

*file in Notice to
Members
Book*

NASD

**National Association of
Securities Dealers, Inc.**
1735 K Street, N.W.
Washington, D.C. 20006
(202) 728-8000

MEMORANDUM

TO: District Directors
Department Heads
Selected Staff

FROM: Raymond W. Cocchi

DATE: September 3, 1986

RE: Blue-Sky Exemption for NASDAQ/NMS

The attached brochure was designed to encourage state legislators to sponsor and support legislation to exempt NASDAQ/NMS securities from their blue-sky laws.

During the 1987 legislative session, corrective legislation will be sought in a number of the following states:

Alabama	North Carolina
Alaska	North Dakota
Arizona	Oklahoma
Arkansas	South Carolina
California	South Dakota
Idaho	Tennessee
Iowa	Texas
Massachusetts	Vermont
Michigan	Virginia
Minnesota	Washington
Mississippi	West Virginia
Nebraska	Wisconsin
New Mexico	Wyoming

If you or members of your staff are acquainted with any state legislators or other elected officials in any of these states who you feel may wish to assist us, please call me at (202) 728-8370.

* * * * *

Attachment



National Association of Securities Dealers, Inc.
1735 K St., N.W. • Washington, D.C. 20006 • (202) 728-8000

notice to members 86-56

August 12, 1986

TO: All NASD Members and Level 2 and Level 3 Subscribers

RE: NASDAQ National Market System Grows to 2,517 Securities With 17 Voluntary Additions on August 19, 1986

On Tuesday, August 19, 1986, 17 issues are scheduled to join the NASDAQ National Market System, bringing the total number of issues in NASDAQ/NMS to 2,517. These 17 issues, which will begin trading under real-time trade reporting, are entering NASDAQ/NMS pursuant to the Securities and Exchange Commission's criteria for voluntary designation.

The 17 issues scheduled to join NASDAQ/NMS on Tuesday, August 19, 1986, are:

Symbol*	Company	Location
ARIG	American Reliance Group, Inc.	Lawrenceville, NJ
BPCO	Bonneville Pacific Corporation	Salt Lake City, UT
CIMC	CIMCO	Costa Mesa, CA
CYTO	Cytogen Corporation	Princeton, NJ
GNTE	Granite Cooperative Bank	North Quincy, MA
LIFS	Lowell Institution for Savings	Lowell, MA
MLLE	Martin Lawrence Limited Editions, Inc.	Van Nuys, CA
MLLEW	Martin Lawrence Limited Editions, Inc. (Wts)	Van Nuys, CA
MTIX	Mechanical Technology, Incorporated	Latham, NY
MOBI	Molecular Biosystems, Inc.	San Diego, CA

* NASDAQ symbols are proprietary to the National Association of Securities Dealers, Inc.

Symbol*	Company	Location
PLXS	Plexus Corp.	Neenah, WI
SSSL SLVN	Sun State Savings & Loan Association Sylvan Learning Corporation	Phoenix, AZ Montgomery, AL
TIPT TCBC	Tipton Centers, Inc. TrustCompany Bancorporation (The)	St. Louis, MO Jersey City, NJ
VLVL	Video Library, Inc.	San Diego, CA
WLBK	Waltham Savings Bank	Waltham, MA

The following issues may be included in NASDAQ/NMS prior to the next regularly scheduled phase-in date:

Pending Additions

Symbol*	Company	Location
ATCMA	American Television and Communications Corporation (CI A)	Englewood, CO
CRITA	Criterion Group, Inc. (CI A)	Houston, TX
XCEL	Excel Bancorp, Inc.	Quincy, MA
MGSI	Mars Graphic Services, Inc.	Westville, NJ
FOOD	P & C Foods, Inc.	Syracuse, NY
TRSL	Transnational Industries, Inc.	New York, NY
VTRD	VTR Incorporated	Pittsburgh, PA

NASDAQ/NMS Interim Additions

Symbol*	Security	Date of Entry
MNXI	MNX Incorporated	7/25/86
SLHC	Southlife Holding Company	7/25/86
GPAR	General Parametrics Corporation	7/30/86
SYNT	Syntro Corporation	7/30/86
THIS	Thermo Instrument Systems, Inc.	8/05/86
FSBK	First Service Bank for Savings	8/07/86
WRPS	WearEver-ProctorSilex	8/08/86

The following changes to the list of NASDAQ/NMS securities occurred since July 25, 1986:

NASDAQ/NMS Symbol* and/or Name Changes

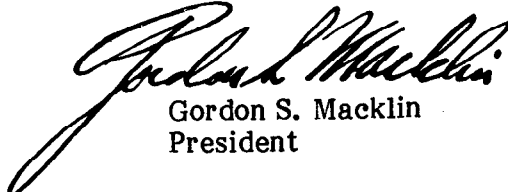
New/Old Symbol*	New/Old Security	Date of Change
CHER/CHER	Cherry Corp./Cherry Electrical Products Corp.	7/30/86
YFED/YFED	York Financial Corp./York Federal Savings & Loan Association	8/01/86
CPSA/CPSA	Central Pennsylvania Financial Corp./Central Pennsylvania Savings Association	8/04/86

NASDAQ/NMS Deletions

Symbol*	Security	Date
STGRQ	Steiger Tractor, Inc.	7/28/86
NAUG	Naugles, Inc.	7/29/86
NAUGW	Naugles, Inc. (Wts)	7/29/86
PWRC	Power Conversion, Inc.	7/29/86
ANHC	American National Holding Company	7/31/86
HFLA	Heritage Federal Savings & Loan Association	7/31/86
ACIS	Applied Communications, Inc.	8/01/86
WCOM	Warner Computer Systems, Inc.	8/04/86
PCII	Protocol Computers, Inc.	8/07/86

Questions regarding this notice should be directed to Kit Milholland, Senior Analyst, NASDAQ Operations, at (202) 728-8281. Questions pertaining to trade reporting rules should be directed to the NASD's Market Surveillance Section, at (202) 728-8201.

Sincerely,



Gordon S. Macklin
President



National Association of Securities Dealers, Inc.
 1735 K St., N.W. • Washington, D.C. 20006 • (202) 728-8000

notice to members 86-57

August 12, 1986

TO: All NASD Members and Municipal Securities Bank Dealers
 ATTN: All Operations Personnel
 RE: Labor Day: Trade Date-Settlement Date Schedule

Securities markets and the NASDAQ System will be closed on Monday, September 1, 1986, in observance of Labor Day. "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>
August	22	August	29	September 3
	25	September	2	4
	26		3	5
	27		4	8
	28		5	9
	29		8	10
September	1	MARKETS CLOSED		--
	2		9	11

* Pursuant to Sections 220.8(b)(1) and (4) of Regulation T of the Federal Reserve Board, a broker-dealer must promptly cancel or otherwise liquidate a 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 220.8(d)(1), make application to extend the time period specified. The date members must take such action is shown in the column entitled "Regulation T Date."

The foregoing settlement dates should be used by brokers, dealers and municipal securities dealers for purposes of clearing and settling transactions pursuant to the NASD's Uniform Practice Code and Municipal Securities Rulemaking Board Rule G-12 on Uniform Practice. Questions regarding the application of these settlement dates to a particular situation may be directed to the NASD Uniform Practice Department at (212) 839-6256.

