

Notice To Members

National Association of Securities Dealers, Inc.

June 1990

Number 90 - 36

Suggested Routing:*

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| <input checked="" type="checkbox"/> Senior Management | <input type="checkbox"/> Internal Audit | <input type="checkbox"/> Operations | <input type="checkbox"/> Syndicate |
| <input type="checkbox"/> Corporate Finance | <input checked="" type="checkbox"/> Legal & Compliance | <input type="checkbox"/> Options | <input type="checkbox"/> Systems |
| <input type="checkbox"/> Government Securities | <input type="checkbox"/> Municipal | <input type="checkbox"/> Registration | <input type="checkbox"/> Trading |
| <input type="checkbox"/> Institutional | <input type="checkbox"/> Mutual Fund | <input type="checkbox"/> Research | <input type="checkbox"/> Training |

*These are suggested departments only. Others may be appropriate for your firm.

MAIL VOTE

Subject: Proposed Amendments to the NASD By-Laws Implementing the Recommendations of the Special Committee on NASD Structure and Governance; Last Voting Date: July 5, 1990

EXECUTIVE SUMMARY

NASD members are invited to vote on amendments to the NASD By-Laws implementing the recommendations of the Special Committee on NASD Structure and Governance ("Special Committee"). The amendments were previously submitted to the membership for comment. They provide for a reduction in the size of the Board and changes to its composition. In addition, they provide for

changes in the number and configuration of the NASD districts. The amendments have been adopted by the Board of Governors ("Board") and now require membership approval. Prior to becoming effective, the amendments must be filed with, and approved by, the Securities and Exchange Commission (SEC). The full text of the amendments follows this notice.

BACKGROUND

The By-Laws of the NASD govern the composition of the Board and the number and configuration of the districts. The amendments are necessary to implement the recommendations of the Special Committee relating to the Board and the districts. These recommendations result from an intensive study conducted by the Special Committee of the structure and governance of the NASD and its subsidiaries. The amendments are designed to ensure that the NASD's governance process fairly represents the increased diversity of the securities industry and continues to command

the respect and confidence of investors, issuers, and our members.

The recommendations of the Special Committee were approved for comment by the Board in March 1990. Proposed amendments implementing the recommendations were submitted to the membership for comment as part of *Notice to Members 90-19*.¹ Comment letters were received from 11 members and from one association representing the

¹A copy of the final Report of the Special Committee on NASD Structure and Governance was included with *Notice to Members 90-19*.

life insurance industry. A number of these comments were general endorsements of the amendments and the recommendations of the Special Committee, while others raised concerns about specific aspects of the amendments. After careful consideration of the comments received, the Board approved and adopted the amendments as originally proposed.

PROPOSED AMENDMENTS

The proposed amendments to the By-Laws address the size and composition of the Board and the number and configuration of the districts.

The Board of Governors

The By-Laws currently provide for a Board of 31 Governors. The amendments would give the Board the authority to adjust its size between 25 and 29 Governors.² The Board has resolved to reduce its size to 29 Governors upon approval of the amendments.

Under the current By-Laws, the Board is composed of 21 Governors elected from the districts; nine Governors elected by the Board from the securities industry, issuers, and the public; and the President. The amendments implement the Special Committee recommendation that a greater proportion of Governors be elected by the Board based on:

- The need to fairly and effectively represent the many types of participants in the securities industry,³ some of which traditionally have not been represented through the district election process.

- The need to recruit candidates with a broad range of backgrounds and with specialized expertise in the international, technology, and other diverse issues that must be addressed effectively by the Board to fulfill the mission of the NASD.

- The desire to improve the NASD's ability to recruit candidates who may be able to make significant contributions to the Board and to the NASD's mission, but who are unable to commit the time required for service at both the Board and district level.

- The need for domestic and overseas issuer representation in the heightened competitive environment in which the NASDAQ[®] market operates.

- The need for substantial public

representation on the Board.

- The practical limitations on the size of the Board.

The amendments decrease the number of Governors elected from the districts. The amendments also incorporate two recommendations of the Special Committee to ensure that this would not jeopardize fair representation of local and regional firms — which both distinguishes the NASD from other self-regulatory organizations and is necessary for effective nationwide regulation and enforcement. First, each district will be represented on the Board by at least one Governor; and second, the number of Governors elected from the districts will constitute an absolute majority of the Board.

Some commenters expressed concern that the reduction in the proportion of industry Governors would reduce the level of industry expertise and experience on the Board and would make the Board less representative of the industry. The Special Committee addressed these concerns in making its recommendations and concluded that they were outweighed by the need for additional issuer and investor representation on the Board. In addition, the amendments insure that industry Governors elected from the districts will constitute an absolute majority of the Board and that all industry Governors combined would constitute at least two-thirds of the Board.⁴

The amendments provide for continued representation on the Board of the insurance and in-

²The Special Committee recommended that the size of the Board be reduced to enhance the participation of individual Governors and the efficiency of the Board. The Special Committee also recommended that the Board be no smaller than 25 Governors, since the Board must represent a variety of interests and experience and since much of its work is assisted by a large number of committees on which Governor service is highly desirable.

³This would include representation of banks, pension funds, and other institutions (both domestic and international), specialty or limited-purpose broker-dealers, and continued representation of insurance companies and underwriters of investment company shares.

⁴The actual proportion of industry Governors would vary with the size of the Board. It also would depend on the number of Governors elected by the Board who are not required to be associated with members under the By-Laws, but who are in fact associated with members (i.e., a Governor elected to represent issuers who may also be associated with a member).

vestment company sectors of the securities industry.⁵ One commenter urged the Board to increase insurance industry representation on the Board in light of the increasing impact of NASD actions on the insurance industry.⁶ The Special Committee considered whether to expand the number of Governors representative of specified sectors of the securities industry. It rejected such an approach as inconsistent with the objectives of providing the Board with increased flexibility to determine its composition and of enhancing its opportunity to elect the best candidates for Governor to the Board. Instead, the amendments provide that the Board shall elect at least three Governors representative of members in addition to those elected by the districts. These three Governors can be elected from any sector of the securities industry. The substance of this comment can therefore be addressed by the Board and its National Nominating Committee during the nominating process.⁷

The amendments give the Board of Governors the authority to provide for compensation of Governors, the Chairman of the Board, and members of committees. The Special Committee considered the issue of compensation and found that the lack of compensation has not to date adversely affected the recruitment of highly qualified candidates for service as Chairman or on the Board or its committees. Consequently, the Special Committee did not recommend, and the Board does not envision, providing compensation at this time. The Special Committee did recommend, however, that the Board be given the flexibility to provide for such compensation in the event the Board finds it necessary to ensure the successful recruitment of highly qualified candidates for service as Chairman or on the Board or its committees.⁸

Districts

The NASD's district structure, and its role in the selection of Governors, is an essential element of the governance of the NASD that distinguishes the NASD from other self-regulatory organizations in the securities industry. The Special Committee found that changes to the existing district structure, consistent with fair and effective district representation on the Board, were necessary to address significant demographic shifts in the NASD's membership as well as the revisions to the composition of the Board recom-

mended by the Special Committee.

