or Form U-5. The text of these disclosure questions with the amendments follows this *Request For Comment*.

The North American Securities Administrators Association (NASAA) approved all of the amendments to the Forms U-4 and U-5 at its October 1998 membership meeting.

Questions concerning this *Request For Comment* may be directed to Ann E. Bushey, Assistant Director, CRD/Public Disclosure, NASD Regulation, at (301) 590-6389; Mary M. Dunbar, Assistant General Counsel, Office of General Counsel, NASD Regulation, at (202) 728-8252; or Richard E. Pullano, Associate Director and Counsel, CRD/Public Disclosure, NASD Regulation, at (301) 212-3789.

Request For Comment

NASD Regulation encourages all interested parties to comment on the proposal. Comments should be mailed to:

Joan Conley
Office of the Corporate Secretary
NASD Regulation, Inc.
1735 K Street, NW
Washington, D.C. 20006-1500

or e-mailed to: pubcom@nasd.com

Important Note: The only comments that will be considered are those submitted via e-mail or in writing.

Comments must be received by January 15, 1999. Before becoming effective, any rule change developed as a result of comments received must be adopted by the NASD Regulation Board of Directors, may be reviewed by the NASD Board of Governors, and must be approved by the SEC.

Variable Contracts

NASD Regulation Request For Comment 98-101

Executive Summary

NASD Regulation, Inc. (NASD Regu-

lation^{sм}) is proposing to amend disclosure questions on the Form U-4 and Form U-5 that were approved by the Securities and Exchange Commission (SEC) in July 1996, but have not been made effective pending the full implementation of the modernized Central Registration Depository (CRDsM), and is soliciting comment on the proposed amendments. First, NASD Regulation proposes to amend Question 22I(2) on the 1996 Form U-4 and Question 17B on the 1996 Form U-5 to require the reporting of any settlement for \$10,000 or more of an oral or written customer complaint alleging sales practice violations. The 1996 Forms U-4 and U-5 questions require such settlements to be reported only if the customer submits such a complaint in writing. Second, NASD Regulation proposes to amend Questions 14 and 15 on the 1996 Form U-5 to require a terminating firm to report certain criminal and regulatory actions on a former registered person that are initiated after that person is terminated if the action is in connection with events that occurred while the person was employed by or associated with the firm. The 1996 Form U-5 questions require a firm to report such actions only if the actions occurred while a person was employed by or associated with the firm. Finally, NASD Regulation proposes to amend Question 17 on the 1996 Form U-5, which requires a firm to report customer complaints filed against former registered persons, to harmonize it with the parallel question on the 1996 Form U-4 (i.e., Question 22I). This proposed change is designed to permit the archiving of customer complaints that are more than 24 months old and no longer reportable, regardless of whether the customer complaint is reported on Form U-4 or Form U-5. The text of these disclosure questions with the amendments follows this Request For Comment.

The North American Securities Administrators Association (NASAA) approved all of the amendments to the Forms U-4 and U-5 at its October 1998 membership meeting.

Background And Discussion

NASD Regulation is proposing amendments to four disclosure questions on the Forms U-4 and U-5 that were approved by SEC in July 1996, but have not been made effective pending the full implementation of the modernized CRD.¹ As discussed below, these amendments involve changes to Question 22I(2) on the 1996 Form U-4, and Questions 14, 15, and 17 on the 1996 Form U-5. The text of these questions with the amendments marked follows this *Request For Comment*.

First, NASD Regulation proposes to amend Question 22I(2) on the 1996 Form U-4 and Question 17B on the 1996 Form U-5 regarding the reporting of settled customer complaints. The 1996 questions require the reporting of any settlement for \$10,000 or more of a written customer complaint alleging sales practice violations. NASD Regulation believes that a settlement of \$10.000 or more should be reported, regardless of whether the complaint that led to the settlement was written or oral. Thus, NASD Regulation proposes that the 1996 Form U-4 Question 22I(2) be amended to read as follows: "Have you even been the subject of an investment-related, consumer-initiated complaint, not otherwise reported under question 22I(1) above, which alleged that you were involved in one or more sales practice violations, and which complaint was settled for an amount of \$10,000 or more?" The question, as amended, would not require the reporting of all oral customer complaints alleging sales practice violations, just those that are settled for \$10,000 or more. A corresponding change to Question 17B on the 1996 Form U-5 also is proposed.

Second, NASD Regulation proposes to amend Questions 14 and 15 on the 1996 Form U-5, which require a terminating firm to report certain criminal actions and regulatory actions, respectively. The 1996 versions of these questions require a terminating firm to report criminal or regulatory actions involving an individual that occur while the individual was employed by or associated with the firm. NASD Regulation proposes to amend these questions by extending a firm's reporting obligation to include criminal and regulatory actions that are initiated after termination if the action is in connection. with events that occurred while the individual was employed by or associated with the firm. This proposed amendment is intended to address those instances where a firm may have actual notice of the initiation of a criminal or regulatory action involving an individual after he or she has been terminated. Notwithstanding the proposed change, firms would not be required to report criminal or regulatory events that occur after an individual's termination if the firm has no notice of the event. In this regard, NASD Regulation is working with NASAA and other regulators to issue an interpretation that provides guidance on what constitutes actual notice. Generally speaking, firms would receive actual notice of the initiation of a criminal or regulatory action against a terminated person only if that action is based on events that occurred in connection with the former associated person's employment.

Finally, NASD Regulation proposes amending Question 17 on the 1996 Form U-5, which requires the reporting of certain customer complaints, to harmonize it with the parallel question on the 1996 Form U-4 (*i.e.*, Question 22I). The proposed change is designed to permit the archiving of customer complaints that are more than 24 months old and no longer

reportable, regardless of whether the customer complaint is reported on Form U-4 or Form U-5.

Proposed Revisions

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

1996 Form U-4 Question 22I(2):²

Have you ever been the subject of an investment-related, consumer-initiated [written] complaint, not otherwise reported under question 22I(1) above, which alleged that you were involved in one or more sales practice violations, and which complaint was settled for an amount of \$10,000 or more?

1996 Form U-5 Question 14:3

While employed by or associated with your firm, or in connection with events that occurred while the individual was employed by or associated with your firm, was the individual:

A. convicted of or did the individual plead guilty or nolo contendere ("no contest") in a domestic, or foreign or military court to any felony?

B. charged with any felony?

C. convicted of or did the individual plead guilty or nolo contendere ("no contest") in a domestic, foreign or military court to a misdemeanor involving: investments or an investment-related business, or any fraud, false statements or omissions, wrongful taking of property, bribery, perjury, forgery, counterfeiting, extortion, or a conspiracy to commit any of these offenses?

D. charged with a misdemeanor specified in 14(C)?

1996 Form U-5 Question 15:4

While employed by or associated with your firm, or in connection with events that occurred while the individual was employed by or associated with your firm, was the individual involved in any disciplinary action by a domestic or foreign governmental body or self regulatory organization (other than those designated as a "minor rule violation" under a plan approved by the U.S. Securities and Exchange Commission) with jurisdiction over the investment–related businesses?

1996 Form U-5 Question 17:5

A: In connection with events that occurred while the individual was employed by or associated with your firm, was the individual:

- (1) named as a respondent/defendant in an investment-related, consumer-initiated arbitration or civil litigation which alleged that the individual was involved in one or more sales practice violations and which:
 - (a) is still pending, or;
 - (b) resulted in an arbitration award or civil judgment against the individual, regardless of amount, or;
 - (c) was settled for an amount of \$10,000 or more?[, or;]
- (2) the subject of an investment-related, consumer-initiated [writ-ten] complaint, not otherwise reported under question17(A)(1) above, which alleged that the individual was involved in one or more sales practice violations, and which complaint was settled for an amount of \$10,000 or more?

- B. In connection with events that occurred while the individual was employed by or associated with your firm, [but for a period not to exceed the most recent twenty-four (24) months of employment,] was the individual the subject of an investment-related, consumer-initiated written complaint, not otherwise reported under question 17(A) above, which:
 - [(1) alleged that the individual was involved in one or more sales practice violations and contained a claim for compensatory damages of \$5,000 or more (if no damage amount is alleged, the complaint must be reported unless the firm has made a good faith determination that the damages from the alleged conduct would be less than \$5,000), or];
 - (1) would be reportable under question 22l(3)(a) on Form U-4, if the individual were still employed by your firm, but which has not previously been reported on the individual's Form U-4 by your firm; or
 - [(2) alleged that the individual was involved in forgery, theft, misappropriation or conversion of funds or securities?]

(2) would be reportable under question 22I(3)(b) on Form U-4, if the individual were still employed by your firm, but which has not previously been reported on the individual's Form U-4 by your firm.

Request For Comment

NASD Regulation encourages all interested parties to comment on the proposal. Comments should be mailed to:

Joan Conley Office of the Corporate Secretary NASD Regulation, Inc. 1735 K Street, NW Washington, D.C. 20006-1500

or e-mailed to: pubcom@nasd.com

Important Note: The only comments that will be considered are those submitted via e-mail or in writing.

Comments must be received by January 15, 1999. Before becoming effective, any rule change developed as a result of comments received must be adopted by the NASD Regulation Board of Directors, may be reviewed by the NASD Board of Governors, and must be approved by the SEC.

Endnotes

¹The NASD is currently using the Interim Forms U-4 and U-5 that were approved by the SEC in January 1998 for use until the modernized CRD is completed. The Interim Forms include all of the substantive changes and some of the changes to the instructions that were approved in 1996 and reformatted them in a manner that is compatible with the current CRD system.

²This Question appears as Question 22H(2) on the Interim Form U-4 (Rev. 11/97).

³This Question appears as Question 13C on the Interim Form U-5 (Rev. 11/97).

⁴This Question appears as Question 13A on the Interim Form U-5 (Rev. 11/97).

⁵This Question appears as Question 13B on the Interim Form U-5 (Rev. 11/97).

© 1998, National Association of Securities Dealers, Inc. (NASD). All rights reserved.

NASD

Benefits By Association® Programs

Member Price for an 8 oz. Next Morning Letter Express:

\$10.25*

No minimum usage required

\$9.25

If you use an Airborne Express Drop Box

Save even more if you average 20 or more shipments per month. Call for pricing!



 Upon enrollment each member receives detailed rate information on all shipment weights. Rates subject to change.

NASD Air Express Program Reduce Overhead Expenses

Save up to 44% on overnight shipping with Airborne Express.

Provides:

- Service to every street address in the U.S.
- Free on-call pickup from most locations
- Delivery the next business morning
 - Computerized package tracking
 - 24-hour, toll-free customer service
 - Service to more than 200 countries worldwide
 - Additional discounts available for high volume shippers

Offers a full range of service choices:

- Same Day
- Overnight Express
- Next Afternoon
- Second Day
- Flight-Readysm—prepaid with no weight limits

Call (800) MEMBERS (636-2377) for a FREE Airborne Express Starter kit.

To explore your other valued NASD member benefits, call (301) 590-6525 or visit us at *www.nasd.com*, click on "Membership" and then click on "Benefits of Membership."



Calculating Margin For Day-Trading And Cross-Guaranteed Accounts

Suggested Routing

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

Executive Summary

Federal Reserve Board Regulation T governs the extension of credit to customers by broker/dealers. Among the provisions of Regulation T are requirements governing the initial margin requirements for certain securities transactions. In addition. National Association of Securities Dealers, Inc. (NASD®) Rule 2520 requires NASD members to impose additional margin requirements on customer accounts.1 The purpose of this Notice is to communicate the opinion of the NASD on the margin requirements under Regulation T and Rule 2520 for day-trading and cross-guaranteed accounts with the expectation that members will calculate margin for such accounts in a manner that is consistent with Regulation T and Rule 2520.

The NASD believes that some members are calculating margin for day-traders and cross-guaranteed accounts in a manner that is not consistent with the requirements of Regulation T and Rule 2520. Accordingly, members are advised to review their margin calculation practices to ensure that they conform to the requirements of these rules. Adherence to the margin requirements is in the best interest of the investing public and serves to protect the financial security of members that extend credit.

Finally, the NASD believes that some members may be failing to take certain account-related charges when computing their net capital pursuant to Securities and Exchange Commission (SEC) Rule 15c3-1. These charges include those specified in Rule 2520(f)(4) for certain guaranteed accounts. Members should review the requirements of SEC Rule 15c3-1 and Rule 2520 to determine whether they are in compliance with these rules.

Members should be aware that the NASD believes compliance with the

margin and net capital requirements is of paramount importance and intends to examine member firms for compliance with these rules.

Questions concerning this *Notice* may be directed to Samuel Luque, Associate Director, Member Regulation, NASD Regulation, Inc. (NASD Regulation[™]), at (202) 728-8472, or Susan DeMando, Regional Compliance Supervisor, Member Regulation, NASD Regulation, at (202) 728-8411.

Discussion

This Notice addresses some of the most frequently asked questions regarding the application of Regulation T and Rule 2520 to day-trading and cross-guaranteed accounts. In addition, this Notice addresses only common scenarios and questions relating to marginable equity securities and is not meant to be a complete discussion of the application of Regulation T and Rule 2520 to all possible trading strategies utilized by day-trading and/or cross-guaranteed accounts.

In order to clarify member understanding of the requirements relating to day-trading and cross-guaranteed accounts, highlighted below in plain English are some of the fundamental requirements and provisions of these rules.

General

- Members must perform two separate margin calculations for each account each day; one for Regulation T and one for Rule 2520. The calculations should be performed at the end of each trade date; intra-day calculations are not permitted. Members must comply with the requirements of both rules at all times.
- "Day-trading" means buying and selling the same security on the same day. A "day-trader" is any cus-

Variable Contracts

- tomer whose trading shows a pattern of day-trading (see Rule 2520(f)(8)(B)). (See also the Securities Industry Association's *Credit Division Manual's* definition of "day-trading" as "selling first and then repurchasing" the same security on the same day.)
- Day-trades should occur only in margin accounts. Day-trading in a cash account may amount to free riding (i.e., purchasing a security and then selling it without having paid for the purchase).
- Regulation T requires initial margin of 50 percent for new purchases and 150 percent for short sales (of which 100 percent can come from the proceeds of the short sale, with the customer depositing the remaining 50 percent). (See Regulation T, Sections 220.12(a) and (c)(1).)
- Rule 2520 requires maintenance margin of 25 percent of the current market value for all long positions, and \$5 per share or 30 percent of the current market value, whichever amount is greater, of each stock "short" in the account selling at \$5 per share or above (see Rule 2520(c)(1) and (c)(3)). If a customer's account is both "long" and "short" the same security, Rule 2520(e)(1) requires five percent maintenance margin of the current market value of the long security. The short position must be marked to the market.
- If two accounts are cross-guaranteed and one is long the same security that the other is short the same number of securities, the maintenance margin requirement on the combined positions is five percent. This five percent maintenance margin requirement in no way eliminates the requirement to comply with the initial margin requirements of Regulation T on the original purchase and short sale.

- When calculating Regulation T margin, cross guarantees have *no* effect (see Regulation T, Section 3(d)). Therefore, members must apply Regulation T to each account separately, notwithstanding the fact that Rule 2520 permits certain special maintenance margin treatment for transactions in cross-guaranteed accounts.
- Rule 2520(f)(4) permits cross guarantees for maintenance margin purposes so that the amount of maintenance margin excess in one account may be used to offset a maintenance margin deficit in the other cross-guaranteed account. In any given situation, the account with the maintenance margin excess is considered the guaranteeing account and the account with the maintenance margin deficit is considered the guaranteed account.
- The fact that Regulation T margin is calculated at the end of the business day only does not mean that broker/dealers can disregard intraday risk. Reliance on the proceeds of anticipated sales to pay for purchases exposes the broker/dealer to risk.

Regulation T

- Margin is required for each long or short securities position unless an exception or special provision is available (see Regulation T, Section 4(b)). The required margin is set forth in Section 12 (the Supplement).
- Regulation T margin is calculated at the end of the business day. All transactions on the same day are combined to determine the Regulation T requirement. Therefore, Regulation T does not distinguish between day-trading and other forms of trading (see Regulation T, Section 4(c)(1)).
- A Regulation T margin requirement may be satisfied by a transfer from

- the Special Memorandum Account (SMA), or by a deposit of cash, margin securities, or exempted securities, in any combination (see Regulation T, Section 4(c)(2)).
- Regulation T treats a short sale "against the box" as a long sale (see Regulation T, Section 4(b)(2)). As a result, there is no Regulation T requirement on the transaction; however, Rule 2520(e)(1) imposes a five percent margin requirement on the market value of the long position and requires the short position to be marked to the market.
- A sale cannot be treated as a short sale "against the box," nor can it be treated as a long sale, if the account making the sale is not long the same number of shares of the same security, even if another cross-guaranteeing account is long the security. Because cross guarantees have no effect under Regulation T, the fact that another cross-guaranteeing account is long the security is meaningless for Regulation T purposes and the sale must be regarded as a short sale subject to a margin requirement of 150 percent (see Regulation T, Section 12(c)(1)).
- Regulation T has no margin requirements for day-trading per se. Regulation T margin is calculated on the position in the account at the end of the day. Therefore, if a day-trader engages in numerous day-trades throughout the day, but ends the day with no securities position, Regulation T requires margin equal to the net loss in the account at the end of the day. A Regulation T call must be issued for the entire amount of the loss. The call may be met by a deposit of cash or securities (margin or exempted), a transfer from SMA, or any combination (see Regulation T, Section 4(c)(2).

