

NOTICE TO MEMBERS: 79-29  
Notices to Members should be  
retained for future reference.

# NASD

NATIONAL ASSOCIATION OF SECURITIES DEALERS, INC.  
1735 K STREET NORTHWEST • WASHINGTON D. C. 20006

September 14, 1979

IMPORTANT

PLEASE DIRECT THIS NOTICE  
TO ALL  
FINANCIAL AND OPERATIONAL OFFICERS AND PARTNERS

TO: All NASD Members

RE: Withdrawal of Uniform Net Capital Rule Interpretations

Recently, the staff of the Securities and Exchange Commission advised that several interpretations it had previously given the Association pertaining to Rule 15c3-1 (the "net capital rule") were being withdrawn.

These interpretations generally relate to the asset treatment of certain unsecured receivables in the computation of net capital under the aforementioned rule. Since the adoption of Rule 15c3-1, the SEC staff has from time to time issued interpretations to the effect that certain kinds of unsecured receivables (such as commissions/concessions due from the sale of participations in oil and gas programs) may be considered as assets readily convertible into cash, notwithstanding the fact that they were not specifically mentioned in the exclusions to "Assets Not Readily Convertible Into Cash" as set forth in paragraphs (c)(2)(iv)(B) through (D) of the rule. <sup>1/</sup>

The specific interpretations which the Commission's staff is withdrawing are as follows:

- that unsecured receivables of a broker/dealer arising from financial advisory services rendered to a municipality were allowable

<sup>1/</sup> See NASD Notice to Members No. 75-72, dated December 31, 1975, Question 24.

assets in the computation of net capital for a period of not more than thirty (30) days from the date they arise; and,

- that commissions/concessions receivables of a broker/dealer arising from the sale of oil and gas programs were allowable assets in the computation of net capital for a period of not more than thirty (30) days from the date they arise.

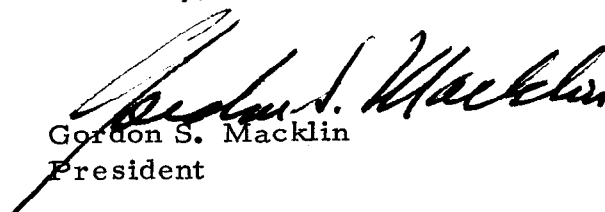
Both of these interpretations are being withdrawn, effective November 1, 1979. On this date, these items will be considered non-allowable assets and thus must be deducted from net worth in computing net capital in accordance with Rule 15c3-1.

According to the Commission staff, only those receivables specifically enumerated in paragraphs (c)(2)(iv)(B) through (D) will thereafter be given allowable asset treatment for the applicable periods specified in these paragraphs. This means, among other things, that concessions receivable from a distribution of securities other than municipal securities, regardless of the length of time outstanding and even though receivable from another broker/dealer, will not be considered allowable assets since concessions are not specifically enumerated in the above referenced paragraphs to Rule 15c3-1. Commissions receivables, on the other hand, are considered allowable if they are receivable from other broker/dealers and, provided further, they are not more than thirty (30) days old.

In its correspondence to the Association on this subject, the SEC staff stated that since the Association and many of its members have justifiably relied on these previous interpretations, it will not recommend any action or raise any questions if brokers and dealers affected by this action continue to rely on the prior interpretations through October 31, 1979.

Questions concerning this notice may be directed to either John J. Cox at (202) 833-7320 or Jerome Stranahan at (202) 833-7209.

Sincerely,

  
Gordon S. Macklin  
President

# NASD

NATIONAL ASSOCIATION OF SECURITIES DEALERS, INC.

1735 K STREET NORTHWEST • WASHINGTON D. C. 20006

September 27, 1979

TO: All NASD Members

RE: New York State Stock Transfer Tax  
New Rate Schedule Effective October 1, 1979

The New York State Tax Commission has released the attached information on stock transfer tax rates reflecting rebatable and non-rebatable portions of the tax. The rates apply to resident and non-resident taxable transactions effective with trades of October 1, 1979.

Appendix A is a table of the Stock Transfer Tax Rates and Appendix B outlines the Rebate Timetable for future changes in the tax rates.

Questions regarding this Notice should be referred to:

Mr. Donald J. Dieckmann  
Stock Transfer Tax Unit  
Room 405, Building #9  
State Campus  
Albany, New York 12227  
(518) 457-4265

Attachments

RESIDENT TRANSACTIONS

<u>SELLING PRICE OF SHARES</u>	<u>TAX RATE PER 1,000 SHARES</u>	<u>NON-REBATABLE PORTION</u>	<u>REBATABLE PORTION</u>
\$20.00 and over (5 cents per share)	\$ 50.00	\$ 35.00	\$ 15.00
\$10.00-\$19.99 ( 3 3/4 cents per share)	37.50	26.25	11.25
\$5.00-\$9.99 (2½ cents per share)	25.00	17.50	7.50
Under \$5.00 (3¼ cents per share)	12.50	8.75	3.75
ALL MAXIMUM TAX * (\$350.00)	350.00	245.00	105.00
No Sale Transactions (2½ cents per share)	25.00	17.50	7.50

\* Single Rate

NON-RESIDENT TRANSACTIONS OTHER THAN MAXIMUM TAX TRANSACTIONS

\$20.00 and over (3.125 cents per share)	50.00	31.25	18.75
\$10.00-\$19.99 (2.344 cents per share)	37.50	23.44	14.06
\$5.00-\$9.99 (1.563 cents per share)	25.00	15.63	9.37
Under \$5.00 (.0781 cents per share)	12.50	7.81	4.69
No Sale Transactions (2½ cents per share)	25.00	15.63	9.37

TAX REBATE PROCEDURES

(Example: Sell 100 shares XYZ @ 20)

<u>REBATE TIMETABLE</u>	<u>TOTAL TAX LIABILITY</u>	<u>REBATABLE PORTION</u>	<u>NON-REBATABLE PORTION</u>
-(10/1/79 to 10/1/81 and thereafter)			
I. October 1, 1979 - September 30, 1980			
a) Resident (30%)...	\$ 5.00	\$ 1.50	\$ 3.50
b) Non-Resident (37.5%)...	5.00	1.87	3.13
c) Maximum Tax, Resident (30%)...	350.00	105.00	245.00
d) Maximum Tax, Non-Resident (30%)...	350.00	105.00	245.00
II. October 1, 1980 - September 30, 1981			
a) Resident (60%)...	5.00	3.00	2.00
b) Non-Resident (60%)...	5.00	3.00	2.00
c) Maximum Tax, Resident (50%)...	350.00	210.00	140.00
d) Maximum Tax, Non-Resident (60%)...	350.00	210.00	140.00
III. .October 1, 1981 and thereafter			
a) Resident (100%)...	5.00	5.00	-0-
b) Non-Resident(100%)...	5.00	5.00	-0-
c) Maximum Tax, Resident (100%)	350.00	350.00	-0-
d) Maximum Tax, Non-Resident (100%)	350.00	350.00	-0-

# NASD

NATIONAL ASSOCIATION OF SECURITIES DEALERS, INC.

1735 K STREET NORTHWEST • WASHINGTON D.C. 20006

September 27, 1979

TO: All NASD Members and Municipal Securities Bank Dealers  
Attention: All Operations Personnel

RE: Holiday Trade Date - Settlement Date Schedule

Transactions made on Monday, October 8, Columbus Day;  
Tuesday, November 6, Election Day; and, Monday, November 12 when  
Veterans' Day will be observed and the business days immediately pre-  
ceding such days will be subject to the schedule below.

Trade Date - Settlement Date Schedule  
For "Regular-Way" Transactions

<u>Trade Date</u>	<u>Settlement Date</u>	<u>*Regulation T Date</u>
October 1	October 9	October 10
2	10	11
3	11	12
4	12	15
5	15	16
8	15	17
30	November 7	November 8
31	8	9
November 1	9	12
2	13	13
5	14	14
6	14	15
7	15	16
8	16	19
9	19	20
12	19	21

\*Pursuant to Section 4(c)(2) 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 seven (7) days of the date of purchase. The date upon which members must take such action for the trades indicated is shown in the column entitled "Regulation T Date."

October 8, November 6 and November 12 shall not be considered as business days in determining the day for settlement of a contract, the day on which stock shall be quoted ex-dividend or ex-rights, or in computing interest on contracts in bonds or premiums on loans of securities. The right to mark to the market, to make reclamation, or to close out contracts shall not be exercised on October 8, November 6 and November 12.

For the purpose of Regulation T of the Federal Reserve Board, October 8, November 6 and November 12 shall be counted as business days for receiving customers' payments. The above settlement dates should be used by brokers, dealers and municipal securities dealers for purposes of clearing and settling transactions pursuant to the Association's Uniform Practice Code and Municipal Securities Rulemaking Board Rule G-12 on Uniform Practice.

Questions concerning the application of these settlement dates to a particular situation should be directed to the Uniform Practice Department of the NASD at (212) 422-8841.

