

status of every complaint filed including respondents' answers, respondents' requests for or waiver of hearings, and the decision of the District Business Conduct Committee, which notification shall also be entered in the Complaint Docket.

Explanation

The changes reflect existing practice, whereby the maintenance of the docket has been delegated to the Surveillance Department, and copies of the complaint, answer, requests for hearing or waiver of hearing and decision are sent to that Department.

Article III

Review of Disciplinary Actions and

Hearings Before Board

Review by Board

Sec. ~~15~~ 1. (a) If a District Business Conduct Committee shall take any disciplinary action against any member, or shall dismiss any complaint, as herein ~~above~~ provided, such action or dismissal shall be subject to review by the Board of Governors on its own motion within forty-five (45) days after the date of the ~~notice required by Section 11 hereof~~ decision. Any such action or dismissal shall also be subject to review upon application by any person aggrieved thereby, filed within fifteen (15) days after the date of the ~~notice required by Section 11 hereof~~ decision, ~~except as otherwise provided in Section 12 hereof;~~ anApplication to the Board of Governors for review, or the institution of review by the Board of Governors on its own motion, shall operate as a stay of any such action or dismissal, until a decision is rendered by the Board of Governors upon such review as hereinafter provided.

(b) If a respondent or any aggrieved person, who has made application to the Board of Governors for a review of the disposition of the complaint against the respondent firm pursuant to Section 15(a), shall dismiss

~~said~~ withdraw the appeal without a determination by the Board of Governors on the merits thereof, the Board of Governors shall have an additional period of forty-five days subsequent to ~~said dismissal~~ the withdrawal in which to determine whether it shall review the matter on its own motion.

Explanation

The changes are for simplicity and clarity.

[This section is all new.]

Hearings Before the Board

Sec. 2. (a) In the case of an appeal or call for review, the complainant, if other than the District Business Conduct Committee, or the respondent may request a hearing before a hearing panel of the Board of Governors. If a request is made, a hearing shall be granted. A notice stating the date, time and place of the hearing shall be mailed to the complainant, if other than the District Business Conduct Committee and respondent at least ten business days before the hearing. In the absence of a request for a hearing, however, the Board of Governors may have any matter appealed or called for review set down for hearing after ten business days notice. The notice period may be waived in writing by the respondent or a shorter notice given where extraordinary circumstances require.

(b) All hearings shall be held before a hearing panel appointed by the National Business Conduct Committee consisting of two or more persons, all of whom are associated with members of the Corporation, at least one of whom shall also be a current member of the Board of Governors. The other person(s) on the panel may be former Board members whose service on the Board terminated not more than five years prior to the date of the hearing.

(c) If a hearing is held, the hearing panel shall consider the

record before the District Business Conduct Committee and any new material submitted by the complainant and the respondent. If respondent has waived a hearing and the Board does not order a hearing on its own motion, the panel shall consider the matter on the record, which may include new evidence as long as all parties have previously been tendered the new evidence.

(d) The hearing panel shall present its recommended findings and penalties to the National Business Conduct Committee. The National Business Conduct Committee shall make its recommended findings and penalties to the Board of Governors which shall make the final determination.

Explanation

This section is based upon the Explanation by the Board of Governors which currently follows Section 15 of the Code and reflects existing practice.

[This section is all new.]

Evidence and Procedure in

Board Hearings

Sec. 3. (a) The Corporation staff shall make available to respondents and their counsel of record any documentary evidence that will be presented at the hearing, which was not part of the record before the District Business Conduct Committee, within a reasonable period of time before the hearing.

(b) Respondents shall submit any documentary evidence to be considered at the hearing, which was not part of the record before the District Business Conduct Committee, within a reasonable period of time before the hearing.

(c) If a hearing is held, the complainant, if other than the District Business Conduct Committee, the respondent and the Corporation staff

shall be entitled to be heard in person and by counsel and to submit any relevant information which they may desire to present. Formal rules of evidence shall not be applicable. In all cases, a record shall be kept.

(d) Except as otherwise provided by this Code, the hearing panel shall have discretion to make rulings on all procedural matters arising during the course of the proceeding. This discretion shall extend to all motions, rulings and other matters arising during the course of the proceeding (including, without limitation, the presence of witnesses after completion of their testimony, and of other persons not parties to the proceeding) which require resolution during the proceeding.

Explanation

In general, this section codifies current Board hearing procedures. The pre-hearing exchange of evidence is intended to expedite the hearing process. Subsection (d) has been added to make clear that hearing panels control procedural rulings.

[This section is all new.]

Powers of Board on Review

Sec. 4. In any proceeding to review any disciplinary action taken or dismissed by a District Business Conduct Committee, the Board of Governors may affirm, dismiss, modify or reverse dismissals with respect to each of the District Business Conduct Committee findings or remand the matter with appropriate instructions to the District Business Conduct Committee. The Board of Governors may affirm, increase, or reduce any penalty, or impose any other fitting penalty.

Explanation

This section defines the scope of the Board's authority with respect to findings and penalties. It is based upon portions of existing Sections 16 (findings of Board on review), 17 (reversal of dismissals) and 18 (remand) of the Code.

[Substantially rewritten]

Decision of Board

Sec. 5. (a) In any proceeding to review any disciplinary action taken by a District Business Conduct Committee or a dismissal by a District Business Conduct Committee if the Board of Governors determines that a violation alleged in the complaint has occurred, it shall issue a written decision which shall set forth:

(1) the act or practice which the respondent has been found to have engaged in or omitted;

(2) the rule, regulation, or statutory provision which such act or omission to act is deemed to violate;

(3) the basis upon which the findings are made; and

(4) the penalty imposed.

Explanation

This section is based upon a portion of existing Sections 16 and 17 of the Code, but reworded primarily to conform to the Securities Acts Amendments of 1975.

Notification of Final Disposition of Complaint Decision

Sec. ~~19~~ 6. The complainant, the respondent and the member of the Corporation Association with whom the respondent is presently an associated person (as defined in Article I, Section 3(f) of the By-Laws of the Corporation) shall be promptly notified of, and be sent a copy of any written decision rendered by the Board of Governors, under Section ~~16~~, ~~17~~ or ~~18~~ hereof or by a District Business Conduct Committee under Section ~~11~~, ~~12~~ or ~~13~~ hereof if said decision is the final disposition by the Association of the Complaint against the respondent. The member of the Association with whom the respondent is presently an associated person shall be promptly notified of any application for review to the Securities and Exchange Commission made by the

respondent pursuant to Section 20 hereof and Section 19(d) of the Securities Exchange Act of 1934.