Rule 2520

- While often thought of as a "maintenance" margin rule, Rule 2520 also contains initial margin requirements (see paragraph (b)). Initial margin is always the greater of the amount specified in Regulation T or the maintenance margin specified in paragraph (c). This requirement applies to both non day-traders (see paragraph (B)) and day-traders (see paragraph (f)(8)(B)).
- Rule 2520 was created to work in tandem with Regulation T. Therefore, because Regulation T calculations are made only at the end of the day, Rule 2520 maintenance margin calculations must be made only at the end of the day.

Although firms may calculate margin intra-day for risk assessment and risk avoidance purposes, and may impose margin calls based on such intra-day calculations, members may not grant additional buying power² to a customer on the basis of such intra-day calculations. Buying power may only be based on the preceding day's end-of-the-day margin calculations.

- A maintenance margin call may be satisfied by a deposit of cash, margin securities, or exempted securities, in any combination. A maintenance margin call *may not* be satisfied by a transfer from the SMA.
- Rule 2520(f)(4) permits special margin treatment for transactions in cross-guaranteed accounts if certain conditions are met. Since Regulation T does not recognize cross guarantees, nothing in Rule 2520 is intended to grant guaranteed accounts any benefit that would circumvent the provisions of Regulation T.
- Day-trading is recognized by Rule 2520 through the definitions of "daytrading," "day-trader" and the margin

requirements specified in Rule 2520 (f)(8)(B). The paragraph states:

Whenever day-trading occurs in a customer's margin account the margin to be maintained shall be the margin on the "long" or "short" transaction, whichever occurred first, as required pursuant to the other provisions of this Rule. When day-trading occurs in the account of a "daytrader" the margin to be maintained shall be the margin on the "long" or "short" transaction, whichever occurred first, as required by Regulation T of the Board of Governors of the Federal Reserve System or as required pursuant to the other provisions of this Rule, whichever amount is greater.

Questions And Answers Relating To The Calculation Of Initial And Maintenance Margin On Day-Trading And Cross-Guaranteed Accounts

For the purpose of the illustrations contained in this Notice, the examples assume: 1) that the securities discussed are marginable equity securities; 2) that unless otherwise noted the maintenance margin requirement on short transactions is 30 percent of the current market value of the security: 3) the customer intends to meet his/her requirement with a deposit of cash; and 4) that each of the customers has a history of day-trading, whether or not the trades in a specific example are day-trades.

1.

Q. Customer A and Customer B cross guarantee each other's accounts. Customer A buys \$1,000,000 of securities on Day 1 and is long the securities at the end of the day. Customer B sells short

\$1,000,000 of **different** securities on Day 1 and is short the securities at the end of the day. What are the Regulation T and maintenance margin requirements for each customer?

A. Since Regulation T does not acknowledge the existence of the cross guarantee, Regulation T would require Customer A to put up margin of 50 percent or \$500,000 in payment for the securities purchased in Customer A's account (see Regulation T, Section 220.12(a)). Regulation T would require Customer B to put up margin of 150 percent or \$1,500,000 in payment for the securities sold short in Customer B's account, of which \$1,000,000 could come from the proceeds of the short sale (see Regulation T, Section 220.12(c)(1)).

Rule 2520 requires maintenance margin for Customer A of \$250,000 (25 percent of the market value long) and maintenance margin for Customer B of \$300,000 (30 percent of the market value short). (See Rule 2520, paragraphs (c)(1) and (c)(3) respectively.)

2.

Q. Considering the facts in Question 1 again, would the answer be different if the securities bought by Customer A and sold short by Customer B were the same securities, i.e., because of the cross guarantee the accounts were fully hedged?

A. Again, since Regulation T does not acknowledge the existence of the cross guarantee, Regulation T would require Customer A to put up margin of 50 percent or \$500,000 in payment for the securities purchased in Customer A's account (see Regulation T, Section 220.12(a)). Regulation T would require Customer B to put up margin of 150 percent or \$1,500,000 in payment for the securities sold short in Customer B's

account, of which \$1,000,000 could come from the proceeds of the short sale (see Regulation T, Section 220.12(c)(1)).

Rule 2520 (e)(1) permits maintenance margin of five percent of the current market value of the long securities for "Offsetting 'Long' and 'Short' Positions" where the same security is carried long and short for the same customer. Given the existence of the cross guarantee, Rule 2520(f)(4) allows any account guaranteed by another account to be consolidated with the other account. and the margin to be maintained may be determined on the net positions on both accounts. In this case, since Customer A and Customer B are long and short the same securities, and since they cross guarantee each other's accounts, they may utilize the five percent maintenance margin requirement outlined in paragraph (e)(1) on the offsetting positions. Therefore, the required maintenance margin for the combined position would be \$50,000.

3.

Q. On Day 1, Customer C purchases \$400,000 of securities. The Regulation T margin required is \$200,000. The customer deposits \$250,000 cash in the account and, as a result, has received a margin loan of \$150,000 from the broker/dealer to complete the transaction. What is the customer's Regulation T buying power for Day 2? What is the customer's day-trading buying power for Day 2?

A. Going into Day 2, Customer C has Regulation T buying power of \$100,000 because the previous day's Regulation T excess of \$50,000 would provide \$100,000 in buying power. Thus, if Customer C purchases securities on Day 2 that he does not sell on Day 2, he can make such purchases up to

\$100,000 without incurring a Regulation T call. Buying power is calculated as follows: $($250,000 - ($400,000 \times 50\%)) \times 2 = $100,000$.

Going into Day 2, the customer has day-trading buying power of \$300,000 because the maintenance margin excess of \$150,000 provides day-trading buying power of \$300,000. If Customer C purchases securities on Day 2 which he subsequently sells on Day 2, *i.e.*, he engages in day-trading, he can make such purchases up to \$300,000 without incurring a day-trading call. This is calculated as follows: (\$250,000 - (\$400,000 x 25%)) x 2 = \$300,000.

The above answer presumes Customer C did not incur a loss on the day-trades (*i.e.*, made a profit or broke even). If Customer C were to buy \$300,000 of securities and sell them the same day for \$280,000, he would have a Regulation T call for \$20,000, or 100 percent of the loss. Regulation T requires additional margin when a transaction creates or increases a margin deficiency in an amount equal to the deficiency created or increased (see Regulation T, Section 220.4(c)(1)).

4.

Q. Customer D makes one purchase for \$2,000,000 in the morning of Day 1 and then sells the securities at a profit in the afternoon of Day 1 for the same account ending the day with no securities position. What is the customer's margin requirement?

A. Regulation T margin is calculated on the end of the day position. Because the customer has no securities position at the end of the day, and did not incur a loss, there is no Regulation T requirement. However, there is a required day-trading maintenance margin requirement of \$1,000,000. The margin call would be classified as a Rule 2520 Call (not

a Regulation T call) since it is Rule 2520 (b) that sets the margin for the trade.

5.

Q. On Day 1, Customer E buys 100 ABCD at \$88 in an existing margin account that has no SMA, and deposits \$4,400, which is the Regulation T requirement, into the account. She carries the position over into Day 2. On Day 2, she sells 100 ABCD at \$89 at 11 a.m. What is impact of the sale on the customer's Regulation T buying power or daytrading buying power for the remainder of Day 2?

A. Going into Day 2, the customer has zero Regulation T buying power since she deposited the exact amount of the Regulation T requirement into her account on Day 1, *i.e.*, \$8,800 x 50% = \$4,400. Per Regulation T, Section 220.4(c)(1), buying power for Day 2 is based on the status of the account at the end of Day 1. Intra-day sales on Day 2 cannot be used to increase Regulation T buying power for Day 2. Therefore, Customer E's Regulation T buying power for Day 2 remains at zero, irrespective of the sale on Day 2.

Going into Day 2, the customer has day-trading buying power of \$4,400. If Customer E chooses to purchases securities on Day 2 that she subsequently sells on Day 2, *i.e.*, she engages in day-trading, she can make such purchases up to \$4,400 without incurring a day-trading call. This is calculated as follows: (\$4,400 - (\$8,800 x 25%)) x 2 = \$4,400. The customer's day-trading buying power is set at \$4,400 for Day 2. It can not be adjusted by intra-day activity.

6.

Q. On Day 1, Customer F has an account containing equity securities with a market value of \$100,000, a

debit balance of \$70,000, equity of \$30,000, and maintenance margin excess of \$5,000. On Day 2, the customer purchases \$100,000 in equity securities and later in the same day sells them for \$105,000. What is the Regulation T requirement for Day 2?

A. Regulation T margin is calculated on the end of the day position. Since the customer has no securities position at the end of Day 2 resulting from Day 2 transactions and earned a profit on the sale, there is no Regulation T requirement for Day 2.

However, there is a Rule 2520 requirement. Going into Day 2, the customer may use the maintenance margin excess carried over from Day 1 to day-trade additional securities.

Customer F has a maintenance margin excess of \$5,000 (\$30,000 - (\$100,000 x 25%)). She could use this excess to day-trade \$10,000 (\$5,000 x 2) in equity securities on Day 2 without having to deposit any additional margin as long as she incurs no loss (*i.e.*, she makes a profit or breaks even) on the Day 2 day-trades. Taking the above into account, the customer should receive a Rule 2520 day-trading margin call of \$45,000 representing half of the purchase price not covered by the day-trading buying power.

Endnotes

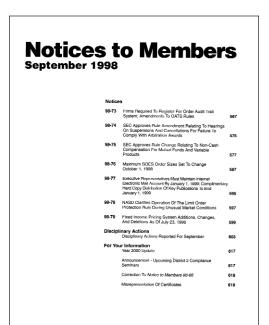
¹Several years ago, the NASD amended Rule 2520 to make it substantially the same as New York Stock Exchange (NYSE) Rule 431, including paragraph numbering. Thus, for example, paragraph 2520(f)(4) is the same as NYSE Rule 431(f)(4). The NASD has also customized Rule 2520 in a few places in recognition of certain differences between the NASD and NYSE in rules, jurisdiction, and market structure. Members should be familiar with the requirements of either NASD Rule 2520 or NYSE Rule 431, depending upon which one applies to them.

²Buying power - either Regulation T or daytrading - represents the dollar value of securities that can be purchased with a given amount of Regulation T or maintenance margin excess respectively (usually twice the amount of the excess).

© 1998, National Association of Securities Dealers, Inc. (NASD). All rights reserved.

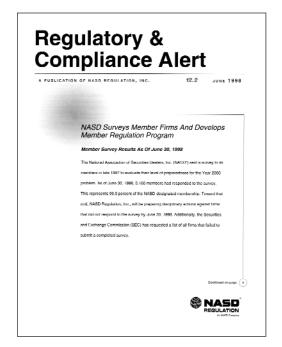
NASD Key Publications Available On The Internet

Starting in January 1999, the NASD Will Distribute Notices to Members and the Regulatory & Compliance Alert Primarily Via the Internet



As announced in *Notice to Members 98-77*, complimentary distribution of hard-copy NASD *Notices to Members* and *Regulatory & Compliance Alert* will be discontinued effective January 1, 1999. However, NASD members can still access these publications on the NASD Regulation Web Site (*www.nasdr.com*). Members that elect not to use the Web Site as the source for these publications have the option of subscribing to hard-copy versions.

For more information on subscribing or to place an order, call NASD MediaSource^{sм} at (301) 590-6142.



To access the NASD *Notices to Members* and *Regulatory & Compliance Alert* Web Pages, go to the NASD Regulation Web Site (*www.nasdr.com*).

NASD Regulation will alert Executive Representatives via e-mail whenever new *Notices to Members* or *Regulatory & Compliance Alert* issues are posted to the Web Site beginning next year.

www.nasdr.com



NASD Notice to Members 98-103

Maximum SOES Order Sizes Set To Change January 1, 1999

Suggested Routing

55
Senior Management
Advertising
Continuing Education
Corporate Finance
Executive Representatives
Government Securities
Institutional
Insurance
Internal Audit
Legal & Compliance
Municipal
Mutual Fund
Operations
Options
Registered Representatives
Registration
Research
Syndicate
Systems
Trading
Training

Executive Summary

Effective January 1, 1999, the maximum Small Order Execution SystemSM (SOESSM) order sizes for 476 Nasdaq National Market[®] (NNM) securities will be revised in accordance with National Association of Securities Dealers, Inc. (NASD[®]) Rule 4710(g).

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

Description

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

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

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

\$250, and two or more Market Makers.

In accordance with Rule 4710, Nas-daq periodically reviews the maximum SOES order size applicable to each NNM security to determine if the trading characteristics of the issue have changed so as to warrant an adjustment. Such a review was conducted using data as of September 30, 1998, pursuant to the aforementioned standards. The maximum SOES order-size changes called for by this review are being implemented with three exceptions.

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

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

Thus, IPOs listed on Nasdaq within the 45 days prior to September 30, 1998, were not subject to SOES order-size reranking procedures.

Variable Contracts

Following is a listing of the 476 NNM issues that will have the maximum SOES order size changed on January 1, 1999.

Endnote

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

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

© 1998, National Association of Securities Dealers, Inc. (NASD). All rights reserved.

Maximum SOES Order Size Changes In NNM Securities

All Issues In Alphabetical Order By Security Name (Effective January 1, 1999)

Symbol	Security Name	Old Level	New Level	Symbol	Security Name	Old Level	New Level
Oymbor	occurry Name	LCVCI	LOVOI	Cymbol	Occurry Hame	LCVCI	LCVCI
Α				AXTI	AMERICAN XTAL TECH	200	500
ABANP	ABI CAP TRUST PFD	200	500	AZTC	AZTEC TECH PTNRS	200	500
ABBKP	ABINGTON TR PFD	200	500				
ABFI	AMERICAN BUS FIN S	500	1000	В			
ABFSP	ARKANSAS BEST CV P	200	500				
ABGX	ABGENIX INC	200	500	BARI	BANK RHODE ISLAND	500	1000
ACLE	ACCEL INTL CP	1000	500	BAYB	BAY BANCSHARES	500	1000
ACLNF	A C L N LIMITED	200	500	BBAR	BALANCE BAR CO	200	500
ACMTA	ACMATCPCLA	200	500	BCORY	BIACORE INTL AB ADR	500	200
ACTU	ACTUATE SOFTWARE	200	500	BCSB	BCSB BANKCORP	200	500
ADGO	ADAMS GOLF INC	200	500	BCST	BROADCAST.COM	200	500
ADPI	AMERICAN DENTAL	500	1000	BEBE	BEBE STORES INC	200	500
ADSC	ATLANTIC DATA SVCS	200	500	BEERF	BIG ROCK BREWERY LTD	500	200
AHAA	ALPHA INDS INC	200	500	BESIF	B E SEMICON ORD SHRS	500	200
AIRS	AMERICAN AIRCARRIE	200	500	BEYE	BOLLE INC	500	1000
AKZOY	AKZO NOBEL NV ADR	500	1000	BHAG	B H A GP HLDGS	1000	500
ALGX	ALLEGIANCE TELECOM	200	500	BIORY	BIORA AB ADR	1000	500
ALREF	ANNUITY AND LIFE	500	1000	BKCT	BANCORP CONN INC	1000	500
AMBC	AMER BNCP OHIO	1000	500	BKUNZ	BANKUNITED CAP II	500	1000
AMBCP	AMER BNCP CAP TR	200	500	BLCA	BOREL BK & TR (CA)	500	200
AMCT	AMRESCO CAP TRUST	500	1000	BNBC	BROAD NATL BNCP	1000	500
AMKR	AMKOR TECHNOLOGY	500	1000	BNCM	BNC MORTGAGE INC	500	1000
ANAT	AMER NATL INS CO	500	1000	BNSC	BANK OF SANTA CLAR	500	200
ANCOW	ANACOMP INC WTS	500	200	BOGN	BOGEN COMMUN INT	200	500
ANDR	ANDERSEN GROUP INC	1000	500	BOGNW	BOGEN COMMUN WT	200	500
ANSR	ANSWERTHINK CONS	200	500	BOKF	B O K FINL CP	500	1000
ARDNA	ARDEN GROUP CL A	200	500	BORAY	BORAL LTD ADS	200	500
ARGX	ARGUSS HOLDINGS INC	500	1000	BOYD	BOYD BROS TRANS IN	500	1000
ARMHY	ARM HLDGS ADS	500	1000	BPAO	BALDWIN PIANO ORGA	1000	500
ARSCW	ARIS CORP WTS	200	500	BPFH	BOSTON PVT FIN	500	1000
ARTW	ART S WAY MFG CO I	200	500	BRCM	BROADCOM CORP CL A	500	1000
ASAM	ASAHI/AMERICA INC	500	1000	BRGP	BUSINESS RESOURCE	500	1000
ASPCE	ASPEC TECH INC	500	1000	BRID	BRIDGFORD FOODS CP	500	1000
ASTI	ALLERGAN SPEC WI	500	1000	BRKL	BROOKLINE BANCORP	500	1000
ASYCF	ARCHITEL SYST CORP	200	500	BRYO	BRIO TECHNOLOGY	500	1000
ASYM	ASYMETRIX LEARNING	200	500	BTBTY	B T SHIP SPONSOR ADR	200	500
ATGC	ATG INC	500	1000	BTSR	BRIGHTSTAR INFO	500	1000
ATPX	ADV TEC PROD	500	1000	BUCK	BUCKHEAD AMERICA C	1000	500