The amendments give the Board the authority to change the number and borders of the districts and the number of Governors nominated from each district to ensure fair representation of members and districts on the Board.⁹

The Board has adopted, subject to member and SEC approval of the amendments, the changes to the districts recommended by the Special Committee.¹⁰ The Board has determined that these changes are necessary in view of the NASD's obligation under the Securities Exchange Act of 1934, as amended ("Exchange Act"), to ensure fair representation of its members in the selection of

⁵The By-Laws provide that one Governor elected by the Board shall be representative of the insurance sector and one Governor shall be representative of the investment company sector of the securities industry. The amendments retain these requirements, but expand the applicable provisions of the By-Laws to ensure that representatives of these sectors who are associated with affiliates of members can serve as Governors in appropriate cases.

⁶This commenter also suggested that the Board establish a committee to address concerns of insurance company members. The NASD staff will be discussing the matter with the commenter with a view to active consideration of this suggestion by the Board.

⁷The Special Committee specifically addressed this issue on page 12 of its Report, concluding that:

"In nominating candidates from the securities industry the National Nominating Committee should be sensitive to the concern that no facet of the industry should dominate the Board and should apply the principle that the self-regulatory responsibilities of the NASD can best be carried out if there is satisfactory representation of all facets of the industry."

⁸One commenter opposed compensation for Governors. Compensation of members of the governing boards of self-regulatory organizations in the securities industry is not uncommon. For example, the New York Stock Exchange and the American Stock Exchange provide compensation to their directors comparable to that provided to directors of public companies.

⁹The amendments guarantee that each district will be represented by at least one Governor and that the number of Governors elected from the districts constitutes an absolute majority of the Board.

¹⁰The need for these changes in the districts is illustrated by a comparison of District 9 (Cleveland) and District 7 (Atlanta). Today, each district is represented by one Governor, although District 9 has only 166 members and employs 16 staff members, while District 7 has 547 members and a staff of 48.

Governors¹¹ and the requirement of the By-Laws that the Board consider from time to time the fairness of the representation of the various districts on the Board.¹² The changes yield somewhat fewer, but larger, districts which the Board believes will benefit the NASD by lessening the disparities among districts in terms of members and regulatory responsibilities, providing a larger pool of candidates from which to elect District Committee and Board members, and improving the NASD's ability to administer and supervise the districts.

The number of districts would be reduced from 13 to 11. These 11 districts would be represented on the Board by 15 of its 29 Governors. The 11 new districts would be as follows:¹³

■ **New District 1** — This district would comprise the portion of existing District 2 referred to as District 2N. It would include northern California (the counties of Monterey, San Benito, Fresno, and Inyo, and the remainder of the state north or west of such counties), northern Nevada (the counties of Esmeralda and Nye, and the remainder of the state north or west of such counties) and Hawaii. It would elect one Governor.

■ **New District 2** — This district would comprise the portion of existing District 2 referred to as District 2S. It would include southern California (that part of the state south or east of the counties of Monterey, San Benito, Fresno, and Inyo) and southern Nevada (that part of the state south or east of the counties of Esmeralda and Nye). It would elect one Governor.

■ **New District 3** — This district would comprise existing Districts 1 (Seattle) and 3 (Denver). It would include Alaska, Arizona, Colorado, Idaho, Montana, New Mexico, Oregon, Utah, Washington, and Wyoming. It would elect one Governor.

■ **New District 4** — This district would comprise most of existing District 4 (Kansas City) and certain neighboring states. It would include Iowa, Kansas, Minnesota, Missouri, Nebraska, North Dakota, and South Dakota. This district would elect one Governor.

■ **New District 5** — This district would comprise most of existing District 5 (New Orleans) and certain neighboring states. It would include Alabama, Arkansas, Kentucky, Louisiana, Missis-

issippi, Oklahoma, and Tennessee. This district would elect one Governor.

■ **New District 6** — This district would comprise existing District 6 (Dallas), consisting of Texas. It would elect one Governor.

■ **New District 7** — This district would comprise most of existing District 7 (Atlanta) and one neighboring state. It would include Florida, Georgia, North Carolina, South Carolina, Puerto Rico, the Canal Zone, and the Virgin Islands. This district would elect two Governors.

■ **New District 8** — This district would comprise most of existing Districts 8 (Chicago) and 9 (Cleveland) and part of upstate New York. It would include Illinois, Indiana, Michigan, Ohio and Wisconsin, and part of upstate New York (the counties of Monroe, Livingston and Steuben, and the remainder of the state west of such counties). This district would elect two Governors.

■ **New District 9** — This district would comprise most of existing Districts 10 (Washington, D.C.) and 11 (Philadelphia). It would include the District of Columbia, Delaware, Maryland, Pennsylvania, Virginia, West Virginia, and southern New Jersey (the counties of Atlantic, Burlington, Camden, Cape May, Cumberland, Gloucester, Mercer, Ocean, and Salem). This district would elect one Governor.

■ **New District 10** — This district would comprise existing District 12 (New York) and northern New Jersey. It would include the five boroughs of New York City and the adjacent Counties in New York (the counties of Nassau, Orange, Putnam, Rockland, Suffolk, Westchester) and northern New Jersey (the state of New Jersey, ex-

¹¹Section 15A(b)(4) of the Exchange Act requires that "[T]he rules of the association [NASD] assure a fair representation of its members in the selection of its directors and administration of its affairs and provide that one or more directors shall be representative of issuers and investors and not be associated with a member of the association, broker, or dealer."

¹²Article VII, Section 4(b)(10) of the By-Laws. The amendments include a similar provision at Article VII, Section 4(b).