Explanation

The section carries forward the existing requirement that the respondent's present employer-member be sent a copy of any Board of Governors' decision. The deletion of the language that any decision of the District Business Conduct Committee also be sent to the employer-member is only because this would be required under proposed Article II, Section 9(d) of the Code. Similarly, the deletion of notification to the member-employer of an appeal to the Securities and Exchange Commission is because it has been moved to proposed Article II, Section 7 where it more appropriately belongs.

Application to SEC for Review

Sec. 20. 7. In any case where either the complainant or the respondent feels aggrieved by any disciplinary action taken or approved by the Board of Governors against any Respondent, either the Complainant or the Respondent such person may make application for review to the Securities and Exchange Commission in accordance with Section 15A of the Securities Exchange Act of 1934, as amended. The member of the Corporation with whom the respondent is presently an associated person shall be promptly notified of any application for review to the Securities and Exchange Commission.

Explanation

The changes are for clarity and consistency with other provisions of the Code.

Service of Complaints, Decisions and

Other Notices

Sec. 21 8. Any respondent or aggrieved person shall be deemed to have received notice to which he is entitled under any section of this Code by mailing of the notice to that person at his last known address as reflected on the Association Corporation records. For purposes of computing the time for

any such person to take required action under this Code, three days shall be added to the prescribed period if service is effected by mail.

[This Article is all new.]

Article IV

Penalties

Sec. 1. In any proceeding relating to disciplinary actions involving members and associated persons, a District Business Conduct Committee and the Board of Governors may impose any penalty it deems appropriate as set forth in Article V, Section 1, of the Rules of Fair Practice.

Explanation

This section merely cross-references to the penalty provisions contained in the Rules of Fair Practice.

[This Article is all new.]

Article V

Member and Associated Person Qualification Proceedings

Purpose

Sec. 1. It is the purpose of this Article to provide, where appropriate, a procedure for requesting relief in cases of failure to meet the qualification requirements of the Corporation's By-Laws.

Explanation

This Article is based upon the existing By-Law provisions relating to statutory disqualifications, such as expulsions of members and bars of associated persons.

[This section is taken from existing Article I, Section 13 of the By-Laws.]

Membership Continuance Qualification Proceedings

Sec. 13 2. (a) A member shall retain its membership in the Corporation only so long as the Board of Governors deems that it possesses all of the qualifications for membership; and a broker or dealer seeking membership may;

if the Board of Governors deems it appropriate, be denied admission therein if it is subject to any of the disqualifications provided in this Article.

(b) (a) If the Corporation has reason to believe there is a disqualification, there is a failure to meet the qualification requirements of the Corporation's By-Laws, the member or broker or dealer or person shall be promptly notified in writing of the specific grounds of such disqualification from or denial of membership qualification deficiencies. If it deems it appropriate, the Board of Governors may summarily cancel the membership of a member if it becomes subject to any of the disqualifications fails to meet the qualification requirements provided in this Article the By-Laws or if it continues to have associated with it a person who associate with a person who is subject to any of the same disqualifications fails to meet the qualification requirements provided in the By-Laws.

(c) (b) Any The member or broker or dealer may make an application to the Corporation requesting continuance in or admission to membership relief and shall demonstrate why the application should be granted notwithstanding the disqualification qualification deficiencies. If an application is filed with the Corporation, the applicant and any person whose association with the applicant gives or would give rise to the disqualification shall be given an opportunity to be heard with respect to the application and shall demonstrate why the application should be granted. If requested, or if directed by the Corporation, a hearing shall be held before a committee comprised of at least one member of the appropriate District Committee and at least one member of the Board of Governors hearing panel designated by the Board of Governors, and a record shall be kept. Such committee The hearing panel shall make a recommendation as to the application which shall be forwarded to the Board of Governors together with the record.

~~(d)~~ (c) The Board of Governors shall make a written determination upon the record before it, setting forth therein the specific grounds upon which such determination is based and the conditions, if any, as to the continuance in or admission to membership it considers appropriate.

~~(e)~~ (d) The Board of Governors shall promptly notify the applicant of any action taken. When ~~appropriate;~~ an application required, a notification shall be ~~promptly~~ filed with the Commission, pursuant to Section 15A of the Act. Any applicant or person who is aggrieved by the action of the Board of Governors may make application for review of such action to the Commission, pursuant to Section 15A of the Act.

Explanation

Although this section is based upon Article I, Section 13 of the By-Laws, paragraph (a) of the By-Law provision is not carried forward into the Code because the language appears an unnecessary duplication in view of language in other portions of the By-Laws. Also not carried forward is the By-Law requirement for District Committee representation at hearings in order to allow greater flexibility in scheduling hearings as well as to reflect the fact that the requirement is generally waived by the applicant. It is contemplated that the By-Law provision will be rescinded in the future following a required membership vote.

[All of Article VI is taken from the existing provisions contained in Part IX of Schedule C of the By-Laws.]

Article VI

Summary Suspension

Summary Action

Sec. 1. (a) The Corporation may summarily suspend a member or person associated with a member who has been and is expelled or ~~suspended~~ is currently subject to a suspension from any self-regulatory organization or

is The term suspended from any self-regulatory organization in paragraph ~~(1)(a)~~ hereof, refers to a suspension that is in effect and not one that has expired.

barred or suspended from being associated with a member of any self-regulatory organization; and

(b) suspend a member who is in such financial or operating difficulty that the Corporation determines and so notifies the Securities and Exchange Commission that the member cannot be permitted to continue to do business as a member with safety to investors, creditors, other members, or the Corporation.

Explanation

This article is based upon the existing provisions set forth in Part IX of Schedule C of the By-Laws which will be deleted upon effectiveness of this Article, and upon Section 15A(h)(3) of the Securities Exchange Act of 1934.

Written Notification

Sec. (2.) Any member or person associated with a member against whom the Corporation takes summary action pursuant to Section (1) ~~above~~ shall be promptly notified in writing or otherwise of such action. Such notification shall issue only after prior approval of the Executive Committee of the Board of Governors and shall contain a statement of the specific grounds on which such action is taken and that an opportunity for a hearing is afforded pursuant to the provisions of Sections (3) and (4) hereof. Such summary action shall not be conditioned upon notification but shall be effective immediately.

Request for Hearing

Sec. (3.) Any member or person associated with a member against whom the Corporation takes summary action may request an opportunity for a hearing within ten (10) days of the date of notification pursuant to sSection (2) ~~above~~. Such hearing shall be held within five (5) days of such request. A request for a hearing shall not operate as a stay of the summary action.

Hearing

Sec. (4.) If a hearing is requested pursuant to ~~s~~Section (3) above, it shall be held before a person or persons designated by the Board of Governors. Such member or person associated with a member shall be entitled to be heard in person and represented by counsel and to submit any relevant matter which such member or person may desire to present. Counsel for the Corporation or other designated Corporation personnel may participate in such hearing and be entitled to submit any relevant matter which counsel or such personnel may desire to present. In any such proceeding, a record shall be kept.