NASD Notice to Members 98-103

December 1998

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

Symbol	Security Name	Old Level	New Level	Symbol	Security Name	Old Level	New Level
Symbol	Security Name	Level	Level	Symbol	Security Name	Level	Level
BVEW	BINDVIEW DEV CORP	200	500	COLTY	C O L T TELECOM AD	500	1000
BWCF	BWC FINANCIAL CORP	200	500	COOL	CYBERIAN OUTPOST	200	500
BYND	SOFTWARE.NET CP	200	500	CRAI	CHARLES RIVER	500	1000
				CRDT	CREDITRUST CORP	200	500
С				CRGN	CURAGEN CORP	500	1000
CANII	CARRELER ANTINORI	000	500	CRHCY	C R H PLC ADR	200	500
CANI CASA	CARREKER-ANTINORI CASA OLE' RESTRS I	200 500	500 1000	CRSB CSCQW	CRUSADER HLDG CORP CORRECTIONAL SVCS	1000 1000	500 500
CASA	CAVALRY BANCORP	500	1000	CSON	COHESION TECHS	200	500
CBBI	C B BANCSHARES	500	1000	CSTL	CASTELLE	1000	500
CBCI	CALUMET BANCORP IN	500	1000	CTSH	COGNIZANT TECH SOL	200	500
CBMD	COLUMBIA BANCORP M	500	1000	CTWS	CONN WATER SVCS IN	500	1000
CBNY	COMMERCIAL BK OF N	1000	500	CULS	COST-U-LESS INC	200	500
CBRNB	CANANDAIGUA BRANDS	500	200	CVBK	CENTRAL VA BKSHS I	200	500
CCBG	CAPITAL CITY BANK	500	1000	CVOL	COVOL TECHS INC	500	1000
CCBN	CENTRAL COAST BCP	200	500	CWCOF	CAYMAN WATER ORD	1000	500
CCHE	CLINICHEM A	200	500	CWLZ	COWLITZ BANCORPN	500	1000
CCHM	COMBICHEM INC	500	1000				
CCPRZ	COAST FED LIT CPR	500	1000				
CDIR	CONCEPTS DIRECT IN	1000	500	D			
CEBK	CENTRAL CO OP BANK	500	1000				
CERB	CERBCOINC	500	1000	DACG	DA CONSULTING GRP	500	1000
CFBC	COMMUNITY FIRST BN	500	1000	DCBI	DELPHOS CITIZENS B	500	1000
CFIC CFKY	COMMUNITY FIN CP COLUMBIA FIN KY	1000	500 1000	DCBK DCLK	DESERT COMMUNITY B DOUBLECLICK INC	200	500 1000
CGII	CUNNINGHAM GRAPHIC	500 500	1000	DCLK	DICK CLARK PROD IN	500 500	200
CHANF	CHANDLER INS CO LTD	500	1000	DCRNW	DIACRIN INC WT	500	1000
CHAS	CHASTAIN CAP CORP	500	1000	DECO	DECORA INDS	500	1000
CHKE	CHEROKEE INC	500	1000	DGIC	DONEGAL GROUP INC	500	1000
CIBN	CALIFORNIA IND BNC	500	200	DIIBF	DOREL INDS CL B	500	1000
CITC	CITADEL COMMUN CP	200	500	DLVRY	CORTECS INTL SPO ADR	1000	500
CITZ	CFS BANCORP INC	200	500	DNFCP	D & N CAP CORP PFD	200	500
CLBR	CALIBER LEARN NTWK	500	1000	DOCC	DOCUCORP INTL	500	1000
CLEC	US L E C CP	500	1000	DOCDF	DOCDATA NV	1000	500
CLRS	CLARUS CORPORATION	200	500	DRAI	DATA RESEARCH ASSO	1000	500
CLTDF	COMPUTALOG LTD	200	500	DRIV	DIGITAL RIVER INC	200	500
CLTX	COLLATERAL THERAP	200	500	DROV	DROVERS BANCSHARES	200	500
CMIV	IVI CHECKMATE CORP	200	500	DRRAP	DURA AUTO CAP TR	500	1000
CMLS CMND	CUMULUS MEDIA INC COMMAND SYSTEMS	200	500 1000	DXCPO	DYNEX CAPITAL PFD B	1000	500
CMPS	COMPASS INTL SVCS	500 500	1000	Е			
CMTO	COMPASS INTESVES	200	500	_			
CNAF	COMMERCIAL NATL FI	500	200	EBSC	ELDER-BEERMAN ST	500	1000
CNBA	CHESTER BANCORP IN	500	1000	ECLP	ECLIPSYS CORP	200	500
CNBF	C N B FINANCIAL CP	500	1000	EDCO	EDISON CONTROL CP	500	200
CNBKP	CENTURY BCP CAP TR	200	500	EDEL	EDELBROCK CP	1000	500
CNDSP	CELLNET FNDG PFD	500	1000	EDIN	EDUCATIONAL INSIGH	500	1000
CNRD	CONRAD INDS INC	200	500	EFBI	ENTERPRISE FED BNC	500	1000
CNTBY	CANTAB PHARM	500	200	ELBO	ELECTRONICS BOUT	200	500
COBZ	COLORADO BUS BCSHS	200	500	ELON	ECHELON CORP	200	500
COLM	COLUMBIA SPRTSWR	500	1000	EMCC	EUROPEAN MICRO HLD	200	500

		Old	New			Old	New
Symbol	Security Name	Level	Level	Symbol	Security Name	Level	Level
ENBRF	ENBRIDGE INC	200	500	GCLI	GRAND COURT LIFE	500	1000
ENGEF	ENGEL GNRL DEV SE	1000	500	GCTY	GEOCITIES	200	500
ENGSY	ENERGIS ADS	1000	500	GEND	GENESIS DIRECT INC	500	1000
ENSR	ENSTAR INC	500	1000	GIGX	GIGA INFO GROUP	200	500
ERTH	EARTHSHELL CORP	500	1000	GISX	GLOBAL IMAGING SYS	200	500
ETRC	EQUITRAC CP	500	1000	GLDBP	GBCI CAP TR PFD	500	200
EVOL	EVOLVING SYSTEMS	500	1000	GNET	GO2NET INC	500	1000
EXDS	EXODUS COMMUN	500	1000	GNSSF	GENESIS MICROCHIP	500	1000
_				GNTY	GUARANTY BANCSHARE	200	500
F				GSBNZ	GOLDEN LIT WTS	500	1000
FACT	FIRST ALBANY COS I	1000	F00	GSOF	GROUP 1 SOFTWR	500	1000
FACT FBCI	FIRST ALBANY COS I FIDELITY BANCORP D	1000 500	500 1000	GSTX GTAX	GST TELECOMMUN INC GILMAN & CIOCIA INC	500 500	1000 1000
FCFCO	FIRSTCITY SPCL PFD	200	500	GTPS	GREAT AMER BNCP IN	500	1000
FCIN	FLOUR CITY INTL	200	500	GWBK	GULF WEST BANKS	500	1000
FCNB	F C N B CP	500	1000	GVVDIX	GOLI WEST BANKS	300	1000
FCNBP	FCNB CAP TR PFD	200	500				
FFES	FIRST FED S L E.HT	1000	500	Н			
FFFLP	FIDELITY CAP TR I	1000	500	••			
FFIN	FIRST FINL BKSHS I	1000	500	HABC	HABERSHAM BANCORP	500	200
FFKY	FIRST FED FIN KENT	500	200	HACHA	HACH COMPANY CL A	1000	500
FFLC	FFLC BNCP INC	500	1000	HAMP	HAMPSHIRE GROUP LT	500	200
FFOH	FIDELITY FIN OF OH	500	1000	HAST	HASTINGS ENT INC	200	500
FGHC	FIRST GEORG HLDGS	500	1000	HAUP	HAUPPAUGE DIGITAL	500	1000
FKAN	FIRST KANSAS FIN	200	500	HBSC	HERITAGE BNCP (DE)	500	1000
FLAG	F L A G FINANCIAL	1000	500	HCAR	HOMETOWN AUTO CL A	200	500
FLBK	FLORIDA BANKS INC	200	500	HCOW	HORIZON ORGANIC HD	200	500
FLGSP	FLAGSTAR CAP PFD A	500	1000	HDVS	H. D. VEST INC	1000	500
FLYAF	C H C HELICO CL A	200	500	HDWY	HEADWAY CORPORATE	500	1000
FLYR	NAVIGANT INTL INC	200	500	HERBL	DECS TRUST III	500	1000
FMARP	MARINER CAP TR PFD	200	500	HFBC	HOPFED BANCORP INC	1000	500
FMCO	F M S FINANCIAL CP	500	1000	HFGI	HARRINGTON FIN GRP	500	1000
FNBN	F N B CORPORATION	500	200	HIFS	HINGHAM INSTI SAVI	200	500
FNDTF	FUNDTECH LTD	500	1000	HKID	HAPPY KIDS INC	500	1000
FOBBA	FIRST OAK BROOK CL A	500	1000	HNBC	HARLEYSVILLE NATL	1000	500
FREEY	FREEPAGES GR PLC ADR	500	200	HOFF	HORIZON OFFSHORE	500	1000
FRPP FSTH	F R P PROPERTIES I FIRST SO BCSHS INC	500 200	200 500	HOLO HORT	HOLOPAK TECHS INC HINES HORTICULTURE	1000 200	500 500
FSVBP	FRANKLIN FIN PD A	500	1000	HPBC	HOME PORT BNCP INC	500	1000
FTBK	FRONTIER FIN CORP	500	1000	HPSC	H P S C INC	500	1000
FTCG	FIRST COLONIAL GP	500	200	HRBT	HUDSON RVR BNCP	200	500
FTFN	FIRST FIN CP (RI)	500	200	HTBK	HERITAGE COMMERCE	200	500
FUNC	FIRST UNITED CORP	500	1000	HTCO	HICKORY TECH CP	500	1000
FVCX	FVC.COM INN	500	1000	HYBRE	HYBRID NETWORKS	1000	500
				HYPT	HYPERION TELECOMM	500	1000
G							
GABC	GERMAN AMER BANCOR	200	500	1			
GBBKP	GBB CAP I CUM TR PFD	200	500	•			
GBLX	GLOBAL CROSSING	200	500	IAABY	INDIGO AVIATIO ADS	500	1000
GBNK	GASTON FED BANCP	500	1000	IBOC	INTL BANCSHS CP	500	1000
CDIVIC	S. IOTOTT ED DATIO	000	. 500	.550		550	. 555
NASD Not	ice to Members 98-103					Decemb	oer 1998
11100	100 10 11101110010 00 100					20001111	731 1000

Symbol	Security Name	Old Level	New Level	Symbol	Security Name	Old Level	New Level
ICBC ICLRY	INDEPENDENCE COMM ICON PLC ADS	500 500	1000 1000	LKFN LMIA	LAKELAND FINL CP LMI AEROSPACE INC	500 200	1000 500
ICOGF ICUB	ICO GLOBAL COMM INTL INTEGRATION	200 200	500 500	LNDL LSBI	LINDAL CEDAR HOMES LSB FINANCIAL CP	1000 200	500 500
IDEA	INNOVASIVE DEVICES	500	1000	LVLT	LEVEL 3 COMM INC	500	1000
IDGB	IDG BOOKS WRLDWIDE	200	500				
IFCI IGPFF	INTL FIBERCOM INC IMPERIAL GINSENG PRO	500 500	1000 1000	M			
IHIIZ	INDUSTRIAL HLDG WT	500	200	MAGR	MASTER GRAPICS INC	200	500
IMGK	INTERACTIVE MAGIC	200	500	MANH	MANHATTAN ASSOC	500	1000
INDYY	INDEP ENERGY ADS	200	500	MARN	MARION CAP HLDGS I	1000	500
INKT INOC	INKTOMI CORP INNOTRAC CORP	200 500	500 1000	MAXC MBBC	MAXCO INC MONTEREY BAY BANCO	1000 500	500 1000
INTT	INTEST CORPORATION	500	1000	MBHI	MIDWEST BANC HLDG	500	1000
IPLY	INTERPLAY ENT CORP	200	500	MBIA	MERCHANTS BNCP IL	500	1000
IROQ	IROQUOIS BNCP	1000	500	MBNK	MAIN STREET BNCP	500	1000
ISKO ISNR	ISCO INC INTEGRATED SENS SL	1000 500	500 1000	MDST MERB	MID-STATE BCSH MERRILL MERCHANT	200 200	500 500
ISSX	I S S GROUP INC	500	1000	METF	METROPOLITAN FIN C	1000	500
ISYS	INTEGRAL SYSTEMS INC	500	1000	METFP	METROPOLITAN CAP	500	1000
IUBCP	IUB CAP TRUST PFD	1000	500	MFBC	M F B CORP	200	500
				MFRI MGCX	M F R I INC MGC COMMUN INC	1000 500	500 1000
J				MHCO	MOORE HANDLEY INC	1000	500
				MIGI	MERIDIAN INS GP IN	1000	500
JADEF	LJ INTL INC	500	1000	MIPS	MIPS TECHS INC	200	500
JADWF JPSP	LJ INTL WTS 4/2002 JPS PACKAGING CO	500 200	1000 500	MNES MNOC	MINE SAFETY APPLS MONOCACY BANCSHARE	1000 200	500 500
JPST	JPS TEXTILE GRP	1000	500	MOBI	MOBIUS MGMT SYST	500	1000
JVLN	JAVELIN SYS INC	500	1000	MOTR	MOTOR CLUB OF AMER	1000	500
				MRET MSPG	MERIT HOLDING CP MINDSPRING ENTER I	500	1000 1000
K				MSTR	MICROSTRATEGY INC	500 200	500
				MTLX	MARINE TRANSPORT	200	500
KASP	KASPER ASL LTD	200	500	MUEL	MUELLER PAUL CO	200	500
KAYE KEQU	KAYE GROUP INC KEWAUNEE SCIENTIFI	500 1000	1000 500	MVII MXTR	MARK VII INC MAXTOR CORP	500 200	1000 500
KESI	KENTUCKY ELEC STEE	1000	500	IVIATA	WAXTUR CORP	200	300
KLLM	K L L M TRANSPORT	500	1000	N			
KTII	K TRON INTL INC	1000	500	NADV	NATI DENTEY OD	4000	500
				NADX NBAK	NATL DENTEX CP NATL BNCP ALASKA	1000 500	500 1000
L				NBCP	NIAGARA BANCORP	500	1000
				NCBH	NORTH COUNTY BANCO	1000	500
LFBI	LITTLE FALLS BNCP	500	1000	NEIB	NORTHEAST IND BNCP	500	1000
LGCB LIBB	LONG ISLAND COMM LIBERTY BANCORP	1000 200	500 500	NETG NGEN	NETGRAVITY INC NANOGEN INC	200 500	500 1000
LIBHA	LIBERTY HOMES INC A	500	200	NHCH	NEWMARK HOMES CORP	500	1000
LIHRY	LIHIR GOLD LTD ADR	1000	500	NHHC	NATL HOME HLTH CAR	500	1000
LIQB	LIQUI BOX CP	1000	500	NITE	KNIGHT/TRIMARK GR	200	500
LJLB	LJL BIOSYSTEMS	500	1000	NSBC	NEWSOUTH BANCORP I	500	1000

		Old	New			Old	New
Symbol	Security Name	Level	Level	Symbol	Security Name	Level	Level
NSCF	NORTHSTAR COMPUTER	1000	500	RBCAA	REPUBLIC BCP CL A	200	500
NSDB	N S D BANCORP INC	500	200	RBOW	RAINBOW RENTALS	200	500
NTOL	NATROL INC	200	500	RCBK	RICHMOND COUNTY	500	1000
NUTR	NUTRACEUTICAL INTL	500	1000	RCCK	ROCK FINANCIAL CP	500	1000
NWFL	NORWOOD FIN CORP	500	200	RDGE RIGX	READING ENT INC REALTY INFO GROUP	1000 200	500 500
				RINO	BLUE RHINO CORP	200	500
0				RLCO	REALCO INC	200	500
· ·				RSTO	RESTORATION HARDWR	200	500
OAKF	OAK HILL FIN INC	500	1000	RWKS	RAILWORKS CORP	200	500
ODFL	OLD DOMINION FREIG	500	1000				
OKSB	SOUTHWEST BNCP INC	500	1000				
OLCWF	OLICOM A/S WTS	1000	500	S			
OLGR	OILGEAR CO	500	200				
OTRX	OTR EXPRESS INC	1000	500	SAVB	SAVANNAH BNCP INC	200	500
OWWI	OMEGA WORLDWIDE	500	1000	SBGIP	SINCLAIR BRD PFD SE	500	1000
				SBIBP	STERLING CAP TR PF	500	200
_				SCCX	SCC COMMUNICATIONS	200	500
Р				SCHR	SCHERER HEALTHCARE	1000	500
DADN	PACIFIC CAP BNCP	500	1000	SCNYA	SAUCONY INC	500	1000
PABN PACK	GIBRALTAR PKG GP I	500 500	1000 1000	SCOT SCSAY	SCOTT AND STRINGF STOLT COMEX ADS	500 200	1000 500
PAZZF	PACALTA RES LTD	200	500	SENEB	SENECA FOODS CP B	200	500
PBOC	PBOC HOLDINGS INC	500	1000	SFED	S F S BANCORP INC	500	1000
PCCC	PC CONNECTION INC	500	1000	SFSW	STATE FINL SVCS CL	500	1000
PCCIP	PCC CAPITAL I PFD	500	200	SFXE	SFX ENT CL A	500	1000
PDII	PROF DETAILING INC	200	500	SHBK	SHORE FINANCIAL		
PEBK	PEOPLES BANK	500	200		CORPORATION	200	500
PGEOF	PARADIGM GEOPHYS	200	500	SHOE	SHOE PAVILION INC	500	1000
PHFCP	PITT HOME CAP TR	500	200	SHPGY	SHIRE PHARM	500	1000
PHLYZ	PHIL CONS IN PRIDE	500	1000	SIDE	ASSOC MATERIALS	500	1000
PILT	PILOT NETWORK SVC	200	500	SIVBP	SVB CAPITAL I PFD	200	500
PLFC	PULASKI FURNITURE	1000	500	SJNB	S J N B FINANCIAL	1000	500
PLSIA	PREMIER LASER SY	1000	500	SKYEY	SKYEPHARMA PLC	200	500
PMFG	PEERLESS MFG CO	500	1000	SLFI	STERLING FINL CP	1000	500
PNBC PNBF	PRINCETON NATL BNC PNB FINCL GROUP	1000 200	500 500	SMBC SNDS	SOUTHERN MO BNCP I SANDS REGENT THE	500 500	1000 1000
PNTE	POINTE FINCL CORP	200	500	SNFCA	SECURITY NATL FINL A	500	200
POSIF	POINT OF SALE LTD	200	500	SNRS	SUNRISE TECHNOLOGIES	200	500
POVT	PROVANT INC	500	1000	SONO	SONOSITE INC	500	1000
PPCCP	PEOPLE'S PFD CAP C	1000	500	SPCH	SPORT CHALET INC	1000	500
PPCO	PENWEST PHARM	200	500	SPPR	SUPERTEL HOSPITALI	1000	500
PRTW	PRINTWARE INC	500	1000	SRDX	SURMODICS INC	500	1000
PSBI	PSB BANCORP INC	200	500	STHLY	STET HELL ADS	200	500
PTRN	PHOTRAN CORP	500	1000	STVI	S T V GROUP INC	1000	500
PULS	PULSE BANCORP INC	500	1000	SUBK	SUFFOLK BNCP	1000	500
PWCC	POINT WEST CAP CP	1000	500	SUBSC	MIAMI SUBS CP	500	1000
_				SUNH	SUNDANCE HOMES INC	1000	500
R				SVBF	SVB FIN SVCS INC	200	500
	DADITANI DANIOODD IN	202	F00	SWMAY	SWEDISH MATCH AB ADR	1000	500
RARB	RARITAN BANCORP IN	200	500				