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# NASD

NATIONAL ASSOCIATION OF SECURITIES DEALERS, INC.  
1735 K STREET NORTHWEST • WASHINGTON D.C. 20006

September 28, 1979

TO: All NASD Members

RE: Hamilton/Cooke & Co. of Florida, Inc.  
444 Brickell Avenue  
Miami, Florida 33131

ATTN: Operations Officer, Cashier, Fail-Control Department

On Tuesday, September 25, 1979 the United States District Court for the Southern District of Florida appointed a temporary receiver for Hamilton/Cooke & Co. of Florida, Inc. This firm should not be confused with Hamilton/Cooke & Co., Inc. and Hamilton Cooke Securities Corp., both of West Orange, New Jersey, who are not involved in this action in any way. Members may use the "immediate close-out" procedures as provided in Section 59(i) of the NASD's Uniform Practice Code to close-out open OTC contracts. Also, MSRB Rule G-12(h)(iv) provides that members may use the above procedure to close-out transactions in municipal securities.

Questions regarding the firm should be directed to:

Temporary Receiver

James Knight, Esquire  
Walton, Lantaff, Schroeder & Carson  
922 Alfred I. Dupont Building  
Miami, Florida 33131  
Telephone (305) 379-6411



# NASD

NATIONAL ASSOCIATION OF SECURITIES DEALERS, INC.

1735 K STREET NORTHWEST • WASHINGTON D. C. 20006

Notice of Rates of Assessments and Fees  
for the Fiscal Year October 1, 1979 through September 30, 1980

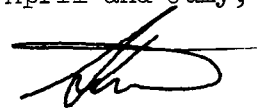
The Association's Board of Governors has unanimously approved, at the recommendation of the Executive and Finance Committees, a new schedule of rates for assessments and fees to be effective for the Association's fiscal year October 1, 1979 to September 30, 1980. These changes in the rates, which will increase NASD assessments and fees by \$2,250,000, are being made simultaneously with a restructuring of the NASDAQ, Inc. rate structure that will reduce NASDAQ, Inc. revenues by nearly one-third or \$5,000,000 annually.

This new schedule of assessments and fees should allow the Association to accomplish its objectives not only in regulation but also in removing duplication in such areas as qualifications and increasing the benefits of NASD services while maintaining a fiscally responsible budget in the amount of \$19,208,400. Assessments will provide 45% of this amount while registration and examination fees are expected to provide 19% of the total.

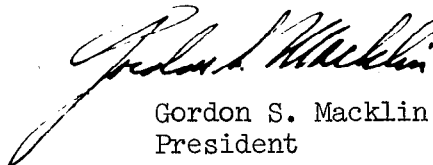
You will note that in several areas rates of fees have not been adjusted since 1970, in spite of substantial inflationary pressures. The new rates of assessments and fees are on the reverse side of this notice.

The NASD has also made arrangements to reduce duplication in the area of collecting SIPC assessments (presently \$25.00 a year). Members that are designated to the NASD by SIPC will no longer have to file SIPC-4 forms and pay the charge, separately. Rather it will be added to our NASD assessment invoice and paid to SIPC by the NASD.

Assessments billed to members as of October 1, 1979 are based on member's reports of registered personnel as of December 31, 1978 and gross income for 1978 or, at each member's option, the member's fiscal year ending in 1978. We might note that you may pay your assessments quarterly. The first payment is due when billed and must be equal to the amount of the SIPC full assessment and at least 25% of the NASD assessment. Subsequent payments are due on the first day of January, April and July, 1980.



J. Stephen Putnam  
Chairman



Gordon S. Macklin  
President

September 27, 1979

Revised Rate Schedule

Assessments -

Basic amount for each member (previously \$250 since 1973)	\$300
Rate of fee applicable to gross income from transactions in municipal securities (.19% for the past year)	.21%
Rate of fee applicable to gross income from all other OTC transactions in securities (.23% for the past year)	.25%

Fees -

For each application to be filed with the NASD for registration as a registered representative or registered principal (previously \$35 since 1970)	\$50.00
For each examination or re-examination required for registration (previously \$30 since 1970)	\$40.00

Other -

Charge for processing each extension request under Regulation T and/or Rule 15c3-3 (previously \$1)	\$2.00
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All other rates of assessments and fees are to be continued at the rates presently in effect as set forth in Article III of the Association's By-Laws.

The revised rates are to be effective as of October 1, 1979.

# NASD

NATIONAL ASSOCIATION OF SECURITIES DEALERS, INC.

1735 K STREET NORTHWEST • WASHINGTON D.C. 20006

NOTICE OF CHANGE IN RATES ON OCTOBER 1, 1979  
REGISTRATION FEES, EXAMINATION FEES AND REGULATION T CHARGES

## Registration and Qualification Examination Fees

Fees for registration and examination of registered representatives and registered principals have been increased to be effective October 1, 1979. All applications received in the Association's Washington, D.C. office after that date must be accompanied by payment determined as follows:

Registration fee to accompany each application for registration of a representative and/or registration of a principal (previously \$35 since 1970)	\$50.00
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Examination fee for each individual who is required to take an examination or re-examination for registration as a registered representative or as a registered principal. This fee applies to the Association's qualifications examination program and also to examinations administered by the Association on behalf of other regulatory organizations (previously \$30 since 1970)	\$40.00
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The examinations for other organizations that are affected by this change include the National Commodity Futures Examination, the Uniform Securities Agent State Law Examination, the Real Estate Securities Examination, the Municipal Securities Representative Examination, the Municipal Securities Financial and Operations Principal Examination, the SECO General Securities Examination and the NASD Non-Member General Securities Examination.

## Regulation T and 15c3-3 Extension Requests

The service charge for each request for an extension of time pursuant to Regulation T and/or Rule 15c3-3 of the Securities and Exchange Act of 1934 is to be \$2.00 effective October 1, 1979.

Please direct this notice to the attention of the individuals in your firm responsible for processing applications and time extension requests. Incorrect payment of fees may result in unnecessary delays. Please continue to use your present supply of forms, but send the correct amount of payment. You will be advised when new forms become available.

# NASDAQ, INC.

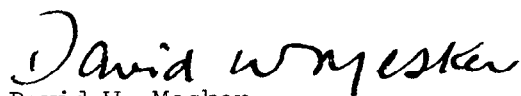
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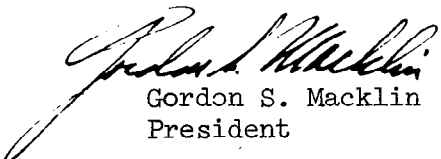
## Notice of NASDAQ Inc. Rate Reduction

It is indeed a pleasure to inform you of a new, materially reduced rate structure for NASDAQ Services that will be effective as of October 1, 1979. This new schedule will reduce charges to users of the system by about \$5,000,000 annually and will lower revenue to NASDAQ, Inc. by about one-third. The reduction in charges to individual users of Level 1, 2 and 3 service will vary depending on the Level and amount of service used. The changes not only reduce specific rates but also are structured to place more emphasis on usage and will thus allow subscribers to control costs through controlling usage. The particulars of the new structure are on the reverse side.

In February of 1976 when our NASD subsidiary purchased the assets of the NASDAQ system, two of our primary objectives were to reduce subscriber rates and enhance the System's capabilities. In November 1977 subscribers received a refund of 8% of their 1977 fiscal year billings. In November 1978, subscribers received a refund of 10% of their 1978 fiscal year billings. This new rate structure is a further and more permanent reflection of the System's financial viability. In addition to the sharply reduced rates, a program is underway to materially enhance the System's capabilities. An important part of this program will be a replacement of all Level 2 and 3 terminals within the next twelve months.

We sincerely appreciate your continued support of the NASDAQ System. If, because of the new rate structure, you wish to explore the installation of more units, please contact Molly Bayley, Vice President, 1735 K Street N.W. Washington, D.C. 20006 or call (202) 833-7213.

  
David W. Mesker  
Chairman

  
Gordon S. Macklin  
President

September 27, 1979

## Revised Rate Structure

The revised rate structure will be as follows: Level 1 monthly charges will be reduced from \$20 for the first terminal and \$10 for each additional terminal to one charge of \$8.75 per terminal. For Levels 2 and 3, the standard, high and unlimited usage plans (ranging in monthly charges of \$475 to \$875 for one terminal) are eliminated and substituted by a terminal charge, a service charge and a flat usage charge. The monthly terminal charge will be \$180 for the first terminal and \$125 for each additional terminal at one location. The monthly service charge for either Level 2 or 3 will be \$150 per terminal and CQS service will be a flat \$50 per month per terminal. The charge for usage will be \$0.01 for each quotation request with no maximum charge, instead of \$0.10 per request in excess of a specific number of free requests. The market maker excess listing charge of \$5 per month per terminal has been eliminated. There will be, however, a charge for all correspondent firms for a registered market maker of \$3.50 per month for each correspondent displayed per security. Special equipment charges and installation, removal and relocation charges remain the same except for minor changes.

The revised rates are to be effective as of October 1, 1979.