Decision

Sec. (5.) A written decision shall be issued within five (5) days of the date of the hearing, and a copy shall be sent to the member or person associated with a member. A written decision shall contain the reasons supporting the action taken.

Review by Board

Sec. (6.) (a) If the member or person associated with a member does not request an opportunity for a hearing pursuant to ~~s~~Section (3) above, the notification of summary action shall be subject to review by the Board of Governors on its own motion within thirty (30) days of the date of the notification.

(b) The written decision issued pursuant to ~~s~~Section (5) above shall be subject to review by the Board of Governors upon application of the member or person associated with a member filed within fifteen (15) days after

issuance. Any such decision shall also be subject to review by the Board of Governors on its own motion within thirty (30) days after issuance.

(c) The institution of review, whether by application or on the initiative of the Board, shall not operate as a stay of the summary action.

Findings of Board on Review

Sec. (7.) Upon consideration of the record and after further hearings as the Board of Governors shall order, ~~if the Board shall find that the notification or written decision is inconsistent with the grounds for authorization of summary action contained in section (1) above;~~ the Board shall in writing affirm, modify, amend, or abrogate ~~reverse or dismiss~~ such ~~notification or decision,~~ or remand the matter for further proceedings consistent with its instruction. The Board shall set forth specific grounds upon which its determination is based.

Application to Commission for Stay of Summary Action

Sec. (9.) 8. Any member or person associated with a member aggrieved by summary action taken by the ~~Corporation~~ Board of Governors may apply to the Securities and Exchange Commission for a stay of such summary action as permitted by ~~Section 15A~~ of the Securities Exchange Act of 1934, as amended.

Application to Commission for Review

Sec. (10.) 9. In any case where a member or person associated with a member feels aggrieved by any summary action taken or approved by the Board of Governors, such person or member may make application for review to the Securities and Exchange Commission in accordance with Section 19 of the Securities Exchange Act of 1934, as amended.

Procedures of Summary Suspension

Complaint by District Business Conduct Committee

Sec. (8-) 10. Procedures of Summary Suspension are Action by the Corporation under this Article is not intended to foreclose complaint action by the appropriate District Business Conduct Committee of the District in which the broker/dealer is located under the Code of Procedure for Handling Trade Practice Complaints where a violation of the Rules of Fair Practice may be involved.

[All of Article VII is taken from existing provisions contained in Part VI of Schedule D of the By-Laws.]

Article VII

Procedures on Aggrievements

Concerning the NASDAQ System

Purpose

Sec. 1. ~~It is~~ The purpose of these procedures this Article is to provide, where justified, redress for persons aggrieved by operations of the NASDAQ System as a result of action or non-action by the Corporation; and to provide procedures for the handling of qualification matters pursuant to ~~Part II, Section D of this Schedule~~ NASDAQ rules.

Explanation

This Article is based upon current Part VI of Schedule D of the By-Laws which will be deleted upon effectiveness of this Article of the Code. It is also contemplated that in the future the substantive qualification requirements of Schedule D will be redrafted in the format of rules. Accordingly, the phrase "NASDAQ rules" is substituted for the present references to the substantive requirements of Schedule D. The same substitution appears elsewhere in this proposed Article as well as in proposed Articles VIII and IX of the Code which follow. The other changes in this proposed Article are largely clarifying without any substantive modification of the present Schedule D procedures.

Form of Application

~~A~~ Sec. 2. All applications shall be in writing, and shall specify in reasonable detail the nature of and basis for the redress requested. If the application consists of several ~~matters or items~~ allegations, each ~~matter or item~~ allegation shall be stated separately. All applications must be signed and shall be directed to the Corporation.

Request for Hearing

~~B~~ Sec. 3. Upon request, applicant shall be granted a hearing, after reasonable notice. In the absence of such request for a hearing, the Corporation may, in its discretion, have any application set down for hearing or consider the matter on the basis of the application and supporting documents.

~~Initial~~ Consideration of Applications

~~C~~ Sec. 4. All applications shall be considered by a committee designated by the Board of Governors. The applicant shall be entitled to be heard in person and by counsel and to submit any relevant matter which he may desire to present. In any such proceeding a record shall be kept.

Decision

~~D~~ Sec. 5. Decisions on applications shall be in writing and a copy sent by mail to the applicant. The committee may communicate its determination to the applicant prior to the issuance of a written decision, which shall be effective as of the time of such communication. The written decision shall contain the reasons supporting the committee's conclusions.

Review by Board

~~F~~ Sec. 6. The decision shall be subject to review by the Board of Governors on its own motion within forty-five (45) days after issuance of the written decision. Any such decision shall also be subject to review upon application of any person aggrieved thereby, filed within fifteen (15) days after issuance. The institution of a review, whether on application or on the initiative of the Board, shall not operate as a stay of the decision.

Findings of Board on Review

~~F~~ Sec. 7. Upon consideration of the record, and after such further hearings as it shall order, the Board shall affirm, ~~deny~~ reverse, remand or modify the decision. The Board shall set forth specific grounds upon which its determination is based.

Application to Commission for Review

~~G~~ Sec. 8. In any case where a person feels aggrieved by any decision of the Board of Governors taken pursuant to section ~~F~~ (7), the person may make application for review to the Securities and Exchange Commission in accordance with the Securities Exchange Act of 1934, as amended.

[All of Article VIII is taken from existing provisions contained
in Parts VII and VIII of Schedule D of the By-Laws.]

Article VIII

Procedures on Complaints Against Members and Associated Persons
for Violation of NASDAQ Rules

Purpose

Sec. 1. It is the purpose of these procedures this Article to set forth procedures to provide an expeditious handling of complaints by the NASDAQ Committee of complaints alleging that registered market makers or, other members of the Corporation or associated persons have failed to meet applicable standards of Schedule "D" hereof comply with NASDAQ rules. These procedures are not intended to replace those provided in subparagraphs F(e)(5(d)) and F(D), above or foreclose action by the appropriate District Business Conduct Committee of the district in which the market maker or other member is located under the Article II of this Code of Procedure for Handling Trade Practice Complaints where a violation of the Rules of Fair Practice may be involved.

Explanation

This Article is both based upon and combines the current procedures contained in Part VII (complaints against members) and Part VIII (NASDAQ summary complaints) of Schedule D of the By-Laws. In addition, however, several entirely new sections have been added to conform the NASDAQ disciplinary procedures as nearly as possible to the procedures in disciplinary proceedings before the District Business Conduct Committees contained in proposed Article II of this Code of Procedure. Other changes are for clarity. Upon effectiveness of this Article VIII the existing Schedule D procedures will be deleted.

