

SPECIAL NASD NOTICE TO MEMBERS 96-81

SEC Transaction Fees Begin January 1, 1997, On Nasdaq And Other Prompt Last Sale Reported Non-Debt Transactions

Suggested Routing

- Senior Management
- Advertising
- Corporate Finance
- Government Securities
- Institutional
- Internal Audit
- Legal & Compliance
- Municipal
- Mutual Fund
- Operations
- Options
- Registration
- Research
- Syndicate
- Systems
- Trading
- Training

Executive Summary

In the October *Notices to Members*, the National Association of Securities Dealers, Inc. (NASD) published an FYI alerting members to legislation recently enacted by Congress that authorizes the Securities and Exchange Commission (SEC) to collect a fee (SEC fee) of 1/300th of one percent on the aggregate dollar amount of sales transacted by or through any member other than on a securities exchange for securities subject to prompt last-sale reporting. Effective January 1, 1997, the SEC fee will apply to transactions in securities listed on The Nasdaq Stock MarketSM as well as other non-Nasdaq[®] OTC Equity Securities. This *Special Notice* provides additional information explaining how the new SEC fee will be administered.

Questions regarding this Notice should be directed to T. Grant Callery, General Counsel, NASD, at (202) 728-8285; Anne H. Wright, Associate General Counsel, NASD, at (202) 728-8815; Andrew S. Margolin, Senior Attorney, The Nasdaq Stock Market, Inc., at (202) 728-8869; James Shelton, Billing Manager, NASD, at (301) 590-6757.

Effective Date

It is important to note that the SEC fee is effective **as of January 1, 1997**. This is because the January 1 effective date is established in the Omnibus Consolidated Appropriations Act for Fiscal Year 1997. The fees will then continue through fiscal year 2006 by the National Securities Market Improvement Act of 1996. In fiscal year 2007, the fees decline to 1/800th of one percent.

Covered Securities

Because the SEC fee applies to all

non-debt securities subject to prompt last-sale reporting, it will apply to all domestic and foreign securities listed on The Nasdaq Stock Market, with the exception of convertible debt.

In addition, because NASD[®] rules require prompt last-sale reporting for virtually all non-Nasdaq OTC Equity Securities,¹ the SEC fee will also apply to many securities quoted in the OTC Bulletin Board[®] or in NQB's "Pink Sheets[®]." Specifically, all domestic OTC Equity Securities, ADRs, and Canadian securities traded by or through a member will be subject to the SEC fee. However, it will not apply to transactions in non-Canadian foreign securities because those securities are not currently subject to similar last-sale reporting requirements.²

The SEC fee will not apply to securities in FIPSSM or PORTALSM.

Covered Transactions

The SEC fee applies generally to all sales in covered securities by or through any member otherwise than on a securities exchange, regardless of the capacity in which the member is trading.³ For transactions between two NASD members, the charge will apply to the member on the sell side. For transactions between a member and a customer, the charge will apply to the member.

Collection Mechanism

The SEC fee will be collected in a manner similar to the current fee on Cleared Transactions,⁴ thus payment will be the responsibility of NASD Member Clearing Firms. The NASD will calculate the SEC fee for each NASD Member Clearing Firm based on transaction data submitted into the Automated Confirmation Transaction

ServiceSM (ACTSM). NASD Member Clearing Firms with primary clearing relationships with the National Securities Clearing Corporation (NSCC) or the Stock Clearing Corporation of Philadelphia (SCCP) will have the SEC fees deducted from their respective NSCC or SSCP account on a monthly basis. An NASD generated invoice will be forwarded to the firm as a confirmation of the deduction from their NSCC or SSCP account. The NASD expects payments for the month of January to be deducted during the first week of February, with invoices to follow immediately thereafter. NASD Member Clearing Firms that are considered *self clearing* (i.e., that have no relationship with NSCC or SSCP) will be billed directly with payment due upon receipt.

The NASD recognizes that NASD Member Clearing Firms will need to have necessary systems changes in place prior to the effective date of January 1. The NASD will make every effort to cooperate with these firms to ensure that the SEC fees are being calculated and administered in a consistent manner.

Notice To Customers

The NASD believes that members should provide notice of the SEC fee to its customers to the extent members determine to pass the SEC fee on to them. Given the effective date of January 1, the NASD believes that with respect to timing, the provision of such notice would not be inconsistent with NASD rules or policies requiring adequate prior notice of the

SEC fee, provided members give such notice as soon as practicable.

Off-Exchange Transactions In Exchange-Registered Securities

As previously indicated, the National Securities Market Improvement Act provides that off-exchange transactions in exchange-registered securities (third-market transactions), currently paid directly to the SEC, will be paid through the NASD beginning October 1, 1997.

Rulemaking

It is expected that further rulemaking to implement the SEC fees will be forthcoming from both the SEC and the NASD.

¹ NASD Rule 6600 contains the requirements for reporting transactions in OTC Equity Securities for which real-time trade reporting is not otherwise required.

² Generally, transactions in these securities are reported on T+1.