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National Association of Securities Dealers, Inc.
1735 K St., N.W. • Washington, D.C. 20006 • (202) 728-8000

notice to members 86-58

August 26, 1986

TO: All NASD Members and Level 2 and Level 3 Subscribers

RE: NASDAQ National Market System Grows to 2,550 Securities With 27 Voluntary Additions on September 2 1986

On Tuesday, September 2, 1986, 27 issues are scheduled to join the NASDAQ National Market System, bringing the total number of issues in NASDAQ/NMS to 2,550. These 27 issues, which will begin trading under real-time trade reporting, are entering NASDAQ/NMS pursuant to the Securities and Exchange Commission's criteria for voluntary designation.

The 27 issues scheduled to join NASDAQ/NMS on Tuesday, September 2, 1986, are:

Symbol*	Company Name	Location
ACME	Acme Steel Company	Riverdale, IL
AARE	Adams-Russell Electronics Co., Inc.	Waltham, MA
AFGI	Ambassador Financial Group, Inc.	Tamarac, FL
ANDB	Andover Savings Bank	Andover, MA
BNGO	Bingo King Company, Inc.	Littleton, CO
BMDS	Bio-Medicus, Inc.	Eden Prairie, MN
BMDSW	Bio-Medicus, Inc. (Wts)	Eden Prairie, MN
COMM	Cellular Communications, Inc.	New York, NY
EBSI	Eagle Bancshares, Inc.	Tucker, GA
FICRO	Fidelcor, Inc. (Ser B Pfd)	Philadelphia, PA
FBSI	First Banc Securities, Inc.	Morgantown, WV
GEOX	Geonex Corporation	St. Petersburg, FL

* NASDAQ symbols are proprietary to the National Association of Securities Dealers, Inc.

Symbol*	Company Name	Location
GFGC	Great Falls Gas Company	Great Falls, MT
HFSF	Home Federal Savings and Loan Association of San Francisco	San Francisco, CA
KDNY	Home Intensive Care, Inc.	North Miami Beach, FL
IFSB	Independence Federal Savings Bank	Washington, DC
LDMK	Landmark Bank for Savings	Whitman, MA
LLOGV	Lincoln Logs, Ltd. (WI)	Chestertown, NY
LLTC	Linear Technology Corporation	Milpitas, CA
MCBKA	MerchantsBank of Boston, A Co-operative Bank (Cl A)	Boston, MA
KITS	Meridian Diagnostics, Inc.	Cincinnati, OH
NSSX	National Sanitary Supply Company	Los Angeles, CA
ODSI	Old Dominion Systems, Inc.	Gaithersburg, MD
PRME	Prime Capital Corporation	Rolling Meadows, IL
SUBK	Suffolk Bancorp	Riverhead, NY
SUHC	Summit Holding Corporation	Beckley, WV
TWST	Twistee Treat Corporation	Cape Coral, FL

The following issues may be included in NASDAQ/NMS prior to the next regularly scheduled phase-in date:

Pending Additions

Symbol*	Company Name	Location
NTMF	Network Multi-Family Security Corporation	Carrollton, TX
PICI	Polymer International Corp.	Tampa, FL
WSFS	Wilmington Savings Fund Society Federal Savings Bank	Wilmington, DE

NASDAQ/NMS Interim Additions

Symbol*	Security	Date of Entry
PSVB	Penn Savings Bank, F.S.B.	08/12/86
ATCMA	American Television and Communications Corporation (Cl A)	08/13/86
DEVN	Devon Group, Inc.	08/13/86
QUIP	Quipp, Inc.	08/18/86
DIME	Dime Savings Bank of New York, F.S.B. (The)	08/19/86
BEEP	Roadrunner Enterprises, Inc.	08/19/86
TRSL	Transnational Industries, Inc.	08/19/86
WATTA	Watts Industries, Inc. (Cl A)	08/21/86



National Association of Securities Dealers, Inc.
1735 K St., N.W. • Washington, D.C. 20006 • (202) 728-8000

notice to members 86-59

August 27, 1986

TO: All NASD Members and Other Interested Persons
ATTN: Operations Principal, Cashier, Buy-in Personnel
RE: Request for Comments on a Proposed Amendment to the Uniform Practice Code, Section 59, Close-Out Procedure; Buying-in

EXECUTIVE SUMMARY

Last Date for Comments: October 1, 1986.

The NASD Board of Governors is circulating for comment a proposed amendment to the Uniform Practice Code, Section 59, Close-Out Procedure; Buying-in. It would require that buy-ins returned by a clearing corporation to a broker be executed for "cash" or "guaranteed delivery" of certificates. The proposed amendment was recommended by the Uniform Practice Committee and coincides with one of the recommendations in the study on Short-Sale Regulation of NASDAQ Securities, prepared by former SEC Commissioner Irving M. Pollack.

The Board concluded that this amendment would effectively assure the timely delivery of fully paid-for securities. The text of the proposed amendment is attached.

BACKGROUND AND EXPLANATION OF THE PROPOSED AMENDMENT

One of the areas examined by the short-sale study prepared by Irving M. Pollack was the relationship between short selling and clearing corporation short interest (fails to deliver), i.e., the inability to deliver or election by a clearing participant to withhold delivery of securities to the clearing corporation. The short condition can exist indefinitely in a continuous net settlement system because the rules and procedures of the clearing corporations permit outstanding long or short positions to be carried forward on a virtually perpetual basis. The procedure provides that open positions be marked to the market daily, with market price fluctuations being reflected in a participant's daily cash settlement. This effectively insulates both the clearing corporation and broker-dealer participants

from financial losses. The procedure also allows a clearing participant to postpone delivery indefinitely, or until a purchasing broker-dealer initiates buy-in procedures.

A problem revealed by the Pollack short-sale study concerned instances in which a long clearing broker did not receive securities from a clearing corporation, especially in situations where there were high levels of short selling in conjunction with large clearing-short interest. In some circumstances, when a long clearing broker initiated a buy-in, it was retransmitted to a short clearing broker who was also a short seller and thereby unable to satisfy the request for certificates.

In a continuous net settlement system, the identity of the clearing broker to whom a buy-in is retransmitted is unknown. The buy-in could be executed with a broker who was a short seller and also short to the clearing corporation, which would leave the long clearing broker unable to obtain physical delivery of the required certificates.

To expedite the delivery of fully paid-for securities and to limit the adverse effects of short selling, the proposed amendment to Section 59 of the Uniform Practice Code will require that buy-ins returned by a clearing organization to a broker be executed for cash or guaranteed delivery of certificates.

In reaching this recommendation, the Uniform Practice Committee took into consideration the fact that over 90 percent of clearing corporation buy-ins are never executed, but satisfied through either their priority in the daily settlement cycle or through retransmission of the buy-in to short clearing participants.

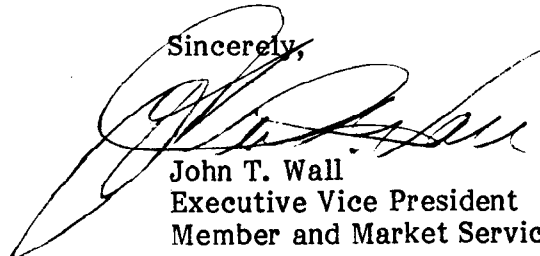
All members and other interested persons are invited to submit comments on the proposed amendment. Comments should be received no later than October 1, 1986, and should be directed to:

Mr. Lynn Nellius, Secretary
National Association of Securities Dealers, Inc.
1735 K Street, N.W.
Washington, D.C. 20006

Comments received will be considered by the Uniform Practice Committee and the NASD Board of Governors. If approved by the Board, the proposed amendment must be filed with and approved by the Securities and Exchange Commission before becoming effective.