NASDAQ Summary Complaint Procedures Summary Complaints

Sec. 2. (a) In any case in which the NASDAQ Committee is of the opinion that the facts are not in dispute, that the acts, practices and conduct involved constitute a violation or violations of Schedule D of the Association's By-Laws NASDAQ rules, and that following the regular complaint procedure as set forth in Part VI above Section 3 of this Article does not appear to be

appropriate, the Committee may offer the respondent an opportunity to waive a hearing and accept summary complaint procedure as hereinafter set forth.

(b) NASDAQ Summary Complaints shall be in writing on a form to be approved by the Board of Governors and shall specify in reasonable detail the nature of the charges, the rule or rules deemed to have been violated and the penalty deemed appropriate in the circumstances; provided, however, the penalty for all violations alleged shall not exceed a fine of \$1,000.00 as to each respondent.

(c) An offer by the NASDAQ Committee to follow the summary complaint procedure outlined in paragraphs (a) and (b) above shall include notice to the respondent, that:

(1) ~~that~~ the respondent may reject the summary complaint procedure, in which case the regular complaint procedure in Section 3 of this Article will be followed;

(2) ~~that~~ unless an acceptance of the offer is received by the NASDAQ Committee within ~~ten~~ (10) business days after the date of receipt of the complaint by the respondent, ~~and unless~~ or this period is extended ~~by~~ with the approval of the NASDAQ Committee, the offer will be considered ~~as~~ to be rejected by the respondent, and the Committee will follow the regular complaint procedure in Section 3 of this Article; and

(3) ~~that~~ the respondent may accept the offer by executing and returning to the NASDAQ Committee the number of copies of the complaint and other related documents as specified in the form together with a remittance in the amount of any fine proposed to be imposed.

(d) Acceptance by a respondent of an offer as described above shall constitute the respondent's admission of the violations, acceptance of the penalty and a waiver of all appeal rights to the Board of Governors, the

Securities and Exchange Commission, and the courts. and ~~t~~The complaint and related documents shall constitute the Committee's decision and the record in the case. Receipt of respondent's acceptance by the NASDAQ Committee shall conclude the proceedings as of the date the acceptance is received, without further notice to the respondent, under the conditions stated in the offer, subject to paragraphs (e) and (f) of this Section.

(e) Where there is more than one respondent, and upon the rejection of such an offer by any respondent the NASDAQ Committee, at its option, may terminate the proceedings as to any or all of the remaining respondents and, in the event of such termination, the Committee shall file a complaint under this Article regular complaint procedure as to those respondents rejecting the offer and such others as are deemed necessary.

(f) The Board of Governors may institute review proceedings within ~~forty-five~~ 45 days after receipt of respondent's acceptance by the NASDAQ Committee and such review shall operate as a stay of any such action. The Board may thereafter affirm, dismiss one or more charges and/or reduce the penalty, or remand the matter to the NASDAQ Committee with instructions to institute regular complaint procedure proceedings under Section 3 of this Article.

(g) If it becomes necessary for the NASDAQ Committee to file a regular complaint under Section 3 of this Article against the respondent concerning the same alleged violations, the respondent shall not be prejudiced in any way by the prior offer of summary complaint procedure, and the complaint and acceptance thereof based upon the summary complaint procedure shall be of no effect and be given no consideration in any determination of the issues involved under the regular complaint procedure.

Explanation

The NASDAQ summary complaint procedure currently appears in Part VIII of Schedule D of the By-Laws which will be deleted upon effectiveness of this section. The changes are clarifying.

[This section is a combination of paragraphs A, B, and C of Part VII of Schedule D of the By-Laws.]

Body to Prepare Issuance of Complaints

A. Sec. 3. (a) If there is reason to believe a person has violated NASDAQ rules, complaints shall be prepared by the NASDAQ Committee, a standing committee of the Board of Governors, a body consisting of not less than nine persons appointed by the Board of Governors from among the members of the Corporation, to which has been delegated primary responsibility for supervising the operation of the NASDAQ System, for the Corporation, shall issue a complaint as provided in this Article.

B. Form of Complaint

(b) All complaints shall be in writing, on a form to be supplied by the Board of Governors, and shall specify in reasonable detail the nature of the charges and the provision or provisions of Schedule "D", or any amendment, modification, interpretation or explanation thereof, the NASDAQ rules allegedly violated. All complaints shall be signed by the Chairman or Acting Chairman of the NASDAQ Committee. The Committee shall be referred to in the complaint as "Complainant." The person to whom the complaint is addressed shall be referred to as "Respondent." In the event that a person other than the Committee is the complainant, all provisions governing complaints filed by the Committee shall similarly apply to such other complaints, except that in the case of such other complaint they shall be signed in all instances by the complaining party as "Complainant."

C. Notice of Complaint

(c) The complaint shall be sent by registered mail to the respondent by certified mail, return receipt requested, together with a statement advising Respondent of (1) the time within which Respondent must answer the complaint in writing; (2) the date, time and place of a hearing to be held on the complaint unless waived by Respondent in its written answer; and (3) the person or persons who will hear the complaint. A copy of the complaint shall also be sent to the member of the Corporation with whom any respondent is presently an associated person.

Explanation

The deleted language in proposed subparagraph (c) is covered in a more expanded form by proposed Sections 4, 5 and 6 of this Article. The proposed requirement that a copy of any NASDAQ complaint be sent to the member with which the respondent is associated conforms to the procedure for disciplinary complaints issued by District Business Conduct Committees presently in Section 6 of the Code (proposed Article II, Section 2(a)). Other changes are for clarity.

[This section is all new]

Answer to Complaints

Sec. 4. (a) All answers to complaints shall be in writing and shall be submitted to the NASDAQ Committee within 20 business days from the date of complaint sent to the respondent. The Committee may extend the 20-day period for good cause.

(b) If no answer is received by the Committee within the time required, the Committee shall send a second notice, to the respondent by certified mail, return receipt requested, requiring an answer within 10 business days from the date of the second notice, or within such longer period as the Committee in its discretion may determine, stating that failure of the respondent to reply within the period specified may be treated by the Committee as an admission of the allegations of the complaint. If no answer

is received by the Committee within the time required by the second notice, the Committee may consider the allegations of the complaint to be admitted by the respondent.

(c) In complaints involving multiple respondents, copies of the answers submitted by each respondent shall be made available to all other respondents.

Explanation

This section is patterned after the disciplinary procedures in proposed Section 3 of Article II of the Code, and provides the same time periods within which to respond.

[This section is all new.]

Request for Hearing

Sec. 5. Upon the filing of an answer, a respondent may request a hearing. If a request is made, a hearing shall be granted. A notice stating the date, time and place of the hearing shall be mailed to the respondent at least ten business days before the hearing, unless the notice period is waived. In the absence of a request for a hearing, however, the Committee may have any complaint set down for hearing after ten business days notice to the respondent, if it deems such action necessary or appropriate.