³ Rule 31-1 under the Securities and Exchange Act of 1934 (Exchange Act) exempts from the SEC fee: (a) transactions in securities offered pursuant to an effective

registration statement under the Securities Act of 1933 (Securities Act) or offered in accordance with an exemption from registration; (b) transactions by an issuer not involving any public offering within the meaning of Section 4(2) of the Securities Act; (c) the purchase or sale of securities pursuant to and in consummation of a tender or exchange offer; (d) the purchase or sale of securities upon the exercise of a warrant or right (except a put or

call), or upon the conversion of a convertible security; and (e) transactions which are executed outside the United States and are not reported, or required to be reported, to a transaction reporting association as defined in Rule 11Aa3-1 under the Exchange Act, and any approved plan filed thereunder.

⁴ Section 8 of Schedule A to the NASD By-Laws.

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NASD NOTICE TO MEMBERS 96-82

**NASD Regulation Solicits
Comment On Proposed
Rules Governing
Supervision, Review, And
Record Retention Of
Correspondence;
Comment Period Expires
January 30, 1997**

Suggested Routing

- Senior Management
- Advertising
- Corporate Finance
- Government Securities
- Institutional
- Internal Audit
- Legal & Compliance
- Municipal
- Mutual Fund
- Operations
- Options
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- Training

In the following document, NASD Regulation, Inc. (NASD Regulation) requests comment on proposed amendments to NASD[®] Conduct Rules 3010 (Supervision) and 3110 (Books and Records) (formerly Article III, Sections 27 and 21 of the NASD Rules of Fair Practice). The amendments would require firms to establish reasonable procedures for the supervision of correspondence relating to their business but would not require endorsement of each item of correspondence. Where such procedures do not require pre-use approval of correspondence, members would be required to provide education and training about the firm's procedures for the review of correspondence, document such education and training, and monitor to ensure compliance with such procedures. The amendments also clarify that retention of correspondence records must comply with Securities and Exchange Commission (SEC) rules.

Questions concerning this Notice should be directed to R. Clark Hooper, Senior Vice President, Office of Disclosure and Investor Protection, NASD Regulation, at (202) 728-8325 or Mary N. Revell, Assistant General Counsel, Office of General Counsel, NASD Regulation, at (202) 728-8203.

Request For Comment

The NASD encourages all interested parties to comment on the proposed amendments to Rules 3010 and 3110. Comments can be mailed to:

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

or e-mailed to:
pubcom@nasd.com.

Comments must be received by **January 30, 1997**. Before becoming effective, the Rule amendments must be adopted by the NASD Regulation Board of Directors, reviewed by the NASD Board of Governors, and approved by the SEC.

NASD REGULATION REQUEST FOR COMMENT 96-82

Executive Summary

NASD Regulation, Inc. (NASD Regulation) requests comment on proposed amendments to NASD[®] Conduct Rules 3010 (Supervision) and 3110 (Books and Records) (formerly Article III, Sections 27 and 21 of the NASD Rules of Fair Practice). The amendments would require firms to establish reasonable procedures for the supervision of correspondence relating to their business but would not require endorsement of each item of correspondence. Where such procedures do not require pre-use approval of correspondence, members would be required to provide education and training about the firm's procedures for the review of correspondence, document such education and training, and monitor to ensure compliance with such procedures. The amendments also clarify that retention of correspondence records must comply with Securities and Exchange Commission (SEC) rules.

Questions concerning this Notice should be directed to R. Clark Hooper, Senior Vice President, Office of Disclosure and Investor Protection, NASD Regulation, at (202) 728-8325 or Mary N. Revell, Assistant General Counsel, Office of General Counsel, NASD Regulation, at (202) 728-8203.

Background

In May 1996, the SEC issued an "Interpretive Release on the Use of Electronic Media by Broker-Dealers, Transfer Agents, and Investment Advisers for Delivery of Information."¹ That release expressed the views of the SEC with respect to the delivery of information through electronic media in satisfaction of requirements in the federal securities laws and did not address the applicability of any self-regulatory organization (SRO) rules. In the release the SEC did, however, strongly encourage the SROs to work with broker/dealer

firms to adapt SRO supervisory review requirements governing communications with customers to accommodate the use of electronic communications.²

On September 12, 1996, the New York Stock Exchange (NYSE) filed a proposal with the SEC to update NYSE rules governing supervision of member firms' communications with the public.³ According to a press release issued by the NYSE, the proposal is designed to recognize the growing use of electronic communications such as "e-mail" while still providing for appropriate supervision.

The NYSE's current rules require firms to review all communications with the public relating to their business. For example, a registered representative's correspondence to a customer must be reviewed prior to being sent, and all incoming correspondence must be reviewed by the firm before it is given to the representative. Under the NYSE proposal, prior review of all outgoing correspondence and review of all incoming correspondence would no longer be required. Instead, firms would be allowed flexibility in developing procedures for review of such correspondence tailored to the nature and size of a firm's business and customers. Other communications with the public, such as advertisements, sales literature, and research reports, would continue to be subject to prior approval.

The NYSE proposal would require firms to develop written procedures for review of communications with the public that are designed to provide reasonable supervision of each registered representative. In addition, any firm that does not conduct pre-use review of correspondence (whether electronic or manual) would be required to regularly educate and train employees about the organization's

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policies and procedures governing review of communications, document such education and training, and conduct surveillance to ensure compliance with the procedures.

The proposed rule change filed by the NYSE directly responds to the SEC's request to adapt supervision rules to accommodate the use of electronic communications. The proposed amendments to NASD rules governing review of correspondence would similarly respond to this request and would provide firms with flexibility in developing reasonable procedures for the review of correspondence. The proposed approach is designed to be consistent with the one adopted by the NYSE and thereby help to ensure a coordinated regulatory framework for supervision of manual and electronic correspondence.