Symbol	Security Name	Old Level	New Level	Symbol	Security Name	Old Level	New Level
SWPA SWRX SYBBF SYNM SYPR	SOUTHWEST NATL CP SOFTWORKS INC SYNSORB BIOTCH INC SYNTROLEUM CORP SYPRIS SOLU	500 200 500 200 1000	1000 500 1000 500 500	UPFC URSI UTCC UTCIW	UNITED PANAM FIN UNITED ROAD SVCS URSUS TELECOM CP UNIROYAL TECH CP WTS	500 500 500 500	1000 1000 1000 200
Т				٧			
TBCOL TBFC TBFCP TFSM THRD THRNY THTL TIWIF TMSTA TONSF TRGNY TRKA TRNI TSRC TSSS TTWO	TRIATHALON BD DEP SH TELEBANC FIN CP TELEBANC CAP TR 24/7 MEDIA INC T F FINANCIAL CP THORN PLC ADR THISTLE GROUP HLDG TELESYSTEM INTL THOMASTON MILLS A NOVAMERICAN STEEL TRANSGENE SA ADR TRAK AUTO CP TRANS INDS INC TECHNISOURCE INC TRIPLE S PLASTICS TAKE-TWO INTERACTI	200 200 200 200 1000 1000 200 200 500 200 500 200 500 200 500	500 500 500 500 500 500 500 1000 500 1000 500 1000 500 1000	VALN VALU VBNJ VDRY VENT VIAX VINT VITX VLGEA VNGI VRIO VSEC VSLF VTRAO	VALLEN CP VALUE LINE INC VISTA BANCORP INC VACU DRY CO VENTURIAN CP VIAGRAFIX CORP GOLDEN ST VINT B VI TECHNOLOGIES VILLAGE SUPER MKT A VALLEY NATL GASES VERIO INC V S E CP SEMELE GROUP VBC CAPITAL I CAP	1000 1000 500 500 1000 500 200 200 500 500 500 1000 200	500 500 1000 200 500 1000 500 1000 1000
TWNE TWTR	TOWNE SVCS INC TWEETER HOME ENT	200 200	500 500	WBCO WCBI WCNX WMSI WORK	WASHINGTON BKG CO WESTCO BANCORP WASTE CONNECTIONS WILLIAMS INDS INC	200 500 200 500	500 1000 500 1000
UBCD UCFC UFPT	UNIONBANCORP INC UNITED COMM FIN CP U F P TECH INC	1000 200 1000	500 500 500	WREI WVFC	WORKFLOW MGMT INC WILSHIRE R E INV W V S FINANCIAL CP	200 500 500	500 1000 1000
UIRT ULTI	UNITED INVST RLTY ULTIMATE SOFTWARE SOUTH UMPQUA BANK	500 200 500	1000 500	X XTND	EXTENDED SYSTEMS #1	500	1000
UMPQ	SOUTH DIVIPQUA BANK	500	1000	VIND	EVICINDED 2121FIN2 #J	500	1000

Audio Tape Order Form • NASD Regulation, Inc. Fall Securities Conference

November 4-6, 1998 San Francisco, California

1998 Advertising Regulation Seminar	1998 Fall Secur	rities Conference
 A01 General Session/Internet Introductory Remarks Discussion Of New Rules Internet & Electronic Communications A02 Nuts & Bolts A03 Fundamentals Of Mutual Funds & Variable Insurance Products A04 General Brokerage A05 Advanced Variable Insurance Products A06 Case Studies A07 Advanced Mutual Funds Please Check Selection Numbers	 S01 General Session Welcome Address—State Of The SRO, Mary L. Schapiro, President, NASD Regulation, Inc. S02 Continuing Education S03 Internet Compliance Issues S04 Managing Compliance Issues And Branch Operations By Small Broker/Dealers S05 Dynamics Of Customer Complaints S06 Examination Program: Process & Priorities S07 Hot Deals, Underwriting, And The NASD Rules 	 S08 A Look Inside The Disciplinary Process S09 Effective Supervision S10 Open Forum With District Directors S11 CRD/Public Disclosure Issues S12 Securities Law S13 Market Regulation Issues S14 Independent Contractors/ Financial Planners/Investment Advisers S15 Rules Roundup S16 Enforcement Developments S17 Year 2000 Readiness
	Complete To Order	
Post-Conference Prices: Number of Individual Sessions 5% discount when eight or more sessions pure (includes storage album) Complete set of Fall Securities Conference (includes 10% discount and storage album) Complete set of Advertising Regulation Set (includes 10% discount and storage album) Complete set of Fall Securities and Advertification (includes 15% discount and storage album) Sales Taxes: Maryland shipping addresses of Shipping Charges: \$2.25 for the first session \$1.25 for each additional tape (\$21.00 mass) \$15.00 extra shipping charge for orders of the session (\$1.25 for each additional tape (\$21.00 mass)	sing Programs m) nly \$ x5% = x5% =	x \$12.00 = \$
Your Name		
Company Street Address	MS/FI/Suite/Apt. #	City
State Zip Code Day	y Phone Fax	E-mail
For Mail or Fax Charge Card Orders: Usa Mastercard Discover Cardholder Name Card Expiration Date Mail or Fax completed form and payment to: A.V.E.R. Associates, 6974 Ducketts Lane, Elk	□ AMEX □ Check (payable to A.V.) Card Number Cardholder Signature ridge, MD 21075, Phone 410-796-8940, Fax 4	
Received Auth # & Da		Updated

NASD Notice to Members 98-104

Fixed Income Pricing System Additions, Changes, And Deletions As Of October 23, 1998

Suggested Routing

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

As of October 23, 1998, the following bonds were added to the Fixed Income Pricing SystemSM (FIPS[®]).

Symbol	Name	Coupon	Maturity
ACFL.GA	ACC Consumer Finl Corp.	10.250	12/01/03
ANCP.GB	Anacomp Inc	10.875	04/01/04
CSUD.GA	Corning Consumer Prod. Co.	9.625	05/01/08
DDBD.GA	Diamond Brands Inc.	12.875	04/15/09
DMBD.GA	Diamond Brands Oper Corp.	10.125	04/15/08
DSUO.GA	Doe Run Resources Corp.	0.000	03/15/03
DSUO.GB	Doe Run Resources Corp.	11.250	03/15/05
FNVW.GA	Fountain View Inc.	11.250	04/15/08
ICIX.GC	Intermedia Communication Inc.	13.500	06/01/05
IMTN.GB	Iron Mountain Inc.	8.750	09/30/09
JAII.GB	Johnstown America Industries Inc.	11.750	08/15/05
JKPD.GA	Jackson Products Inc.	9.500	04/15/05
KTTY.GA	Kitty Hawk Inc.	9.950	11/15/04
LAQU.GA	La Quintas Inns Inc.	7.400	09/15/05
LAQU.GB	La Quintas Inns Inc.	7.250	03/15/04
LI.GA	Lilly Industries Inc.	7.750	12/01/07
MAM.GA	Maxxim Medical Inc.	10.500	08/01/06
MCLL.GB	Metrocall Inc.	9.750	11/01/07
MNRH.GA	Mariner Health Group Inc.	9.500	04/01/06
MT.GA	Meditrust Corp.	7.375	07/15/00
MT.GB	Meditrust Corp.	7.600	07/15/01
MT.GC	Meditrust Corp.	7.820	09/10/26
MT.GD	Meditrust Corp.	7.000	08/15/07
NFX.GA	Newfield Exploration Co.	7.450	10/15/07
OEI.GC	Ocean Energy Inc.	8.375	07/01/08
OEI.GD	Ocean Energy Inc.	7.625	07/01/05
OEI.GE	Ocean Energy Inc.	8.250	07/01/18
SKS.GA	Saks Inc.	8.250	11/15/08
SUAS.GA	South Seas Prop L.P.	10.000	04/15/03
SVIS.GA	Spectra Vision Inc.	11.650	12/01/02

As of October 23, 1998, the following bonds were deleted from FIPS.

Symbol	Name	Coupon	Maturity
AVLM.GA	Avalon Marketing Inc.	14.000	11/01/98
AXTO.GA	Abraxas Petro Corp./Cn Abraxas	11.500	11/01/04
DOPD.GA	Doane Products Co.	10.625	03/01/06
GTCO.GA	Great American Cookie	10.875	01/15/01
HRJZ.GA	Harrahs Jazz Co.	14.250	11/15/01
MAG.GA	Magnetek Inc.	10.750	11/15/98
MDCA.GA	Maryland Cable Corp.	15.375	11/15/98
NAV.GA	Navistar Financial Corp.	8.875	11/15/98
PMIA.GA	PMI Acquisition Corp.	10.250	09/01/03
SMU.GA	Simula Inc.	12.000	11/15/98
SVIS.GA	Spectra Vision Inc.	11.650	12/01/02
UIS.GF	Unisys Corp.	10.625	10/01/99
VDKP.GA	Van de Kamps Inc.	12.000	09/15/05

NASD Notice to Members 98-104

December 1998

Symbol	Name	Coupon	Maturity	
VIA.GB	Viacom Inc.	7.750	06/01/05	
VIA.GC	Viacom Inc.	6.750	05/15/03	
VIA.GD	Viacom Inc.	7.625	01/15/16	
WHLP.GA	Windy Hill Pet Food Co.	9.750	05/15/07	

All bonds listed above are subject to trade-reporting requirements. Questions pertaining to FIPS trade-reporting rules should be directed to Stephen Simmes, Market Regulation, NASD Regulation, Inc. (NASD Regulation⁵), at (301) 590-6451.

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

^{© 1998,} National Association of Securities Dealers, Inc. (NASD). All rights reserved.

NASD Notice to Members 98-105

The National Association of Securities Dealers, Inc. (NASD®) will observe the following holiday schedule for 1999:

January 1 New Years Day

January 18 Birthday of Martin Luther King, Jr.

(Observed)

February 15 Presidents Day

April 2 Good Friday

May 31 Memorial Day

July 5 Independence Day (Observed)

September 6 Labor Day

November 25 Thanksgiving Day

December 24 Christmas Day (Observed)

Questions regarding this holiday schedule may be directed to NASD Human Resources, at (301) 590-6821.

© 1998, National Association of Securities Dealers, Inc. (NASD). All rights reserved.

NASD 1999 Holiday Schedule

Suggested Routing

☐ Senior Management

Advertising

☐ Continuing Education

☐ Corporate Finance

☐ Executive Representatives

☐ Government Securities

☐ Institutional

Insurance

Internal Audit

Legal & Compliance

Municipal

☐ Mutual Fund

Operations

☐ Options

Registered Representatives

☐ Registration

Research

Syndicate

Systems

Trading

☐ Training

Variable Contracts

Join us for the 1999 Spring and Fall Securities Conferences.

At these events, you will learn about and discuss the latest developments in the securities industry. Also you will hear from industry experts and NASD Regulation leadership, explore regulatory issues, and much more.

Watch your mail for a conference brochure and registration materials. Questions? Call the NASD at (202) 728-8383 or visit the NASD Regulation Web Site.



1999 NASD Regulation Spring Securities Conference

May 19 - May 21 New Orleans, LA

1999 NASD Regulation Fall Securities Conference

October 20 - October 22 Seattle, WA







NASD Notice to Members 98-106

Trade Date—Settlement Date Schedule For 1999

Suggested Routing

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

Martin Luther King, Jr., Day: Trade Date-Settlement Date Schedule

The Nasdaq Stock Market® and the securities exchanges will be closed on Monday, January 18, 1999, in observance of Martin Luther King, Jr., Day. "Regular way" transactions made on the business days noted below will be subject to the following schedule:

Trade Date	Settlement Date	Reg. T Date*
Jan. 12	Jan. 15	Jan. 20
13	19	21
14	20	22
15	21	25
18	Markets Closed	_
19	22	26

Presidents Day: Trade Date-Settlement Date Schedule

The Nasdaq Stock Market and the securities exchanges will be closed on Monday, February 15, 1999, in observance of Presidents Day. "Regular way" transactions made on the business days noted below will be subject to the following schedule:

Trade Date	Settlement Date	Reg. T Date*
Feb. 9	Feb. 12	Feb. 17
10	16	18
11	17	19
12	18	22
15	Markets Closed	_
16	19	23

Good Friday: Trade Date-Settlement Date Schedule

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

Trade Date	Settlement Date	Reg. T Date*
March 29	April 1	April 6
30	5	7
31	6	8
April 1	7	9
2	Markets Closed	_
5	8	12

Memorial Day: Trade Date-Settlement Date Schedule

The Nasdaq Stock Market and the securities exchanges will be closed on Monday, May 31, 1999, in observance of Memorial Day. "Regular way" transactions made on the business days noted below will be subject to the following schedule:

Trade Date	Settlement Date	Reg. T Date*
May 25	May 28	June 2
26	June 1	3
27	2	4
28	3	7
31	Markets Closed	_
June 1	4	8

Independence Day: Trade Date-Settlement Date Schedule

The Nasdaq Stock Market and the securities exchanges will be closed on Monday, July 5, 1999, in observance of Independence Day. "Regular way" transactions made on the business days noted below will be subject to the following schedule:

Trade Date	Settlement Date	Reg. T Date*
June 29	July 2	July 7
30	6	8
July 1	7	9
2	8	12
5	Markets Closed	_
6	9	13

Labor Day: Trade Date-Settlement Date Schedule

The Nasdaq Stock Market and the securities exchanges will be closed on Monday, September 6, 1999, in observance of Labor Day. "Regular way" transactions made on the business days noted below will be subject to the following schedule:

Trade Date	Settlement Date	Reg. T Date*
Aug. 31	Sept. 3	Sept. 8
Sept. 1	7	9
2	8	10
3	9	13
6	Markets Closed	_
7	10	14

Columbus Day: Trade Date-Settlement Date Schedule

The schedule of trade dates-settlement dates below reflects the observance by the financial community of Columbus Day, Monday, October 11, 1999. On this day, The Nasdaq Stock Market and the securities exchanges will be open for trading. However, it will not be a settlement date because many of the nation's banking institutions will be closed.

Trade Date	Settlement Date	Reg. T Date*
Oct. 5	Oct. 8	Oct. 12
6	12	13
7	13	14
8	14	15
11	14	18
12	15	19

Note: October 11, 1999, is considered a business day for receiving customers' payments under Regulation T of the Federal Reserve Board.

Transactions made on Monday, October 11, will be combined with transactions made on the previous business day, October 8, for settlement on October 14. Securities will not be quoted ex-dividend, and settlements, marks to the market, reclamations, and buy-ins and sell-outs, as provided in the Uniform Practice Code, will not be made and/or exercised on October 11.

Veterans Day And Thanksgiving Day: Trade Date-Settlement Date Schedule

The schedule of trade dates-settlement dates below reflects the observance by the financial community of Veterans Day, Thursday, November 11, 1999, and Thanksgiving Day, Thursday, November 25, 1999. On Thursday, November 11, The Nasdaq Stock Market and the securities exchanges will be open for trading. However, it will not be a settlement date because many of the nation's banking institutions will be closed in observance of Veterans Day. All securities markets will be closed on Thursday, November 25, in observance of Thanksgiving Day.

Trade Date	Settlement Date	Reg. T Date*
Nov. 5	Nov. 10	Nov. 12
8	12	15
9	15	16
10	16	17
11	16	18
12	17	19
19	24	29
22	26	30
23	29	Dec. 1
24	30	2
25	Markets Closed	_
26	Dec. 1	3

Note: November 11, 1999, is considered a business day for receiving customers' payments under Regulation T of the Federal Reserve Board.

Transactions made on November 11 will be combined with transactions made on the previous business day, November 10, for settlement on November 16. Securities will not be quoted ex-dividend, and settlements, marks to the market, reclamations, and buy-ins and sell-outs, as provided in the Uniform Practice Code, will not be made and/or exercised on November 11.