Questions concerning this notice may be directed to Donald Catapano, Director, NASD Uniform Practice-TARS, at (212) 839-6255.

Sincerely,



John T. Wall
Executive Vice President
Member and Market Services

Attachment

**PROPOSED AMENDMENT TO SECTION 59
OF THE
NASD UNIFORM PRACTICE CODE***

Sec. 59. Close-Out Procedure; Buying-in

(a) and (b) are unchanged.

Seller's failure to deliver after receipt of notice

(c)(i)(a) On failure of the seller to effect delivery in accordance with the "buy-in" notice, or to obtain a stay as hereinafter provided, the buyer may close the contract by purchasing all or any part of the securities necessary to complete the contract. Such execution will also operate to close-out all contracts covered under re-transmitted notices of buy-in issued pursuant to the original notice of buy-in. A "buy-in" may be executed by a member from its long position and/or from customers' accounts maintained with such member. [In all cases, members must be prepared to defend the price at which the "buy-in" is executed relative to the current market at the time of the "buy-in."]

(c)(i)(b) In the event of the failure of a clearing corporation to effect delivery in accordance with a buy-in notice, the buyer must close the contract by purchasing for "cash" in the best available market, or at the option of the buyer for guaranteed delivery, for the account and liability of the party in default all or any part of the securities necessary to complete the contract.

As provided in subsections (i)(a) and (i)(b) hereof, members must be prepared to defend the price at which the "buy-in" is executed relative to the current market at the time of the "buy-in."

(c)(ii) is unchanged.

(d) through (n) are unchanged.

* New language is underlined; deleted language is bracketed.



National Association of Securities Dealers, Inc.
1735 K St., N.W. • Washington, D.C. 20006 • (202) 728-8000

notice to members 86-60

August 27, 1986

TO: All NASD Members and Other Interested Persons

ATTN: Operations Principal, Cashier

RE: Request for Comments on a Proposed Amendment to the Uniform Practice Code, Section 64, Acceptance and Settlement of COD Orders

EXECUTIVE SUMMARY

Last Date for Comments: October 1, 1986.

The NASD Board of Governors is circulating for comment a proposed amendment to Section 64 of the Uniform Practice Code, Acceptance and Settlement of COD Orders. The amendment would eliminate the exemption in subparagraph (a)(5)(ii), which provides that a COD/POD transaction may be settled physically if both parties to either side of the transaction (i.e., the customer and its agent or the member and its agent) are not participants in a registered securities depository.

This amendment would have the effect of requiring that all COD/POD transactions executed by a broker-dealer for a customer be processed through the confirmation and book-entry facilities of clearing agencies. If this method is not used, transactions would be completed on a regular-way settlement basis. The Board concluded that the effect of removing this exemption would be negligible while the benefits of book-entry settlement (reduced DKs, lower processing costs and timely transaction settlement) would be realized. The text of the proposed amendment is attached.

BACKGROUND

COD (Collect on Delivery) refers to a purchase by a customer and POD (Payment on Delivery) refers to a sale by a customer, wherein a broker-dealer receives or makes payment at the time the securities are delivered.

Regulation T of the Federal Reserve Board permits a broker-dealer and a customer to establish a special account whereby the broker-dealer purchases a security for a customer or sells a security to a customer with the understanding that the broker-dealer is to deliver the security promptly to the customer and full payment is to be made by the customer against the delivery (i.e., COD/POD). Regulation T states further that the period for payment in this type of account is not the usual seven business days, but rather 35 calendar days after the date of the purchase or sale.

COD/POD customers may be individual investors, but they are generally institutions, such as banks, insurance companies, registered investment companies and pension funds that request that securities purchased on a COD/POD basis be delivered to a clearing agent (generally a bank) that will receive the securities and make payment.

On January 1, 1983, the NASD adopted new Section 64 of the Uniform Practice Code, Acceptance and Settlement of COD Orders, which standardized the procedures for the acceptance and settlement of COD/POD transactions. This represented an industry-wide cooperative effort to modernize trade processing, to encourage the book-entry settlement of transactions through the use of the Institutional Delivery (ID) Systems available through registered securities depositories, and to help diminish the DK (Don't Know) problems attendant with physical deliveries.

Section 64, as originally adopted, prohibited NASD members of depositories and NASD members that cleared through depository members from accepting COD/POD orders from their customers who were or whose agents or correspondents were members of a depository. If the facilities of a depository, such as the ID System of the Depository Trust Company, were used for the confirmation, affirmation and book-entry settlement of depository-eligible transactions, the rule permitted COD/POD orders between these parties.

The rule applied only to transactions that involved NASD members and customers who were both participants or whose agents were participants in a depository. The rule did not affect the clearance of COD/POD business of NASD members that were not participants or whose agents, customers or customer's agents or correspondents were not participants in a depository. Nor did the rule require members, their COD/POD customers, clearing agents or correspondents to become participants in a registered securities depository. The rule also did not apply to transactions that were settled outside the United States. (As proposed, this exemption will remain.)

EXPLANATION OF THE PROPOSED AMENDMENT

Since the adoption of Section 64 in 1983, the industry has realized the benefits of book-entry settlement of COD/POD transactions in that it reduces DK rates, lowers processing costs and provides timely settlement of transactions. Additionally, industry-supported studies have confirmed that the majority of COD/POD transactions are processed through the ID System.

However, transactions that are settled outside the ID System by relying on the Section 64 exemptions are contributing to delays in processing, and increasing broker-dealer operational expenses and depository costs. This is a result of the need to maintain larger quantities of certificates to satisfy physical

deliveries, which would not be required if these transactions were processed through the ID System or another book-entry type of delivery.

To resolve these problems, the ID Implementation Committee, a securities industry group, has proposed that the NASD amend Section 64 and that the New York Stock Exchange amend its Rule 387 to require that all COD/POD transactions executed by a broker-dealer for a customer be processed through the confirmation and book-entry delivery facilities that are available at several registered clearing agencies. If this processing method is not used, the committee feels that transactions executed for customers and institutional clients should be on a regular-way settlement basis.

The Uniform Practice Committee, a standing committee of the NASD Board of Governors, considered the ID Implementation Committee's request and concluded that the effect of removing the exemption would be negligible. The Uniform Practice Committee and the Board of Governors noted that it was not necessary for a broker-dealer to become a member of a securities depository, but only that it have access to a bank that is a member of a depository in order to extend the COD/POD privilege to customers.

Further, most banks, although not direct participants of a securities depository, are invariably associated on a correspondent basis with a bank that is a depository member. Therefore, the Committee recommended and the Board approved for member comments the proposal to eliminate the exemption in subparagraph (a)(5)(ii) of Section 64 of the Uniform Practice Code.