Description

Amended Rule 3010(d)(1) would provide that a firm must establish written procedures for review of outgoing and incoming manual and electronic correspondence of its registered representatives relating to the business of the member. The procedures must be designed to provide reasonable supervision of each registered representative, and implementation and execution of these procedures must be clearly evidenced.

In developing procedures for the review of correspondence, NASD Regulation, Inc. (NASD Regulation) agrees with the views expressed in the draft NYSE Information Memorandum submitted to the SEC to explain the proposed changes to NYSE rules governing supervision and review of communications with the public (NYSE Information Memo).⁴ In the NYSE Information Memo, the NYSE notes that the supervisory procedures should specify, among other things, what is to be pre- or post-reviewed, the level and

qualifications of persons who will conduct the reviews, the frequency of review, and how the review will be evidenced. NASD Regulation agrees with these suggestions.

Consistent with the NYSE proposal, members will be required to review correspondence relating to the firm's business, rather than just correspondence pertaining to the solicitation or execution of a securities transaction. However, firms would no longer be required to review each item of correspondence. Instead, firms could use reasonable sampling techniques, such as random spot-checking of e-mail logs. NASD Regulation expects that making this method effective would require review of some portion of the electronic mail sent by each registered representative, with special emphasis on messages delivered to customers of the members.

In addition, while written approval of correspondence no longer would be mandated, firms should specify the means for evidencing review. For example, firms could electronically record evidence of supervisory review of e-mail correspondence relating to the firm's business.

Amended Rule 3010(d)(2) would require each member to develop written procedures for review of incoming and outgoing correspondence tailored to its structure and the nature and size of its business and customer base. Any member that does not conduct prior review of correspondence will be required to: regularly educate and train registered representatives as to the firm's procedures governing review of communications; document such education and training; and monitor to ensure implementation and compliance with the procedures.

In developing supervisory procedures for the review of correspondence, NASD Regulation notes, in accor-

dance with similar views expressed in the NYSE Information Memo,⁵ that members should consider whether it is more appropriate to implement uniform procedures or procedures tailored to specific functions, offices or locations, individuals, groups of persons, or specific registration categories. In this regard, the NYSE Information Memo states that members may consider such factors as "the number, size and location of offices, the volume of communications overall and in specific areas of the organization, the activities conducted by registered representatives and other applicable persons, the nature and extent of training provided, the complaint and overall disciplinary record, if any, of registered representatives and other applicable persons (with particular emphasis on complaints regarding written or oral communications with clients) and the overall experience levels of applicable persons using communications media."⁶ NASD Regulation agrees with these views and notes in addition that reasonable procedures in some cases might require review of all correspondence of particular individuals.

With regard to procedures for the review of outgoing and incoming correspondence, NASD Regulation agrees with the views expressed in the NYSE Information Memo. In particular, NASD believes that members' supervisory systems should provide specific processes for the receipt and handling of incoming checks and customer complaints as well as standards for correspondence indicating permitted and prohibited activities and any restrictions imposed by the member upon such correspondence.⁷

Under amended Rule 3010(d)(3), each member must retain correspondence in accordance with amended Rule 3110. Rule 3010(d)(3) also requires that the names of the persons who prepared and reviewed cor-

respondence must be ascertainable from the retained records and the records must be made available to the NASD upon request.

Rule 3110(a) has been amended to recognize that retention of records must be made and preserved as prescribed by Rule 17a-3 under the Securities Exchange Act of 1934 (Exchange Act). The recordkeeping format, medium, and retention period must comply with Rule 17a-4 under the Exchange Act.⁸

Request For Comment

The NASD encourages all interested parties to comment on the proposed amendments to Rules 3010 and 3110. Comments can be mailed to:

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

or e-mailed to:
pubcom@nasd.com.

Comments must be received by **January 30, 1997**. Before becoming effective, the Rule amendments must be adopted by the NASD Regulation Board of Directors, reviewed by the NASD Board of Governors, and approved by the SEC.

Text Of Proposed Amendments

(Note: Proposed new language is underlined; deletions are bracketed.)

Rule 3010. Supervision

(a) through (c) No change

(d) [Written Approval] Review of Transactions and Correspondence

(1) Supervision of Registered Representatives. Each member shall establish procedures for the review and

endorsement by a registered principal in writing, on an internal record, of all transactions and for the review by a registered principal of [all] written and electronic correspondence relating to the business of such member [pertaining to the solicitation or execution of any securities transactions]. Such procedures should be in writing and be designed to reasonably supervise each registered representative. Evidence that these supervisory procedures have been implemented and carried out must be maintained and made available to the Association upon request.

(2) Review of correspondence. Each member shall develop written procedures that are appropriate for its business, size, structure, and customers for the review of written and electronic correspondence relating to its business. Where such procedures for the review of correspondence do not require pre-use review, they must include provision for the education and training of registered representatives as to the firm's procedures; documentation of such education and training; and surveillance and follow-up to ensure that such procedures are implemented and adhered to.

(3) Retention of correspondence. Each member shall retain correspondence of registered representatives relating to its business in accordance with Rule 3110 ("Books and Records"). The names of the persons who prepared and who reviewed the correspondence shall be ascertainable from the retained records and the retained records shall be readily available to the Association, upon request.