¹³The Report of the Special Committee contains a table and map showing the proposed configuration of the districts, the number of members in each district, and the number of Governors representing each district. Notice to Members 90-19 contains the proposed revisions to Schedule B of the By-Laws that would implement the changes in the districts.

cept for the counties of Atlantic, Burlington, Camden, Cape May, Cumberland, Gloucester, Mercer, Ocean, and Salem). This district would elect three Governors.

■ **New District 11** — This district would comprise existing District 13 (Boston), with the exception of part of upstate New York. It would include Connecticut, Maine, Massachusetts, New Hampshire, Rhode Island, Vermont, and New York (except for the counties of Nassau, Orange, Putnam, Rockland, Suffolk, and Westchester; the counties of Monroe, Livingston, and Steuben; the remainder of the state west of such counties; and the five boroughs of New York City). This district would elect one Governor.

The reconfiguration of the districts drew the most comments from members. One commenter suggested that Oklahoma should be part of District 6 (Dallas) instead of new District 5 (New Orleans). This suggestion was not accepted because it would result in a less even distribution of members among the districts. Another commenter suggested eliminating new District 5 (New Orleans) and reconfiguring new Districts 4 (Kansas City), 6 (Texas), and 8 (Chicago), including dividing new District 8 into two districts. This comment was not accepted since it would require significant additional changes to the district configuration without substantially improving the fairness of district representation.

A number of commenters criticized the formation of new Districts 3 (Denver/Seattle) and 9 (Philadelphia/Washington, D.C.). These commenters generally expressed the concern that there would be a reduction in service to members from the district offices and a loss of the working relationships that they have developed with the district office staff. The concerns expressed are best answered by the NASD's continuing commitment to provide all members, regardless of location, with superior service from its district offices. Further, the elimination of a district does not necessarily mean that its local NASD office will be closed. The NASD does not intend to close any of its offices at this time. Accordingly, the Board determined not to change the proposed amendments in response to these comments.

Commenters also criticized the geographic size of new District 3 (Denver/Seattle) and the burdens this may impose on District Committee mem-

bers. The Board decided not to change proposed new District 3 as its size is largely a result of the relatively low density of members in the area and the high density of members on the West Coast. To address the concerns regarding caseload and travel burdens on members, the District Committees in the merged districts (new Districts 3, 8, and 9) will consider establishing subcommittees of their District Committees and the District Business Conduct Committees as an effective means of improving representation at the district level and reducing travel time for committee members.¹⁴

REQUEST FOR VOTE

The complete text of the proposed amendments to the By-Laws follows. These proposed amendments merit members' immediate attention. Prior to becoming effective, the proposed amendments must be approved by the NASD membership and thereafter by the SEC.

The NASD Board of Governors believes these proposed amendments to be necessary and appropriate and recommends that members vote their approval. 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 July 5, 1990**.

Questions concerning this notice should be directed to Derek W. Linden, Associate General Counsel, Office of General Counsel, at (202) 728-8810, or Lynn Nellius, Secretary of the NASD, at (202) 728-8381.

TEXT OF PROPOSED AMENDMENTS TO THE BY-LAWS

(Note: New text is underlined; deleted text is in brackets.)

ARTICLE I Definitions

When used in these By-Laws, and any rules of the Corporation, unless the context otherwise requires, the term:

* * * * *

(r) "Board" means the Board of Governors of

¹⁴These District Committees, since they will include members of the District Committees of two or more existing District Committees, will have additional members to staff subcommittees and to address transitional issues.

the Corporation.

(s) "Governor" means a member of the Board.

ARTICLE VII
Board of Governors
Composition of Board

Sec. 4. (a) The management and administration of the affairs of the Corporation shall be vested in a Board of Governors composed of from twenty-five to twenty-nine Governors [thirty-one members], as determined from time to time by the Board. The Board shall consist of: (i) at least thirteen but not more than fifteen Governors [twenty-one] to be elected by the members of the various districts in accordance with the provisions of subsection[s] (b) [(1) through (5)] hereof;[,] (ii) at least eleven but not more than thirteen Governors [nine] to be elected by the Board [of Governors] in accordance with the provisions of subsection[s] (c) [(b)(6), (7) and (8)] hereof;[,] and (iii) the President of the Corporation to be selected by the Board [of Governors] in accordance with the provisions of Article X, Section 2 of the By-Laws. The Board, in exercising its power to determine its size and composition under this subsection (a), shall be required to select its members in a manner such that when all vacancies, if any, are filled, the number of Governors elected by the members of the various districts in accordance with subsection (b) hereof shall exceed the number of Governors (including the President) not so elected.

(b) The several districts shall be represented on the Board [of Governors]. Each district shall elect at least one Governor. The Board shall determine from time to time which districts, if any, shall elect more than one Governor, to provide fair representation of its members and of the various districts. The determination of which districts shall elect more than one Governor need not be submitted to the membership for approval and shall become effective at such time as the Board may prescribe. [The elected members of the Board of Governors shall be chosen as follows:] The Board shall, from time to time, consider the fairness of the representation of members and of the various districts on the Board. Whenever the Board finds any unfairness in such representation to exist, it shall make appropriate changes in the number or boundaries of the districts or the number of Governors elected by each district to provide fair representation of members and districts.

(1) Three members of the Board of Governors shall be elected from and by the members of the Corporation eligible to vote in District No. 2;

(2) Two members of the Board of Governors shall be elected from and by the members of the Corporation eligible to vote in District No. 8;

(3) Five members of the Board of Governors shall be elected from and by the members of the Corporation eligible to vote in District No. 12;

(4) Two members of the Board of Governors shall be elected from and by the members of the Corporation eligible to vote in District No. 13;

(5) One member of the Board of Governors shall be elected from and by the members of the Corporation eligible to vote in each of the remaining districts not referred to in Subsections (1), (2), (3) and (4) of this Section;]

(c) The Board shall elect (i) at least three Governors representative of investors, none of whom are associated with a member or any broker or dealer; (ii) at least three Governors representative of issuers, at least one of whom is not associated with a member or any broker or dealer; (iii) at least three Governors chosen from members; (iv) at least one Governor representative of the principal underwriters of investment company shares or affiliated members; and (v) at least one Governor representative of insurance companies or insurance company affiliated members.