# NASD

NATIONAL ASSOCIATION OF SECURITIES DEALERS, INC.  
1735 K STREET NORTHWEST • WASHINGTON D. C. 20006

October 5, 1979

TO: All NASD Members

RE: Hamilton/Cooke & Co. of Florida, Inc.  
444 Brickell Avenue  
Miami, Florida 33131

ATTN: Operations Officer, Cashier, Fail-Control Department

On Tuesday, October 2, 1979 the United States District Court for the Southern District of Florida appointed the Securities Investor Protection Corporation as Trustee for Hamilton/Cooke & Co. of Florida, Inc. Previously, a temporary receiver had been appointed for the firm on September 25, 1979. This firm should not be confused with Hamilton/Cooke & Co., Inc. and Hamilton Cooke Securities Corp., both of West Orange, New Jersey, who are not involved in this action in any way.

Members may use the "immediate close-out" procedures as provided in Section 59(i) of the NASD's Uniform Practice Code to close-out open OTC contracts. Also, MSRB Rule G-12(h)(iv) provides that members may use the above procedures to close-out transactions in municipal securities.

Questions regarding the firm should be directed to:

Securities Investor Protection Corporation  
Attention: Mr. J. H. Moelter  
Suite 800, Farragut Building  
900 Seventeenth Street, N.W.  
Washington, D.C. 20006  
Telephone (202) 223-8400

# NASD

NATIONAL ASSOCIATION OF SECURITIES DEALERS, INC.  
1735 K STREET NORTHWEST • WASHINGTON D.C. 20006

November 13, 1979

TO: All NASD Members

RE: P. J. Kisch & Co., Inc.  
124 South Seventh Street  
Minneapolis, Minnesota 55402

ATTN: Operations Officer, Cashier, Fail-Control Department

On Friday, November 9, 1979 the United States District Court for the District of Minnesota appointed the Securities Investor Protection Corporation as Trustee for P. J. Kisch & Co., Inc. Previously, a temporary receiver had been appointed for the firm on November 5, 1979.

Members may use the "immediate close-out" procedures as provided in Section 59(i) of the NASD's Uniform Practice Code to close-out open OTC contracts. Also, MSRB Rule G-12(h)(iv) provides that members may use the above procedures to close-out transactions in municipal securities.

Questions regarding the firm should be directed to:

Securities Investor Protection Corporation  
Attention: Mr. J. H. Moelter  
Suite 800, Farragut Building  
900 Seventeenth Street, N.W.  
Washington, D.C. 20006  
Telephone (202) 223-8400

# NASD

NOTICE TO MEMBERS: 79-36  
Notices to Members Should  
be Retained for Future  
Reference.

NATIONAL ASSOCIATION OF SECURITIES DEALERS, INC.

1735 K STREET NORTHWEST • WASHINGTON D. C. 20006

November 16, 1979

TO: All NASD and Option Exchange Members

RE: New Registered Options Principal Examination and New Test  
Administration Procedures

ATTENTION: TRAINING DIRECTORS AND REGISTRATION PERSONNEL

The purpose of this notice is to inform the membership of the NASD, and those Exchanges which require registration of Options Principals, of the following developments in the qualification examination program for Principals.

- Implementation of New Registered Option Principal Examination (Test Series 4) on December 15, 1979
- Automation of Test Administration for the New Registered Options Principal Examination

## Implementation of New Registered Options Principal Examination

Those self-regulatory organizations with a requirement for registration of options principals will implement a new Registered Options Principal Examination (Test Series 4) on December 15, 1979. Effective that date, all persons required to qualify for this category of registration will be required to take and pass this new examination. The new examination will be comprised of 100 four-part multiple-choice questions and have a time limit of two and one half (2½) hours. A study outline for the new Registered Options Principal Examination has been published and is available from the NASD Executive Office in Washington, D. C. and any of the NASD's fourteen district offices.

## Automation of Test Administration

Administration of the Registered Options Principal Examination will be accomplished in an automated manner using the Plato system of the Control Data Education Company. Plato is a large time-sharing system capable of delivering a wide variety of programs to remote visual display terminals located in learning centers owned and operated by Control Data Education Company. The system has been modified to serve as a medium for delivering



the types of qualification examinations utilized by securities industry self-regulatory organizations. Control Data learning centers are currently operating in cities where existing NASD test centers account for approximately 90% of the examinations administered each year.

The automated capabilities of the Plato system will eliminate the need to administer the Registered Options Principal Examination on a fixed schedule. When enrolled on the system by the NASD, a candidate need only make an appointment at the nearest learning center to sit for an examination. All learning centers are open between the hours of 8:30 A.M. to 5:30 P.M. local time. Some learning centers are also open in the evenings and on weekends. Using Plato the Association will also be able to enter the bank of test questions for the Registered Options Principal Examination into the system and to program the computer to generate a unique examination for each candidate. Within one day of a candidate's testing date, a hard copy grade report will be generated at the Association's Executive Office and forwarded to the sponsoring member firm, as well as to the industry self-regulatory organizations designated on the candidate's registration application. A more detailed description of test administration on the Plato system is contained in the sections which follow.

Plato Enrollment - After receiving a candidate's registration application and appropriate fees, the Association will enroll the candidate on the Plato system. Enrollment must occur in order for a candidate to sit for an examination on the system. After a candidate has been enrolled on the system, a confirmation notice will be sent to the sponsoring member firm. This notice will identify the candidate, the qualification examination for which the candidate has been enrolled and the expiration date of the enrollment. The expiration date will be 90 calendar days from the date the enrollment is entered into the system. If a candidate does not sit for the examination during this period, he may be re-enrolled in the system upon receipt by the Association of another testing fee and the appropriate request form.

Appointment Scheduling - Along with the enrollment confirmation notice sent to the firm the Association will include a schedule of Control Data learning centers at which the examination can be taken. The candidate need only call the nearest learning center in order to make an appointment to sit for the examination. Unless otherwise requested by the candidate, appointments will be scheduled within five business days from the date the appointment request is received by Control Data. Appointments will not be made for candidates who are not enrolled on the system or for candidates requesting an appointment date which falls after the expiration date of their enrollments. The sponsoring member firm will be charged a

penalty fee of \$10.00 in the event that a candidate does not appear for a scheduled appointment or cancels a scheduled appointment less than 72 hours prior to the appointed time and date. At the learning center administrator's discretion a candidate who arrives more than 15 minutes late for a scheduled appointment may not be allowed to sit for the examination if the terminal has been otherwise reserved, in which case a penalty fee of \$10.00 will also be levied. All penalty fees will be billed to member firms by the Association.

Group Reservations - Member firms or training organizations planning training classes may block reserve terminals at a learning center by calling the learning center at least one month in advance of the desired testing date. The same procedures outlined above with respect to late cancellations, no shows and late arrivals for appointment sessions will be in effect for individuals in groups.

Admission to Learning Centers - Since a candidate's enrollment on the Plato system is entered into the computer by the NASD and is available on-line to learning center administrators, it will not be necessary for candidates to present their enrollment confirmation notices at the time they appear at a learning center. However, a candidate will be required to provide two forms of identification, both of which must contain the signature of the candidate and at least one of which must contain either a physical description of the candidate or a picture. This requirement is in effect today in the Association's existing test centers. All candidates will be required to check briefcases, books, papers, study material, etc., with the learning center administrator before being seated at the terminal. Neither the NASD nor Control Data assume responsibility for any articles which are required to be left at the admission's desk in the learning center. Candidates may use pocket electronic calculators while taking an examination provided that such devices have independent power sources, operate silently, and have no operable print mechanisms.

Examination Presentation on the System - After a candidate is seated at a terminal the actual examination will be preceded by an introductory lesson designed to familiarize the candidate with the procedures to be followed in answering and reviewing test questions. These procedures are simple and do not require any previous experience with a computer terminal or typing ability. All questions are answered by touching the appropriate location on the terminal screen itself. In addition, there is a simple procedure available to the candidate during the test and at the end of the examination for reviewing any question in the examination. At the end of the allotted time period or when a candidate voluntarily terminates a testing session, the computer will automatically score the examination and component sub-sections and display the scores on the terminal. On the first business day following the testing session, a

hard copy grade notification will be forwarded by the Association to the sponsoring firm and to the industry self-regulatory organizations designated on the candidate's application.