(e) through (g) No change

Rule 3110. Books and Records

(a) Requirements

Each member shall make [keep] and preserve books, accounts, records,

memoranda, and correspondence in conformity with [all applicable laws, rules, regulations, and statements of policy promulgated thereunder and with] the Rules of this Association and as prescribed by Rule 17a-3 under the Securities Exchange Act of 1934 (Exchange Act). The record-keeping format, medium, and retention period shall comply with Rule 17a-4 under the Exchange Act.

(b) through (g) No change

Endnotes

¹ Release No. 33-7288; 34-37182; IC-21945; IA-1562 (May 9, 1996); 61 FR 24644 (May 15, 1996) (File No. S7-13-96).

² Id., note 5.

³ See Release No. 34-37941 (November 13, 1996); 61 FR 58919 (November 19, 1996) (File No. SR-NYSE-96-26) (soliciting comment on the NYSE's proposed rule change).

⁴ Id., notes 1 and 2.

⁵ Id., notes 1 and 3.

⁶ Id., note 3.

⁷ Id., notes 1 and 4.

⁸ With regard to record retention requirements, it should be noted that the SEC recently proposed for comment amendments to its broker/dealer books and records rules. The SEC's proposal responds to concerns raised by members of the North American Securities Administrators Association. See *Special Notice to Members 96-80* and Release No. 34-37850 (October 22, 1996); 61 FR 55593 (October 28, 1996) (File No. S7-27-96) for a discussion of the proposed amendments to SEC Rules 17a-3 and 17a-4.

One of the SEC's proposed amendments to Rule 17a-4 would require broker/dealers to preserve books and records indicating that all outgoing communications have been approved by a principal of the broker/dealer (emphasis added). If approved, this amendment would have the effect of indirectly imposing a more stringent correspondence approval requirement than the approval requirement that would be imposed under the proposed amendments to NASD Conduct Rule 3010 discussed in this Notice. The comment period on the SEC's proposed rule amendments expires on December 27, 1996.

NASD NOTICE TO MEMBERS 96-83

**NASD Regulation Solicits
Comment On Proposed
Rule Relating To
Prohibition On Members
Receiving Any Payment
To Publish A Quotation,
Make A Market In An
Issuer's Securities, Or
Submit An Application In
Connection Therewith;
Comment Period Expires
February 3, 1997**

Suggested Routing

- Senior Management
- Advertising
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- Municipal
- Mutual Fund
- Operations
- Options
- Registration
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- Systems
- Trading
- Training

In the following document, NASD Regulation, Inc. (NASD Regulation) requests comment on a new proposed rule, NASD[®] Rule 2460 (Rule), that would prohibit any payment by an issuer or the issuer's affiliates and promoters, directly or indirectly, to a member for publishing a quotation, acting as a market maker, or submitting an application in connection therewith. This new proposed Rule is designed, among other things, to assure that members act in an independent capacity when publishing a quotation or making a market in an issuer's securities.

Questions concerning this Request For Comment should be directed to Suzanne E. Rothwell or David A. Spotts, Office of General Counsel, NASD Regulation, at (202) 728-8247 and (202) 728-8014, respectively.

Request For Comment

The NASD encourages all members and other interested parties to comment on the new proposed Rule 2460. Comments can be mailed to:

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

or e-mailed to:
pubcom@nasd.com.

**Comments must be received by
February 3, 1997.**

Before becoming effective, any rule change developed as a result of the comments received must be adopted by the NASD Regulation Board of Directors, is subject to review by the NASD Board of Governors, and must be approved by the SEC.

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NASD REGULATION REQUEST FOR COMMENT 96-83

Executive Summary

NASD Regulation, Inc. (NASD Regulation) requests comment on a new proposed rule, NASD[®] Rule 2460 (Rule), that would prohibit any payment by an issuer or the issuer's affiliates and promoters, directly or indirectly, to a member for publishing a quotation, acting as a market maker, or submitting an application in connection therewith. This new proposed Rule is designed, among other things, to assure that members act in an independent capacity when publishing a quotation or making a market in an issuer's securities.

Questions concerning this Request For Comment should be directed to Suzanne E. Rothwell or David A. Spotts, Office of General Counsel, NASD Regulation, at (202) 728-8247 and (202) 728-8014, respectively.

Background

It has been a longstanding policy and position of the NASD that a broker/dealer is prohibited from receiving compensation or other payments from an issuer for listing, quoting, or making a market in an issuer's securities or for covering the member's out-of-pocket expenses for making a market, or for submitting an application to make a market in an issuer's securities.¹ As stated in *Notice to Members 75-16*, such payments may be viewed as a conflict of interest since they may influence the member's decision as to whether to quote or make a market in a security and, thereafter, the prices that the member would quote.

In the past, certain broker/dealers have entered into arrangements with issuers to accept payments from an issuer, affiliate, or promoter of the issuer to make a market in the issuer's securities; or for covering out-of-pocket expenses of the member incurred in the course of market

making; or for submitting an application to act as a market maker. As stated above, the NASD believes that such conduct may be viewed as a conflict of interest. The NASD believes that a market maker should have considerable latitude and freedom to make or terminate market-making activities in an issuer's securities. The decision by a firm to make a market in a given security and the question of price generally are dependent on a number of factors, including, among others, supply and demand, the firm's expectations toward the market, its current inventory position, and exposure to risk and competition. This decision should not be influenced by payments from issuers or promoters to the member.