[(6) One member of the Board of Governors shall be elected by the Board of Governors from among the principal underwriter members of investment company shares, and he shall be designated a Governor-at-Large;

(7) One member of the Board of Governors shall be elected by the Board of Governors from among insurance company members or insurance company affiliated members of the Corporation and he shall be designated a Governor-at-Large;

(8) Seven members of the Board of Governors shall be elected by the Board of Governors and they shall be designated Governors-at-Large. Any Governor-at-Large initially filling a Governor-at-Large office shall be elected at such time as the Board of Governors in its discretion deems appropriate;

(9) At least one member of the Board of Governors shall be representative of issuers and not be associated with a member, broker or dealer and at least one member of the Board of Governors shall be representative of investors and not be as-

sociated with a member, broker or dealer;

(10) The Board of Governors shall, from time to time, consider the fairness of the representation of the various districts on the Board of Governors, and whenever it finds any unfairness in such representation to exist, it shall recommend appropriate changes in these By-Laws to assure fair representation of all districts.]

Term of Office of Governors

Sec. 5. Each [elected] Governor [member of the Board of Governors, including the Governors-at-Large], except as otherwise [herein] provided by these By-Laws or the Certificate of Incorporation, shall hold office for a term of three years, and until his successor is elected and qualified, or until his death, resignation or removal. The President of the Corporation shall serve as a member of the Board [of Governors] until his successor is selected and qualified, or until his death, resignation or removal.

Succession to Office

Sec. 6. (a) The office of a retiring Governor [member of the Board of Governors] elected under subsection[s] (1) through (5)] (b) of Section 4 [3(b)] of this Article shall be filled by the election of a Governor [member] from the same district as that of the retiring Governor [member]. The office of a retiring Governor [-at-Large] elected under subsection (c) of Section 4 of this Article shall be filled by election by the Board [of Governors] as provided in subsection[s] (c) [(6), (7) and/or (8)] of Section 4 [3(b)] of this[e] Article[, as the case may be].

(b) Notwithstanding subsection (a) of this Section 6, the Board shall prescribe the succession of office in cases affected by a change in the number of Governors constituting the Board, the composition of the Board, the number or boundaries of districts, or the number of Governors elected by a district.

Election of Board Members

Sec. 7. The [elected members of the Board of] Governors elected under subsection (b) of Section 4 of this Article shall be chosen as follows:

Procedure for Nominations by Nominating Committees

(a) Before June 1 of each year, the Secretary of the Corporation shall notify in writing the Chair-

man of the respective District Committees of the expiration of the term of office of any member of the Board [of Governors] elected under subsection[s] (1) through (5)] b of Section 4 [3(b)] of this Article which will expire during the next calendar year. The said Chairman shall thereupon notify the Nominating Committee elected for such District pursuant to the provisions of Section 3 of Article IX of the By-Laws and such Nominating Committee shall proceed to nominate a candidate from such District for the office of each such member of the Board [of Governors] whose term is to expire. Nominating Committees in nominating candidates for the office of [member of the Board of] Governor[s] shall endeavor, as nearly as practicable, to secure appropriate and fair representation on the Board [of Governors] of all classes and types of members engaged in the investment banking and securities business. No Nominating Committee shall nominate an incumbent member of the Board [of Governors] to succeed himself unless it first takes appropriate action by a written ballot sent to the entire membership within the District to ascertain that such nomination is acceptable to a majority of the members voting on such ballot in the District except where the incumbent member of the Board [of Governors] is serving pursuant to the provisions of Section 8[7](a) of this Article. Before October 1 of each year, [E]each candidate nominated by the Nominating Committees shall be certified to the respective District Committee [by September 1 and]. W[w]ithin five (5) days [there]after certification, a copy of such certification shall be sent by the District Committee to each member of the Corporation eligible to vote in the district. Such candidate shall be designated the "regular candidate."

* * * * *

Transitional Procedures

(d) Notwithstanding subsections (a), (b) and (c) of this Section 7, the Board shall prescribe the nomination and election procedures in cases affected by a change in the number of Governors constituting the Board, the composition of the Board, the number or boundaries of districts, or the number of Governors elected by a district.

Filling of Vacancies on Board

Sec. 8. All vacancies in the Board [of Governors] other than those caused[s] by the expiration

of a Governor's term of office, shall be filled as follows:

(a) If the unexpired term of a Governor elected under subsection[s] (b) [(1) through (b)(5)] of Section 4 [3] of this Article, is for less than twelve months, such vacancy shall be filled by appointment by the District Nominating Committee of a representative of a member of the Corporation eligible to vote in the same district.

(b) If the unexpired term of a Governor elected under subsection[s] (b) [(1) through (b)(5)] of Section 4 [3] of this Article, is for twelve months or more, such vacancy shall be filled by election, which shall be conducted as nearly as practicable in accordance with the provisions of Section 7 [6] of this Article.

(c) If the unexpired term is that of a Governor[-at-Large] elected by the Board, such vacancy shall be filled in accordance with the provisions of subsections (c)(i) through (c)(v) [(b)(6), (b)(7), and/or (b)(8)] of Section 4 [3] of this Article as the case may be.

ARTICLE VIII

**District Committees
Administrative Districts**

Sec. 1. For the purpose of administration, the United States is hereby divided into districts, the boundaries of which shall be established by the Board [of Governors]. The Board [of Governors] may from time to time make such changes in the number or boundaries of such districts as it deems necessary or appropriate. Neither the establishment nor any change in the number or boundaries of such districts need be submitted to the membership for approval, and the number or boundaries, as established or changed, shall become effective at such time as the Board [of Governors] may prescribe. The Board shall prescribe such policies and procedures as are necessary or appropriate to address the implementation of a new district configuration in the event of a change in the number or boundaries of the districts.

**District Committees and District
Business Conduct Committees**

Sec. 2. (a) For the purpose of effectuating a maximum degree of local administration of the affairs of the Corporation, each of the districts created under Section 1 of this Article shall elect a District Committee, as hereinafter provided. Each such Dis-

trict Committee shall determine the number of its members so elected, but [in] no [event shall any] District Committee shall consist of more than twelve members[;] unless otherwise provided[,] [however, that] by resolution of the Board. [of Governors by resolution may increase, upon request, any such District Committee to a larger number.]

* * * * *

**Election of District Committee Members
Procedure for Nominations
by Nominating Committees**

Sec. 4 (a) * * * * * Before October 1 of each year, [E]each candidate nominated by the Nominating Committees shall be certified to the respective District Committee [by September 1 and]. W[w]ithin five (5) days [there]after certification, a copy of such certification shall be sent by the District Committee to each member of the Corporation eligible to vote in the district. Such candidate shall be designated the "regular candidate."