Plato Learning Center Locations - The following cities are presently serviced by at least one Control Data learning center. A current list of learning center locations and telephone numbers will be included with each confirmation notice sent to candidates. Candidates located in areas serviced by Control Data learning centers must take the Registered Options Principal Examination on the Plato system:

Anaheim, California	Clayton, Missouri
Los Angeles, California	St. Louis, Missouri
San Diego, California	Omaha, Nebraska
San Francisco, California	Newark, New Jersey
Sunnyvale, California	New York, New York
Denver, Colorado	Charlotte, North Carolina
Hartford, Connecticut	Cincinnati, Ohio
Stamford, Connecticut	Cleveland, Ohio
District of Columbia	Columbus, Ohio
Miami, Florida	Lima, Ohio
Atlanta, Georgia	Oklahoma City, Oklahoma
Chicago, Illinois	Philadelphia, Pennsylvania
Louisville, Kentucky	Pittsburgh, Pennsylvania
New Orleans, Louisiana	Rapid City, South Dakota
Baltimore, Maryland	Memphis, Tennessee
Rockville, Maryland	Dallas, Texas
Boston, Massachusetts	Fort Worth, Texas
Quincy, Massachusetts	Houston, Texas
Detroit, Michigan	San Antonio, Texas
Arden Hills, Minnesota	Salt Lake City, Utah
Bloomington, Minnesota	Richmond, Virginia
Edina, Minnesota	Seattle, Washington
Minneapolis, Minnesota	Milwaukee, Wisconsin

Non-Plato Testing Locations - On a special request basis the Association will make printed Registered Options Principal Examinations available at its traditional test centers which are located in cities not serviced by a Control Data learning center. A request for an examination to be administered at one of these locations should be made at the time the candidate's application papers are submitted.

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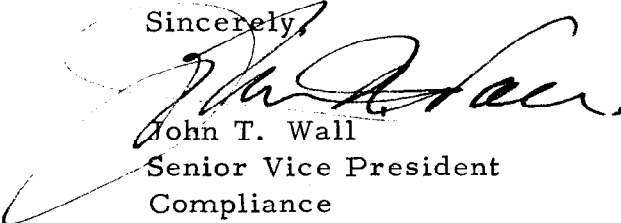
Implementation Procedures for the New Registered Options Principal Examination

- Examination requests which were received prior to July 1, 1979. Candidates will have until January 1, 1980 to take the old examination. After January 1, these candidates will have to re-apply for the new examination.
- Examination requests received between July 1, 1979 and December 7, 1979. These candidates will be automatically enrolled on PLATO on January 1, 1980. They may take the old version of the examination until that date. After January 1, they will have 90 days to take the new examination on Plato.
- Applications received after December 7, 1979. These candidates will be immediately enrolled on PLATO and may take the new examination beginning December 15, 1979.

\* \* \*

This new examination applies to new candidates for registration only, and not to those individuals already registered as Options Principals. Questions regarding this notice should be directed to David H. Uthe at (202) 833-7273 or Frank J. McAuliffe at (202) 833-7394 of the Association's Qualifications Department.

Sincerely,

  
John T. Wall  
Senior Vice President  
Compliance

**NASD**

**CORRECTED**

NATIONAL ASSOCIATION OF SECURITIES DEALERS, INC.  
1735 K STREET NORTHWEST • WASHINGTON D.C. 20006

November 16, 1979

TO: All NASD Members  
Attention: Operations Manager/Manager Dividends/  
Manager Margin Department/Manager P&S Department/  
Traders

RE: Amendments to Paragraphs (a) and (b) of Section 5 of the  
Uniform Practice Code

In Securities Exchange Act Release Nos. 15282 and 15595, the Commission approved certain amendments to paragraphs (a) and (b) of Section 5 of the Association's Uniform Practice Code. Amended Section 5 of the Uniform Practice Code provides for a new ex-dividend date policy with respect to large ( 25% or greater) stock dividends or splits for all over-the-counter securities. These amendments to Section 5 will become effective with dividends of record on and after December 6, 1979.

DESCRIPTION

Amended paragraph (a) of Section 5 clarifies the fact that the ex-date for dividends, rights and warrants is the date designated by either the Association or the national securities exchange which has in effect procedures recognized as appropriate under SEC Rule 10b-17, after receipt of definitive information from the issuer.

Amended paragraph (b) of Section 5 provides for the setting of the ex-dividend date as the next business day after the payable date, rather than four (4) business days prior to record date for stock dividends of 25% or greater and stock splits. The new policy conforms with established procedures currently being employed for exchange listed issues.

IMPLEMENTATION PROCEDURES

Because the implementation of the amendment may require the delivery of "due-bills" and the settlement of "when, as and if issued/distributed" trades, the following procedures shall be followed:

Due-bills; ex-clearing trades

Due-bills must accompany member to member deliveries made after the record date in settlement of transactions made prior to the ex-dividend date.

Due-bills shall be redeemed four (4) business days after the ex-dividend date.

When, as and if issued/distributed trading; the NASDAQ system

In connection with the new policy, "when, as and if issued/distributed" quotations may be entered and displayed in the NASDAQ System for existing NASDAQ quoted issues which declare a large stock dividend or split. The "when-issued" quotations will be identified with the fifth letter "V" appended to the NASDAQ symbol and will commence in the system on the "record date" for the distribution, unless individual circumstances dictate otherwise.

To enter these quotations, NASDAQ market makers must first register in the "when-issued" security by following the usual registration procedures. Market makers and subscribers will receive more specific information on the new policy in a separate notice.

Settlement of when, as and if issued/distributed trades

"When, as and if issued/distributed" transactions shall be settled five(5) business days after the ex-dividend date.

Notices

Since the Association is not expecting to send out notices with details on each individual situation, members are urged to follow the above procedures unless otherwise notified.

Participants in a registered clearing agency/depository

Members which participate in registered clearing agencies/depositories should review details of the eligibility and processing of "when-issued" trades, due-bill utilization and dividend accounting with their respective clearing and depository facilities.

National Securities Clearing Corporation in particular has stated that new procedures on these subjects will be announced in the near future.

Questions regarding this notice should be directed to Jim Yore at the Uniform Practice Department-(212)422-8843.

Text of Amended Paragraphs (a) and (b) of Section 5 of Uniform  
Practice Code

(New language is indicated by underlinings; deletions are indicated by strikings).

Transactions in Securities "Ex-Dividend,"

"Ex-Rights" or "Ex-Warrants"

Sec. 5

Ex-date designated by the Committee

Designation of ex-date

(a) All transactions in securities, except "cash" transactions, shall be "ex-dividend," "ex-rights" or "ex-warrants" (i) on the day specifically designated by the Committee after definitive information concerning the declaration and payment of a dividend or the issuance of rights or warrants has been received at the office of the Committee; or (ii) on the day specified as such by the appropriate national securities exchange which has received definitive information in accordance with the provisions of SEC Rule 10b-17 concerning the declaration and payment of a dividend or the issuance of rights or warrants.

Normal ex-dividend dates

(b) (1) In respect to cash or stock dividends, except as noted below, if definitive information is received sufficiently in advance of the record date, the date designated as the "ex-dividend date" shall be the fourth business day preceding the record date if the record date falls on a business day, or the fifth business day preceding the record date if the record date falls on a day designated by the Committee as a non-delivery date. In respect to stock dividends and/or splits which are 25% or greater, the ex-dividend date shall be the first business day following the payable date. In respect to stock dividends and/or splits relating to American Depository Receipts (ADR's) and foreign securities, the ex-dividend date shall be designated by the Committee.

# NASD

NATIONAL ASSOCIATION OF SECURITIES DEALERS, INC.

1735 K STREET NORTHWEST • WASHINGTON D.C. 20006

November 29, 1979

TO: All NASD Members

RE: Issues Relating to the Release of Material News by  
NASDAQ Companies and Quotations Halts

In March of this year, the Association's Board of Governors adopted under Schedule D of the By-Laws its recommendation to NASDAQ companies re: Notification to NASD of News Releases. As stated in the subsequent Notice to Members (79-14) on this action, the Board recommended that NASDAQ companies notify the NASD of the release of material news no later than simultaneously with its release to the public through the press. Such notifications enable the NASD to consider, in consultation with the company, whether it is desirable to halt the display of quotations through the NASDAQ system while the news is being disseminated. This action, commonly referred to as a "quotations halt," alerts the market place to the fact that material news concerning the company is being announced to the public.

Since the adoption of the Board's recommendation under Schedule D, questions have been raised by both NASDAQ companies and members concerning various aspects of the Association's quotations halt program.

The following is therefore intended to represent a review of the most frequent issues raised by these inquiries and the Association's views with respect to each.

## 1. Trading During a Quotations Halt

Authority for suspension of trading in an over-the-counter security is vested solely with the SEC. Given this limitation, a quotations halt in NASDAQ serves to put the marketplace on notice that material information concerning



the company is pending which may impact the price of the company's securities. If a market maker decides to purchase or sell the security during a quotations halt, he should be certain that all counterparties to those trades are aware of the fact that there is a quotations halt in the issue pending the release of material news. If the news has already been published but quotations are still being held pending full dissemination of the news, the market maker should advise the counterparties that there is a quotations halt and where retail customers are involved, the text of the news should also be disclosed. When inquiries are made of the Association's staff concerning this area the above recommendations are brought to the market maker's attention as well as the recommendation that the firm consult with its legal counsel before entering into any transactions during a NASDAQ quotations halt.

Should trading activity of a questionable nature occur during a quotations halt, follow-up action will be taken by the Association to determine whether such activity was in conformance with SEC Rule 10b-5 and other anti-fraud provisions of the Securities Exchange Act of 1934.