On October 27, 1994, the United States Court of Appeals, Tenth Circuit, reversed, in part, a Securities and Exchange Commission (SEC) decision in the matter of *General Bond & Share Co. (General Bond)*.² The NASD had held that General Bond had, among other things, violated Article III, Section 1 of the NASD Rules of Fair Practice (currently NASD Rule 2110) by accepting payments from issuers in return for listing itself as a market maker for the securities in the National Quotation Bureau, Inc. (NQB) Pink Sheets (Pink Sheets). The NASD position was based on NASD policy as articulated to the members in *Notice to Members 75-16*. The SEC, in affirming the NASD decision, agreed with the NASD that this conduct was inappropriate and in violation of NASD rules.

The Tenth Circuit decision held that the NASD rules at the time did not prohibit a member firm from accepting issuer-paid compensation for making a market in a security.³ Although the NASD had previously stated that such specific conduct was

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prohibited, the Court held that the NASD was required by statute to submit a filing with the SEC amending NASD rules in this respect. The NASD is publishing this proposed Rule for comment to clarify the application of NASD rules to situations involving the acceptance of compensation for market-making activities.

The proposed Rule is intended to apply a fair practice standard to a particular course of conduct of a member as described below. In addition, however, the action of a member in charging an issuer a fee for making a market, or accepting an unsolicited payment from an issuer where the member makes a market in the issuer's securities, could also subject the member to violations of the antifraud provisions of federal securities laws and NASD Rule 2120 (formerly Article III, Section 18 of the NASD Rules of Fair Practice). Further, the payment by an issuer to a market maker to facilitate market-making activities also may cause the member to contribute to violations of Section 5 of the Securities Act of 1933.⁴

Description Of Proposed Rule

The proposed Rule would prohibit receipt by a broker/dealer of "any payment or other consideration" from a prohibited party and is intended to cover any form of payment in cash, non-cash items, or securities. The concept of "consideration" would include, for example, the granting of options in the securities in which a member makes a market, where the options are exercisable at a price that is discounted from the prevailing market price. The Rule also would cover the purchase of securities by a member from a prohibited party at a discount from the prevailing market. Such payments are intended to be prohibited because they may, as discussed in *Notice to*

Members 75-16, create a conflict of interest that would influence the member to enter a quotation or make a market in a security.

The proposed Rule prohibits payments that are made "for publishing a quotation, acting as a market maker in a security, or submitting an application in connection therewith." This language would apply the prohibitions of the Rule to the entry of a quotation in a security, making a market in a security, and the entry of a quotation or the quotation of a security at a particular price.⁵ The definition of "quotation" is drawn from SEC Rule 15c2-11 and includes indications of interest. The proposed Rule also specifies that a member may not impose a fee or accept a payment for submitting an application to enter quotations or make a market in an issuer's securities, e.g., an NASD Form 211 application to enter a quotation in the OTC Bulletin Board[®] or NQB Pink Sheets.

The proposed Rule would apply to payments by an issuer, an affiliate of the issuer, or a promoter, whether received directly or indirectly through another party. Whether a person is considered an affiliate would be determined under the provisions of NASD Rule 2720 (formerly Schedule E to the NASD By-Laws) that relate to the existence of a control relationship between an issuer and a member. The concept of "promoter" is broadly defined to encompass all persons other than the issuer and its affiliates who would have an interest in influencing a member to make a market in a security. Thus, the definition includes not only the organizer of the issuer's business, but also any director, employee, consultant, accountant, or attorney of the issuer. In addition, certain categories of securityholders are also within the definition, since these persons are considered to have an interest greater than that of the average securityhold-

er in ensuring the existence of an active market. The categories in the definition, however, are intended to be illustrative only, and the proposed Rule would prohibit payments by any similar person with an interest in promoting the entry of quotations or market making in the issuer's securities.

The proposed Rule also is intended to prohibit indirect payments by the issuers, affiliates, or promoters through other members. The proposed Rule language does not prohibit payments by other members, unless they would otherwise qualify as affiliates or promoters of the issuer. The NASD specifically solicits comment on whether payments by other members should be specifically prohibited, and what impact such a prohibition would have on existing payment arrangements between broker/dealers.

In addition, the proposed Rule contains a general exception that permits payments to a member by prohibited persons for "other bona fide services." Other bona fide services are intended to include, but not be limited to, investment banking services, including traditional underwriting compensation and fees. The proposed Rule contains a further exemption for reimbursement of fees imposed by the SEC and states, and listing fees imposed by self-regulatory organizations. Such fees have been generally considered costs of the issuer, even when paid by the broker/dealer.