* * * * *

Transitional Provisions

Sec. 12. The Board, by resolution amending or supplementing the provisions of this Article and Article IX, shall have the authority to establish the policies and procedures applicable to District Committees affected by a change in the number or boundaries of the districts, including, without limitation, prescribing the procedures for nomination and election of District Committee members.

ARTICLE IX

**Nominating Committees
Composition of Nominating Committees**

Sec. 1. (a) Each of the Districts created under Section 1 of Article VIII of the By-Laws shall elect a Nominating Committee, as provided in Section 3 of this Article. Each such Nominating Committee shall consist of five members; provided, however, that the Board [of Governors] by resolution may increase any such Nominating Committee to a larger number. Members of the Nominating Committee in each District shall be members of the Corporation having places of business in the respective District, but shall not be members of the District Committee. All Nominating Committees shall include a majority of persons who have previously served on a [the] District Committee [and/] or who are current or former [on the Board of] Governors, and shall [insofar as practicable,] include at least one current or former [member of the Board of] Governor[s].

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**Election of Nominating Committees
Procedures for Nominations
by Nominating Committees**

Sec. 3(a) * * * * * Before October 1 of each year, [E]each candidate nominated by the Nominating Committees shall be certified to the respective District Committee [by September 1 and], W[w]ithin five (5) days [there]after certification, a copy of such certification shall be sent by the District Committee to each member of the Corporation eligible to vote in the district. Such candidate shall be designated the "regular candidate."

* * * * *

Transitional Provisions

Sec. 7. The Board, by resolution amending or supplementing the provisions of this Article and Article VIII, shall have the authority to establish the policies and procedures applicable to District Nominating Committees affected by a change in the number or boundaries of the districts, including, without limitation, prescribing the procedures for nomination and election of District Nominating Committee members.

ARTICLE X

[Restrictions on] Compensation of Board and Committee Members

Sec. 6. [No member of] The Board [of Governors (except the President of the Corporation or the President pro tem), no member of any District Committee and no member of any other Committee, other than an Extended Hearing Committee as defined in Article I of the Corporation's Code of Procedure shall be entitled to] may provide for reasonable [received any] compensation from the Corporation of the Chairman of the Board, Governors, and the members of any committee of the Board or any District Committee. [for any work done in connection with his duties as a member of the Board of Governors, any District Committee or any other committee. However, such persons shall be entitled to] The Board may also provide for reimbursement of [for] reasonable expenses incurred by such persons in connection with the business of the Corporation.

ARTICLE XI

Committees

National [Standing] Committees

Sec. 1. The Board [of Governors] may appoint such [standing and other] committees or subcommittees as it deems necessary or desirable, and it shall fix their powers, duties and terms of office. Any such committee or subcommittee consisting of one or more Governors, to the extent provided by these By-Laws or by resolution of the Board, shall have and may exercise all powers and authority of the Board in the management of the business and affairs of the Corporation.

[District Standing] Committees of the Districts

Sec. 2. Each District Committee, in the exercise of its powers and performance of its duties as provided in the By-Laws, may, except as otherwise herein provided, appoint such [standing or other] committees or subcommittees as it deems necessary or desirable, and shall fix their powers, duties and terms of office.

Removal of Committee Member

Sec. 3. Any member of any committee or subcommittee appointed pursuant to [Sections 1 or 2 of] this Article XI may be removed from office, after appropriate notice from the District Committee appointing such member, or from the Board [of Governors], if it is the appointing authority, for refusal, failure, neglect or inability to discharge his duties, or for any cause the sufficiency of which shall be decided by the District Committee or the Board [of Governors], whichever is the appointing authority.

ARTICLE XIV

Powers of Board to Prescribe Sanctions

* * * * *

(d) refusal by a member or person associated with a member to abide by an official ruling of the Board [of Governors] or [Uniform Practice Committee acting within its appropriate authority] any committee exercising powers delegated by the Board with respect to any transaction which is subject to the Uniform Practice Code; or

(e) failure by a member or a person associated with a member to adhere to any ruling, order, direction or decision of, or to pay any penalty, fine or costs, imposed by, the Board [of Governors], the National Business Conduct Committee, the Market Surveillance Committee, any other committee exercising powers delegated by the Board or any District Business Conduct Committee.

Notice To Members

National Association of Securities Dealers, Inc.

June 1990

Number 90 - 37

Suggested Routing:*

- | | | | |
|---|--|--|--|
| <input checked="" type="checkbox"/> Senior Management | <input type="checkbox"/> Internal Audit | <input checked="" type="checkbox"/> Operations | <input type="checkbox"/> Syndicate |
| <input type="checkbox"/> Corporate Finance | <input checked="" type="checkbox"/> Legal & Compliance | <input type="checkbox"/> Options | <input type="checkbox"/> Systems |
| <input type="checkbox"/> Government Securities | <input type="checkbox"/> Municipal | <input type="checkbox"/> Registration | <input checked="" type="checkbox"/> Trading |
| <input type="checkbox"/> Institutional | <input type="checkbox"/> Mutual Fund | <input type="checkbox"/> Research | <input checked="" type="checkbox"/> Training |

*These are suggested departments only. Others may be appropriate for your firm.

MAIL VOTE

**Subject: Proposed New Rule Re: Handling Customer Limit Orders;
Last Voting Date: July 5, 1990**

In *Notice to Members 85-12* (February 15, 1985), the NASD set forth its views that, on accepting a customer limit order, a member undertakes a fiduciary obligation and cannot trade for its own account at prices more favorable than the customer limit order unless there is an understanding by the customer as to the priorities that will govern the order. At the time it issued *Notice to Members 85-12*, the NASD contemplated an amendment to the Rules of Fair Practice that would codify this position. Because an appeal of an NASD disciplinary action involving this issue was pending, however, the NASD did not proceed with such rule making. The Commission ruled in that disciplinary action and affirmed the conclusion reached by the NASD.¹

The NASD Board, therefore, determined that it was appropriate to provide guidance to NASD member firms as to the type of communication with customers that would satisfy member firms' obligations with respect to the handling of customer limit orders. To this end, the NASD set forth a proposal in *Notice to Members 89-39* (May 1989). Based on concerns raised by the SEC staff relating to the form and frequency of the disclosure contemplated by the 1989 proposal, the NASD Board of Governors decided to make certain modifications to the rule.