Christmas Day: Trade Date-Settlement Date Schedule

The Nasdaq Stock Market and the securities exchanges will be closed on Friday, December 24, 1999, in observance of Christmas Day. "Regular way" transactions made on the business days noted below will be subject to the following schedule:

Trade Date	Settlement Date	Reg. T Date*
Dec. 20	Dec. 23	Dec. 28
21	27	29
22	28	30
23	29	31
24	Markets Closed	_
27	30	Jan. 3, 2000

Note: The Nasdaq Stock Market and the securities exchanges will be open on December 31, 1999, and January 3, 2000.

Brokers, dealers, and municipal securities dealers should use the foregoing settlement dates for purposes of clearing and settling transactions pursuant to the National Association of Securities Dealers, Inc. (NASD®) Uniform Practice Code and Municipal Securities Rulemaking Board Rule G-12 on Uniform Practice.

Questions regarding the application of those settlement dates to a particular situation may be directed to the NASD Uniform Practice Department at (203) 375-9609.

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

^{© 1998,} National Association of Securities Dealers, Inc. (NASD). All rights reserved.

NASD Notice to Members 98-107

NASD Reminds Members Of Their Obligations To Disclose Mutual Fund Fees

Suggested Routing

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

Executive Summary

This Notice reminds National Association of Securities Dealers, Inc. (NASD®) members of their obligation to ensure that discussions concerning fees and expenses in mutual fund advertisements and sales literature as defined in NASD Rule 2210(a) are fair, balanced, and not misleading. This Notice also provides guidance concerning fee and expense disclosure in certain types of mutual fund sales material, and announces an NASD initiative to review this issue further.

Questions concerning this *Notice* may be directed to Thomas M. Selman, Vice President, Investment Companies/Corporate Financing, NASD Regulation, Inc. (NASD RegulationSM), at (202) 728-8068, or Robert J. Smith, Assistant General Counsel, NASD Regulation, at (202) 728-8176.

Requirements Concerning Disclosure Of Fees And Expenses

Lists Of Fees And Expenses That Do Not Apply

NASD Rule 2210(d)(1) generally requires that all member communications with the public provide a sound basis for evaluating the facts regarding a particular security or service and that they include material qualifications necessary to ensure that the communications are fair, balanced, and not misleading.1 Rule 2210 also prohibits the use of exaggerated, unwarranted, or misleading statements or claims. NASD Regulation has long interpreted Rule 2210 to prohibit members from making misleading or confusing presentations in their sales material concerning the fees and expenses associated with a variety of investment products and services, including discount brokerage, wrap accounts, and variable products.

In particular, NASD Regulation strongly objects to presentations that list

specific fees that *do not* apply, without discussing the fees or expenses that *do* apply. Such presentations raise investor protection concerns because of the possibility that the presentations may confuse investors about the range of fees and expenses that the investors must pay when they purchase and own particular products.

NASD Regulation reminds members that all of their mutual fund sales material must similarly comply with NASD rules. Discussions of factors such as fees and expenses should be fair and balanced, whether the investment decision concerns the purchase of mutual funds or other investment products. In order to ensure greater consistency in the application of the principles concerning disclosure of fees and expenses, NASD Regulation now takes the interpretive position that if an item of sales material lists specific mutual fund fees and expenses that do not apply to the purchase, redemption, or ownership of the fund's shares, then this sales material ordinarily must list specific fees and expenses that do apply (e.g., applicable maximum front-end and deferred sales charges and redemption fees, and operating expenses). As always, NASD Regulation staff will respond to questions from members who file such sales material, concerning the practical application of this interpretive position.

Disclosure Of Sales Loads Under SEC Rule 482

Members also are reminded that Securities and Exchange Commission (SEC) Rule 482 under the Securities Act of 1933 and SEC Rule 34b-1 under the Investment Company Act of 1940 require that sales material presenting data about the performance of an advertised mutual fund, also disclose the maximum amount of any sales load or other nonrecurring fee. In addition, SEC Rule 156 under the Securities Act of

1933, which provides guidance on when sales material may be misleading, indicates that statements about investment expenses may be relevant to whether an implicit representation about future performance has been made.

Use Of The Term "No-Load"

NASD Regulation does not currently interpret the SEC and NASD rules to require disclosure of total fund operating expenses or other applicable fees when sales material merely refers to the advertised mutual fund as "no-load" or part of a "no-load" family of funds. In addition, this type of disclosure is not currently required when, in discussing how to invest in the fund, the sales material states merely that the mutual fund imposes no sales charge.

Members are on notice, however, that NASD Regulation now takes the position that in all such cases, the sales material must disclose the fact that other fees and expenses do apply to a continued investment in the fund and are described in the fund's current prospectus. (This disclosure could accompany the disclosure telling investors to read the prospectus before investing.) Similar-

ly, sales material that discloses the load charged by a mutual fund also must disclose that other expenses apply to a continued investment in the fund and are described in the fund's current prospectus, to ensure that investors are not confused about whether the load represents the only fee or expense associated with the purchase or continued investment in the mutual fund.

Future Initiatives

NASD Regulation and its Investment Companies Committee (the Committee) recognize the importance of ensuring that presentations in member sales material concerning mutual fund fees and expenses are fair, balanced, and not misleading. Consequently, the Committee has recommended that the NASD Regulation staff comprehensively evaluate the standards applicable to the disclosure of fees and expenses in mutual fund sales material. The staff intends to consider, among other issues, whether:

- the existing NASD standards are adequate;
- certain types of sales material present specific concerns that should be

addressed through new NASD standards;

- NASD Regulation should impose specific requirements concerning the prominence of fee and expense disclosure in sales material; and
- other types of sales material should describe the fees and expenses that an investor could expect to incur when purchasing and holding an advertised mutual fund, including the fund's expense ratio, maximum sales charge, redemption fee, and maximum deferred sales load.

During its evaluation of these issues, NASD Regulation intends to seek the views of NASD members and the investing public.

Endnote

¹Rule 2210(d)(2)(E) specifically prohibits any statement that a service is furnished without any charge unless the service is furnished free without condition or obligation.

© 1998, National Association of Securities Dealers, Inc. (NASD). All rights reserved.

Disciplinary Actions

Disciplinary Actions Reported For December NASD Regulation, Inc. (NASD RegulationSM) has taken disciplinary actions against the following firms and individuals for violations of National Association of Securities Dealers, Inc. (NASD[®]) rules; federal securities laws, rules, and regulations; and the rules of the Municipal Securities Rulemaking Board (MSRB). Unless otherwise indicated, suspensions will begin with the opening of business on Monday, November 16, 1998. The information relating to matters contained in this *Notice* is current as of the end of October 23.

Firms Fined, Individuals Sanctioned

Hunter International Securities,

Inc. (Ft. Lauderdale, Florida) and Louis Nick Nizza, Jr. (Registered Principal, Deerfield Beach, Florida). The firm was censured and fined \$40,000 and Nizza was censured, fined \$20,000, barred from acting in the capacity of financial and operations principal (FINOP), suspended from association with any NASD member in any capacity for 60 days, and required to requalify by exam before acting in any capacity requiring registration. The National Adjudicatory Council (NAC) imposed the sanctions after review of an Atlanta District Business Conduct Committee (DBCC) decision. The sanctions were based on findings that the firm, acting through Nizza, conducted a securities business while it maintained insufficient net capital and failed to maintain accurate books and records. In addition, the firm, acting through Nizza, filed materially inaccurate FOCUS Part I and IIA reports. Hunter International reported Nasdag® transactions erroneously, failed to disclose its Market Maker status on confirmations, and failed to disclose the markup or markdown it charged on confirmations.

Premier Capital Management, Inc. (Dallas, Texas) and Bryan James O'Leary (Registered Principal, Dallas, Texas) submitted a Letter of Acceptance, Waiver, and Consent pursuant to which they were censured and fined \$10,000, jointly and severally. In addition, O'Leary was suspended as an introducing broker/dealer FINOP for 10 business days. Without admitting or denying the allegations, the respondents consented to the described sanctions and to the entry of findings that the firm, acting through O'Leary, failed to post accurately on its general ledger and trial balance liabilities incurred for advertising expense. The findings also stated that the firm, acting through O'Leary, effected securities transactions while failing to maintain required minimum net capital.

Firms And Individuals Fined E-W Investments, Inc. (San Gabriel, California) and John Arthur Pong (Registered Principal, San Gabriel, California) submitted a Letter of Acceptance, Waiver, and Consent pursuant to which they were censured, fined \$10,000, jointly and severally, and ordered to reimburse public customers the total amount of commissions in excess of five percent (\$2,411.78). In addition, the firm was ordered to hire a new FINOP, other than Pong, and retain the new principal for one year or until Pong successfully requalified as a FINOP should he elect to do so. Without admitting or denying the allegations, the respondents consented to the described sanctions, and to the entry of findings that the firm, acting under the direction and control of Pong, acted as an agent for public customers in securities transactions and charged the customers more than a fair commission, taking into consideration all relevant circumstances including market conditions with respect to such securities at the time of the transactions, the expense of executing the orders, and the value

of any services they may have rendered by reason of experience in and knowledge of such securities and the markets. The findings also stated that the firm, acting under the direction and control of Pong, failed to have and maintain sufficient net capital.

Securities & Investment Planning Company (Chatham, New Jersey) and Daryl Scott Hersch (Registered Principal, Chatham, New Jersey) submitted a Letter of Acceptance, Waiver, and Consent pursuant to which they were censured, fined \$10,000, jointly and severally, and the firm was fined an additional \$17,500. Without admitting or denying the allegations, the respondents consented to the described sanctions and to the entry of findings that the firm, acting through Hersch, failed to file reports in a timely manner pursuant to the NASD reporting rule. The findings also stated that the firm, acting through Hersch, reported transactions to the Automated Confirmation Transaction ServiceSM (ACTSM) in violation of applicable securities laws and regulations regarding trade reporting and failed to develop written supervisory procedures to address the NASD reporting requirements and trade reporting/ACT submissions. The NASD also determined that the firm, acting through Hersch, failed to enforce the written procedures it had established to better ensure compliance with applicable rules and regulations.

Firms Fined

Bear, Stearns & Co., Inc. (New York, New York) submitted a Letter of Acceptance, Waiver, and Consent pursuant to which the firm was censured, fined \$15,000, and required to undertake additional corrective actions to prevent future violations. Without admitting or denying the allegations, the firm consented to the described sanctions and to the entry

of findings that it was named as a respondent in certain arbitration proceedings filed with the NASD by various public customers who included demands for punitive damages, attorneys' fees, as well as other relief. According to the findings, each of the customers signed an agreement with the firm stating that the terms of the agreement would be governed by the laws of the state of New York. The NASD determined that in some of these proceedings, Bear Stearns asserted that New York law applied to the proceeding by virtue of the governing law clause in the customer agreement and therefore precluded an award of punitive damages or attorneys' fees, in violation of IM-3110(f)(4).

Biltmore Securities, Inc. (Fort Lauderdale, Florida) submitted a Letter of Acceptance, Waiver, and Consent pursuant to which the firm was censured, fined \$20,000, and required to undertake additional corrective actions to prevent future violations. Without admitting or denying the allegations, the firm consented to the described sanctions and to the entry of findings that it was named as a respondent in certain arbitration proceedings filed with the NASD by public customers who sought punitive damages or attorneys' fees. According to the findings, each of the customers signed an agreement with the firm stating that the proceeding would be governed by the laws of the state of New York. The NASD determined that in a number of these arbitration proceedings, Biltmore Securities asserted that New York law applied to the proceeding by virtue of the governing law clause in the customer agreement and therefore precluded an award of punitive damages or attorneys' fees, in violation of IM-3110(f)(4).

Equitrade Securities Corporation (Lake Forest, California) submitted a Letter of Acceptance, Waiver, and

Consent pursuant to which the firm was censured and fined \$15,000. Without admitting or denying the allegations, the firm consented to the described sanctions and to the entry of findings that the firm reported transactions to ACT in violation of applicable securities laws and regulations regarding trade reporting. The findings also stated that the firm failed to reflect accurately the time of execution on order tickets for transactions in OTC equity securities, in Nasdag National Market® securities, and a transaction in a Nasdag Small-Cap^{s™} Market security. In addition, the NASD determined that the firm failed to provide to a public customer the requisite written disclosures or confirmations concerning securities transactions variously executed in two brokerage accounts, and that the firm conducted a general securities business while failing to have and maintain sufficient net capital. The firm also failed to establish, maintain, and enforce written supervisory procedures reasonably designed to achieve compliance with the applicable securities laws pertaining to trade reporting.

Gaines, Berland Inc. (Bethpage, New York) submitted a Letter of Acceptance, Waiver, and Consent pursuant to which the firm was censured, fined \$31,000, and required to pay \$9,617.62 in restitution and interest to public customers. Without admitting or denying the allegations, the firm consented to the described sanctions and to the entry of findings that the firm failed to use reasonable diligence to ascertain the best interdealer market, and failed to buy or sell in such market so that the resultant price to the customer was as favorable as possible under prevailing market conditions. The findings also stated that the firm reported transactions to ACT in violation of applicable securities laws and regulations regarding trade reporting, and failed to establish and maintain written supervisory procedures reasonably designed to achieve compliance with ACT rules, the Securities and Exchange Commission (SEC) Order Execution Rules, the Small Order Execution System[™] (SOES[™]) rules, and the trade reporting rules.

H. J. Meyers & Co., Inc.

(Rochester, New York) submitted a Letter of Acceptance, Waiver, and Consent pursuant to which the firm was censured and fined \$12,500. Without admitting or denying the allegations, the firm consented to the described sanctions and to the entry of findings that the firm failed to display immediately customer limit orders to ACT when orders were at a price that would have improved the firm's bid or offer in each security related to those orders, or when the full size of the orders was priced equal to the firm's bid or offer and the national best bid or offer and the orders represented more than a de minimis charge in relation to the size associated with the firm's bid or offer in each security. The findings also stated that the firm failed to establish, maintain, and enforce written supervisory procedures reasonably designed to achieve compliance with the applicable rules regarding trade reporting, anti-competitive practices, and order handling.

Merrill Lynch, Pierce, Fenner & Smith Incorporated (New York, New York) submitted a Letter of Acceptance, Waiver, and Consent pursuant to which the firm was censured, fined \$25,000, and required to undertake additional corrective actions to prevent future violations. Without admitting or denying the allegations, the firm consented to the described sanctions and to the entry of findings that it was named as a respondent in certain arbitration proceedings filed with the NASD by various public customers who included demands for punitive damages and/or attorneys' fees in the proceedings. According to the findings, each of the customers signed an agreement with the firm stating that the terms of the agreement would be governed by the laws of the state of New York. The NASD determined that in some of these proceedings, Merrill Lynch asserted that New York law applied to the proceeding by virtue of the governing law clause in the customer agreement and therefore precluded an award of punitive damages or attorneys' fees, in violation of IM-3110(f)(4).

Individuals Barred Or Suspended

Derick Raymond Adamson (Registered Representative, Glassboro, New Jersey) submitted an Offer of Settlement pursuant to which he was censured, fined \$50,000, barred from association with any NASD member in any capacity, and required to make restitution in the amount of \$14,576.46 to a public customer. Without admitting or denying the allegations, Adamson consented to the described sanctions and to the entry of findings that, without the prior knowledge, authorization, or consent of a public customer, he signed the customer's name on insurance application forms which permitted the issuance of \$93,451 in the name of the customer's son and electronic fund transfers from the customer's personal bank account. Adamson also caused the customer's address to be changed to his address. Moreover, the findings stated that Adamson signed the customer's signature on a Policy Record Audit Letter, without the customer's knowledge or consent, caused a \$1,600 loan to taken against the policy and mailed to his home address, and converted the check to his personal use and benefit. In addition. Adamson caused another customer's address to be changed, wrote checks totaling \$25,700 against the customer's account and converted the checks to his own use by depositing the checks into his personal bank

account. Adamson also signed the customer's name to a Flexible Premium Annuity application without the customer's knowledge, authorization, or consent. Adamson also failed to respond to NASD requests for information.

Dale Richard Altman (Registered Representative, Pittsburgh, Pennsylvania) submitted a Letter of Acceptance, Waiver, and Consent pursuant to which he was censured, fined \$50,000, and barred from association with any NASD member in any capacity. The sanctions were based on findings that Altman signed the name of a public customer to an Authorization to Liquidate, Exchange and/or Change Broker/Dealer Form, without her knowledge or consent, causing the transfer of her IRA account to his member firm.

Michael Edward Anniuk (Registered Representative, Racine, Wisconsin) submitted a Letter of Acceptance, Waiver, and Consent pursuant to which he was censured. fined \$335,000, and barred from association with any NASD member in any capacity. Without admitting or denving the allegations. Anniuk consented to the described sanctions and to the entry of findings that he accepted personal checks for the purchase of annuity contracts from public customers that he deposited in his personal account and converted to his own use. Anniuk also failed to respond to NASD requests for information.

Percy Barr (Registered Representative, Greenwood, Mississippi) submitted an Offer of Settlement pursuant to which he was censured, fined \$373,500, barred from association with any NASD member in any capacity, and required to pay \$49,700 in restitution to the appropriate parties. Without admitting or denying the allegations, Barr consented to the described sanctions and to the entry

of findings that he received payments totaling \$49,700 from public customers for the purchase of, and as payment on, annuities and mutual funds. The NASD found that Barr failed and neglected to submit these funds to his member firm on the customers' behalf, and instead converted the funds to his own use and benefit, without the customers' knowledge or consent. The findings also stated that Barr failed to timely respond to NASD requests for information.

Jere Mease Bender (Registered Representative, Elizabethtown, Pennsylvania) submitted a Letter of Acceptance, Waiver, and Consent pursuant to which he was censured, fined \$5,000, and barred from association with any NASD member in any capacity. Without admitting or denying the allegations, Bender consented to the described sanctions and to the entry of findings that he collected funds from a public customer to be remitted in the payment of premiums on the customer's life insurance policy, but failed to remit the full amount received from the customer. The findings also stated that Bender made material misstatements and omitted material facts concerning his dealings with the customer during an internal inquiry conducted by his member firms.