## 2. Quotations Halt Subsequent to the Release of Material News

Frequently material news is released prior to a quotations halt. This release of news, however, does not by itself negate the Association's responsibility to halt quotations as full dissemination of the news may not have been adequately accomplished. Given the impact of the news on the market, quotations are halted to allow for the full dissemination of that news to investors, as well as market professionals. The NASD's decision to halt quotations in these instances is based on this judgment.

The publication of the Board of Governors' recommendation in April, 1979 (Notice to Members: 79-14) requesting companies to contact NASD's Market Surveillance at least simultaneously with the release of material news to the wireservices, as well as the Association's continuing educational effort with issuers, has substantially reduced the number of quotations halts implemented subsequent to news.

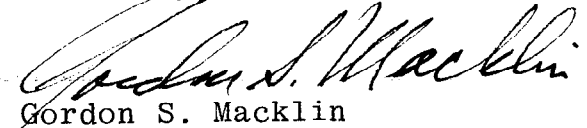
## 3. NASD Communication with the Wireservices on Quotations Halt

As a result of recent discussions with the Dow Jones and Reuters newswire services, a procedure is being implemented whereby the Association will notify the newswire services of NASDAQ quotations halts as well as notifications

of the time quotations are reinstated. It is hoped that this procedure will assist in the public dissemination of these material actions taken by the NASD.

While the above summary is intended to address questions concerning quotations halts and areas in which related questions most frequently arise, we invite you to direct future comments or questions you may have to either Christopher Franke or Thomas Wiltrakis at (202) 833-4889.

Sincerely,

  
Gordon S. Macklin  
President

# NASD

NATIONAL ASSOCIATION OF SECURITIES DEALERS, INC.

1735 K STREET NORTHWEST • WASHINGTON D.C. 20006

November 29, 1979

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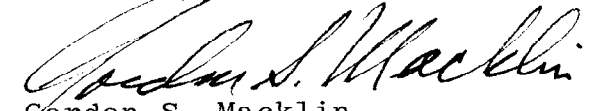
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Sincerely,



Gordon S. Macklin  
President

# NASD

NATIONAL ASSOCIATION OF SECURITIES DEALERS, INC.

1735 K STREET NORTHWEST • WASHINGTON D.C. 20006

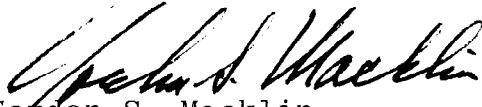
December 21, 1979

TO: All NASD Members  
RE: 1980 Schedule of Holidays

Listed below is the NASD 1980 Schedule of Holidays.

January 1, Tuesday	New Year's Day
February 18, Monday	Washington's Birthday
April 4, Friday	Good Friday
May 26, Monday	Memorial Day
July 4, Friday	Independence Day
September 1, Monday	Labor Day
November 4, Tuesday	Presidential Election Day
November 27, Thursday	Thanksgiving Day
December 25, Thursday	Christmas Day

Sincerely,

  
Gordon S. Macklin  
President

# NASD

NATIONAL ASSOCIATION OF SECURITIES DEALERS, INC.  
 1735 K STREET NORTHWEST • WASHINGTON D.C. 20006

December 7, 1979

TO: All NASD Members and Municipal Securities Bank Dealers  
 Attention: All Operations Personnel

RE: Holiday Trade Date - Settlement Date Schedule

Securities markets and the NASDAQ System will be closed on Tuesday, December 25, 1979, and Tuesday, January 1, 1980, Christmas and New Year's Day. "Regular-Way" transactions made on the business days immediately preceding those days will be subject to the schedule below.

Trade Date-Settlement Date Schedule  
For "Regular-Way" Transactions

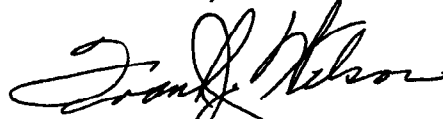
<u>Trade Date</u>	<u>Settlement Date</u>	<u>*Regulation T Date</u>
December 18, 1979	December 26, 1979	December 28, 1979
19	27	31
20	28	January 2, 1980
21	31	3
24	January 2, 1980	4
December 25, 1979	Securities Markets Closed	
26	January 3, 1980	January 7, 1980
27	4	8
28	7	9
31	8	10
January 1, 1980	Securities Markets Closed	
2	January 9, 1980	January 11, 1980

\*Pursuant to Section 4(c) (2) of Regulation T of the Federal Reserve Board, a broker-dealer must promptly cancel or otherwise liquidate a purchase transaction in a cash account if full payment is not received within seven (7) days of the date of purchase. The date upon which members must take such action for the trades is shown in the column entitled "Regulation T Date."

The above settlement dates should be used by brokers, dealers and municipal securities dealers for purposes of clearing and settling transactions pursuant to the Association's Uniform Practice Code and Municipal Securities Rulemaking Board Rule G-12 on Uniform Practice.

Questions concerning the application of these settlement dates to a particular situation should be directed to the Uniform Practice Department of the NASD at (212) 422-8841.

Sincerely,

A handwritten signature in cursive script, appearing to read "Frank J. Wilson".

Frank J. Wilson  
Senior Vice President  
Regulatory Policy and  
General Counsel



# NASD

NATIONAL ASSOCIATION OF SECURITIES DEALERS, INC.  
1735 K STREET NORTHWEST • WASHINGTON D. C. 20006

December 21, 1979

## MEMORANDUM

TO: All NASD Members  
Companies Quoted on the NASDAQ System  
Institutional Investors

RE: Small Business Financing: New Developments and  
Status Report on NASD Recommendations

In September, 1978, the NASD organized a committee of securities industry financing experts to examine the capital-raising problems of small business. Members of the Committee are William R. Hambrecht (Committee Chairman), Partner, Hambrecht & Quist, San Francisco, California; J. Coleman Budd, Executive Vice President, The Robinson-Humphrey Company, Inc., Atlanta, Georgia; Anthony A. LaCroix, President, Advest, Inc., Hartford, Connecticut; J. Stephen Putnam, President, F. L. Putnam and Company, Inc., Boston, Massachusetts; and, Ernest F. Rice, Jr., Chairman, Executive Committee and Secretary, Blunt Ellis & Loewi Incorporated, Milwaukee, Wisconsin.

Assisting the Committee in its work were key representatives of the Securities Industry Association, the Securities and Exchange Commission, the Department of the Treasury, the U. S. Small Business Administration, the National Association of Small Business Investment Companies, the National Venture Capital Association, the White House Conference on Small Business, and the Chief Counsel to the Senate Small Business Committee.

One of the principal conclusions reached by this Joint Industry/Government Committee on Small Business Financing (the "Joint Committee") was that America's small businesses face an uncertain future unless barriers to investment in these enterprises are eliminated. The findings and conclusions of the Joint Committee were contained in a Special Report entitled Small Business Financing: The Current Environment and Suggestions for Improvement, which was presented to the U. S. Senate Select Committee on Small Business on May 22, 1979.

In its Report, the Joint Committee made recommendations to the Congress, the SEC, the states and the industry's self-regulatory organizations. The majority of the Report's recommendations were directed to the Congress and concerned such matters as taxation, the Employee Retirement Income Security Act of 1974 and various securities laws. Copies of the Report, which was mailed to all members on May 23rd, may be obtained from the NASD's Washington and District Offices.

Since the Report was presented, several bills have been or are about to be introduced in Congress which parallel many of the Joint Committee's recommendations. In addition to the pending and proposed legislation, a number of administrative actions have also been taken by the SEC and the Department of Labor which similarly track the Joint Committee's recommendations.

#### Tax-Deferred Reserves for Market Makers

From an NASD perspective, perhaps the most important development stemming from the Joint Committee's Report was the recent introduction in the Senate of S.1967, the Capital Formation Incentive Act of 1979. Introduced on November 1, 1979, by Senator Gaylord Nelson (D.-Wis.), Chairman of the Senate Select Committee on Small Business, the bill would permit market makers to place up to \$1 million earned from market making activities in securities of small businesses into a 10-year, tax-deferred "profit reserve." Additions to the reserve for any one year would not be permitted to exceed 30% of the fair market value of average equity positions carried for market making purposes during that year.

This legislation closely tracks a principal recommendation put forth by the NASD's Joint Committee. The basis for this recommendation was the Joint Committee's conclusion that there is a clear and pressing need to provide broker-dealers with some degree of protection against losses incurred in performing the function of risk market making. In the opinion of the Joint Committee, this incentive would encourage firms to make markets, thereby improving the marketability and liquidity of small business investments. Concern over the marketability of small business investments is a key reason why many institutional investors do not invest in smaller companies. That was a major finding in the Joint Committee's study of small business financing problems.

In its Report, the Joint Committee said that the availability of tax reserves will encourage broker-dealers to not only make more markets but better markets as well and this, in turn, will aid the nation's economy by promoting capital formation. The Joint Committee found that the ability of a small business to issue securities is directly tied to the prospect of an aftermarket in those securities - one having adequate depth and liquidity. The report stated that an investor is not likely to buy a security he cannot sell or only able to sell at a sharply reduced price. The Committee therefore concluded that a key solution to the problems of small business financing is to insure the existence of highly competitive secondary markets in the securities of issues of all types and sizes. The Report said that with improved aftermarkets for securities brought public, there will come an improved environment in which new issues of small and developing companies can be brought public.