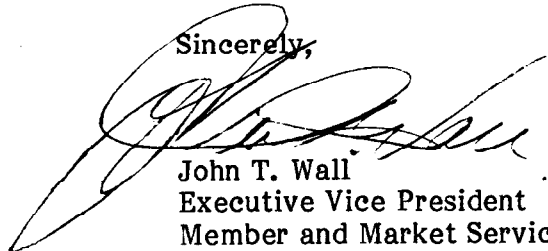
All members and other interested persons are invited to submit comments on the proposed amendment. Comments should be received no later than October 1, 1986, and should be directed to:

Mr. Lynn Nellius, Secretary
National Association of Securities Dealers, Inc.
1735 K Street, N.W.
Washington, D.C. 20006

Comments received will be considered by the Uniform Practice Committee and the NASD Board of Governors. If approved by the Board, the proposed amendment must be filed with and approved by the Securities and Exchange Commission before becoming effective.

Questions concerning this notice may be directed to Donald Catapano, Director, NASD Uniform Practice/TARS, at (212) 839-6255.

Sincerely,

A handwritten signature in dark ink, appearing to read "John T. Wall", is written over a large, light-colored scribble or stamp.

John T. Wall
Executive Vice President
Member and Market Services

Attachment

**PROPOSED AMENDMENT TO SECTION 64
OF THE
NASD UNIFORM PRACTICE CODE***

Sec. 64. Acceptance and Settlement of COD Orders

(a)(1), (2), (3) and (4) are unchanged.

(a)(5) The facilities of a securities depository shall be utilized for the confirmation, acknowledgment and book entry settlement of all depository eligible transactions covered by this rule except~~]~~ transactions that are to be settled outside the United States.

~~[(i) transactions that are to be settled outside of the United States;~~

~~[(ii) transactions wherein both a member and its agent are not participants in a security depository, or where both the customer and its agent are not participants in a securities depository.]~~

* New language is underlined; deleted language is bracketed.

NASD

National Association of Securities Dealers, Inc.
1735 K St., N.W. • Washington, D.C. 20006 • (202) 728-8000

notice to members 86-61

September 3, 1986

IMPORTANT MAIL VOTE

OFFICERS, PARTNERS AND PROPRIETORS

TO: All NASD Members

RE: Proposed New Rule of Fair Practice Relating to Monthly Reporting of
Aggregate "Short" Positions

LAST VOTING DATE IS OCTOBER 3, 1986.

EXECUTIVE SUMMARY

NASD members are invited to vote on a proposed new Rule of Fair Practice, which would require members to maintain a record of their total "short" positions in NASDAQ securities in all customer and proprietary firm accounts and report this information, aggregated by security, to the NASD on a monthly basis. The NASD will make data on short-interest positions available to the public via the financial press. This action is in response to a recommendation developed in a study prepared by Irving M. Pollack at the request of the NASD. The text of the proposed new rule is attached.

BACKGROUND

Article III, Section 41 of the NASD Rules of Fair Practice was adopted by the NASD Board of Governors in November 1985 as the first in a series of actions providing for additional regulation of short-selling activity in the over-the-counter market. The original purpose of the reporting requirement was to provide data for a study of current short-selling practices in the over-the-counter market, commissioned by the Board of Governors and conducted by former SEC Commissioner Irving M. Pollack.

Accordingly, the Board of Governors determined it appropriate to adopt the new requirement pursuant to Article XII of the NASD By-Laws, which permits the adoption of new Rules of Fair Practice for periods of six months without recourse to the membership for approval. The new rule was filed with the Securities and Exchange Commission and approved on December 19, 1985 (SEC Release No. 34-22731).

In May 1986, the Board of Governors extended the effectiveness of the new rule for an additional six months. The extension was approved by the SEC on July 30, 1986 (SEC Release No. 34-23482).

At its July 1986 meeting, the Board of Governors reviewed the short-sale study conducted by Mr. Pollack and adopted the study's recommendations that the requirement for reporting short-interest positions in NASDAQ securities be made permanent and that short-interest data reported pursuant to the rule be made publicly available via the financial press.

Article III, Section 41 of the NASD Rules of Fair Practice is hereby submitted to the membership for vote. The Board of Governors believes that this new rule is necessary and appropriate and recommends that members vote their approval.

If the new rule is adopted, members should continue to utilize Form NS-1 to submit monthly short-interest information to the NASD's Market Surveillance Section. The form requires a member to identify each NASDAQ security in which it or its customers maintain a "short" position, the security's NASDAQ symbol, and the aggregate number of shares held "short" for both the current and the immediately preceding month. Additional forms are available from the NASD district offices.

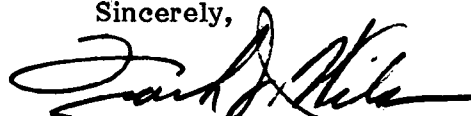
Reports shall be made as of the close of business on the settlement date falling on the 15th of each month. If the 15th is a non-settlement date, reports shall be made on the preceding settlement date. Reports shall be received by the NASD no later than the second business day after the reporting settlement date.

* * * *

Please mark the attached ballot according to your convictions and return it in the enclosed, stamped envelope to "The Corporation Trust Company." Ballots must be postmarked no later than October 3, 1986.

Questions concerning this notice may be directed to Mary S. Head, NASD Office of the General Counsel, at (202) 728-8284.

Sincerely,



Frank J. Wilson
Executive Vice President
and General Counsel

Attachments

PROPOSED NEW NASD RULE OF FAIR PRACTICE

Article III, Section 41.

Reporting of Aggregate "Short" Positions

Each member shall maintain a record of total "short" positions in all customer and proprietary firm accounts in securities included in the NASDAQ System and shall regularly report such information to the Corporation in such a manner as may be prescribed by the Corporation. Reports shall be made as of the close on the settlement date falling on the 15th of each month, or, where the 15th is a non-settlement date, on the preceding settlement date. Reports shall be received by the Corporation no later than the second business day after the reporting settlement date.



National Association of Securities Dealers, Inc.
1735 K St., N.W. • Washington, D.C. 20006 • (202) 728-8000

notice to members 86-62

September 10, 1986

TO: All NASD Members and Level 2 and Level 3 Subscribers

RE: NASDAQ National Market System Grows to 2,569 Securities With 27
Voluntary Additions on September 16, 1986

On Tuesday, September 16, 1986, 27 issues are scheduled to join the NASDAQ National Market System, bringing the total number of issues in NASDAQ/NMS to 2,569. These 27 issues, which will begin trading under real-time trade reporting, are entering NASDAQ/NMS pursuant to the Securities and Exchange Commission's criteria for voluntary designation.

The 27 issues scheduled to join NASDAQ/NMS on Tuesday, September 16, 1986, are:

Symbol*	Company	Location
AIFS	AIFS, Inc.	San Francisco, CA
ATIM	ATI Medical, Inc.	Glendale, CA
ARIT	Aritech Corp.	Framingham, MA
CSEC	Commercial Security Bancorporation	Salt Lake City, UT
CBSI	Community Bank System, Inc.	Syracuse, NY
CNBT	Community National Bank & Trust Company of New York	Staten Island, NY
DTOM	DeTomaso Industries, Inc.	Red Bank, NJ
FSEB	First Home Federal Savings and Loan Association	Sebring, FL
GACO	GardenAmerica Corporation	Oakland, CA
GSBI	Granite State Bankshares, Inc.	Keene, NH
HARP	Harper International, Inc.	San Antonio, TX

* NASDAQ symbols are proprietary to the National Association of Securities Dealers, Inc.