Alan Barrie Best (Registered Representative, Vancouver, Washington) submitted a Letter of Acceptance, Waiver, and Consent pursuant to which he was censured, fined \$75,000, and barred from association with any NASD member in any capacity. Without admitting or denying the allegations, Best consented to the described sanctions and to the entry of findings that he participated in private securities transactions and failed to provide written notification to his member firm describing in detail the proposed transactions, his proposed role therein, and stating whether he had received or might receive selling

compensation in connection with the transactions.

Jack Charles Biondolillo (Registered Representative, Scottsdale, Arizona) submitted a Letter of Acceptance, Waiver, and Consent pursuant to which he was censured, fined \$142,686,94, and barred from association with any NASD member in any capacity. Without admitting or denying the allegations, Biondolillo consented to the described sanctions and to the entry of findings that he arranged to have an impostor take the Series 7 and 63 exams on his behalf.

Charles Douglas Brown (Registered Representative, Apache Junction, Arizona) submitted a Letter of Acceptance, Waiver, and Consent pursuant to which he was censured, fined \$25,000, suspended from association with any NASD member in any capacity for 90 days, and required to pay \$50,000 in restitution to public customers. Without admitting or denying the allegations, Brown consented to the described sanctions and to the entry of findings that he engaged in outside business activities and private securities transactions, without giving prior written notice to his member firms.

William George Brunner (Registered Representative, Huntington, New York) submitted a Letter of Acceptance, Waiver, and Consent pursuant to which he was censured, fined \$20,000, suspended from association with any NASD member in any capacity for 30 days, required to requalify as a general securities representative, and ordered to demonstrate that restitution in the amount of \$24,781.25 has been made to a public customer or that he has paid the customer such amount as has been determined by an arbitration or other proceeding or settlement to be owed to the customer by Brunner. The fine of \$20,000 shall be reduced, dollar for dollar, by the amount of any restitution payments made to the customer. However, the fine shall not be reduced less than \$10,000. Without admitting or denying the allegations, Brunner consented to the described sanctions and to the entry of findings that he made material misrepresentations and omitted to disclose material facts in connection with his recommendations of securities to public customers. The findings also stated that Brunner made fraudulent price predictions in connection with his recommendation of securities and failed to execute the sell order of a public customer.

Robert Francis Carlton (Registered Representative, Aberdeen, New Jersey) submitted a Letter of Acceptance, Waiver, and Consent pursuant to which he was censured, fined \$39,575, and barred from association with any NASD member in any capacity. Without admitting or denying the allegations, Carlton consented to the described sanctions and to the entry of findings that he converted dividend withdrawal and refund checks totaling \$7,915 received from insurance customers for his own use by endorsing checks given to him for reinvestment or by forging customers' signatures on checks never delivered to the customers and depositing them into his personal bank account.

James Maurice Cassidy (Registered Representative, East Hampton, New York) was censured, fined \$35,000, and barred from association with any NASD member in any capacity. The sanctions were based on findings that Cassidy failed to respond to NASD requests for information.

Jerry Enrique Chaverri (Registered Principal, DeSoto, Texas) submitted a Letter of Acceptance, Waiver, and Consent pursuant to which he was censured, fined \$2,500, suspended from association with any NASD member in any capacity for one year, and required to regualify by exam in

all capacities. Without admitting or denying the allegations, Chaverri consented to the described sanctions and to the entry of findings that he made improper use of customer funds by taking possession of a customer's check in the amount of \$900, depositing the funds into his personal bank account, and failing to forward the customer's funds to his member firm until a later date.

John Michael Columbia (Registered Principal, Staten Island, New York) was censured, fined \$5,000, suspended from association with any NASD member in any capacity for 10 business days, and required to requalify by exam in any capacity in which he seeks to participate in the securities industry. The NAC affirmed the sanctions following appeal of a New York DBCC decision. The sanctions were based on findings that Columbia executed an unauthorized transaction in the account of a public customer.

John Corona (Registered Representative, Howard Beach, New York) submitted an Offer of Settlement pursuant to which he was censured, fined \$50,000, barred from association with any NASD member in any capacity, and required to disgorge all monies earned by him while associated or otherwise employed in the securities industry after March 3, 1995, in the amount of at least \$5,000. Without admitting or denying the allegations, Corona consented to the described sanctions and to the entry of findings that he arranged to have an impostor take the Series 7 and 63 exams on his behalf. Corona also failed to respond to NASD requests for information and to appear for an on-the-record interview.

Denis C. J. Dancoes (Registered Principal, South Portland, Maine) submitted a Letter of Acceptance, Waiver, and Consent pursuant to which he was censured, fined \$25,000, and barred from association with any NASD member in any capacity. Without admitting or denying the allegations, Dancoes consented to the described sanctions and to the entry of findings that he failed to respond to NASD requests for information and documents.

Michael Walesby Davis (Registered Principal, Plano, Texas) submitted a Letter of Acceptance. Waiver, and Consent pursuant to which he was censured, fined \$125,000, barred from association with any NASD member in any capacity, and required to pay restitution in the amount of \$1,049,792. Without admitting or denying the allegations, Davis consented to the described sanctions and to the entry of findings that he participated in private securities transactions without providing prior written notice to his member firm, and participated in the operation of an unregistered broker/dealer. The findings also stated that Davis received funds from investors when no disclosure had been made to the investors that their funds would be used to pay broker/dealer expenses including payments to Davis.

Richard Kentner DeFreez (Registered Representative, Anchorage, Alaska) submitted a Letter of Acceptance, Waiver, and Consent pursuant to which he was censured, fined \$7,000, suspended from association with any NASD member in any capacity for seven business days, and required to requalify by exam as a general securities representative. Without admitting or denying the allegations. DeFreez consented to the described sanctions and to the entry of findings that he recommended purchases and sales of securities to public customers without having reasonable grounds for believing such transactions were suitable for them in view of the nature, size, and concentration of the recommended transactions and upon the basis of the facts disclosed by the customers as to their

other securities holdings and as to their financial situation, objectives, and needs.

Christopher B. Dolan (Registered Representative, Palm Beach Gardens, Florida) submitted a Letter of Acceptance, Waiver, and Consent pursuant to which he was censured, fined \$10,000, and suspended from association with any NASD member in any capacity for 90 days. The \$10,000 fine and the 90-day suspension shall be deemed paid and served by virtue of the \$10,000 fine and 90-day suspension imposed against Dolan by his member firm. Without admitting or denying the allegations, Dolan consented to the described sanctions and to the entry of findings that he effected unauthorized transactions in the account of public customers.

Dolan's suspension began October 23, 1997, and concluded January 21, 1998.

Barry Alan Druschel (Registered Representative, Ellicott City, Maryland) submitted a Letter of Acceptance, Waiver, and Consent pursuant to which he was censured, suspended from association with any NASD member in any capacity for six months, and required to requalify by exam as an investment company and variable contracts products representative. Without admitting or denying the allegations, Druschel consented to the described sanctions and to the entry of findings that he sold an annuity issued by his member firm to insurance customers which was to replace and be funded with the proceeds from two annuities the customers owned that were issued by another company. The NASD found that thereafter, acting under a mistaken belief of implied authority, but without express authorization from the customers and without their knowledge, Druschel signed their names to a document and submitted it to the other insurance company, directing it to transfer the funds from the existing annuities to his member firm.

Paul Alderic Dufresne (Registered Representative, West Buxton, Maine) submitted an Offer of Settlement pursuant to which he was censured, fined \$25,000, and barred from association with any NASD member in any capacity. Without admitting or denying the allegations, Dufresne consented to the described sanctions and to the entry of findings that he failed to respond to NASD requests for documents and information.

Robert Eric Dunlap (Registered Representative, Columbus, Indiana) submitted a Letter of Acceptance, Waiver, and Consent pursuant to which he was censured, fined \$1,000,000, barred from association with any NASD member in any capacity, and required to provide proof of restitution to customers with any future application for association with a member firm. Without admitting or denying the allegations, Dunlap consented to the described sanctions and to the entry of findings that he received funds totaling \$79,788.93 from insurance customers with instructions to use the funds as payment on an insurance policy or to purchase insurance polices or certificates of deposit. The findings stated that Dunlap failed to follow the customers' instructions, used only \$400 to pay a customer's insurance policy, and used the remainder of the funds for some purpose other than the benefit of the customers. Dunlap also obtained a total of \$354,000 in loans or withdrawals from insurance polices of a public customer, without the approval of the customer, and used the funds for some purpose other than the benefit of the customer. In addition, Dunlap participated in private securities transactions and failed and neglected to give written notice of his intention to engage in such activities to his member firms and to receive

their written approval. Dunlap also failed to respond to NASD requests for information.

Mark Thomas Ennis (Registered Representative, Littleton, Massachusetts) submitted a Letter of Acceptance, Waiver, and Consent pursuant to which he was censured and barred from association with any NASD member in any capacity. Without admitting or denying the allegations. Ennis consented to the described sanctions and to the entry of findings that he signed a public customer's name to a Request for Partial Withdrawal of \$16,000 from the customer's fixed annuity contract, arranged for the negotiation of the withdrawal check, and converted the proceeds to his own use and benefit. without the knowledge or consent of the customer.

John Roger Faherty (Registered Principal, Spring Lake, New Jersey) was censured, fined \$150,000, and barred from association with any NASD member in any capacity. The NAC imposed the sanctions following appeal of a Market Regulation Committee decision. The sanctions were based on findings that Faherty aided and abetted his member firm's manipulation of securities.

Faherty has appealed this action to the SEC and the sanctions, other than the bar, are not in effect pending consideration of the appeal.

Gary Michael Ferone (Registered Representative, Tuckahoe, New York) submitted an Offer of Settlement pursuant to which he was censured, fined \$250,000, barred from association with any NASD member in any capacity, ordered to disgorge \$14,070 in commissions, and make restitution in the amount of \$469,000. Without admitting or denying the allegations, Ferone consented to the described sanctions and to the entry of findings that he engaged in private

securities transactions and failed to give prior notice to and receive consent from his member firm to engage in such activities. The findings also stated that Ferone engaged in the sale of unregistered securities. Furthermore, the NASD determined that Ferone recommended the purchase of securities to public customers without having reasonable grounds for believing that such recommendations were suitable for the customers based upon the customers' financial situations, needs, and stated investment objectives, and induced public customers to purchase securities by means of misrepresentations and omissions of material facts. Also, the NASD found that Ferone failed to register as a broker or dealer with the SEC and functioned in the capacity of a general securities representative without the benefit of proper registration with the NASD.

John Loras Finn (Registered Principal, Dubuque, Iowa) submitted an Offer of Settlement pursuant to which he was censured, fined \$25,000, and barred from association with any NASD member in any capacity. Without admitting or denying the allegations, Finn consented to the described sanctions and to the entry of findings that he failed to respond to NASD requests for information.

Steven Ladd Fritz (Registered Principal, Tulsa, Oklahoma) submitted an Offer of Settlement pursuant to which he was censured and barred from association with any NASD member in any capacity. Without admitting or denying the allegations, Fritz consented to the described sanctions and to the entry of findings that he effected unauthorized withdrawals and/or transfers involving an estimated \$1.785.749 from the accounts of public customers. The NASD determined that Fritz converted approximately \$598,428 of these funds to his own use and benefit, without the customers' knowledge or consent, by

forging customers' signatures to Letters of Authorization, preparing and sending false account statements to the customers, and making false and misleading statements in an effort to conceal these activities. The findings also stated that Fritz failed to respond to NASD requests for information.

Daniel James Gallagher (Registered Representative, Roslyn, New York) submitted an Offer of Settlement pursuant to which he was censured, fined \$15,000, suspended from association with any NASD member in any capacity for six months, and required to requalify by Series 7 exam prior to acting in that capacity. Without admitting or denying the allegations, Gallagher consented to the described sanctions and to the entry of findings that he made baseless and improper price predictions as to a speculative security to a public customer and made unauthorized trades in the accounts of public customers. The findings also stated that Gallagher made a false statement to a customer. about an issuer's securities and improperly discouraged or failed to execute sell orders.

Ashton Noshir Gowadia (Registered Representative, Newport Beach, California) was fined \$10,000, suspended from association with any NASD member in any capacity for one year, and required to requalify as a general securities representative. The SEC affirmed the sanctions following appeal of a November 1997 National Business Conduct Committee (NBCC) decision. The sanctions were based on findings that Gowadia failed to respond to NASD requests for information.

Stuart S. Greenberg (Registered Principal, Agoura Hills, California) submitted a Letter of Acceptance, Waiver, and Consent pursuant to which he was censured, fined \$10,000, and suspended from association as a general securities principal

for 10 business days. Without admitting or denying the allegations, Greenberg consented to the described sanctions and to the entry of findings that he permitted an individual subject to a statutory disqualification to function as an associated person of a member firm without having sought and obtained approval for such association from the NASD through its eligibility proceedings. The findings also stated that a member firm, acting under the direction and control of Greenberg, failed to have and maintain sufficient net capital as a result of Greenberg knowingly writing a bad check in the amount of \$100,000.

Debra Lynn Hart (Registered Representative, Tallahassee, Florida) submitted a Letter of Acceptance, Waiver, and Consent pursuant to which she was censured, fined \$117,070, and barred from association with any NASD member in any capacity. Without admitting or denying the allegations, Hart consented to the described sanctions and to the entry of findings that she received funds totaling \$23,414 from public customers for investment purposes and converted the funds to her own use and benefit.

Bryan Jay Herman (Registered Principal, Kings Point, New York) was censured, fined \$50,000, and barred from association with any NASD member in any capacity. The sanctions were based on findings that Herman failed to respond to NASD requests for information and to appear for an on-the-record interview.

Ronald Lee Holifield (Registered Representative, Laurel, Mississippi) and Reginald Glen Holifield (Registered Representative, Laurel, Mississippi) submitted a Letter of Acceptance, Waiver, and Consent pursuant to which Ronald Holifield was censured, fined \$50,000, and barred from association with any NASD member in any capacity, and

Reginald Holifield was censured, fined \$10,000, suspended from association with any NASD member in any capacity for two years, and barred from association with any NASD member in any principal capacity. Without admitting or denying the allegations, the respondents consented to the described sanctions and to the entry of findings that Ronald Holifield engaged in private securities transactions without prior written notice to and approval from his member firm. The findings also stated that Reginald Holifield failed and neglected to exercise reasonable and proper supervision over Ronald Holifield in that he failed to monitor or report on private securities transactions being conducted by Ronald Holifield.

Michael Hyat (Registered Principal, San Diego, California) submitted a Letter of Acceptance, Waiver, and Consent pursuant to which he was censured, fined \$24,308.58, and suspended from association with any NASD member in any capacity for 30 days. Without admitting or denying the allegations, Hyat consented to the described sanctions and to the entry of findings that he entered into an arrangement with a registered individual employed at another broker/dealer to participate in private securities transactions and to execute orders away from the outside sales representative's firm, without notifying his member firm, either orally or in writing of this arrangement.

Morton Kirschenbaum (Registered Principal, San Mateo, California) submitted an Offer of Settlement pursuant to which he was censured, fined \$5,000, and suspended from association with any NASD member in any capacity for 10 days. Without admitting or denying the allegations, Kirschenbaum consented to the described sanctions and to the entry of findings that he failed to establish, maintain, and enforce a system to supervise the activities of his member

firm's Office of Supervisory Jurisdiction that was reasonably designed to achieve compliance with applicable securities laws and regulations and with the rules of the NASD.

Lori Sue Koppel-Heath (Registered Principal, Trabuco Canyon, California) was censured, fined \$59,021.31, suspended from association with any NASD member in any capacity for 30 days, and required to requalify by exam as a general securities representative before again acting in that capacity. The NAC imposed the sanctions following appeal of a Los Angeles DBCC decision. The sanctions were based on findings that Koppel-Heath recommended purchases, sales, and redemptions of mutual funds, unit investment trust shares. and other investments in public customer accounts without having reasonable grounds for believing that they were suitable for the customers in view of the size, frequency, and nature of the recommended transactions, and the facts disclosed by the customers as to their other securities holdings, financial situation, circumstances, and needs.

Richard Raymond Langevin (Registered Principal, Worcester, Massachusetts) submitted a Letter of Acceptance, Waiver, and Consent pursuant to which he was censured, fined \$5,000, and barred from association with any NASD member in any capacity. Without admitting or denying the allegations, Langevin consented to the described sanctions and to the entry of findings that he signed a public customer's name to an insurance policy rider without the knowledge or consent of the customer.

Jaime Enrique Lemus (Registered Representative, Miami, Florida) submitted a Letter of Acceptance, Waiver, and Consent pursuant to which he was censured, fined \$50,000, and barred from association with any NASD member in any capacity. Without admitting or denying

the allegations, Lemus consented to the described sanctions and to the entry of findings that he forged the signature of a public customer on documents to facilitate the liquidation of a fixed annuity owned by the customer. The findings also stated that Lemus forged the customer's signature on the \$24,462 annuity liquidation check and converted the proceeds by depositing the check into his personal business account. Lemus also failed to respond to an NASD request for information.

Gregg Robert Leslie (Registered Representative, La Costa, California) submitted a Letter of Acceptance, Waiver, and Consent pursuant to which he was censured, fined \$45,241.42, and suspended from association with any NASD member in any capacity for six months. Without admitting or denying the allegations, Leslie consented to the described sanctions and to the entry of findings that he entered into an arrangement with a registered individual at another broker/dealer to execute orders away from Leslie's member firm and participated in private securities transactions through the other broker/dealer, without notifying his member firm, either orally or in writing, of this arrangement.