A third exception is intended to encourage members to conduct an initial SEC Rule 15c2-11 review of the issuer and the security by permitting reimbursement of the member's reasonable out-of-pocket expenses related to this review.⁶ This exception is limited to the member's initial review required under that Rule and is not intended to apply to expenses incurred in the course of making a market in an issuer's securities. Fur-

ther, this exception would not relieve a member of its obligation to comply with other provisions of the federal and state securities laws that may apply when a member is reimbursed for certain expenses from an issuer and the member publishes a quotation for the issuer's securities in an interdealer quotation medium (e.g., Section 17(b) of the Securities Act of 1933).⁷

The third exception requires that out-of-pocket expenses paid to the member must be handled on an accountable basis, i.e., the member must provide a detailed bill for reimbursement (thereby permitting review by NASD RegulationSM examination staff), and retain such documentation as a record of the broker/dealer.⁸ A member must be prepared to provide this information to a customer if requested.⁹ Moreover, such out-of-pocket expenses cannot include the member's overhead, which is defined to include salaries, rent, utilities, insurance, depreciation, supplies, or similar expenses the member incurred in the normal conduct of business. The provision requires that the amount of the member's expenses must be "reasonable." This exception would not, however, permit a member to charge an issuer or receive a payment in connection with the preparation of a Form 211 or other similar application for the listing or quotation of a security. Furthermore, the proposed Rule would not permit an arrangement with an issuer for reimbursement of expenses that is conditioned on the agreement of the member to act as a market maker or publish a quotation for the issuer's securities.

Comment is specifically requested on the merits of the third exception described above.

Request For Comment

The NASD encourages all members and other interested parties to com-

ment on the new proposed Rule 2460. Comments can be mailed to:

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

or e-mailed to:
pubcom@nasd.com.

Comments must be received by **February 3, 1997**.

Before becoming effective, any rule change developed as a result of the comments received must be adopted by the NASD Regulation Board of Directors, is subject to review by the NASD Board of Governors, and must be approved by the SEC.

Text Of New Proposed Rule

(All rule language is new.)

Rule 2460. Payments for Publishing Quotations

(a) No member or person associated with a member shall accept any payment or other consideration, directly or indirectly, from an issuer of a security, or any affiliate or promoter thereof, for publishing a quotation, acting as market maker in a security, or submitting an application in connection therewith.

(b) The provisions of paragraph (a) shall not preclude a member from accepting:

(1) payment for other bona fide services, including, but not limited to, investment banking services (including underwriting compensation and fees);

(2) reimbursement of any payment for registration imposed by the Securities and Exchange Commission and/or state regulatory authorities

and for listing of an issue of securities imposed by a self-regulatory organization; and

(3) reimbursement of reasonable out-of-pocket expenses on an accountable basis, not including the member's overhead, in connection with the member's initial review process in determining whether to agree to publish a quotation or to act as a market maker in a particular security.

(c) For purposes of this rule, the following terms shall have the stated meanings:

(1) "affiliate" shall have the same definition as used in Rule 2720 of the Business Conduct Rules of the Association;

(2) "overhead" shall mean payment for rent, utilities, insurance, salaries, supplies, depreciation, and similar expenses of the member incurred in the normal conduct of business;

(3) "promoter" means any person who founded or organized the business or enterprise of the issuer, is a director or employee of the issuer, acts or has acted as a consultant, advisor, accountant or attorney to the issuer, is the beneficial owner of any of the issuer's securities that are considered "restricted securities" under Rule 144, or is the beneficial owner of five percent (5%) or more of the public float of any class of the issuer's securities, and any other person with a similar interest in promoting the entry of quotations or market making in the issuer's securities; and

(4) "quotation" shall mean any bid or offer at a specified price with respect to a security, or any indication of interest by a member in receiving bids or offers from others for a security, or an indication by a member that he wishes to advertise his general interest in buying or selling a particular security.

Endnotes

¹ See, *Notices to Members 75-16 and 92-50*.

² *General Bond & Share Co. v. Securities and Exchange Commission*, 39 F. 3d 1451 (10th Cir.).

³ The court reversed the SEC's finding of violation that related to the firm's acceptance of issuer-paid compensation, but sustained all of the SEC's other findings of violation by General Bond.

⁴ The insertion of quotations for a security in an interdealer quotation system in exchange for a payment by an issuer may result in a violation of Section 5 of the Securities Act of 1933 based on the issuer's interest in facilitat-

ing the subsequent sale. This "second sale" theory was articulated by the SEC and upheld by the court in *SEC v. Harwyn Industries, Inc.*, 326 F. Supp. 943 (S.D.N.Y. 1971). See Monroe Securities, Inc. No-Action Letter, May 4, 1973.

⁵ *Notice to Members 75-16* states that questionable payments to a market maker have the potential to influence the member's "... decision to make a market and thereafter, perhaps, the prices it would quote."

⁶ Rule 15c2-11 imposes an "affirmative review" obligation on a broker/dealer to form a reasonable belief that the information submitted in connection with an application to

enter a quotation is accurate in all material respects and that the sources of the information are reliable. See SEC Rel. No. 34-29094 (April 17, 1991).

⁷ Section 17(b) of the Securities Act of 1933 explicitly makes it unlawful for any person receiving consideration, directly or indirectly from an issuer, to publish or circulate any material which describes such issuer's securities without fully disclosing the receipt of such consideration, whether past or prospective, and the amount thereof.

⁸ See SEC Rule 15c2-11(b)(1) and (c).

⁹ See SEC Rule 15c2-11(a)(xvi).