Symbol*	Company	Location
HFNO	Home Federal Savings Bank, Northern Ohio	Lakewood, OH
HRZB	Horizon Bank	Bellingham, WA
ISBJ	Interchange State Bank	Saddle Brook, NJ
ITELN	Itel Corporation (Cl B Pfd, Ser B)	Chicago, IL
ITELO	Itel Corporation (Cl B Pfd, Ser A)	Chicago, IL
LIPO	Liposome Company, Inc. (The)	Princeton, NJ
MAXC	Maxco, Inc.	Lansing, MI
MOKG	Morgan, Olmstead, Kennedy & Gardner Capital Corporation	Los Angeles, CA
NHIC	Nichols-Homeshield, Inc.	Aurora, IL
OMICP	OMI Corp. (Pfd)	New York, NY
PACR	Pacer Corporation	Bothell, WA
PAYN	Pay'n Save, Inc.	Seattle, WA
RSLA	Republic Savings and Loan Association of Wisconsin	Milwaukee, WI
TMAN	Tel/Man, Inc.	Greenville, SC
TLSS	Telesis Systems Corporation	Chelmsford, MA
TWAXP	Trans World Airlines, Inc. (Pfd)	New York, NY

The following issues may be included in NASDAQ/NMS prior to the next regularly scheduled phase-in date:

Pending Additions

Symbol*	Company	Location
ACSN	ACUSON	Mountain View, CA
ADPK	Aid Pack, Inc.	Gloucester, MA
ARMR	Armour All Products Corporation	Irvine, CA
BLVD	Boulevard Bancorp, Inc.	Chicago, IL
CHPS	Chips and Technologies, Inc.	Milpitas, CA
CCMC	Commonwealth Mortgage Company, Inc.	Wellesley Hills, MA
FISV	Fiserv, Inc.	West Allis, WI
FTTN	Fidelity Federal Savings and Loan Association of Tennessee	Nashville, TN
FRTR	Frontier Insurance Group, Inc.	Monticello, NY
HSRC	HEALTHSOUTH Rehabilitation Corporation	Birmingham, AL
HUFK	Huffman-Koos, Inc.	River Edge, NJ
ISEC	Insituform Southeast Corp.	Jacksonville, FL

Symbol*	Company	Location
JOUL	Joule, Inc.	Edison, NJ
LTEK	Life Technologies, Inc.	Gaithersburg, MD
MIHO	M/I Schottenstein Homes, Inc.	Columbus, OH
NECC	New England Critical Care, Inc.	Marlborough, MA
PFSI	Pioneer Financial Services, Inc.	Rockford, IL
SURE	SCOR U.S. Corporation	New York, NY

NASDAQ/NMS Interim Additions

Symbol*	Security	Date of Entry
PICI	Polymer International Corporation	8/26/86
FOOD	P & C Foods, Inc.	8/27/86
SCOM	SCS/Compute, Inc.	9/03/86

The following changes to the list of NASDAQ/NMS securities occurred since August 22, 1986:

NASDAQ/NMS Symbol* And/Or Name Changes

New/Old Symbol*	New/Old Security	Date of Change
BUGS/DBUG	Cooper Development Company/ Cooper Development Company	8/25/86
CNTRS/CNTRS	CPL Real Estate Investment Trust/Centennial Real Estate Investment Trust	8/27/86
OMCM/DOYL	Omnicom Group, Inc./Doyle Dane Bernbach Group, Inc.	9/02/86
AVFC/AILI	AmVestors Financial Corp./ American Investors Life Insurance Co., Inc.	9/03/86
LLOG/LLOG	Lincoln Logs Ltd./Lincoln Logs Inc.	9/03/86
POLY/PTEK	Poly-Tech, Inc./Poly-Tech, Inc.	9/03/86

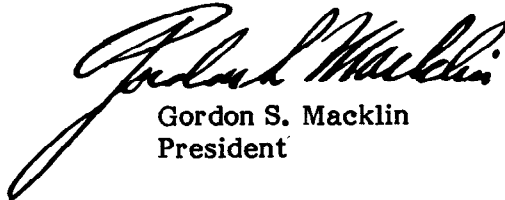
NASDAQ/NMS Deletions

Symbol*	Security	Date
REPH	Republic Health Corporation	8/25/86
CASH	Comdata Network, Inc.	8/26/86

Symbol*	Security	Date
INSUW	Insituform of North America, Inc. (Wts)	8/27/86
AGAI HDON	Ally & Gargano, Inc. Henredon Furniture Industries, Inc.	8/28/86 8/28/86
IDLE THOR	Idle Wild Foods, Inc. Thor Industries, Inc.	8/29/86 8/29/86
BBDO	BBDO International, Inc.	9/02/86
AFSB	Athens Federal Savings Bank	9/03/86
INCM MONU	InteCom, Inc. Monumental Corporation	9/04/86 9/04/86

Any questions regarding this notice should be directed to Kit Milholland, Senior Analyst, NASDAQ Operations, at (202) 728-8281. Questions pertaining to trade reporting rules should be directed to the NASD's Market Surveillance Section, at (202) 728-8201.

Sincerely,



Gordon S. Macklin
President

NASD

National Association of Securities Dealers, Inc.
1735 K St., N.W. • Washington, D.C. 20006 • (202) 728-8000

notice to members 86-63

September 10, 1986

TO: All NASD Members and Other Interested Persons

RE: NASD Operations Center Opens in Rockville, Maryland; New Addresses and Telephone Numbers

The ribbon-cutting ceremony for the new 110,000-square-foot NASD Operations Center, which will serve the NASD membership and the NASDAQ market, will be September 17, 1986. The facility, located 18 miles north of Washington, D.C., in Rockville, Maryland, will support 200-million-share trading days and provide the first complete, back-up computer communications system of any securities market in the world.

NASD departments that rely heavily on computer services will be relocated from the NASD's Executive Office headquarters at 1735 K Street, N.W., Washington, D.C., to the Rockville site in three phases between September and October. Correspondence to the departments relocating should be directed to:

NASD Operations Center
9513 Key West Avenue
Rockville, Maryland 20850

All information relating to the Central Registration Depository (CRD), including filings of Forms U-4 and U-5 (Uniform Application for Securities Industry Registration or Transfer and Uniform Termination Notice for Securities Industry Registration) should be sent to:

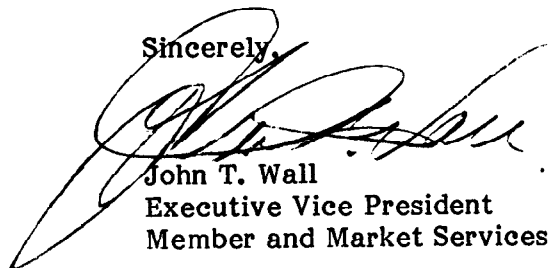
NASD/CRD
P.O. Box 6011
Rockville, Maryland 20850

This new post office box for NASD/CRD filings is effective immediately. However, forms with the old address may be used until supplies are exhausted.