Alan Scott Lipsky (Registered Principal, Kings Point, New York) was censured, fined \$50,000, and barred from association with any NASD member in any capacity. The sanctions were based on findings that Lipsky failed to respond to NASD requests for information and to appear for an on-the-record interview.

Dean Joseph LoBrutto (Registered Representative, East Rochester, New York) submitted a Letter of Acceptance, Waiver, and Consent pursuant to which he was censured, fined \$10,000, and suspended from association with any NASD member in any capacity for 10 business days. Without admitting or denying the alle-

gations, LoBrutto consented to the described sanctions and to the entry of findings that he participated in private securities transactions and failed to provide prior written notice to his member firm describing the transactions and his role therein.

Steven Terrell Mayes (Registered Representative, Oak Ridge, Tennessee) was censured, fined \$53,500, and barred from association with any NASD member in any capacity. The sanctions were based on findings that Mayes converted \$1,700 in customer funds, intended for the purchase of shares in a mutual fund. Mayes also failed to respond to NASD requests for information and documents.

Robert Gerard McAllister (Registered Principal, Sea Girt, New Jersey) submitted an Offer of Settlement pursuant to which he was censured, fined \$5,000, and suspended from association with any NASD member in any capacity for 30 days. Without admitting or denying the allegations, McAllister consented to the described sanctions and to the entry of findings that he failed to respond to NASD requests for information.

Timothy Eric McKeon (Registered Principal, Holbrook, New York) submitted an Offer of Settlement pursuant to which he was censured, fined \$86,312, barred from association with any NASD member in any capacity, and ordered to pay restitution to customers in the amount of \$35,447. Without admitting or denying the allegations, McKeon consented to the described sanctions and to the entry of findings that he made material misrepresentations, omitted material information, and made fraudulent price predictions in the offer and sale of securities. The findings also stated that McKeon executed unauthorized transactions and failed to follow customer instructions.

NASD Notices to Members—Disciplinary Actions

December 1998

Russell Wayne Millard (Registered Representative, Hemet, California) submitted an Offer of Settlement pursuant to which he was censured, fined \$20,000, suspended from association with any NASD member in any capacity for two years, and ordered to offer rescission to investors, and to the extent the offer of rescission was accepted by any investors, Millard was ordered to exchange such investor's interests in the investment for full and complete restitution. Without admitting or denying the allegations, Millard consented to the described sanctions and to the entry of findings that he participated in contingent offerings and failed to deposit and retain customer funds in separate escrow accounts until the minimum number of units had been sold. Instead the funds were intentionally commingled with funds from other sources and used to cover, among other things, operating costs of affiliates and interest payments to investors of other private placements.

Joseph J. Miniaci (Registered Representative, Brooklyn, New York) was censured, fined \$35,000, and barred from association with any NASD member in any capacity. The sanctions were based on findings that Miniaci failed to respond to NASD requests for information.

Richard Gabriel Murphy (Registered Representative, Indianapolis, Indiana) submitted a Letter of Acceptance, Waiver, and Consent pursuant to which he was censured, fined \$18,000, and barred from association with any NASD member in any capacity. Without admitting or denying the allegations, Murphy consented to the described sanctions and to the entry of findings that he obtained a total of \$1,500 in cash withdrawn from the bank account of a public customer without the knowledge or consent of the customer and used the funds for some purpose other than for the benefit of the customer.

Randy Harris Narod (Registered Representative, Oceanside, New York) submitted an Offer of Settlement pursuant to which he was censured, fined \$50,000, barred from association with any NASD member in any capacity, and required to disgorge all monies earned by him while associated or otherwise employed in the securities industry after September 11. 1995, in the amount of at least \$1,000. Without admitting or denying the allegations, Narod consented to the described sanctions and to the entry of findings that he arranged to have an impostor take the Series 7 and 63 exams on his behalf. Narod also failed to respond to NASD requests to appear for an on-therecord interview.

Robert Edward Nicolosi (Registered Representative, Baldwin, New York) submitted a Letter of Acceptance, Waiver, and Consent pursuant to which he was censured, fined \$70,000, barred from association with any NASD member in any capacity, and required to pay \$41,970 in restitution to a public customer. Without admitting or denying the allegations, Nicolosi consented to the described sanctions and to the entry of findings that he made material misrepresentations and omitted to disclose material facts in connection with his recommendations of securities to public customers. The findings also stated that Nicolosi made fraudulent price predictions in connection with his recommendations of securities to public customers, entered orders to purchase securities in the accounts of a public customer without first obtaining the authorization of the customer, and failed to testify truthfully at an NASD on-the-record interview.

David William Noble (Registered Principal, Flemington, New Jersey) submitted a Letter of Acceptance, Waiver, and Consent pursuant to which he was censured, fined \$10,000, and suspended from associ-

ation with any NASD member in any capacity for 15 business days. Without admitting or denying the allegations, Noble consented to the described sanctions and to the entry of findings that he aided and abetted his member firm and its president in an unlawful, unregistered distribution of common stock by executing "wash" and "matched" trades with two other broker/dealers. These transactions artificially inflated the reported trading volume in the stock and aided and abetted his member firm and its president in violating a provision in the firm's restriction agreement that prohibited principal retail trading. The NASD also found that Noble failed to reflect the circular nature of the trades in his firm's books and records, thereby causing them to be inaccurate and incomplete.

Peter David Ottaviano (Registered Representative, Colchester, Connecticut) submitted a Letter of Acceptance, Waiver, and Consent pursuant to which he was censured, fined \$402,000, barred from association with any NASD member in any capacity, and required to make restitution in the amount of \$46,355 to his member firm. Without admitting or denying the allegations, Ottaviano consented to the described sanctions and to the entry of findings that he received funds totaling \$78,355 from public customers intended for the purchase of non-securities products. The NASD found that Ottaviano failed to use the funds as intended or in any other manner for the benefit of the customers, and instead used them for his own benefit.

Michael Anthony Pellegrino (Registered Representative, Brooklyn, New York) submitted an Offer of Settlement pursuant to which he was censured, fined \$50,000, barred from association with any NASD member in any capacity, and required to disgorge all monies earned by him while associated or otherwise employed in

the securities industry after October 26, 1995. Without admitting or denying the allegations, Pellegrino consented to the described sanctions and to the entry of findings that he had an impostor take the Series 7 exam on his behalf. Pellegrino also failed to respond to NASD requests to appear for an on-the-record interview.

George Perez, Jr. (Associated Person, Bronx, New York) submitted a Letter of Acceptance, Waiver, and Consent pursuant to which he was censured, fined \$7,500, and suspended from association with any NASD member in any capacity for six months. Without admitting or denying the allegations, Perez consented to the described sanctions and to the entry of findings that he submitted a Form U-4 that failed to disclose a felony conviction.

Jon David Raymond (Registered Representative, Seattle, Washington) submitted a Letter of Acceptance, Waiver, and Consent pursuant to which he was censured, fined \$67,000, and barred from association with any NASD member in any capacity. Without admitting or denying the allegations, Raymond consented to the described sanctions and to the entry of findings that he exercised discretion in the accounts of a public customer without obtaining prior written authorization from the customer and written acceptance by his member firm of the account as discretionary. The findings also stated that Raymond recommended, and executed, transactions on margin in the customer's securities accounts, without having reasonable grounds for believing that such recommendations were suitable for the customer.

George Alfred Rendon (Registered Principal, Laguna Niguel, California) submitted a Letter of Acceptance, Waiver, and Consent pursuant to which he was censured, fined \$10,000, and suspended from associ-

ation with any NASD member in any capacity for one year. Without admitting or denying the allegations, Rendon consented to the described sanctions and to the entry of findings that he participated in private securities transactions but failed to provide prior written notification to his member firm.

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

Roderick James Rieman (Registered Representative, Naperville, Illinois) submitted a Letter of Acceptance, Waiver, and Consent pursuant to which he was censured, fined \$8,900, and suspended from association with any NASD member in any capacity for six months. Without admitting or denying the allegations, Rieman consented to the described sanctions and to the entry of findings that he participated in private securities transactions and failed to give written notice of his intention to engage in such activities to his member firm, and to receive written approval from the firm prior to engaging in such activities.

Vincent Natale Scalese (Registered Representative, Groton, Massachusetts) submitted a Letter of Acceptance, Waiver, and Consent pursuant to which he was censured, fined \$360,000, and barred from association with any NASD member in any capacity. Without admitting or denying the allegations, Scalese consented to the described sanctions and to the entry of findings that, without the knowledge or consent of the ben-

eficiaries of the estate of a public customer, he misused funds totaling \$69,404.25 by signing the decedent's name to a check, removing cash from the decedent's safe deposit box, and changing the address of record for the estate of the decedent's trust fund to an address under his control.

Marc Walter Schulz (Registered Principal, Rockford, Illinois) submitted an Offer of Settlement pursuant to which he was censured, fined \$5,000, and suspended from association with any NASD member in any capacity for 10 business days. Without admitting or denying the allegations, Schulz consented to the described sanctions and to the entry of findings that he engaged in the purchases and sales of securities for the account of a public customer without having a reasonable basis for believing that the recommendations and resultant transactions were suitable for the customer based upon the facts known to him concerning the nature of the securities, the concentration of similar securities purchased by the customer, the customer's age, investment history, education, need for liquidity, investment objectives, and financial situation and needs.

Russell Thomas Tansey (Registered Representative, Amherst, Ohio) submitted an Offer of Settlement pursuant to which he was censured, fined \$25,000, and barred from association with any NASD member in any capacity. Without admitting or denying the allegation, Tansey consented to the described sanctions and to the entry of findings that he failed to respond to NASD requests for information.

Waldith George Thompson (Registered Representative, Coral Springs, Florida) was censured, fined \$85,000, and barred from association with any NASD member in any capacity. The sanctions were based on findings that Thompson received

funds totaling \$10,285 from an insurance customer intended for investment in an insurance plan. Contrary to the misrepresentations Thompson made to the customer, he never invested any of the customer's funds in the plan or any other investment or products offered by his member firm, used the customer's funds for another purpose, and failed to reimburse the customer. Thompson failed to respond to NASD requests for information.

Peter Robert Trapani (Registered Representative, Oakbrook Terrace, Illinois) submitted an Offer of Settlement pursuant to which he was censured, fined \$7,500, suspended from association with any NASD member in any capacity for five business days, and required to take and pass all examinations for the capacities in which he wishes to function with an NASD member. Without admitting or denying the allegations, Trapani consented to the described sanctions and to the entry of findings that he participated in private securities transactions and failed to give written notice of his intention to engage in such activities to his member firm and receive written acknowledgment or approval from his firm prior to engaging in such activities. The findings also stated that Trapani opened several brokerage accounts in which he had a financial interest and/or discretionary trading authority at other firms, and failed to give written notice to his member firm of the accounts, and failed to give written notice to the other member firms of his association with a member firm. Furthermore, the NASD determined that Trapani purchased shares of common stock the first day of trading in the secondary market that traded at a premium in the immediate aftermarket in contravention of the NASD Board of Governors' Free-Riding and Withholding Interpretation.

Horacio Garcia Valle (Registered Representative, Dallas, Texas) sub-

mitted an Offer of Settlement pursuant to which he was censured, fined \$10,000, suspended from association with any NASD member in any capacity for five business days, and required to honor an arbitration award by paying his member firm \$15,000 and \$3,000 each month thereafter until the award is satisfied. Without admitting or denying the allegations, Valle consented to the described sanctions and to the entry of findings that he failed to honor a New York Stock Exchange arbitration award in the amount of \$53,252.21.

Richard Herbert Walls (Registered Representative, Lubbock, Texas) submitted a Letter of Acceptance, Waiver, and Consent pursuant to which he was censured, fined \$15,000, and suspended from association with any NASD member in any capacity for six months. Without admitting or denying the allegations, Walls consented to the described sanctions and to the entry of findings that he recommended to and effected the purchase of securities for public customers outside of the regular course or scope of his association with his member firm and failed to provide the firm with written notice detailing the transactions, his proposed role therein and whether he had or would receive selling compensation in connection with these securities transactions.

Leo Douglas Walter (Registered Representative, Clearwater, Florida) submitted a Letter of Acceptance, Waiver, and Consent pursuant to which he was censured, fined \$75,000, and barred from association with any NASD member in any capacity. Without admitting or denying the allegations, Walter consented to the described sanctions and to the entry of findings that he misappropriated at least \$14,431.29 in premium payments made by customers for insurance policies.

Charles Edward Waterfall (Registered Principal, Royal Oak, Michigan) submitted a Letter of Acceptance, Waiver, and Consent pursuant to which he was censured, fined \$7,500, and suspended from association with any NASD member in any capacity for 40 business days (28 business days of which shall be deemed served by virtue of the 28-business day suspension imposed against him by his member firm). Without admitting or denying the allegations, Waterfall consented to the described sanctions and to the entry of findings that he entered into a settlement agreement with a public customer without informing his member firms of his actions or the customer's complaint and its resolution. The findings also stated that Waterfall failed to amend his Form U-4 to disclose the settlement agreement.

Waterfall's suspension began January 31, 1997 and concluded March 12, 1997.

Larry Anthony White (Registered Representative, Sarasota, Florida) submitted a Letter of Acceptance, Waiver, and Consent pursuant to which he was censured, fined \$10,000, and barred from association with any NASD member in any capacity. Without admitting or denying the allegations, White consented to the described sanctions and to the entry of findings that he signed the names of public customers on new account applications and mutual fund disclosure forms without their prior knowledge or authorization.

Thomas Charles Winn (Registered Principal, Haverstraw, New York) submitted a Letter of Acceptance, Waiver, and Consent pursuant to which he was censured, fined \$30,000, and barred from association with any NASD member in any capacity. Without admitting or denying the allegations, Winn consented to the described sanctions and to the entry

of findings that he participated in private securities transactions and failed to provide written notice to his member firm describing the proposed transactions. The findings also stated that Winn failed to respond to NASD requests for an on-the-record interview.

John Nicholas Withum (Registered Representative, Milltown, New Jersey) submitted an Offer of Settlement pursuant to which he was censured. fined \$25,000, and barred from association with any NASD member in any capacity. Without admitting or denying the allegations, Withum consented to the described sanctions and to the entry of findings that, without the customer's knowledge or authorization, he forged a public customer's signature on Disbursement Request forms pursuant to which money was borrowed from one of the customer's insurance policy to pay premiums on a subsequent insurance policy.

Todd Alan Zonca (Registered Principal, Howell, Michigan) submitted a Letter of Acceptance, Waiver, and Consent pursuant to which he was censured, fined \$66,000, and barred from association with any NASD member in any capacity. Without admitting or denying the allegations, Zonca consented to the described sanctions and to the entry of findings that he withdrew a total of \$11,200 from the money market mutual fund of a public customer and used the funds for some purpose other than the benefit of the customer, without the knowledge or consent of the customer.

Vladislav Steven Zubkis (Registered Representative, Bonita, California) was censured, fined \$20,000, and barred from association with any NASD member in any capacity. The SEC affirmed the sanctions following appeal of an August 1997 NBCC decision. The sanctions were based on findings that Zubkis failed to

respond to NASD requests for information and to provide testimony.

Individuals Fined

Michael William Adams (Registered Representative, Rowland Heights, California) submitted an Offer of Settlement pursuant to which he was censured, fined \$15,000, and required to requalify by exam as a general securities representative. Without admitting or denying the allegations, Adams consented to the described sanctions and to the entry of findings that he recommended numerous purchase and sale transactions in various securities accounts of public customers without having reasonable grounds for believing that they were suitable for the customers and accounts in view of the size. frequency, and nature of the recommended transactions and the facts disclosed by the customers as to their financial situation, objectives, circumstances, and needs. The findings also stated that Adams induced these purchase and sale transactions by means of manipulative, deceptive, or other fraudulent devices or contrivances.

Kenneth Eugene Banwart, Sr. (Registered Principal, Newport, Kentucky) submitted a Letter of Acceptance, Waiver, and Consent pursuant to which he was censured and fined \$14,639. Without admitting or denying the allegations, Banwart consented to the described sanctions and to the entry of findings that he failed to provide written notice to his member firms that he had opened a securities account with another firm and failed to provide written notice to the executing firm, that he was registered with other member firms. The findings also stated that Banwart purchased shares of units of public offerings that traded at a premium when the secondary market commenced for each security.

Christopher John Benz (Registered Principal, Santa Monica, California) was censured, fined \$7,500, and required to requalify by exam as a general securities principal before acting in a principal capacity. The U.S. Court of Appeals affirmed the sanctions following appeal of a March 1997 SEC decision. The sanctions were based on findings that Benz failed to supervise a registered representative adequately and failed to enforce his member firm's supervisory procedures.

Decisions Issued

The following decisions have been issued by the DBCC or the Office of Hearing Officers and have been appealed to or called for review by the NAC as of November 23, 1998. The findings and sanctions imposed in the decision may be increased, decreased, modified, or reversed by the NAC. Initial decisions whose time for appeal has not yet expired will be reported in the next *Notices to Members*.

Robert Fitzpatrick (Registered Principal, Clifton Park, New York) was fined \$2,500, and suspended from association with any NASD member in any capacity for 15 business days. The sanctions were based on findings that Fitzpatrick failed to respond to NASD requests for information in a timely manner.

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

Hattier, Sanford & Reynoir, L.L.P (New Orleans, Louisiana) and Gus A. Reynoir (Registered Principal, New Orleans, Louisiana). The firm and Renoir withdrew their appeal and the NAC subsequently called the case for review. The sanctions are not in effect pending consideration of the review.