Under Senator Nelson's bill, losses incurred from market making, in any company with equity securities outstanding of \$25 million or less, would be carried back or offset against profits reserved on a first in/first offset basis. By way of example, if year 5 was the first year losses from market making in such securities were incurred, these losses would be used to offset pre-tax additions or profits going into the reserve from year 1. If these losses exceeded the first year's profits, the amount of excess would be applied to profits generated in year 2. Any further excess of year 5 losses over year 2 profits would be applied to year 3 profits and so on. To the extent that the losses from year 5 did not exceed profits going into the reserve in year 1, the excess of profits from year 1 over losses from year 5 would create a new base or starting point from which adjustments for future losses would be made in subsequent years or upon which taxes would be paid at the end of the

10-year, tax-deferred period if no further losses were incurred throughout the balance of the cycle period.

In sum, the bill provides for current losses to be carried back and applied sequentially to profits from the earliest to the latest years (first in/first offset). If there were 10 consecutive years of profits, taxes would be paid on year 1 profits at the end of the 10-year cycle period. If losses were incurred at irregular intervals throughout the period, the cycle period would be adjusted forward and no tax would be paid until such time as there were net profits from market making 10 years out.

S.1967, which has been referred to the Committee on Finance, must be approved by that Committee as well as the Committee on Banking, Housing and Urban Affairs before action can be taken by the full Senate. In its consideration of the bill, it is possible that one or both Committees may conduct public hearings.

We encourage you to contact your representatives in the Senate, as well as members of these Committees, to apprise them of your position with respect to this issue. The importance of expressing your views in connection with pending legislation cannot be overemphasized because the more comments a legislative initiative generates, the greater the possibility of it receiving appropriate attention. To assist you, should you decide to comment upon this proposal, we have attached copies of the October 31, 1979, News Release announcing the introduction of Nelson's bill; the bill itself as it appeared in the Congressional Record on November 1, 1979; and, the names and addresses of both Senate Committees.

#### Status of Other Joint Committee Recommendations

A status report on some of the other key recommendations of the NASD's Joint Committee follows:

Capital Gains Rollover - The Joint Committee also recommended a small business investment incentive. In effect, it would permit the capital gains tax liability from investments in small businesses to be deferred if such gains are reinvested within some prescribed period in other new small business investments. In most respects, this recommendation closely paralleled S.653, the Small Business Capital Preservation Act of 1979, a bill previously introduced by Senators Nelson, Baucus, Weicker and Huddleston. S.653, if enacted, would effectively implement the Joint Committee's recommendation by allowing individuals who own an interest in a small business with a net worth of \$25 million or less at the time of investment to sell their interest for cash and defer any capital gains tax they may owe as a result of the sale, provided they reinvest the sales proceeds in another small business concern within 18 months from the date of the sale. This rollover provision is also contained in Senator Lloyd Bentsen's bill, S.1475, the Venture Capital Tax Reform Act. Bentsen's bill would also effect the Joint Committee's recommendation but in a much more limited way. It would allow only gains from the sale of qualified venture capital stock to qualify as a non-taxable exchange (a smaller universe of small business securities), provided that the gain was reinvested in other qualified capital stock within 24 months. The Bentsen bill would also allow a taxpayer to deduct losses from such investments, up to \$100,000, against ordinary income.

Exemption of Venture Capital Firms From the Investment Company Act of 1940 - Since venture capital firms are important components of the capital-raising process, the Joint Committee recommended that the public be allowed to

invest in professionally-managed venture capital firms. Today, however, it is extraordinarily difficult for these companies to obtain public investment and, at the same time, operate successfully under the 1940 Act.

Another recently-introduced piece of legislation, S.1940, the Venture Capital Investment Act of 1979, introduced by Senator Nelson and co-sponsored by Senators Tower, Lugar, Morgan and Stewart, would exempt from the 1940 Act venture capital companies which meet certain requirements designed to provide substantial protections to investors in these companies, thus allowing them to furnish capital and provide financing for business ventures and related activities. The bill would also amend the Securities Act of 1933 to authorize the sale of certain securities to "accredited investors" (generally defined as "institutional" and "sophisticated" investors) without the need to file a registration statement under this Act.

Revise Prudent Man Rule - In its examination of the investment practices of institutional investors, the Joint Committee found that the "prudent man rule," as administered by the Department of Labor, was misinterpreted by many portfolio managers. The Joint Committee concluded that the intent of ERISA with respect to the "prudent man rule" was in need of clarification and it recommended to the Department of Labor that its proposed rules, which would have applied the prudence standard to the entire portfolio under management and not specific investments contained therein, were both appropriate and necessary and should be adopted at once. With some modification, these rules were subsequently adopted by the Department of Labor. They make it clear that the degree of risk associated with a specific involvement does not, by itself, make an investment imprudent. Under the new rules, a fiduciary is required to determine if a particular investment furthers the plan's purposes by considering the following factors:

- the composition of the plan's portfolio with regard to diversification;
- the liquidity and current return of the plan's portfolio relative to the anticipated cash flow requirements of the plan; and,
- the projected return of the plan's portfolio relative to the funding objectives of the plan.

The Department of Labor offered the regulation as a "safe harbor" for fiduciaries to assure them that by complying with the provisions of the regulation, they will have satisfied the requirements of the prudence rule. This newly-adopted regulation should help to facilitate small businesses' capital raising by limiting the influence of an investment's riskiness in a fiduciary's decision to invest.

Replace Existing "Blue Sky" Exemptions With a Uniform Exemption From Registration - In a recommendation to the states, the Joint Committee called upon state securities commissioners to replace existing "blue sky" exemptions from registration for listed securities with a uniform exemption. Pursuant to this recommendation, securities of any issuer meeting specified objective standards, irrespective of listing status, would be exempt from state registration. The recommendation places emphasis on the quality of the issues rather than the marketplace in which the issue is traded as the key factor in determining eligibility for an exemption. Currently, 11 states have adopted the uniform exemption from registration. Added progress in this area is expected in 1980.

### Miscellaneous Recommendations

The attention given by Congress to other recommendations of the Joint Committee in the areas of small business income tax rates, tax treatment of stock options offered by small businesses to attract management talent and three-year accelerated depreciation for purchases of machinery and equipment has been very encouraging.

The first of these recommendations called for a reduction of the income tax rates and expansion of the income tax brackets applicable to smaller corporations. Senator John H. Chaffee's bill, S.1288, the Graduated Corporate Tax Act of 1979, would accomplish that by expanding the corporate surtax base to \$150,000 from the present \$100,000 level and by increasing the number of income brackets under \$150,000.

With respect to stock options granted by small businesses, Senator Bentsen's bill, S.1475, the Venture Capital Tax Reform Act, would effectively implement the Joint Committee's recommendation by reinstating the favorable pre-1976 stock option treatment for qualified venture capital stock. If enacted, no income would be recognized upon receipt of the optioned stock by the employee and the stock thus acquired would be a capital asset with any income from the eventual sale of the stock generally treated as a long-term capital gain or loss.

As to accelerated depreciation, Senator Nelson and others had previously introduced a bill, S.110, the Small Business Depreciation Reform Act of 1979, which would allow tax deductions for the full amount of machinery and equipment purchased up to a limit of \$25,000 per year over a three-year period. Although the Joint Committee favors an upward limit of \$100,000 as a more appropriate level, it supports this initiative.

### White House Conference on Small Business

In a related area, it is important to note that a White House Conference on Small Business is scheduled to be held on January 14-17, 1980, in Washington, D. C. Through a series of nationwide regional conferences and open forums, an agenda for the January meeting has been prepared and delegates to the Conference chosen. One of the eight major areas of focus of the Conference will be Capital Formation. A special task force was appointed to review the subject area and to suggest a number of options that might be pursued to enhance the interests of small business. The Chairman of the NASD's Joint Committee, William Hambrecht, served on this task force. A discussion paper was subsequently prepared by this task force to orient and acquaint the delegates to the Conference with the major issues and suggestions that emerged from the regional conferences, open forums and discussions of these matters by the task force. The report is a very impressive document containing over 20 recommendations.

It is discouraging, however, to note that the aforementioned report is silent on the need for special tax reserves for market makers, notwithstanding other recommendations relative to tax policy and notwithstanding the fact that this very recommendation was made to the Capital Formation Task Force by the NASD, the Joint Committee, its Committee Chairman and many who attended the regional conferences and open forums of the White House Conference.

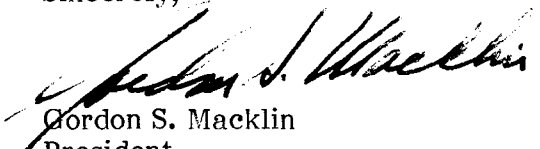
We believe tax-deferred reserves for market makers will facilitate the capital formation prospects for small businesses. If you share our view on this important subject, we suggest that you advise the White House Conference in writing of your thoughts in this area. You may direct your comments to: J. R. Kirkland, Director, Research & Policy Development, 712 Jackson Place, N. W., Washington, D. C. 20006.