Telephone numbers for key employees relocating to the Rockville site will be listed in an updated Guide to Information and Services, which will be available in November 1986. General telephone numbers for the departments relocating to Rockville are:

Department	Telephone Number	Planned Moving Date
Main Telephone Number	(301) 738-6500	9/22
Administrative Services	(301) 738-6703	9/22
Automated Reports	(301) 738-6581	9/22
Central Files	(301) 738-6817	9/22
Computer Center	(301) 738-6781	9/22
CRD Accounting	(301) 738-6737	10/6
CRD Data Entry	(301) 738-6718	10/6
Human Resources	(301) 738-6821	10/6
Information Services	(301) 738-6500	10/6
Information Systems	(301) 738-6620	10/27
ISD Office Automation	(301) 738-6675	9/22
Mailroom	(301) 738-6819	9/22
Member Firm Registration Services	(301) 738-6715	10/6
Membership	(301) 738-6715	10/6
NASDAQ, Inc.	(301) 738-6752	9/22
Qualifications	(301) 738-6693	10/27
Special Registration Review	(301) 738-6739	10/6
Systems Operations	(301) 738-6786	9/22
Training	(301) 738-6821	10/6
Treasurer's Office	(301) 738-6540	9/22

Sincerely,



John T. Wall
Executive Vice President
Member and Market Services

The following changes to the list of NASDAQ/NMS securities occurred since August 8, 1986:

NASDAQ/NMS Symbol* and/or Name Changes

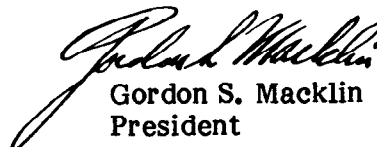
New/Old Symbol*	New/Old Security	Date of Change
HADS/HADS	Hadson Corp./Hadson Petroleum Corp.	08/13/86
EMSIF/PACEF	EMS Systems, Ltd./Pasadena Technology Corp.	08/14/86

NASDAQ/NMS Deletions

Symbol*	Security	Date
GOAAQ	American Adventure, Inc.	08/12/86
BFTV	Birdfinder Corp.	08/12/86
CCPAC	Communications Corporation of America	08/12/86
CRFT	ComputerCraft, Inc.	08/12/86
INFC	InfoTech Management, Inc.	08/12/86
JPII	J.P. Industries, Inc.	08/12/86
PDGY	Prodigy Systems, Inc.	08/12/86
BPHC	Bay Pacific Health Corporation	08/15/86
EMSC	Entertainment Marketing, Inc.	08/18/86

Questions regarding this notice should be directed to Kit Milholland, Senior Analyst, NASDAQ Operations, at (202) 728-8281. Questions pertaining to trade reporting rules should be directed to the NASD's Market Surveillance Section, at (202) 728-8201.

Sincerely,


Gordon S. Macklin
President



National Association of Securities Dealers, Inc.
1735 K St., N.W. • Washington, D.C. 20006 • (202) 728-8000

notice to members 86-64

September 12, 1986

TO: All NASD Members and Municipal Securities Bank Dealers
ATTN: All Operations Personnel
RE: Columbus Day: Trade Date-Settlement Date Schedule

The schedule of trade dates/settlement dates below reflect the observance by the financial community of Columbus Day, Monday, October 13, 1986. On this day, the NASDAQ System and the exchange markets will be open for trading. However, it will not be a settlement date since many of the nation's banking institutions will be closed in observance of Columbus Day.

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

<u>Trade Date</u>	<u>Settlement Date</u>	<u>*Regulation T Date</u>
October 3	October 10	October 14
6	14	15
7	15	16
8	16	17
9	17	20
10	20	21
13	20	22
14	21	23

* Pursuant to Sections 220.8(b)(1) and (4) of Regulation T of the Federal Reserve Board, a broker-dealer must promptly cancel or otherwise liquidate a 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 220.8(d)(1), make application to extend the time period specified. The date members must take such action is shown in the column entitled "Regulation T Date."

It should be noted that October 13, 1986, is considered a business day for receiving customers' payments under Regulation T of the Federal Reserve Board.

Transactions made on Monday, October 13, will be combined with transactions made on the previous business day, October 10, for settlement on October 20. Securities will not be quoted ex-dividend, and settlements, marks to the market, reclamations, buy-ins and sell-outs, as provided in the Uniform Practice Code, will not be made and/or exercised on October 13.

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

Questions concerning this notice should be directed to the NASD Uniform Practice Department at (212) 839-6256.

* * * * *

86-65

NASD

September 12, 1986

TO: All NASD Members, Associated Persons and Other Interested Persons

RE: Compliance with the NASD Rules of Fair Practice in the Employment and Supervision of Off-Site Personnel

EXECUTIVE SUMMARY

NASD rules and policies consider associated persons of a member to be employees of the member, regardless of their locations or compensation arrangements. The notice addresses regulatory issues that relate to off-site employment of registered persons, including supervisory procedures, private securities transactions, fair dealings with customers and communications with the public.

Because of the significance of the issues discussed in this notice, the NASD strongly urges that it be distributed to all associated persons and recommends that it be included in the compliance manual of all firms employing off-site personnel.

INTRODUCTION

A significant number of NASD members employ registered persons who engage in securities-related activities, on a full- or part-time basis, at locations away from the offices of the members. These off-site representatives, often classified for compensation purposes as independent contractors, may also be involved in other business enterprises such as insurance, real estate sales, accounting or tax planning. They may also operate as separate business entities under names other than those of the members. The NASD, in the course of its disciplinary proceedings, has observed a pattern of rule violations and other regulatory problems stemming from factors inherent in these arrangements and the manner in which they are effectuated.

Irrespective of an individual's location or compensation arrangements, all associated persons are considered to be employees of the firm with which they are registered for purposes of compliance with NASD rules governing the conduct of registered persons and the supervisory responsibilities of the member. The fact

that an associated person conducts business at a separate location or is compensated as an independent contractor does not alter the obligations of the individual and the firm to comply fully with all applicable regulatory requirements.

To provide guidance to the membership in meeting these obligations, this notice discusses certain regulatory issues that frequently arise in the context of off-site employment. Because of the importance of these issues, the NASD urges each member to duplicate this notice and distribute it individually to all associated persons. In addition, it is suggested that this notice be included in the compliance manual of firms employing off-site representatives. **The NASD, in the course of its member examinations, will make inquiries to ascertain that this notice has been provided to all appropriate personnel.**

Article III, Section 27, NASD Rules of Fair Practice: Supervision

Section 27(a) sets forth the basic duty of a member firm to:

"...establish, maintain and enforce written procedures which will enable it to supervise properly the activities of each registered representative and associated person to assure compliance with applicable securities laws, rules, regulations and statements of policy promulgated thereunder and with the rules of this Association."

Although the rule does not prescribe specific supervisory procedures to be followed by all firms, it clearly mandates that the adopted procedures enable a firm to supervise **properly** the activities of **each** associated person to **assure** compliance. Thus, firms employing off-site representatives are responsible for establishing and **carrying out** procedures that will subject these individuals to effective supervision designed to monitor their securities-related activities and to detect and prevent regulatory and compliance problems.

This can include:

1. Educating off-site personnel regarding their obligations as registered persons to the firm and to the public, including prohibited sales practices.
2. Maintaining regular and frequent contact with such individuals.
3. Implementing appropriate supervisory practices, such as records inspections and compliance audits at the representatives' places of employment, to ensure that their methods of business and day-to-day operations comply with applicable rules and requirements.

For greatest effectiveness in preventing and detecting violations, visits should be unannounced and include, for example, a review of on-site customer account documentation and other books and records, meetings with individual representatives to discuss the products they are selling and their sales methods, and an examination of correspondence and sales literature.

To fulfill these obligations, a firm should consider whether the number and location of its registered principals provides the capability to supervise its off-site representatives effectively.

Section 27(c) includes the requirement that a member:

". . . review and endorse in writing, on an internal record, all transactions and all correspondence of its registered representatives pertaining to the solicitation or execution of any securities transaction."