NASD NOTICE TO MEMBERS 96-84

NASD Regulation Solicits Comment On The Use Of Bond Mutual Fund Risk Ratings In Supplemental Sales Literature; **Comment Period Expires February 24, 1997**

Suggested Routing

- Senior Management
- Advertising
- Corporate Finance
- Government Securities
- Institutional
- Internal Audit
- Legal & Compliance
- Municipal
- Mutual Fund
- Operations
- Options
- Registration
- Research
- Syndicate
- Systems
- Trading
- Training

In the following document, NASD Regulation, Inc. (NASD Regulation) requests comment on the use by NASD® members (securities broker/dealer firms) and their associated persons of bond mutual fund risk ratings in sales literature given to customers. In particular, NASD Regulation is seeking comment on whether it should continue to prohibit the use of bond mutual fund risk ratings by members and their associated persons. In addressing this issue, commenters are asked to consider whether, with certain required disclosures or other adjustments, such ratings would in fact provide useful information to investors. NASD Regulation requests that NASD members, investors, and others, in considering their responses and comments, focus in particular on the need on the one hand to provide investors with as much useful information as possible to make informed investment decisions, and the concern on the other hand that certain information, depending on its availability or how it is produced or presented, may have the potential of being misleading or deceptive or otherwise lend itself to abuse.

Questions concerning this Request for Comment may be directed to R. Clark Hooper, Senior Vice President, Office of Disclosure and Investor Protection, NASD Regulation, at (202) 728-8325; and Robert J. Smith, Senior Attorney, Office of General Counsel, NASD Regulation, at (202) 728-8176.

Solicitation Of Comments

NASD Regulation supports efforts to disclose the risks of investing in bond mutual funds in a way that is understandable and helpful to

investors. At the same time, NASD Regulation needs to weigh the utility of any disclosure against the danger that it may be predictive, misleading, or otherwise inappropriate. NASD Regulation is requesting comment on whether, and to what extent, the use by members and associated persons of bond mutual fund risk ratings in supplemental sales literature ought to be permitted under current NASD rules or new NASD rules.

Comments can be mailed to:

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

or e-mailed to:

pubcom@nasd.com.

Comments should be received by
February 24, 1997.

NASD REGULATION REQUEST FOR COMMENT 96-84

Executive Summary

NASD Regulation, Inc. (NASD Regulation) requests comment on the use by NASD® members (securities broker/dealer firms) and their associated persons of bond mutual fund risk ratings in sales literature given to customers. In particular, NASD Regulation is seeking comment on whether it should continue to prohibit the use of bond mutual fund risk ratings by members and their associated persons. In addressing this issue, commenters are asked to consider whether, with certain required disclosures or other adjustments, such ratings would in fact provide useful information to investors. NASD Regulation requests that NASD members, investors, and others, in considering their responses and comments, focus in particular on the need on the one hand to provide investors with as much useful information as possible to make informed investment decisions, and the concern on the other hand that certain information, depending on its availability or how it is produced or presented, may have the potential of being misleading or deceptive or otherwise lend itself to abuse.

Questions concerning this Request for Comment may be directed to R. Clark Hooper, Senior Vice President, Office of Disclosure and Investor Protection, NASD Regulation, at (202) 728-8325; and Robert J. Smith, Senior Attorney, Office of General Counsel, NASD Regulation, at (202) 728-8176.

Background

Bond mutual fund risk ratings are produced by rating agencies and information vendors, none of which is an NASD member firm. The ratings generally represent opinions regarding a fund's "market risk," or a judgment of the probability that prices of bonds, and the bond funds

that hold them, will react in a given way to changes in market conditions and the general economy, such as a sudden move up or down in interest rates. Such opinions may be based on an evaluation of a broad range of information, including, among other things, an evaluation of specific risks (such as interest rate risk, prepayment risk, currency risk), the credit quality of the fund's individual portfolio holdings, the market price volatility of the portfolio, the investment philosophy of the fund's management and its track record, and the historical reaction of the fund to various market conditions. There is no specified or uniform range of information used by all rating entities, and different kinds of ratings are produced using different criteria. Some rating entities represent their opinions by a word, symbol, or number that attempts to be a single, all-encompassing measure of fund risk.

Within the past two years the NASD has received several requests from bond fund rating entities to allow bond mutual fund risk ratings to be used in members' supplemental sales literature.¹ In the past, staff of NASD Regulation has taken the position that a rating that represents a judgment of how a bond fund will react to changes in various market conditions would be predictive of fund performance or misleading and, therefore, prohibited for use by members and associated persons in sales literature. This position has been endorsed by NASD Regulation's Investment Company Committee, which opposes a change from the current position. The staff's position was based on an interpretation of specific provisions in the NASD Conduct Rules regarding communications with the public.² The NASD Regulation Board of Directors has not yet adopted a position regarding this issue. More recently, the staff has considered whether such ratings could be used if

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they were accompanied by disclosure designed to limit the potential that the information could be misunderstood and if the symbols used for such ratings were altered to clarify their meaning or eliminate confusion with similar symbols used for credit ratings.

Discussion

Concerns Regarding The Use Of Bond Mutual Fund Risk Ratings

Predictions And Projections Of Investment Results

One objection that has been made to the use of bond mutual fund risk ratings is that a rating that represents a judgment of the probability that a bond fund's net asset value will react in a given way to changes in interest rates or other market conditions would, by implication, tend to predict fund performance.