The proposed rule change provides that each member firm that accepts and holds an unexecuted customer limit order, and anticipates continuing to trade in the security that is the subject of this order for its own market-maker account at prices equal to or better than the limit price, shall not be deemed to have acted in a manner inconsistent with Article III, Section 1 of the Rules of Fair Practice if it provides a separate written statement to each existing customer at the time the rule is adopted and to each new customer upon the opening of an account, clearly disclosing the circumstances under which the firm accepts limit orders and the policies and procedures followed by the firm in handling those orders.

The rule further provides that additional disclosure shall be provided in the form of a separate statement that is either distributed annually or enclosed with confirmations of limit-order transactions. The text of a model disclosure statement that the NASD deems to constitute adequate disclosure of the fact that a firm may accept a limit order but not grant the order priority over its own market-making activities is also included. Lastly, the rule requires that nonstandardized disclosure docu-

¹In the Matter of E.F. Hutton & Co., Exchange Act Release No. 25587 (July 6, 1988).

ments be filed with the NASD at or before the time they are first used. The documents will not be pre-approved, but will be reviewed for compliance.

The NASD Board of Governors believes the proposed rule amendments will provide necessary guidance to NASD members on what steps they must take to ensure that customers placing limit orders with the firm are treated in a manner consistent with the firm's obligations under Article III, Section 1 of the Rules of Fair Practice. Thus, the Board believes the proposed amendments are necessary and appropriate and recommends that members vote their approval. 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 July 5, 1990**.

Questions concerning this notice may be directed to T. Grant Callery, Vice President and Deputy General Counsel, at (202) 728-8285.

PROPOSED NEW SECTION 45 TO ARTICLE III OF THE NASD RULES OF FAIR PRACTICE

Sec. 45. Customer Limit Orders

(a) A member firm that has accepted and holds an unexecuted limit order from a customer and continues to trade the subject security for its own market-maker account at prices equal to or better than the limit order price shall not be deemed to have acted in a manner inconsistent with Article III, Section 1 of the Rules of Fair Practice if the member firm provides to its existing customers as of the effective date of this rule, and to each new customer at the time his or her account is opened, a separate document containing a written statement clearly disclosing:

(i) the circumstances in which the firm accepts limit orders, and

(ii) the policies and procedures followed by the firm in handling such orders; and subsequently provides additional disclosure in the form of a separate notice either distributed annually or enclosed with each confirmation of a limit order transaction.

(b) If it is the policy of a member firm that acts as a market maker to accept limit orders from its customers but not to grant priority to such orders over transactions for its own market-maker account, a written statement substantially as follows provided by the member firm would be deemed to constitute adequate disclosure to its customers for purposes of paragraph (a) of this Section:

"By accepting your limit order for transactions in securities in the NASDAQ or over-the-counter market, we undertake to monitor the interdealer market and to seek to execute your order only if the inside bid (in the case of a limit order to sell, the highest price at which a dealer is being quoted as willing to buy securities) or the inside asked (in the case of a limit order to buy, the lowest price at which a dealer is being quoted as willing to sell securities) reaches your limit price. We reserve the right, while your limit order remains unexecuted, to trade for our own market-maker account at prices equal to or better than your limit order price and not to execute your order against incoming orders from other customers. For example, if the inside market is 10 bid, 10 1/4 asked and you place a limit order to sell securities at 10 1/8, we will seek to execute your order only if the inside bid reaches your limit price of 10 1/8 (exclusive of any mark-down or commission equivalent that we may charge in connection with the transaction) and, while your order remains unexecuted, we may continue to sell securities for our market-maker account at prices at or above 10 1/8."

(c) In the event a member firm chooses to use non-standardized disclosure documents, examples of these documents must be filed with the Association at the time they are first used or made public. The advance filing of such documents shall not, however, constitute approval of the statements by the Association.

Notice To Members

National Association of Securities Dealers, Inc.

June 1990

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REQUEST FOR COMMENTS

Subject: Proposed Concept for Continuing Assessment of Registered Representatives in the Form of Amendment to Part III, Section (1)(d) of Schedule C to the NASD By-Laws; Last Date for Comment: July 31, 1990

EXECUTIVE SUMMARY

The NASD requests comments on a proposed concept for the continuing assessment of registered representatives and a proposed enabling amendment to Part III, Section (1)(d) of Schedule C to the NASD By-Laws. The manner in which the proposed continuing assessment program for registered representatives would be conducted is discussed in detail in the body of this notice. The NASD Board of Governors invites comments on all aspects of this major regulatory initiative which, if adopted, will have a substantial impact on member firms.

The decade of the eighties brought a quantum increase in the rate of change in the securities industry. New products proliferated, new tax effects took hold, and new laws and regulations came into being to address the problems that became apparent during the course of the last decade. These and many other changes took place within a rapidly changing economic landscape that is now global in scope. The magnitude of these changes invites the question of whether it is in the best interests of the industry and the investing public to establish a formal regulatory program to provide better assurances that minimum knowledge levels are being maintained by securities industry professionals after their initial registration.

BACKGROUND

A significant aspect of the NASD's regulatory activity involves the qualification and registration of registered representatives and principals associated with member firms. To date, this activity has been focused on the initial qualification of registered representatives and of persons assuming principal functions for the first time. This focus on initial qualification may no longer be sufficient.

These concerns are building at the state level where continuing education requirements have been in place for many years in other fields such as insurance, real estate, law, and medicine. The North American Securities Administrators Association (NASAA) has advised the NASD that seven state securities administrators are now considering the institution of formal continuing education requirements for the securities industry. Both the NASD and NASAA are concerned that the institution of such requirements on a state-by-state basis could proliferate and that these requirements

would differ widely among the states. Compliance with similar state-based programs in the insurance field is already a difficult and costly matter for many NASD members whose representatives are subject to numerous state jurisdictions. This situation would be compounded if differing state requirements were also established in the securities field.

If there were a time to establish a national program that addresses concerns about the continuing qualifications of securities industry professionals, it would appear to be now, before the momentum shifts to the individual states. If the below described proposal were adopted by the NASD and thereafter approved by the Securities and Exchange Commission (SEC), NASD and NASAA committees would work together to implement a national program.