This requirement applies equally in the case of off-site representatives. Firms whose off-site personnel also engage in non-securities businesses should remind these individuals that correspondence pertaining to such businesses, unless submitted for review, may not include material related to securities transactions.

Section 27(d) imposes upon a member the obligation to:

". . . review the activities of each office, which shall include the periodic examination of customer accounts to detect and prevent irregularities and abuses and at least an annual inspection of each office of supervisory jurisdiction."

An office of supervisory jurisdiction (OSJ) is defined in Section 27(f) as:

". . . any office designated as directly responsible for the review of the activities of registered representatives or associated persons in such office and/or in other offices of the member."

If a member has designated an individual as responsible for reviewing the activities of other registered persons within the firm, the office of that individual must be inspected annually, regardless of whether such person is compensated as an employee or as an independent contractor.

Article III, Section 40, NASD Rules of Fair Practice: Private Securities Transactions

Past experience of the NASD in examining members indicates that the conduct of off-site representatives most frequently resulting in violations of NASD rules involves unauthorized private securities transactions, or "selling away." The NASD expects that the promulgation of Section 40 and the clarification of the obligations of members and associated persons in such transactions will reduce the instances of selling away among all associated persons, including off-site representatives.

Several aspects of Section 40, and certain related issues, merit emphasis in the context of off-site personnel. **Section 40 cannot accomplish its objectives unless member firms communicate the substance of the rule to their associated persons and take affirmative steps to ensure that these requirements are understood and observed.** This is especially true in the case of off-site representatives whose day-to-day access to compliance personnel and individuals experienced in the securities industry may be limited and whose participation in non-private securities transactions may be infrequent and restricted in scope.

Because of their location and other circumstances of their employment, off-site personnel have a greater opportunity than on-site personnel to engage in undetected selling away. Consequently, firms that employ such persons are responsible for monitoring their activities in a manner reasonably intended to detect violations. Further, the obligations imposed upon the firm and the associated person under the rule are neither altered nor lessened in any way by the fact that the individual is compensated as an independent contractor.

The rule requires a member that approves an associated person's involvement in private securities transactions for compensation to record the transactions on its books and records and supervise the individual's participation "as if the transactions were executed on behalf of the member." Although the rule does not specify the manner of recordation, the firm may wish to maintain records that provide information regarding:

- The individual and the security involved;
- The amount and source of compensation;
- The names of the investors and the amounts and dates of the investments;
- The issuer, syndicator or any other broker-dealer involved; and
- The manner in which the firm undertook to supervise the associated person's participation.

These records should be in a form that would permit the NASD to ascertain, upon examination, all relevant information regarding the participation of associated persons in private securities transactions.

Several issues arise in connection with supervising the involvement of off-site representatives in private securities transactions. The NASD has observed that some firms permit such persons to form and sell interests in limited partnerships for which they serve as general partners. While this is not an impermissible activity, members and registered persons are reminded that such transactions are **securities** transactions, and therefore subject to Section 40 and all other rules and regulations governing such transactions. Thus, the member is responsible for ensuring that the formation of these partnerships and the solicitation and sale of interests therein are conducted in compliance with all applicable requirements, including those pertaining to documentation, due diligence, disclosure, suitability determinations, and the handling of customer funds.

There have been instances in which associated persons have engaged in private securities transactions without notifying the firm, due to the belief or the advice of third parties that the product involved was not a security. Under federal securities laws, the definition of a security includes the commonly understood products, such as stocks and bonds, as well as other investment products, such as an "investment contract" in which one or more individuals invest in a common venture with the expectation of receiving a monetary return on their investment from or through the efforts of a third party.

Because questions frequently arise as to whether a particular investment instrument is a security, a registered person should not sell any product offered by

an entity outside the firm without consulting the member to determine the product's status as a security.

**Article III, Section 2, NASD Rules of Fair Practice:
Recommendations to, and Fair Dealings with, Customers**

Article III, Section 2 of the NASD Rules of Fair Practice requires that:

"[I]n recommending to a customer the purchase, sale or exchange of any security, a member shall have reasonable grounds for believing that the recommendation is suitable for such customer upon the basis of the facts, if any, disclosed by the customer as to his other security holdings and as to his financial situation and needs."

The policy of the NASD Board of Governors pertaining to Section 2 sets forth specific guidelines in the areas of recommending speculative, low-priced securities, excessive trading activity, trading in mutual fund shares, fraudulent activity, and recommending purchases beyond the customer's capability.

The actions of an associated person in dealing with customers and customer accounts, regardless of whether he or she is compensated as an employee or an independent contractor, are actions on behalf of the firm. The firm is responsible for supervising in a manner designed to detect and prevent violations of Section 2. Members should take affirmative steps to ensure that off-site personnel understand and abide by NASD and firm policies regarding dealings with customers, customer accounts and customer funds.

**Article III, Section 10, Rules of Fair Practice:
Influencing or Rewarding Employees of Others**

Article III, Section 10 of the NASD Rules of Fair Practice prohibits members and associated persons from giving:

". . . anything of value, including gratuities, in excess of fifty dollars per individual per year to any person. . . where such payment or gratuity is in relation to the business of the employer of the recipient of the payment or gratuity"

unless such payments or gratuities are pursuant to a written agreement between the payor and the recipient to which the recipient's employer has consented.

It is, therefore, a violation of Section 10 for a member to compensate an associated person of another member in connection with securities transactions without the employer firm's consent. A member's obligations under Section 10 are not affected by the fact that the recipient is compensated by his or her NASD employer member as an independent contractor.

**Article III, Section 35, Rules of Fair Practice:
Communications with the Public**

Article III, Section 35(b) of the NASD Rules of Fair Practice requires that every item of advertising and sales literature, as defined in Section 35(a):

". . . be approved by signature or initial, prior to use, by a registered principal (or his designee) of the member."

Paragraph (2) of Section 35(b) requires further that a separate file of such items be maintained for a period of three years.

This rule applies to all materials originated or distributed by off-site representatives that meet the definition of "advertisement" or "sales literature," including those prepared or used by persons compensated as independent contractors. In particular, firms must approve any materials referencing that securities are sold by the off-site representative through the member, even though such materials may be intended to promote the non-securities businesses of the off-site personnel.

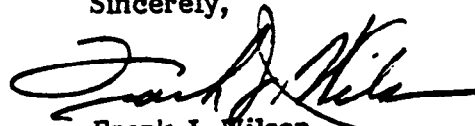
Article III, Section 35(d)(2)(A) further requires that all advertisements and sales literature contain the name of the member, as well as certain other information under specified circumstances. The fact that an associated person may operate under a business name other than that of the member does not alter this requirement. The NASD has received inquiries regarding the need to include the name of the member in promotional materials that do not include references to the associated person's securities-related activities. Particular materials should be considered individually, preferably by the firm's compliance department, to determine whether they fall within the scope of Section 35.

Unregistered Broker-Dealers

The Securities and Exchange Commission has taken the position that an individual who operates as an independent contractor must be registered as a broker-dealer unless he or she is under the control of a registered broker-dealer. ^{1/} The question of "control" must be evaluated in light of the facts and circumstances of each situation and is not susceptible to a test of general application. There are, however, circumstances inherent in off-site employment and independent contractor compensation arrangements that may give rise to potential liability for operating as unregistered broker-dealers. Thus, registered persons and member firms may want to consider registering of off-site locations as broker-dealers.