\* \* \* \*

Although there has been substantial progress by Congress and others to come to the aid of small business, much of this progress is simply drawing board material and a long way from becoming a reality. What is needed is your participation in the democratic process of government. If you are in favor of any of the bills presently pending in Congress, you are urged to write your elected officials, as well as the members of the Congressional Committees to which these bills have been referred, and to express your opinion on these matters. With your support and encouragement, the possibility of enactment of these bills moves closer to becoming a reality. Without it, their chances are not very good.

Questions concerning this Notice and the status of other recommendations as well as requests for copies of the Joint Committee's Report, may be directed to Douglas F. Parrillo, Vice President, Department of Regulatory Policy and Procedures, NASD, 1735 K Street, N. W., Washington, D. C. 20006, telephone (202) 833-7360.

Sincerely,



Gordon S. Macklin  
President

Attachments

NEWS RELEASE

SELECT COMMITTEE ON SMALL BUSINESS  
U.S. SENATE

SENATOR GAYLORD NELSON, CHAIRMAN

424 RUSSELL BLDG. WASHINGTON D.C. 20510 (202) 224-5175

---

FOR IMMEDIATE RELEASE

79-138

96-42

NELSON BILL WOULD AID SECURITIES FIRMS,  
ENCOURAGE SMALL BUSINESS CAPITAL FORMATION

WASHINGTON, D.C., Oct. 31, 1979--In a measure designed to encourage capital formation for small businesses, Sen. Gaylord Nelson (D-Wis.) introduced a bill today which would provide incentives to securities brokers who are willing to buy and sell stocks of promising small enterprises.

In introducing his bill, the Capital Formation Incentive Act, to the Senate, Nelson said:

"There is an alarming decline in the number of securities firms which distribute and support the stock issues that raise capital for small businesses. If current trends continue unchecked, it may soon be almost impossible for new, small and local enterprises to raise capital for improved products and services.

"We are facing a fundamental threat to our free enterprise system. If we are not willing to help the firm that risks its capital to support small business, we are in danger of losing the whole structure by which new and small enterprises gain access to public capital.

"The major way for firms to raise money for long-term growth is by selling securities to the public. But they can't sell stock unless some securities firms will help re-purchase and re-sell their shares among public investors. Firms willing to commit their own money to provide this service are called 'market makers.' During this decade, the number of 'market makers' has fallen about 37% (to 468); so on the average there are fewer than 10 market makers per state. In nine states there are none at all."

Nelson said his bill would encourage all securities brokers to pay more attention to promising small enterprises, by allowing them to defer paying taxes on a limited amount of profits made in trading the stock of small companies. Specifically, the bill would allow a "profit reserve" into which 'market makers' can place a maximum of \$1 million earned in trading the stock of small, developing companies, thereby deferring the taxes on these profits.

Securities firms of all sizes would be eligible for the deferral, providing they are willing to buy and sell stocks of small companies. The profits in the reserve could be taken into income during a recession. The tax would be paid at the time, or within 10 years in any event.

Pressure on independent securities firms has been so severe that the income share of the 10 largest securities firms jumped from about one-third to almost one-half of all industry revenues since 1972, according to the Securities and Exchange Commission. "Thus, the remaining smaller brokers, who are willing to provide advice, services and support to new companies, are themselves in great jeopardy," Nelson said.

"This bill aims at strengthening these indispensable financial intermediaries so that they will be available in the future to help small enterprises raise capital."

Nelson pointed out that it is already extremely difficult for new and small firms to obtain new money.

"In 1969, nearly 700 small firms--worth \$5 million or less--were able to obtain funds by selling stock to the public," Nelson said. "In the last five years only a handful of such firms have been able to do this--at an average of 16-1/2 companies per year. The statistics show that independent enterprises have been virtually excluded from raising capital which they could use to start a business, to develop improved products, to pay additional workers, or to market American merchandise abroad.

"This bill is a carefully designed attempt, at a minimal cost, to preserve the basic capital raising machinery of this country. Such legislation is necessary if we wish to continue to enjoy all of the benefits of the free, competitive enterprise system."

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# Congressional Record

## Senate

November 1, 1979

By MR. NELSON:

S. 1967. A bill to amend the Internal Revenue Code of 1954 to allow a corporation which deals in securities to establish a reserve for the net gain from certain market making activities; to the Committee on Finance.

### CAPITAL FORMATION INCENTIVE ACT OF 1979

● Mr. NELSON. Mr. President, I am introducing today a bill to strengthen the foundations of small business capital formation. This measure would allow securities brokers to create a limited reserve from profits which they have made in supporting the trading of stocks of small and unknown companies. I ask that the bill be appropriately referred and that the text be printed in the Record following my remarks.

### NEED FOR THE LEGISLATION

Over the last year and a half, the Senate Small Business Committee has held a series of hearings on the various aspects of capital formation.

Two of the committee's hearings, in the summer of 1978 and May of 1979, focused on the possibilities of small enterprises raising capital in public securities markets.

We discovered a serious capital formation problem among small and independent enterprises. The situation was summarized by Business Week magazine which concluded in October 1977, that: For some years now the public capital market has been closed to all but the largest firms . . . the 1,000 biggest corporations.

The largest 1,000 would amount to about half of the U.S. corporations listed on the New York Stock Exchange. It

would constitute less than one-tenth of the total of publicly held securities which are listed on all public exchanges and the over-the-counter NASDAQ System.

A substantial number of statistics can be cited to support Business Week's conclusions.

In 5 years, 1974 through 1978, only 82 small companies—defined as having a net worth of less than \$5 million—were able to raise capital in the public securities market. That is an average of 16-1/2 per year, compared to 698 in the single year 1969, just 10 years ago.

During the same 5 years, these small companies raised an average of just over \$100 million per year in public equity capital compared to about \$1-1/2 billion for similar companies in 1969.

### UNDERLYING CAUSES OF THE CAPITAL GAP

There are a multiplicity of reasons for this lack of equity investment, or gap in capital formation.

They have been compiled and explored in an excellent report prepared by the National Association of Securities Dealers and discussed at the committee's capital formation hearing on May 22, 1979:

The withdrawal of the individual investor from the stock market. During the 1970's the number of citizens holding stocks has declined from 31 million to 25 million. This is particularly hard on new and small businesses, since individual investors are more inclined to take risks with their own money than institutional investors are with other people's money;

Institutional investors have come to dominate the stock market. They owned 26 percent of common stocks in 1960 and will own half by 1985. Institutions have

shown very little interest in investing in smaller firms. The multi-billion dollar scale of their operations is a factor. Because there are legal and regulatory restraints about investing money placed in their trust, many fund managers will not invest in any stocks but the bluest "blue chips." They believe the stock of the new and small companies is by definition riskier than the established giants;

Inflation and other adverse economic trends have made everyone less willing to take investment risks;

Tax laws of the past decade discouraged equity investment in general, and investment in small business in particular;

The number of independent security brokers and dealers who provide entry into the market for small business has declined by 37 percent since 1970.

#### BROKER-DEALERS AS MARKET GATEWAY FOR INDEPENDENT ENTERPRISE

The function performed by a securities dealer, or "investment banker," is mysterious to many people, and I will offer a brief explanation.

There is an adage in the brokerage community that stocks are sold and not bought. This is particularly true with new issues which are, by definition, almost unknown to the majority of the public.

Salesmen within a firm must follow the development of the company so that they can recommend the stock to their customers when appropriate. The firm for which they work must be willing to risk its capital as well as its reputation in analyzing the company and offering its stock to the public.

After "going public," the sponsoring investment banker must support the "after-market" by purchasing those shares which others are unwilling to buy in daily trading.

This commitment was described in the testimony before our committee of J.

Stephen Putnam, president of F.L. Putnam & Co., of Boston, as follows:

"Effectively when I underwrite a security and bring it public, if I do not have ready a group of broker-dealers that want to make a secondary market in that stock, what it means is that I will bring it, sell it mainly to my own customers \*\*\*. Then anytime a customer wants to sell that security, I may be in a position of being the only market maker to buy that security back.

"That is really an untenable situation, if you wish to bring (out) a good number of these smaller issues."

For these reasons, the broker-dealer who is willing to be a market maker is a vital link in the chain of capital formation.

One of the major conclusions emerging from our in-depth study of capital formation is that the Nation must buttress the network of financial intermediaries such as independent broker-dealers.

They are the infrastructure on which small business capital formation is built.

In the first instance they are the gateway through which new, small, promising businesses reach the market where they can obtain investment capital. But their job is not done at that point. They must live with the company for years afterward by assuring that investors can sell and buy the stock in conventional trading.

Certainly the profit motive is predominant in doing this. However, there are other key elements involved. A local broker who has watched an entrepreneur succeed in his community—has witnessed his diligence, service to the community, and financial responsibility—will be more willing to take a chance on helping such a firm raise money.