The concept proposed herein would not institute continuing education requirements such as those that have been established in the insurance, real estate, legal, and medical professions; this is not to question the worth of well conceived continuing education programs. The proposed concept implicitly recognizes, however, that formal continuing education requirements, mandated by regulatory organizations, have proven cumbersome to administer and have often been implemented with vague standards as to what exactly such programs are meant to accomplish.

As a consequence, regulatory continuing education programs have often led to situations where mere attendance at a program becomes the measure of performance rather than a straightforward demonstration of knowledge gained from a course. Most of the traditional continuing education programs also treat all participants alike under the requirements; that is, even persons who have maintained a high level of expertise are required to attend the same number of hours of instruction as someone who has barely kept up with the field. There is a concern that a traditional continuing education approach would not be a cost-effective program in the securities industry.

These considerations have led to the proposition that the most appropriate role for the NASD is to assure that certain *minimum* levels of knowledge are being maintained by registered representatives. Accordingly, the NASD Board is circulating for member comment a continuing assessment program for registered representatives. In this pro-

gram, aggregate performance of each firm's registered representatives would be monitored against a standard as a means to assure member involvement in the continuing education of their registered representatives. The manner in which such levels are maintained, that is by self-study, firm training programs, or educational courses, is a matter left to each member firm and its registered representatives. The structure of the proposed continuing assessment program is contained in the following sections.

Persons Subject to the Proposed Assessment Program and Assessment Cycle

The continuing assessment program, if adopted, would apply only to registered representatives. Member firms are required today to provide significant training support for principals pursuant to the provisions of Article III, Section 27 of the NASD Rules of Fair Practice. The NASD district offices are responsible for ensuring such ongoing programs for principals are adequately carried out by members. This proposal addresses the continuing assessment of registered representatives only.

The proposed assessment of registered representatives would be conducted every three years, using each representative's registration anniversary date as the scheduling mechanism. Representatives would be required to sit for the reassessment during the third year. A representative who neglects to sit for the triannual assessment requirement would be suspended at the end of the third year until the assessment is satisfied. If no such action is taken within two years of the suspension date, the person would be subject to the normal entry-level qualification requirement before the registration could be instituted again. The status of each registered representative would be monitored by the Central Registration Depository (CRD), which would generate appropriate notices to members regarding the assessment requirements of registered representatives.

Grandfathering

All persons registered as of the inauguration date of the continuing assessment program would be grandfathered. This step is suggested for three reasons. First, grandfather provisions have been a traditional part of the NASD's qualification process since it was established in the mid-1950s. At that time, practicing registered representatives

were grandfathered when the first testing requirement was established by the NASD. Similar grandfather provisions were available when the principal qualification process was instituted in 1965. Second, on the basis of current turnover rates in the industry in three years, approximately 50 percent of the registered representatives would be subject to the assessment program, while approximately 90 percent would be subject to the program within 10 years.

Grandfathering would be a fair means of introducing a new regulatory program of this magnitude, and its staged implementation would provide a practical means for both members and regulators to become familiar with the operation of the continuing assessment program. Third, grandfathering is a useful transition step in order to implement the major regulatory initiative embodied in the continuing assessment program. It is possible that, at the urging of the states, grandfathering privileges may not be extended to representatives who were subject to certain disciplinary actions in the past. Furthermore, it is contemplated that disciplinary actions taken after the proposed assessment program becomes effective could result in loss of grandfather status as one of the possible sanctions imposed by the NASD or state regulators.

Implementation

If the continuing assessment proposal goes forward, the program would be implemented on a specified date following SEC approval. All representatives registered after the inauguration date would be subject to the assessment requirement, with the first assessments taking place in the third year of registration. This would provide sufficient time for the industry oversight committees and NASD staff to develop the assessment programs, the supporting information systems, and the more specific rules governing various details of the program. The assessment would be conducted daily on the NASD automated testing system, and a fee schedule appropriate to the cost of administering the continuing assessment program would be established.

Assessment Objectives

Persons subject to the continuing education program would be required to submit to periodic assessments of their knowledge against a standard to be established by the NASD Board. This stan-

dard would be expressed in two ways. First, a body of objectives would be identified that would precisely define the kinds of knowledge and skills registrants would be required to demonstrate. These objectives would parallel the knowledge or skill measured in the test questions used in the assessment program. In effect, any test question used in the assessment program would be reflected in a clearly stated behavioral objective, and the sum of the behavioral objectives would equate to a course outline for anyone preparing representatives for the periodic assessment. This set of objectives would be available to firms, training organizations, and representatives on a real-time basis; that is, the objectives would be updated at any time a change is made to the question bank used to support the assessment program.

The second element of the assessment program would be the identification of performance standards, for both individuals and aggregate performance of each member firm. The individual performance standard would be similar to the scores reported today on the entry level of exams. The standards for a firm would identify the proportion of its candidates that should achieve a certain score level in the assessment program. Firms would be expected to meet the performance standard and would be continuously monitored in this regard. Prolonged sub-par performance by a firm could ultimately lead to disciplinary action by the NASD.

Assessment Content

The assessment tests would not be as broad in scope as are the entry-level qualification examinations. The latter programs are designed as entry-level tests that address all the subject matter relevant to a particular registration category. Each assessment test would be more selective in the choice of subject matter, focusing instead on the minimal maintenance level of knowledge and new developments in the industry. Such tests would also be shorter in duration than the entry-level examinations. While the details here would be the responsibility of the industry oversight committee for each assessment test, the content of each assessment program would focus on assessing registrant understanding of sales-practice regulation, investment risk, customer suitability, and new product, tax, or regulatory developments appropriate to the various registration categories.

The proposed assessment tests would also

contain an educational interaction with registered representatives. While registrant initial responses would be recorded for scoring purposes, the computer program administering the assessment would be designed to confirm correct responses and to explain why an incorrect choice is wrong. In this way, the assessment process itself can serve a stronger educational purpose than the usual testing process.

The assessment program would parallel the structure of the entry-level qualification program with separate assessment tests for the different categories of registration. The industry oversight committees working with the staff on these programs would also coordinate with NASAA to ensure that the various assessment programs address the concerns of the states and that the proposed continuing assessment program emerges as a uniform, national regulatory effort.