Any questions regarding this notice should be directed to either Dennis C. Hensley, NASD Vice President and Deputy General Counsel, at (202) 728-8245, or Jacqueline D. Whelan, Attorney, NASD Office of the General Counsel, at (202) 728-8270.

Sincerely,



Frank J. Wilson
Executive Vice President
and General Counsel

^{1/} Refer to the statement by the SEC Division of Market Regulation, dated June 18, 1982, forwarded to all NASD members on August 25, 1982.

NASD

National Association of Securities Dealers, Inc.
1735 K St., N.W. • Washington, D.C. 20006 • (202) 728-8000

notice to members 86-66

September 19, 1986

TO: All NASD Members and Other Interested Persons
ATTN: Direct Participation Programs Department
RE: Due Diligence Expense Reimbursements in Connection with Direct Participation Programs

EXECUTIVE SUMMARY

This notice examines a number of due diligence reimbursement practices that have arisen in the area of public offerings of direct participation programs and the appropriateness of those practices under the NASD's underwriting compensation guidelines. This notice is a amplification of earlier NASD notices on this subject.

BACKGROUND

The NASD Direct Participation Programs/Real Estate Committee has reviewed information received from members and their counsel regarding certain practices that have developed with respect to members' charges for reimbursement of due diligence expenses. The purpose of this notice is to assist the membership by clarifying the scope of what is considered a permissible reimbursement of due diligence expenses incurred by a member in connection with a public offering of a direct participation program.

In 1982, the NASD adopted Appendix F to Article III, Section 34 of the NASD Rules of Fair Practice. Appendix F applies to public offerings of direct participation programs and, among other things, provides that underwriting compensation from any source may not exceed NASD guidelines. In connection therewith, the NASD published Notice to Members 82-51 (October 19, 1982), which announced the NASD guidelines on underwriting compensation referenced in Subsection 5(b) of Appendix F. Underwriting compensation may not exceed 10 percent of the gross proceeds of the offering, with the exception that up to an additional 0.5 percent may be reimbursed to underwriters for "bona fide due diligence expenses."

Subsequently, the NASD issued Notice to Members 85-29 (April 19, 1985) to clarify the application of the compensation guidelines under Appendix F. The NASD indicated in that notice that the due diligence expenditures that may exceed the 10 percent limitation by 0.5 percent include only reimbursable expenses incurred by a member in affirmatively discharging its responsibility pursuant to Section 4 of Appendix F to ensure that all material facts pertaining to the program are adequately and accurately disclosed in the offering document. The notice addressed the issue of "due diligence meetings" in exotic locations and indicated that sales incentive vacations awarded to top producers at the close of the offering may not be allocated to due diligence. Instead, where the NASD review identified such allocations to due diligence, the expenses should be reallocated as incentive compensation subject to Subsections 5(e) and 5(f) of Appendix F, and are required to be disclosed in the offering document as part of the 10 percent underwriting compensation guideline.

The notice further clarified that if travel is necessary to discharge the member's due diligence obligations, it should ordinarily be undertaken by responsible officials of the member visiting the partnership offices to verify the information provided to the member. Reimbursement of the member's travel expenses may be properly allocated to the 0.5 percent limitation. On the other hand, expenses incurred by the issuer's officials in traveling to due diligence meetings should be allocated to the issuer's organization and offering expenses.

DISCUSSION

Pursuant to information reviewed by the Direct Participation Programs/Real Estate Committee, it appears that certain members, either alone or in cooperation with other members, are conducting due diligence as a profit center. Appendix F permits an additional 0.5 percent compensation to NASD members above the 10 percent underwriting guideline only for reimbursement of members' bona fide due diligence expenses. Thus, any bill presented by a member to a sponsor or dealer-manager for reimbursement of costs associated with its due diligence activities must be for actual costs incurred by the member and may not include a profit margin.

The NASD believes it is also the responsibility of the program sponsor and dealer-manager to ensure compliance with the compensation guidelines contained in Appendix F. It appears that some members have submitted non-itemized bills to program sponsors or dealer-managers representing their aggregate expenses for conducting due diligence. While the sponsor is not required to obtain an itemized expense statement before paying out due diligence expenses, any bill for due diligence submitted by a member to a sponsor must be based on the member's actual expenses incurred in conducting due diligence. In the event a sponsor or dealer-manager receives a non-itemized bill for due diligence that it has reason to question, it has the obligation to ensure compliance with Appendix F by requesting an itemized statement to support the bill submitted by the member. If such a due diligence bill cannot be justified, any excess over actual due diligence expenses that is paid is considered by the NASD to be undisclosed underwriting compensation and is required to be included within the 10 percent compensation guideline, disclosed in the offering document and reflected on the books and records of the member.

In addition, a number of members have formed entities for conducting due diligence to lower the cost of due diligence individually. Where such entity is not operated at a profit, each of the members' allocable share of the due diligence

expenses of the entity is permissible to be included in the 0.5 percent guideline.* Such due diligence entities formed by members generally obtain operating capital by soliciting sponsors for contributions as founders. However, any payment made by a sponsor to such a due diligence entity as a "founder's contribution," if not related to actual due diligence expenses, will be considered undisclosed underwriting compensation to the members, and is required to be included in the 10 percent guideline, disclosed in the offering document and reflected on the books and records of the members as compensation in connection with an offering of the sponsor's program.

Further, such due diligence entities generally charge a sponsor a flat fee for conducting due diligence with respect to each program of the sponsor. To the extent such due diligence fee represents reimbursement of members' actual costs for conducting their due diligence investigation, such fee may be reimbursed by the sponsor and included within the 0.5 percent due diligence guideline for the program. However, any amount of such fee that exceeds members' bona fide due diligence expenses will be considered undisclosed underwriting compensation.

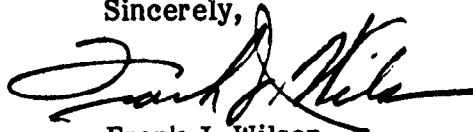
The Direct Participation Programs/Real Estate Committee has also considered whether a member's request for reimbursement of due diligence expenses may include expenses to cover the overhead of the member's due diligence department. The NASD believes that the reimbursement of a reasonable allocation of the member's overhead, including salaries and office overhead, may be included in the member's request for reimbursement of due diligence expenses. However, as indicated above, if the allocation is excessive, the excess will be considered underwriting compensation subject to the 10 percent guideline.

In addition, the committee considered whether the due diligence fees received from a sponsor with respect to a particular offering must be used to cover only expenses with respect to that offering or if all due diligence fees could be aggregated to cover the member's complete due diligence expenses related to all programs it underwrites. The NASD believes that any due diligence fees received from a sponsor by a member may only be applied to its due diligence activities with respect to the particular program of that sponsor.

* * * *

The NASD hopes that this notice will aid the membership and sponsors by providing clarification of permissible reimbursement of due diligence expenses in direct participation program offerings. Any comments or questions regarding this notice should be directed to either Frank J. Formica or Suzanne E. Rothwell of the NASD's Corporate Financing Department, at (202) 728-8258.

Sincerely,



Frank J. Wilson
Executive Vice President
Legal and Compliance

* In comparison, the bill for conducting due diligence of a consulting firm that is not a member or an affiliate of a member is considered a bona fide reimbursement of the member's actual expenses for due diligence even though the consulting firm may include a profit margin in its bill.