Explanation

The section is essentially the same as proposed Section 5 of Article II, concerning disciplinary proceedings before the District Business Conduct Committees.

Hearing Panels

~~D.~~ Sec. 6. If a hearing is held, the complainant and respondent shall be entitled to be heard in person and by counsel and to submit any relevant matter which they may desire to present. In any such proceeding a record shall be kept.

All Hhearings shall be held before persons appointed by the NASDAQ Committee from a list of persons selected from among the members by the Board of Governors: among the members of the Corporation. No person shall participate in the determination of any complaint affecting his interest or the interest or interests of any person in whom he is directly or indirectly interested.

Explanation

The provision gives authority to the NASDAQ Committee to appoint hearing panels.

[Substantially rewritten.]

Decision of Committee

Sec. 7. (a) If the Committee determines that a violation charged in the complaint has occurred, it shall prepare and send to respondents a written decision which shall set forth:

- (1) any act or practice which the member or person associated with a member has been found to have engaged in or omitted;
- (2) the NASDAQ rule which such act or practice or omission to act is deemed to violate; and
- (3) the penalty imposed.

(b) If the Committee determines that no violation charged in the complaint has occurred, it shall dismiss the complaint in writing.

(c) The decision of the Committee to dismiss the complaint or to impose penalties shall become effective on the next business day following the expiration of a 45-day period from the date of the decision.

(d) A copy of any written decision shall be sent to all respondents and to the member with whom the respondent is currently associated.

Explanation

This section is based upon paragraph E of Part VII of Schedule D of the By-Laws. It has, however, been substantially rewritten to parallel the requirements contained in proposed Article II, Section 9 concerning District Business Conduct Committee decisions.

Review by Board

~~6.~~ Sec. 8. The ~~initial~~ decision shall be subject to review by the Board of Governors on its own motion within forty-five (45) days after issuance. Any such decision shall also be subject to review upon application of any person aggrieved thereby, filed within fifteen (15) days after issuance. Unless otherwise directed by the Board of Governors, the institution of a review, whether on application or at the initiative of the Board, shall not operate as a stay of the decision complained of.

[This section is based upon paragraph H of
Part VII of Schedule D of the By-Laws.]

Findings of Board on Review

~~H.~~ Sec. 9. Upon consideration of the record, and after such further hearings as the Board of Governors shall order, ~~if the Board shall find that the initial decision is incompatible with the nature and purpose of the NASDAQ System; the Board the Corporation's duties, rules and regulations; or applicable statutes and governmental regulations; the Board shall in writing affirm, modify, reverse dismissals or dismiss amend; or abrogate~~ such decision or remand the matter for further finding and decision consistent with its instructions. ~~Otherwise the Board shall affirm the initial decision.~~ The Board shall set forth specific grounds upon which its determination is based. Respondent shall be notified promptly and be sent a copy of ~~any~~ the written decision by the Board of Governors ~~on review.~~

Application to Commission for Review

~~f~~ Sec. 10. Where respondent feels aggrieved by any decision of the Board of Governors, respondent may make application for review to the Securities and Exchange Commission in accordance with ~~Section 15A~~ of the Securities Exchange Act of 1934, as amended.

[All of Article IX is taken from existing Part IX
of Schedule D of the By-Laws.]

Article IX

Procedures ~~On~~ For Summary Limitation of Access to the
NASDAQ System
Summary Action

~~A~~ Sec. 1. (a) The Corporation may summarily limit or prohibit the authority of a market maker to display on or enter quotations into the NASDAQ System if:

~~a~~ (1) Such the market maker has been and is expelled or suspended from any self-regulatory organization or barred or suspended from being associated with a member of any self-regulatory organization; or

~~b~~ (2) Such the market maker is in such financial or operating difficulty that the Corporation determines and so notifies the Securities and Exchange Commission that such the market maker cannot be permitted to display on or enter quotations into the NASDAQ System with safety to investors, creditors, other members, or the Corporation.

~~2.~~ (b) The Corporation may summarily limit or prohibit the authorization of a security if the Corporation determines that such the security does not meet the qualification requirements for authorized securities and that quotations of such security cannot be permitted to continue to be displayed on or entered into the NASDAQ System with safety to investors, creditors, members, or the Corporation.

Explanation

The changes in this section are to conform to the Securities Acts Amendments of 1975. Upon effectiveness of this Article, Part IX of Schedule D of the By-Laws will be deleted.

Written Notification

~~B.~~ Sec. 2. Any market maker or issuer against which the Corporation takes summary action ~~against pursuant to paragraph A above~~ shall be notified in writing. of such action and such The notification shall issue only after prior approval by the Executive Committee of the Board of Governors and shall contain a statement of the specific grounds on upon which such the action is taken. Such The summary action shall be effective on upon the date of the written notification.

Explanation

Changes are for clarity and to conform to the summary suspension procedure contained in proposed Article VI of the Code of Procedure.

Request Opportunity for Hearing

~~C.~~ Sec. 3. Any market maker or issuer against which the Corporation takes summary action ~~against~~ may request an opportunity for a hearing within ~~ten~~ (10) days of the ~~date of~~ notification ~~pursuant to paragraph B above.~~ Such hearing shall be held within five (5) days of such the request. A request for a hearing shall not operate as a stay of the summary action.

Hearing

~~D~~ Sec. 4. If a hearing is requested, pursuant to paragraph ~~E~~ above, it shall be held before a person or persons designated by the Board of Governors. Such market maker or issuer shall be entitled to be heard in person and represented by counsel and to submit any relevant matter which they may desire to present. Counsel for the Corporation or other designated Corporation personnel may participate in such hearing and be entitled to submit any relevant matter which they may desire to present. In any such proceeding, a record shall be kept.

Decision

~~E~~ Sec. 5. A written decision shall be issued within five (5) days of the date of the hearing and a copy shall be sent to the market maker or issuer. A written decision shall contain the reasons supporting the action taken.

Review by Board

~~F~~ Sec. 6. ~~1~~ (a) If the market maker or issuer does not request an opportunity for a hearing, pursuant to paragraph ~~E~~ above, the notification of summary action shall be subject to review by the Board of Governors on its own motion within thirty (30) days of the date of the notification.

~~2~~ (b) The written decision issued pursuant to paragraph ~~E~~ above shall be subject to review by the Board of Governors upon application of the market maker or issuer, filed within fifteen (15) days after issuance. Any such decision shall also be subject to review by the Board of Governors on its own motion within thirty (30) days after issuance.

~~3.~~ (c) The institution of review, whether by application or on the initiative of the Board, shall not operate as a stay of the summary action.