When a firm approaches a nationwide or multinational securities firm in one of the financial capitals, for instance, chances are that the huge broker will simply not be interested. The reasons are apparent: There is not enough stock to sell through his customers to generate

large commission income; and if research time is to be committed, greater return might be made by applying it to larger existing companies. But another definite factor is that the faraway broker just does not know the company and individuals involved.

We already face a situation where the number of market makers has fallen 37 percent during this decade (to 468), which means an average of less than 10 per State. Nine states do not have any securities firms which make markets in a small or unknown/unlisted security. There are many other States where there is only one market maker.

#### ROLE OF "MARKET MAKERS"

Let us examine in more detail the "market dealer" role which is the basis of this bill. Suppose an investor had bought 1,000 shares of the stock of a local bank. He has done so to invest wisely. However, he is also conscious he has helped a local institution raise capital for the use of local individuals and business. The entire community will be better served. Now suppose that after some length of time, the investor wishes to sell this 1,000 shares. The stock is quoted at about 17-1/2. This means that the sponsoring broker-dealer who is making a market in the stock will have to commit \$17,500 to buy that stock if nobody else wishes to do so.

If, for instance, later in that day a major news break occurs and statistics are to be announced on the inflation rate, or the balance of payments, or the budget, or oil prices, this news can send the market up or down. The extent of that movement is a measure of the risk independent brokers take in making a market in the stock of local companies.

The greatest risks lies in an imponderable economy. No matter how good the stock may be nor how great its potential nor how hard the local broker tries to sell that stock practically nobody will be willing to buy it when the Nation is plunging into a recession.

Under these circumstances, there will be many transactions which will absorb the capital of the brokerage firm and there will be fewer profitable ones to offset these commitments of capital.

#### THEORY OF THIS BILL

This bill would address the problem of broker-dealer risk by allowing a deferment of a limited amount of taxes on profits in a good year. The income deferred in this way would then be available in poor years to keep the broker in business. The theory of this legislation is that these vital intermediaries are working within an economic cycle that is beyond their control.

They are entrepreneurs, and they have made this commitment to free enterprise. However, in recent years there has been unparalleled turbulence in our domestic economy and in the world economy. We have seen the consequences of this in the decline in independent broker-dealer population, which has also fallen 37 percent since 1970.

In the past 6 years the decline of the small independent broker has been so severe that the income share of the 10 largest securities firms jumped from about one-third to almost one-half of all industry revenues. The smaller brokers, who are willing to provide advice, services and support to new companies, are themselves in great jeopardy. And with conditions as they are, we are likely to see continuing attrition if we do not do something about it.

This bill is a moderate, sensible remedy. It would provide a small cushion for the broker-dealer by allowing him to defer the tax up to \$1 million in profits he has made in the market making function in stocks of smaller unlisted securities. He would have the use of this money tax free for a limited amount of time, 10 years. After that the tax would have to be paid.

Only money which had been made in actual market making in small business

securities would be eligible for generating such a reserve.

Thus, a broker of any size could gain the advantage of this reserve, but it would have to trade the stocks of primarily small, new unlisted securities in order to earn the profits that would be set aside in this manner.

There are other limitations of a technical nature which are designed to make the bill sound and administerable.

The term "market maker" is precisely defined in the existing reports of the Securities and Exchange Commission. Market-making profits are required to be reported under present law, so there is no difficulty in identifying them.

#### SUMMARY

If we are serious about keeping the free enterprise system a prosperous one and therefore keeping the opportunity open for new and independent enterprises to be created and to grow, we must strengthen the financial experts that serve them.

We are facing a fundamental threat to the structure of our free enterprise system. If we are not willing to help the firm that risks its capital to support small business, we are in danger of losing the whole framework by which new and small enterprises can raise public capital. If this kind of risk-taking business fades out of the picture, chances are that small and independent entrepreneurs will also die out.

We urge that this legislation be considered carefully at hearings by the committees which have jurisdiction, so that each of the premises and each of the facets of the proposed legislation can be probed in depth and detail. The bill should also receive a searching critique by Government agencies and by knowledgeable persons in the private sector.

In my judgment, it will be able to pass those tests, and we ought to be able to get action with all deliberate speed in enacting this proposal.

I ask unanimous consent that the bill be included in the Record at this point.

There being no objection, the bill was ordered to be printed in the Record, as follows:

S. 1967

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, that this Act may be cited as the "Capital Formation Incentive Act of 1979."

Sec. 2. (a) Part VIII of subchapter B of Chapter 1 of the Internal Revenue Code of 1954 (relating to special deductions for corporations) is amended by adding at the end thereof the following new section:

"Sec. 251. Market Making Reserve.

"(a) Allowance of Deduction.--In the case of a corporation which is engaged in market making activities during the taxable year, there shall be allowed as a deduction for such taxable year an amount equal to the amount of additions to a reserve for gains from such market making activities during such taxable year.

"(b) Limitations.--

"(1) Average Position.--No deduction shall be allowed under subsection (a) if the amount of the additions to the reserve for the taxable year exceeds 30 percent of the fair market value of average positions carried for market making activities by the taxpayer during the taxable year.

"(2) \$1,000,000 Reserve.--No deduction shall be allowed under subsection (a) for any taxable year for any addition to the reserve, if, as of the close of the taxable year (after adjustment under subsection (c)), the reserve exceeds \$1,000,000.

"(3) Taxable Income.--The amount of the deduction allowed under subsection (a) shall not exceed the taxable income of the taxpayer for the taxable year (determined without regard to this section).

"(c) Adjustment to Reserve.—

"(1) Required Withdrawals from Reserve.—At the close of each taxable year, the taxpayer shall withdraw from the reserve an amount equal to the excess of—

"(A) the amount of the additions to the reserve for which a deduction was allowed for the 10th taxable year preceding such taxable year, over

"(B) any withdrawal from the reserve during any preceding taxable year under paragraph (2) which was treated as a withdrawal of any additions made to the reserve during such 10th preceding taxable year.

"(2) Additional Withdrawals.—At the close of the taxable year, the taxpayer may withdraw from the reserve any amount in excess of the amount described in paragraph (1). Any such withdrawal shall be treated as a withdrawal of additions to the reserve in the order in which such additions were made to the reserve, beginning with the earliest such addition.

"(d) Definitions and Special Rules.—For purposes of this section—

"(1) Market Making Activities.—The term "market making activities" means the purchase and sale of over-the-counter equity securities by a dealer in securities, or any specialist permitted to act as a dealer, who holds himself out (by entering quotations in an inter-dealer communications system or otherwise) as being willing to buy and sell over-the-counter equity securities for his own account on a regular or continuous basis.

"(2) Gain From Market Making Activities.—The term 'gain from market making activities' means the net gain realized from the sale or exchange of over-the-counter equity securities—

"(A) of corporations which, on the last day of the taxable year of the taxpayer preceding the taxable year of the sale or exchange, had \$25,000,000 or less of equity securities in such corporation outstanding, and

"(B) which are held by the taxpayer primarily for sale to customers in the

ordinary course of his trade or business.

"(3) Over-the-Counter Equity Securities.—The term 'over-the-counter equity securities' means any equity security not traded on a registered security exchange.

"(4) Average Positions For Market Making Activities.—The term 'average position for market making activities' means the average monthly inventory positions for over-the-counter equity securities of the taxpayer for the taxable year.

"(5) Controlled Group of Corporations.—For purposes of applying the limitations under subsection (b), all members of the same controlled group of corporations shall be treated as one corporation. In any such case, the deduction allowable by subsection (a) for each such member shall be its proportionate share of net gain from market making activities taken into account in determining the amount of the deduction. For purposes of this paragraph, the term 'controlled group of corporations' has the meaning given to such term by Section 1563(a), except that 'more than 50 percent' shall be substituted for 'at least 80 percent' each place it appears in Section 1563(a)(1).

"(6) Corporate Acquisitions.—In the case of the acquisition described in Section 381(a)(1) or (2) of assets of a corporation by another corporation, the acquiring corporation shall not succeed to any reserve established under this section."

(b) Section 81 of such Code (relating to certain increases in suspense accounts) is amended—

(1) by striking out "There" and inserting "(a) There;" and

(2) by adding at the end thereof the following new subsection:

"(b) Withdrawals From Market Making Reserves.—There shall be included in gross income for the taxable year the amount of any withdrawal from any market making reserve under Section 251(c)."

(c)(1) The table of sections for Part

VII of subchapter B of Chapter 1 of such Code is amended by inserting at the end thereof the following new item:

"Sec. 251. Market Making Reserve."

(2)(A) The heading for Section 81 of such Code is amended by inserting "OR REDUCTIONS IN MARKET MAKING RESERVES" after "ACCOUNTS."

(B) The item relating to Section 81 of the table of contents for Part II of subchapter B of Chapter 1 of such Code is amended by inserting "or reduction in market making reserves" after "accounts."

Sec. 3. The amendments made by Section 2 of this Act shall apply to taxable years beginning after December 31, 1979.

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