Complaints Filed

The following complaints were issued by the NASD. Issuance of a disciplinary complaint represents the initiation of a formal proceeding by the NASD in which findings as to the allegations in the complaint have not been made, and does not represent a decision as to any of the allegations contained in the complaint. Because these complaints are unadjudicated, you may wish to contact the respondents before drawing any conclusions regarding the allegations in the complaint.

Paul Michael Acosta (Registered Representative, Naples, Florida)

was named as a respondent in an NASD complaint alleging that he received over \$1,054,000 from public customers for investment purposes, actually invested only \$150,000 of the total funds, and converted the remaining funds for his own use and benefit and the benefit of a business with which he was associated. The complaint also alleges that Acosta knowingly prepared and provided a public customer with account statements which misrepresented that the customer held investments which did not exist, and failed to disclose that a portion of the customer's funds had been converted and misappropriated. The complaint alleges that Acosta failed to provide prompt written notification of his employment with an outside corporation to either of his member firms. The complaint also alleges that Acosta failed to respond to NASD requests for information.

Thomas Owen Combs (Registered Representative, Memphis, Tennessee) was named as a respondent in an NASD complaint alleging that he received \$4,000 in the form of checks from a public customer for the purpose of investing in variable annuities for her children, failed and neglected to establish the variable annuity accounts on the children's behalf, and instead converted the

\$4,000 to his own use and benefit without the customer's knowledge or consent. The complaint also alleges that Combs effected an unauthorized loan transaction in the amount of \$3,089 against the whole life insurance policy account of another public customer, then used these funds to establish a new variable life insurance policy on behalf of the customer, without the customer's knowledge or consent. The complaint also alleges that Combs failed to respond to NASD requests for information.

Wayne Adam Garfinkel (Registered Representative, Boca Raton,

Florida) was named as a respondent in an NASD complaint alleging that he recommended and implemented a course of unsuitable and excessive trading in the account of a public customer.

George W. Guttman (Registered Principal, Brooklyn, New York) was named as a respondent in an NASD complaint alleging that he exercised discretion in the account of a public customer without having obtained prior written authorization from the customer and prior written acceptance of the account as discretionary by Guttman's member firm. The complaint alleges that Guttman settled a public customer complaint without the prior knowledge or consent of his member firm. The complaint also alleges that Guttman falsely represented to the customer that his firm had agreed to reimburse the customer for the unauthorized trade, without the prior knowledge and consent of the member firm. The complaint also alleges that Guttman effected unauthorized transactions in the accounts of public customers without the customers' knowledge or consent. The complaint also alleges that Guttman guaranteed a public customer against loss by promising he would reimburse the customer for any loss.

Lawrence Ralph Kassl (Registered Representative, Danville, Illinois) was named as a respondent in an NASD complaint alleging that he received checks in the amount of \$10.500 from a public customer with instructions to deposit the funds in an existing variable annuity. The complaint alleges that, contrary to the customer's instructions and without her knowledge or consent. Kassl deposited the checks in a bank account in which he had an interest or controlled, and used the customer's funds for some purpose other than the benefit of the customer.

Pier Luccarelli (Registered Principal, Fairfax, Virginia) was named as a respondent in an NASD complaint alleging that he falsely told a public customer that the value of securities accounts as set forth on the customer's monthly account statements was incorrect, and misled the customer as to the true current value of the accounts.

Michael Andrew Maher (Registered Representative, Portland, Oregon) was named as a respondent in an NASD complaint alleging that he withdrew at least \$12,097.97 from a scholarship fund operated by employees of his member firm, without the knowledge or approval of the scholarship fund's Board of Directors, and used the funds for his own personal use and benefit.

Roy Wayne Matheny (Registered Representative, Calhoun,

Louisiana) was named as a respondent in an NASD complaint alleging that he effected check withdrawals totaling approximately \$143,435 from the account of a public customer and converted these funds to his own use and benefit by forging the customer's endorsement on the checks and depositing them into an account without the customer's knowledge or consent. The complaint also alleges

that Matheny received a check in the amount of \$50,000 from the public customer for the purpose of investing in a mutual fund, failed and neglected to purchase shares in the mutual fund, and instead converted the funds to his own use and benefit by affixing a firm stamp on the check and depositing it into an account without the customer's knowledge or consent. The complaint also alleges that Matheny failed to respond to NASD requests for information.

Joseph Edward Mattera (Registered Representative, Medford, New York) was named as a respondent in an NASD complaint alleging that he made material misrepresentations and omitted to disclose material facts in connection with his solicitations to induce public customers to purchase securities. The complaint also alleges that Mattera predicted the future prices of securities to public customers when he knew that he did not have a reasonable basis for his predictions, and that his predictions were materially misleading to the persons he was soliciting. The complaint also alleges that Mattera effected the purchase of securities in the accounts of customers without having obtained the prior authorization of the customers, then attempted to collect payment for one of the unauthorized transactions by stating or implying that the customer's credit rating would be damaged if payment was not made.

McLaughlin, Piven, Vogel Securities, Inc. (New York, New York) and James Cecil McLaughlin (Registered Principal, New York, New York) were named as respondents in an NASD complaint alleging that the firm, acting through McLaughlin, effected principal sales and purchases in municipal bonds for public customers at prices which were not fair, taking into consideration all relevant factors including, but not limited to, the expense or risk incurred on the

transactions, availability of the securities, the value of any services provided by the firm, and the total size of the transactions.

Bruce Dean Moutaw, Jr. (Registered Representative, San Diego, California) was named as a respondent in an NASD complaint alleging that he executed an unauthorized transaction in the account of a public customer by means of manipulative, deceptive, or other fraudulent devices or contrivances, without oral or discretionary authority from the customer.

Jeremy Lee Slovik (Registered Representative, Bayshore, New York) was named as a respondent in an NASD complaint alleging that he made material misrepresentations, failed to disclose material facts, and made fraudulent price predictions in connection with his recommendations to public customers to purchase securities. The complaint also alleges that Slovik effected a transaction in the account of a public customer without the prior authorization of the customer.

Frederick Douglass Smith (Registered Representative, Los Angeles, California) was named as a respondent in an NASD complaint alleging that he received \$14,286.27 from public customers for the purpose of investing in securities, failed to invest these funds or otherwise use them for any legitimate investment purpose, and instead, converted the funds to his personal use and benefit by depositing them into his firm's account, caused checks to be issued from the account payable to himself, and endorsed and cashed the checks. The complaint also alleges that Smith signed and submitted to his member firm a Form U-4 that contained a false and misleading statement.

Firms Suspended/Canceled

The following firms were suspended/canceled from membership in the NASD for failure to comply with formal written requests to submit financial information to the NASD. The actions were based on the provisions of NASD Rule 8210 and Article VII, Section 2 of the NASD By-Laws. The date the suspensions/cancellations 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.

Advanta OTC Securities, Philadelphia, Pennsylvania (November 3, 1998)

Ash Financial Corporation, Great Neck, New York (October 26, 1998)

Great American Financial Network, Inc., Norcross, Georgia (November 23, 1998)

Hampton Securities, Inc., Los Angeles, California (October 20, 1998)

Suspensions Lifted

The NASD has lifted the suspension from membership on the dates shown for the following firms because they have complied with formal written requests to submit financial information.

Alexander Kale Securities, Inc. (f/k/a Hemisphere Capital Corp.), New York, New York (October 29, 1998)

Block Trading, Inc., Houston, Texas (October 29, 1998)

Firms Suspended Pursuant To NASD Rule Series 9510 For Failure To Pay Arbitration Award

Del Mar Financial Services, Inc., Del Mar, California (October 26, 1998) **Investors Associates, Inc.**, Hackensack, New Jersey (November 16, 1998)

Jaron Equities Corp., Hicksville, New York (November 16, 1998)

Smith, Benton & Hughes, Inc., Los Angeles, California (October 22, 1998)

Toluca Pacific Securities Corp., Burbank, California (November 4, 1998)

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

Christ, Michael H., Lynbrook, New York (October 27, 1998)

DeLong, Jr., Jack E., Dunwoody, Georgia (October 22, 1998)

Duran, Lee Thomas, Fort Lauderdale, Florida (October 22, 1998)

Gelfand, Howard S., New York, New York (October 27, 1998)

Goldberg, Cindy M., Denver, Colorado (October 22, 1998)

Mader, Joseph O., Lewiston, Idaho (October 22, 1998)

Oliver, James G., Grapeville, Texas (October 27, 1998)

Shackleton, Susan A., Woodland Hills, California (October 22, 1998)

Yancey, Michael L., Lake Park, Georgia (October 22, 1998)

Individuals Suspended
Pursuant To NASD Rule Series
9510 For Failure To Pay
Arbitration Awards
Buxton Stophen Gloop Fort Loo

Buxton, Stephen Glenn, Fort Lee, New Jersey (November 5, 1998) **Dills, Kevin C.**, Rancho Santa Fe, California (October 26, 1998)

Fiorini, Paul Thomas, Los Angeles, California (November 4, 1998)

Garofalo, Jr., James William, Bayside, New York (November 6, 1998)

Hession, Steven H., Holbrook, New York (October 22, 1998)

Lawrence, Jr., Edwin Leslie, Dix Hills, New York (October 29, 1998)

Mancusi, Michael Thomas, Brooklyn, New York (November 4, 1998)

Nunziato, William, Whitestone, New York (November 16, 1998)

Reynoso, David (a/k/a Reynolds, David), Westbury, New York (November 16, 1998)

Rosen, Lee S., Boca Raton, Florida (October 27, 1998)

Vitagliano, Richard T., Levittown, New York (October 22, 1998)

NASD Regulation Fines Lexington Capital, President For Securities Violations; Both Ordered To Pay Restitution To Investors

NASD Regulation announced that it has censured and fined Lexington Capital Corporation, New York, NY, \$100,000 and its CEO and President, Alan Michael Berkun, \$150,000. The firm and Berkun were also ordered to pay more than \$200,000 in restitution and interest to nearly 200 investors.

Berkun was also censured and barred as a general securities principal. Another former employee and broker, Joseph Marc Blumenthal, was censured, barred, and fined \$100,000.

Lexington (formerly known as Marlowe & Company, and now known as

Preston Langley Asset Management) and Berkun, both neither admitting nor denying NASD Regulation's findings, were sanctioned for collaborating to defraud investors and impeding regulatory scrutiny. Specifically, Lexington and Berkun were charged with violating the federal securities laws by, among other things, selling thousands of shares of a penny stock, U.S. Bridge Corp., to nearly 200 investors without making the required disclosures and determining if the investors were suitable to purchase these securities. The complaint, filed by the NASD Regulation's New York District office, also alleged that Lexington and Berkun also charged investors more than \$100,000 in fraudulently excessive markups in connection with an unregistered public distribution of 100,000 shares of Crown Laboratories. Inc. common stock. The excessive markups ranged from 47 percent to over 70 percent.

In addition, NASD Regulation found that the firm and Berkun, allowed an individual, who had been barred by NASD Regulation in 1992, to be associated with Lexington, without receiving proper regulatory approvals. Individuals who have been barred and want to re-enter the securities industry are required to obtain approval from NASD Regulation and the SEC.

NASD Regulation also charged that Lexington, acting through Berkun and others, falsified the firm's books and records to conceal the fact that Blumenthal solicited and effected over 300 transactions with investors while not properly registered with NASD Regulation and several states.

NASD Regulation Sanctions Olde Trader For Anti-Competitive Harassment Of A Nasdaq Market Maker; Firm Also Fined

NASD Regulation announced that Todd Wodek, a trader with Olde Discount Corporation, has been fined \$15,000 and censured for anti-competitive harassment of a competing Market Maker who had narrowed the spread in a security traded on The Nasdaq Stock Market[®]. Wodek must also take and pass the NASD Equity Trader (Series 55) examination by December 9.

NASD Regulation also fined Olde Discount \$20,000 and censured the firm for failing to establish, maintain, and enforce adequate written supervisory procedures to prevent anticompetitive activities.

The decision by an NASD Regulation hearing panel found that Wodek retaliated against another Market Maker because that firm narrowed the spread (the difference between a stock's buy and sell price) in Oak Technology, Inc. by quoting the stock in a finer increment than was being quoted by Olde and other Market Makers in the stock. Generally, the narrower the spread, the less profits can be made by Market Makers on the purchases and sales of an individual security.

The hearing panel found that Wodek harassed the other Market Maker by calling him 20 times between 2:25 p.m. and 3:58 p.m. on October 7, 1996, and selling only 100 shares of Oak Technology each time – even though that Market Maker was displaying (on the Nasdag market) that it would buy at least 1,000 shares in a single trade. The Market Maker executed each of Wodek's 20 orders for 100 shares. Normally, a firm selling 2,000 shares would offer to complete the trade in a single transaction to save time, reduce transaction costs, and minimize recordkeeping. By calling the Market Maker 20 times to execute a 2,000 share order in 100-share increments, Wodek forced the Market Maker to spend significantly more time executing, reporting, and confirming the trades than would have been the case if Wodek had traded with the Market Maker at its 1,000-share displayed offering.

As a result, the Market Maker was forced to divert its attention away from other trading opportunities and responsibilities. The hearing panel concluded that Wodek called the Market Maker 20 times in order "to harass [the Market Maker] for narrowing the spread in Oak Technology." NASD rules specifically prohibit a Market Maker from retaliating against or harassing another Market Maker for engaging in legitimate competitive activity.

The decision also noted that it was "particularly disturbing" that Olde had failed to instruct its trading supervisor as to his responsibilities for deterring and detecting anti-competitive behavior.

Initial actions, such as this, by NASD Regulation disciplinary committees are final after 45 days, unless they are appealed to NASD Regulation's NAC, or called for review by the NAC. The sanctions are not effective during this period. If the decision in this case is appealed or called for review, the findings may be increased, decreased, modified, or reversed.

NASD Regulation Fines And Sanctions Paragon Capital And President \$135,000

NASD Regulation announced that it has censured and fined Paragon Capital Corporation of New York,

NY, \$95,000. Additionally, Paragon Capital and its President, Danny Jay Levine, were censured and fined \$40,000.

Paragon Capital, while neither admitting nor denying NASD Regulation's findings, was sanctioned for violating NASD and SEC rules concerning trade reporting, ACT, recordkeeping, registration of associated persons, and supervision.

Both Paragon Capital and Levine were fined, jointly and severally, for failing to establish, maintain, and enforce written supervisory procedures designed to comply with NASD and SEC rules regarding trade reporting, customer limit orders, SOES, best execution, registration of persons, and recordkeeping.

The violations were discovered by NASD Regulation's Market Regulation Department during a Trading and Market Making Examination of Paragon Capital in February 1996. The Trading and Market Making Examination Program started in 1996 and is designed to ensure that NASD members understand and comply with NASD and SEC rules governing trading and market making functions. In these examinations, Market Regulation staff conducts reviews for compliance with a number of rules including trade reporting, recordkeeping, best execution, the display and protection of customer limit orders, the use of electronic communications networks, customer confirmation disclosures, and supervision.

© 1998, National Association of Securities Dealers, Inc. (NASD). All rights reserved.

For Your Information

Treasury Makes New Mailing Lists Available Via The Internet

Recently, the U.S. Department of Treasury (Treasury) allowed interested parties to sign up for the following two new mailing list notification pages via the Bureau of the Public Debt's Web site:

- One page contains three mailing lists related to government securities market regulation and allows individuals to receive e-mail notification of new regulatory issuances.
- The second page contains three mailing lists related to the auction of Treasury marketable securities and allows individuals to receive e-mail notification of new press releases.

Government Securities Market Regulation Area

In the government securities market regulation area, anyone signing up for the Auction Rule (Uniform Offering Circular) Amendments and Interpretations mailing list will receive an e-mail notification when Treasury issues any rule amendments or interpretations specifically related to 31 CFR Part 356. Those signing up for the Government Securities Act Rule Amendments, Interpretations and Exemptions mailing list will receive an e-mail whenever there are any new issuances specifically related to 17 CFR Chapter IV.

Anyone who signs up for the *Notification of Calls for Large Position Reports* mailing list will be notified by e-mail any time Treasury announces a call (test or actual) for large position reports. Large position notifications are for entities that may potentially have a reportable position of \$2 billion or more in a particular Treasury security. Treasury advises market participants not to rely solely on their inclusion in this mailing list for notice of a call. As in the past, whenever Treasury announces a call, it will

continue to issue a press release and a *Federal Register* notice, post information on its Web site, and ask industry groups and regulators to notify their members.

The sign-up page for these regulatory issuances can be found at: www.publicdebt.treas.gov/cgi-bin/cgi wrap/~www/signup.cgi?cat=gsrs

Currently, you can also reach this page by going to the Public Debt's Web site (www.publicdebt.treas.gov), select the "Government Securities Market Regulation" image, then choose the "Sign up for our Government Securities Market Regulation mailing lists" option.

Treasury Securities Auction Area

Anyone who signs up for the Auction Announcement Press Releases, Auction Results Press Releases, and Inflation-Indexed Security CPI Press Release mailing lists will receive an e-mail whenever a new related press release is issued. The sign-up page for these auction-related press releases is located at: www.publicdebt.treas.gov/cgi-bin/cgi wrap/~www/signup.cgi?cat=of

Currently, you can also reach this page by going to the Public Debt's Web site (www.publicdebt.treas.gov), select "auction information" in the paragraph of text relating to "T-bills, Notes and Bonds," then choose the "Sign up for our Treasury Marketable Securities mailing lists" option.

Questions regarding the government securities market regulation mailing lists can be directed to the U.S. Department of Treasury, Government Securities Regulations staff at (202) 219-3632. Questions regarding the auction information mailing lists can be directed to the U.S. Department of Treasury, Office of Financing at (202) 219-3350.

Comment Period Extended

The comment period for *Notice to Members 98-81*, originally scheduled to expire on November 30, 1998, was extended to **January 15, 1999**.