Findings of Board on Review

~~6.~~ Sec. 7. Upon consideration of the record and after further hearings as the Board of Governors shall order, if the Board shall find that the notification or written decision is inconsistent with the grounds for authorization of summary action contained in paragraph A above Section 1 of this Article, the Board shall in writing affirm, modify, amend, abrogate reverse or dismiss such notification or decision, or remand the matter for further proceedings consistent with its instructions. The Board shall set forth specific grounds upon which its determination is based.

Procedures On Limitation of Access

Other Action Not Foreclosed

~~H.~~ Sec. 8. The Procedures on Limitation of Access to the NASDAQ System are not intended to institution of summary action under this Article shall not foreclose action by the Corporation under Schedule D or by the District Business Conduct Committee of the District in which the market maker is located under the any other provisions of this Code of Procedure for Handling Trade Practice Complaints where a violation of the NASDAQ rules or the Rules of Fair Practice may be involved.

Application to Commission for Stay of Summary Action

~~F.~~ Sec. 9. Any market maker or issuer aggrieved by summary action taken by the Corporation may apply to the Securities and Exchange Commission for a stay

of such summary action as permitted by ~~Section 15A~~ of the Securities Exchange Act of 1934, as amended.

Application to Commission for Review

~~Sec. 10.~~ In any case where a market maker or issuer feels aggrieved by any action taken or approved by the Board of Governors, such person or member may make application for review to the Securities and Exchange Commission in accordance with the Securities Exchange Act of 1934, as amended.

Article X

Miscellaneous

Grounds of Disqualification to Participate in

Determination of Complaint Proceedings

~~Sec. 24. 1.~~ No member of the Board of Governors, ~~or of any District Business Conduct Committee or of any Local Business Conduct Committee~~ other committee or subcommittee governed by this Code shall in any manner, directly or indirectly, participate in the determination of any complaint matter substantially affecting his interest or the interests of any person in whom he is directly or indirectly interested. In any such case ~~where such an interest is involved~~, the particular member shall disqualify himself, or shall be disqualified by the Chairman of any such Board or Committee.

Explanation

The proposal that a substantial adverse interest must exist before a member of the Board or a Committee must be disqualified is intended to avoid unnecessary disruption of the hearing process because of what may be considered a de minimis matter. Other changes are to reflect that the section is applicable to all proceedings under this Code and to conform to changes made elsewhere.

[This section is taken from Article IV,
Section 5 of the Rules of Fair Practice.]

Reports and Inspection Examination of Books for
Purpose of Investigating Complaints and Records

Sec. 2. For the purpose of any investigation examination, or determination as to filing of a complaint or any hearing of any complaint against any member of the Corporation or any person associated with a member made or held in accordance with the Code of Procedure; complaint hearing pursuant to this Code, any Local Business Conduct Committee; any District Business Conduct Committee, or the Board of Governors, or any duly authorized member or members of any such Committee or Board or any duly authorized agent or agents of any such Committee or Board shall have the right (1) to require any member of the Corporation or person associated with a member to report orally or in writing with regard to any matter involved in any such investigation examination, determination or hearing, and (2) to investigate examine the books; and records and accounts of any such member with relation to any matter involved in any such investigation or hearing; or person associated with a member. No member or person associated with a member shall refuse to make any report as required in this Section; or refuse to permit any inspection of books; records and accounts as may be validly called for under this Section;

Explanation

This section is a substantial rewording of the provision of the Rules of Fair Practice from which it is taken, done for simplicity and clarity without any substantive changes. It is contemplated that the provision of the Rules of Fair Practice will be rescinded in the future following a required membership vote.

[This section is based upon paragraphs 2, 3 and 4 of
the Resolution of the Board of Governors which follows Article IV,
Section 5 of the Rules of Fair Practice.]

Suspension of Members for Failure to Furnish Information Duly Requested

Sec. 3. In the event of a refusal to comply with Section 2, and after
fifteen (15) days notice in writing thereof; and continued failure to furnish
the information; reports; data or other material as described above in
paragraph 1, the President is hereby directed and authorized to suspend the
membership of any such member on behalf of the Board of Governors,
registration or association of any member or person associated with a member
and to cause notification notice thereof to be published in the next following
membership supplement; to the effect that the membership has been suspended
for failure to furnish such duly requested information. Prior to such notice,
in writing to the member the Executive Committee of the Board of Governors
shall be notified in writing of such contemplated action by the President.
The President shall advise the member concerned; in writing, of the
suspension;

Explanation

The changes over the present Board Resolution are for simplicity and
clarity.

Records Open For Inspection by SEC

~~Sec. 26. Records relating to complaints shall be open to inspection by any
duly authorized agent of the Securities and Exchange Commission at the
Executive Office of the Association;~~

Explanation

The provision is unnecessary.

Amendments to Code of Procedure

Sec. ~~28.4.~~ This Code of Procedure may be ~~altered,~~ amended, ~~modified,~~ or ~~canceled~~ by a majority vote of the Board of Governors, ~~unless such alteration,~~ ~~amendment,~~ ~~modification,~~ or ~~cancellation is disapproved by~~ subject to approval by the Securities and Exchange Commission, as provided in pursuant to Section 15A of the Securities Exchange Act of 1934, as amended.

Explanation

These changes conform to the Securities Acts Amendments of 1975.

NOTICE TO MEMBERS 81 -11
Notices to Members should be
retained for future reference.

NASD

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

March 12, 1981

M E M O R A N D U M

TO: All NASD Members

RE: Quarterly Report of Designated Orders - Section 24(d) of Article III of the Rules of Fair Practice

Recently, the membership was advised that amendments to existing Sections 8 and 24 of Article III of the Association's Rules of Fair Practice ("Rules"), as well as new Section 36 to that Article, became effective on March 1, 1981. (A complete description of these rules, as well as a related amendment and interpretations to the Rules, can be found in Notice to Members No. 81-3, dated February 9, 1981.) Among other things, the amendments to Section 24 require a member who receives an order from any person designating another broker or dealer to receive credit for the sale of a fixed price offering to file a report thereof with the Association. This report, the "Designated Order Report," must be filed within 30 calendar days after the end of each calendar quarter.

To this end, the Association has designed the attached form and will provide copies of it to all members in the quantities requested. However, if a member so elects, the Association will accept any form submitted in compliance with the provisions of Section 24(d) of Article III of the Rules, provided it contains the following information:

- the name of the person making the designation;
- the identity of the broker or brokers designated;
- the identity and amount of securities for which each broker or dealer was designated;
- the date of commencement and termination of the offering;
and,
- the identity of the reporting firm.