Information System

The operation of the continuing assessment program, described in general terms above, depends on the development of a sophisticated information system in the qualification area. As indicated above, the assessment question bank must be accompanied by a complementary bank of behavioral objectives relevant to the program, and this set of behavioral objectives must be available on a real-time basis to the membership. Secondly, it would be necessary to track individual performance in a detailed fashion so as to provide the maximum amount of feedback to the member for each registrant coming through the assessment program. The level of reporting would extend to the actual behavioral objectives of the items answered incorrectly by the candidate. In this way, the candidate would have a precise definition of those areas in which he or she is weak and can then take steps to improve understanding on those matters.

A similar data base would need to be constructed for each firm in order to identify performance overall and in each of the major sections of the assessment program, down to the proportion of people who answer correctly the different behavioral objectives in the assessment program. This would be invaluable information for a firm in any effort to upgrade its internal training programs to meet the assessment standards and would be provided to the firm under the applicable fee structure for the candidate assessments. The informa-

tion systems envisioned here would also be expanded to permit direct access by member firms in order to foster a real-time awareness of firm performance and to permit member firms and training organizations to identify subsets of their assessed population in order to analyze results in greater detail.

Consequences of Poor Performance

Individual candidates would not fail the proposed assessment in the same way that someone would fail an entry-level examination. In the latter program, candidates for representative registration who fail are simply not permitted to engage in the securities business. Persons who do poorly on an assessment test — that is, below the established performance standard — would be provided with detailed feedback and would be required to return for a follow-up assessment within 90 calendar days. The firm would be required to place the representative under closer-than-normal supervision. Continued poor performance would require continued assessments in consecutive 90-day periods and continued closer-than-normal supervision. After three consecutive assessments below the defined standard, the employing member firm would be required to submit a plan, satisfactory to the NASD district office having jurisdiction over the representative, that would:

1. Identify the procedures the firm has implemented and will maintain for closer-than-normal supervision of such representative's activities in the securities business until such time as the representative meets the assessment standard; and,
2. Identify the educational program the firm will provide for the representative before the next formal assessment, such assessment to take place during a time frame satisfactory to the District but in no event more than 90 days from the last failed assessment.

Very few, if any, representatives are likely to fail the assessment standard at this point, but the possibility does exist. Final NASD action at this stage would bring the continuing assessment process to a conclusion and could include revocation of a representative's registration. The representative would then be subject to re-qualification via the usual entry-level examinations in order to be

registered again.

A performance standard for firms would also be established by the Board or the appropriately delegated assessment review committee. This standard would be expressed as the proportion of registrants required to achieve a minimum performance level on the individual assessments and could be expanded to include subsets of the subject matter within the assessment program. The information systems supporting the entire operation would monitor in real-time successive samples of registrants by firm coming through the assessment program. Comparison with the performance standard would be made using standard statistical quality control techniques. Permissible variations from this standard would be calibrated on the basis of the number of assessed candidates from a firm, so that a band of variation would be permitted around the performance standard. Firms with a small number of registrants would be permitted greater variability than a firm with a large number of people, an approach fully consistent with quality control measurement systems used in a variety of fields.

A member firm initially failing to achieve the performance standard would receive a warning and would be required, within a stipulated period of time, to bring the performance of the registrants up to the standard. Failure to meet the standard within the prescribed period of time, in the absence of mitigating circumstances, could lead to the NASD requiring remedial action in the member firm. Other actions would also be available to a firm. For example, if a firm's registrants were subject to an assessment program that incorporated material that was not part of their business, the firm could reconsider the registration categories of the registrants and reconfigure its registrations to comport to the types of business being done by the firm. Thus, a general securities representative who specializes in investment banking could change the registration to corporate securities representative and sit for an assessment more geared to his or her activities in the industry.

**SUMMARY OF PROPOSED AMENDMENT
TO PART III (1)(D) OF SCHEDULE C
TO THE NASD BY-LAWS**

In order for the continuing assessment program to be effective, it would be necessary to adopt a rule that would subject new registered

representatives to the continuing assessment program. The following amendment to Part III (1)(d) of Schedule C to the By-Laws would create the continuing assessment requirement for all representatives who first become registered on or after the effective date of the amendment. The continuing assessment requirement would also apply to previously registered representatives who are required to requalify by entry-level examination due to the expiration of the two-year registration termination grace period pursuant to Part III, Section (1)(c) of Schedule C to the NASD By-Laws. It is anticipated that a number of other rule amendments would be proposed for Schedule C in the two-year period after the inauguration of the continuing assessment program and before the administration of the first continuing assessment examination. These rules would address the specific performance standard for individuals and member firms, the standards for closer-than-normal supervision of representatives performing poorly on an assessment examination, the procedures for revocation of registration in those situations where a representative does poorly on four consecutive assessment examinations, and such other adjudicative and administrative provisions as may be necessary to fully implement a continuing assessment program.

* * * * *

The NASD encourages all members and other interested persons to comment on this important regulatory initiative and the proposed amendment to Schedule C to the By-Laws. Comments should be directed to:

Mr. Lynn Nellius
Corporate Secretary
National Association of
Securities Dealers, Inc.
1735 K Street, NW
Washington, D.C. 20006-1506

Comments must be received **no later than July 31, 1990**. All comments will be made available for public inspection. Comments received by this date will be considered by the NASD's Membership Committee and the NASD Board of Governors. If approved by the Board, the amendments must be filed with and approved by the Securities and Exchange Commission before becoming effective.

Questions concerning this notice may be directed to Frank J. McAuliffe, Vice President, Qualifications Department, at (301) 590-6694 or David Uthe, Senior Qualifications Analyst, at (301) 590-6695.

**PROPOSED AMENDMENT
TO SCHEDULE C OF THE
NASD BY-LAWS**

III

REGISTRATION OF REPRESENTATIVES

(Note: New language is underlined.)

- (1) Registration Requirements
 - (a) All Representatives Must Be Registered
 - (b) Definition of Representative
 - (c) Requirement for Examination on Lapse of Registration

(d) Requirement for Periodic Assessment of Representatives - Any person whose initial registration in any category of representative registration becomes effective, pursuant to Part III, Section (2) hereof, on or after (the effective date of this provision) shall be subject to periodic assessment and requalification in the third year of every consecutive three-year period following the initial effective date of registration in such category. The periodic assessment and requalification of representatives shall be conducted using examinations and/or such other assessment methods as may be deemed appropriate by the Board of Governors to each of the registration categories contained in Part III, Section (2) hereof. Any person required after (the effective date of this provision) to pass a Qualification Examination for Representatives pursuant to Part III, Section (1)(c) above shall be subject to the assessment and requalification requirements of this section.