For purposes of administration, the initial Section 24(d) report shall be due 30 calendar days following June 30, 1981. Therefore, the initial reporting period will cover the period March 1, 1981, through and inclusive of June 30, 1981. All subsequent reports filed pursuant to the provisions of Section 24(d) of Article III of the Rules are to be filed within 30 calendar days of the end of a calendar quarter.

The Association will, on a member-by-member basis, consider requests to file "Designated Order Reports" on a basis other than quarterly, i.e., issue by issue. Such requests should be directed, in writing, to John J. Cox, Assistant Director, Department of Regulatory Policy and Procedures, and should state the reasons which prompt the request, e.g., the large number of designated orders normally associated with the member's underwriting activity, the number of fixed price offerings underwritten by the member during a calendar quarter and any other information a member deems relevant to its request.

Questions concerning this notice should be directed to John J. Cox at (202) 833-7320.

Sincerely,



Gordon S. Macklin
President

Attachment

STATEMENT INSTRUCTIONS

NASD Rule Article III, Section 24(d)

A member who receives an order from any person designating another broker or dealer to receive credit for the sale shall, within 30 days after the end of each calendar quarter, file reports with the Association containing the following information with respect to each fixed price offering which terminated during that calendar quarter; the name of the person making the designation; the identity of the brokers or dealers designated; the identity and amount of securities for which each broker or dealer was designated; the date of the commencement and termination of the offering and such other information as the Association shall deem pertinent.

Due Date:

This report is to be filed within 30 days after the end of each calendar quarter for which there was a designated order.

Submit To:

National Association of Securities Dealers, Inc.
Surveillance Department
1735 K Street, N.W.
Washington, D.C. 20006

Any questions concerning designated orders or requests for additional forms should be directed to the Surveillance Department at (202) 833-7350.

NOTICE TO MEMBERS 81-12
Notices to Members should be
retained for future reference.

NASD

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

March 12, 1981

IMPORTANT

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

TO: All NASD Members

RE: SEC Staff Issues New Interpretation Concerning the Treatment of
Concessions Receivable Under the Uniform Net Capital Rule

Earlier last year, the staff of the Securities and Exchange Commission's Division of Market Regulation withdrew an interpretation which had previously permitted concessions receivable outstanding less than thirty (30) days to be given allowable asset treatment in the computation of net capital. As a result, concessions receivable from the distribution of securities, other than municipal securities, regardless of the length of time outstanding and notwithstanding the fact that they were due from another broker-dealer, no longer had value for purpose of the net capital rule. * (See Notice to Members No. 79-29.)

Since the withdrawal of the aforementioned interpretation, the Association has had numerous discussions on this subject with the staff of the Securities and Exchange Commission, the purpose of which was to explore possible methods of minimizing the impact of the withdrawal of that interpretation on the membership. On the basis of those discussions, the SEC staff has advised that, effective immediately, concessions receivable may be treated as follows:

In computing net capital, a broker-dealer need not deduct concessions receivable from net worth to the extent they are offset by related commissions or concessions payable to sales representatives or unaffiliated selling group members, provided however, that:

* It is important to note that the withdrawal of this interpretation had no impact on the treatment of commissions receivable. Commissions receivable have and continue to be considered allowable assets if such are receivable from other broker-dealers and are not outstanding more than thirty (30) days.

- a written contract exists between the broker-dealer and its sales representative or unaffiliated selling group members, specifying that the sales representative or unaffiliated selling group members waive payment of the commission(s) or concession(s) due until such time as the broker-dealer is in receipt of the concession(s);
- an opinion of counsel is obtained which states that such contract is enforceable in the state(s) in which the broker-dealer and sales representative or unaffiliated selling group members reside; and,
- the broker-dealer's liability for the commission(s) or concession(s) payable is limited solely to the proceeds of the concession(s) receivable.

Pursuant to this interpretation of the Commission staff, concessions receivable which are not offset by related commissions or concessions payable must be deducted from net worth. Furthermore, the entire amount of the commissions or concessions payable to sales representatives or unaffiliated selling group members must be included in aggregate indebtedness.

In a related matter, it has come to the attention of the Association that some members are posting their books on a cash basis (in contrast to the accrual basis) whereby revenue and expense are recorded on the books of a firm when received and paid, respectively, without regard to the period to which they apply. It must be pointed out that maintaining one's books and records on a cash basis is inconsistent with the books and records requirements under SEC Rule 17a-3.

* * *

Although the Association is pleased that the Commission staff has revisited its interpretation concerning concessions receivable, it had hoped that the new interpretation would be more far-reaching. The Association has long maintained that concessions receivable from a broker-dealer should be given allowable asset treatment for a period of 30 calendar days from the date they arise. The Association intends to reiterate this position in written comments it will soon file with the Commission in connection with its recent proposals to amend the net capital rule.

* * *

Questions concerning this notice may be directed to either John J. Cox, Assistant Director, Department of Regulatory Policy and Procedures, or Donald Catapano, Research Analyst, Department of Regulatory Policy and Procedures, at (202) 833-7320 or (202) 833-7209, respectively.

Sincerely,


Gordon S. Macklin
President

NASD

NOTICE TO MEMBERS: 81-13
Notices to members should be
retained for future reference.

NATIONAL ASSOCIATION OF SECURITIES DEALERS, INC.

1735 K STREET NORTHWEST • WASHINGTON D.C. 20006

March 18, 1981

TO: NASD Members, Companies Quoted in the NASDAQ System and
Other Interested Parties

RE: REQUEST FOR COMMENTS REGARDING PROPOSAL TO REVISE
STANDARDS FOR INCLUSION IN THE NASDAQ NATIONAL LIST
AND TEN MOST ACTIVE LIST

The Board of Governors of the Association proposes to amend Schedule D of the Association's By-Laws to revise the standards for determining the composition of the NASDAQ National List. Also, the Board is proposing to modify the method for determining the Ten Most Active List that is recommended for publication in newspapers throughout the nation. These proposals are being published at this time to provide all interested persons an opportunity to submit comments. After the expiration of the comment period, the Board will again review the proposals giving due consideration to the comments received.

Proposed Revisions to the Standards for Inclusion in the National List

Twice a year, in June and December, all NASDAQ securities are ranked according to their exponential dollar volume ^{1/} in order to determine the recommendations that will be made to the wire services concerning the composition of the National and Additional Lists for the next six months. Currently, the top 1410 securities are designated for the National List which is published in some 70 major newspapers throughout the country. The next 990 issues are designated for the Additional List which is published daily in full only by the Wall Street Journal. Since this re-ranking is based on the dollar value of average weekly volume, securities may shift from one list to another depending upon their relative activity and price during the period just prior to the re-ranking.

^{1/} To monitor security volume data in NASDAQ, a statistical moving average method called exponential averaging is used and is recomputed weekly. This technique gives more weight to the most current volume and less weight to the most distant past.

Although changes to the exponential formula have been made recently in an effort to reduce the number of shifts which occur at each re-ranking, a record number of companies moved in and out of the National List at the re-ranking in December due to the dramatic increase in volume experienced by many NASDAQ securities during the period from September, 1980 through November, 1980.

A substantial number of NASDAQ companies and newspapers have emphasized to the Association that the shifts between the National and Additional Lists cause widespread confusion among investors when they have difficulty or can no longer find their quotations.

Accordingly, the Board of Governors proposes to adopt financial standards as a basis for determining eligibility for inclusion in the National List in order to provide greater stability and continuity to the List. Those companies that meet the new financial criteria will be assured of coverage in the National List. These companies will compose a substantial majority of the National List. Companies that do not meet the new criteria may still qualify for the National List on the basis of dollar volume to the extent there are spaces available. The composition of the entire Additional List will continue to be determined by the current dollar volume ranking formula. Every company quoted in NASDAQ is eligible for inclusion in local quotations lists which are compiled by some 130 NASD Local Quotation Committees throughout the country. Further, quotations on all NASDAQ securities with at least two market makers are released for newspaper publication.

The financial criteria proposed for common and capital stock are separated into two alternative categories detailed below. Issuers which meet either one of the alternative criteria would be included in the National List regardless of their dollar volume. Alternative No. 1 includes a net income requirement while Alternative No. 2 has no income requirement but establishes higher financial requirements for those development companies which have no operating income:

Alternative No. 1

1. Public Float of 400,000
2. Market Value of Publicly Held Shares of \$3,000,000
3. Minimum Bid Price of \$3.00
4. Net Worth of \$4,000,000
5. Net Income of \$400,000

Alternative No. 2

1. Public Float of 1,000,000
2. Market Value of Publicly Held Shares of \$10,000,000
3. Net Worth of \$12,000,000
4. Operating History of 5 Years (Date of Incorporation)

Additional criteria are proposed for issues other than common stock as follows:

Securities of Foreign Issuers

1. Foreign shares registered pursuant to Section 12(g) under the Securities and Exchange Act of 1934 - same criteria as domestic common stock.
2. Foreign shares not 12(g) registered:
 - Net Worth of \$25,000,000
 - Minimum Bid Price of \$3.00
3. American Depository Receipts (ADR's)
 - 400,000 Outstanding for Alternative No. 1
 - 1,000,000 Outstanding for Alternative No. 2
 - All other criteria for domestic common stock

Preferred and Warrants

- Common stock of issuer must be in the National List
- All criteria for common stock must be met with the following exceptions:
 - Preferred: minimum bid price of \$8.00
 - Warrants: public float of 500,000 at time of initial distribution

Convertible Debentures

- Common stock of issuer must be in the National List
- \$100 million outstanding

Units

- Public Float of 400,000 at time of initial distribution
- All other criteria for common stock

Rights

- Automatically included if common stock of issuer is in the National List

Real Estate Investment Trusts, Non-voting Stock, Closed End Funds and Special Stock

- Same criteria as common stock

Companies that meet the criteria immediately following an initial distribution or secondary offering would also be added to the National List between ranking dates provided there is sufficient space to accommodate them. Revisions to the list based on the proposed financial criteria, as well as dollar volume, will continue to be made on a semi-annual basis.

The Board believes the proposed revised standards for inclusion in the National List will assure coverage to companies with a substantial number of publicly-held shares, equity, earnings and market value and will provide greater stability to the National List.

Proposal to Revise the Standards for the NASDAQ Ten Most Active List

The NASDAQ Ten Most Active List is currently based on a daily computation of actual share volume of securities having a bid price of one dollar or more. The Board of Governors is concerned that this List, as it is presently computed, does not accurately represent the top ten NASDAQ securities in terms of total value of investor activity. The Board, therefore, proposes to change the basis upon which the Ten Most Active List is determined, from share volume to dollar volume. Under the proposal, the Ten Most Active securities would be determined by multiplying each security's daily share volume by its closing bid price. Those ten issues with the resulting highest dollar volume would appear in the Ten Most Active List.

* * *

In summary, the Board of Governors is proposing to amend Schedule D of the NASD By-Laws to authorize the NASDAQ Committee to utilize financial standards as well as dollar volume as bases for determining the composition of the newspaper lists. In addition the Board is proposing to revise the basis for determining the composition of the NASDAQ Ten Most Active List from actual share volume to dollar volume.

The Board of Governors would appreciate receiving your views on these proposals. Please send them no later than April 20, 1981 to:

Mr. S. William Broka
Secretary
National Association of Securities
Dealers, Inc.
1735 K Street, N.W.
Washington, D.C. 20006

Questions regarding these proposals should be directed to Molly G. Bayley, Vice President, NASDAQ Operations at (202) 833-7213.

Sincerely,


Gordon S. Macklin
President

NOTICE TO MEMBERS: 81-14
Notices to Members should be
retained for future reference.

NASD

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

March 25, 1981

M E M O R A N D U M

TO: All NASD Members and Municipal Securities Bank Dealers
ATTN: All Operations Personnel
RE: Holiday Settlement Schedule

Securities markets and the NASDAQ System will be closed on Good Friday, April 17, 1981. "Regular-Way" transactions made on the business days immediately preceding that day will be subject to the following schedule.

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

| <u>Trade Date</u> | <u>Settlement Date</u> | <u>*Regulation T Date</u> |
|-------------------|------------------------|---------------------------|
| April 10 | April 20 | April 22 |
| 13 | 21 | 23 |
| 14 | 22 | 24 |
| 15 | 23 | 27 |
| 16 | 24 | 28 |
| 17 | Good Friday | — |
| 20 | 27 | 29 |

* * * * *

The foregoing 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.

* 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) business days of the date of purchase or, pursuant to Section 4(c)(6), make application to extend the time period specified. The date members must take such action for the trade is shown in the column entitled "Regulation T Date."

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) 938-1177.

Sincerely,

A handwritten signature in black ink that reads "S. William Broka". The signature is written in a cursive style with a large, prominent "S" at the beginning.

S. William Broka
Secretary

NASD

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

March 25, 1981

TO: All NASD Members

RE: Gallagher, Boylan & Cook, Inc.
8907 Wilshire Boulevard
Beverly Hills, California 90211

ATTN: Operations Officer, Cashier, Fail-Control Department

On Tuesday, March 17, 1981 the United States District Court for the Central District of California appointed a SIPC trustee for the above captioned firm. 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:

SIPC Trustee

Jeffrey Chanin, Esquire
Stutman, Treister & Glatt
Penthouse, Ahmanson Center East
3701 Wilshire Boulevard
Los Angeles, California 90010
Telephone: (213) 380-1360

* * *