The fundamental objection to future fact claims of performance for an individual security is that such claims rest upon a large number of assumptions and speculations about general economic conditions in the future and an equally large number of forward-looking assumptions about the individual security, including company solvency, management style, business strategy, investment policy, portfolio changes, future dividend streams, and rates of return. Thus, according to this reasoning, performance predictions and projections based on such assumptions are seldom reliable, and would necessarily tend to be misleading.³

Selective Availability

The use of bond mutual fund risk ratings also raises issues relating to selective availability and use of the ratings. Bond fund risk information generally is provided only to those funds that pay for the service. If a

fund disagrees with a rating or does not wish to make a rating known publicly, it may opt not to obtain or reveal the rating. Therefore, the universe of funds for which investors can obtain risk ratings is limited to the number of funds that have paid for a rating and have determined to make them publicly known. This differs, for example, from the practice of certain mutual fund ranking entities that provide mutual fund ranking information for all publicly issued mutual funds, regardless of whether the mutual fund pays for the ranking service. Such information is always publicly accessible by investors, regardless of whether the mutual fund disagrees with the rating or chooses not to advertise it. Thus, one issue raised is whether this selective availability of bond fund risk information would create an unfair built-in marketing bias in favor of funds that purchase a rating.

Methodologies And Symbols

Some bond mutual fund risk ratings are based on methodologies that are not fully described or explained in the risk rating material. Thus, it may be difficult to understand how the final assignment of a risk measurement to a particular bond fund is derived. In some instances, the final assignment of a rating is in the form of a single word, symbol, or number. The use of a word, symbol, or number that attempts to be a single, all-encompassing measure of fund risk, without a clear explanation of how the word, symbol, or number was derived, may provide little useful information to investors. Further, investors may tend to rely too heavily on such a single measurement of risk without careful regard to their own particular investment goals.

Moreover, some rating entities use symbols for risk that closely resemble, and could easily be confused with, symbols used for bond fund

credit ratings. Finally, some rating entities provide relative or comparative ratings using a relatively small universe of all possible ratable bond funds, which may provide skewed or misleading information.

Sales Practices

Objections have been raised that bond mutual fund risk ratings may be misinterpreted or otherwise misused by securities salespersons who provide bond fund risk rating materials to prospective investors in their sales presentations. Brokers may focus an investor's attention inappropriately on a risk rating as the key factor in the decision-making process, or use a given rating to suggest that the fund is predicted to perform a certain way under certain market conditions.

Arguments In Favor Of The Use Of Bond Mutual Fund Risk Ratings

Predictions And Projections Of Investment Results

Investors need information to make informed and reasoned decisions about investments. A basic goal of the securities laws thus is full and fair disclosure of material information upon which investors can make informed judgments about how a security might perform.

The investment decision-making process is one in which investors seek to make educated guesses about future performance. Since the primary objection to risk ratings is the potential to confuse and to predict, with proper disclosure investors should be able to evaluate their usefulness. The Securities and Exchange Commission (SEC) encourages and sanctions forward-looking information in SEC filings. SEC Rule 175 under the Securities Act of 1933⁴ and SEC Rule 3b-6 under the Securities Exchange Act of 1934⁵ provide a limited "safe harbor" for projections

made or reiterated in a document filed with the SEC or in a report to shareholders filed with the SEC by a public company or in a registration statement. The substantive provisions of the safe harbor relieve the company of liability under the antifraud provisions of the securities laws for the forward-looking statement or projection, provided the projection was made with a reasonable basis and in good faith.

In addition, under the Management Discussion and Analysis (MD&A) section of SEC Regulation S-K,⁶ the SEC requires the management of a company to assess the past performance of the business and to provide its view of which operations, trends, and forces will affect future operations. The MD&A section imposes on management a duty to disclose trends that are likely to affect performance, liquidity, or capital resources as well as the effects of inflation on operations. Inevitably, such disclosures involve many subjective judgments and predictive information.

Recently, the Private Securities Litigation Reform Act of 1995 (Act) established a two-part statutory safe harbor that provides certain protection from liability from private lawsuits where certain forward-looking information is used. The safe harbor protects forward-looking statements when accompanied by meaningful cautionary statements identifying factors that could cause actual results to differ materially from those projected in the statement. The Act also protects a person or business entity from liability in a private lawsuit for a forward-looking statement unless the false or misleading forward-looking statement was made with actual knowledge that it was false or misleading. However, the safe harbor does not protect a forward-looking statement contained in a registration statement of a mutual fund.

Under SEC rules, a mutual fund is required to discuss in its prospectus the principal risk factors associated with investing in a fund, including those risks that apply generally to funds with similar investment policies and objectives.⁷ Through a Concept Release issued in 1995, the SEC solicited comment on how to improve risk disclosure for investment companies, or include ways to disclose the comparative risks of funds.⁸ Many commenters supported enhanced mutual fund risk disclosure of some kind. Nonetheless, some commenters opposed any requirement that funds calculate and disclose a single, standardized, numerical assessment of risk on the basis that a single measurement would not be accurate and would be relied upon too heavily by investors. In particular, the Investment Company Institute commented that it opposed such a single measurement and that risk disclosure could be improved by, among other things, including narrative risk disclosure that focuses on the overall risks of the fund.⁹ Other commenters critical of current risk disclosure requirements and practices in fund literature stated that, because of portfolio turnover, the concept of risk cannot be calculated numerically and that any risk measurement may be static and obsolete once it reaches investors.

Historical data concerning the performance of any particular investment or its behavior under certain market conditions generally carry implications about future performance. That is why investors seek such information—so they can make educated guesses about future performance and behavior.

Finally, the predictive element of bond mutual fund risk ratings is not dissimilar to the predictive element that accompanies bond fund credit ratings currently permitted to be used

by members in supplemental sales literature. Volatility ratings for collateralized mortgage obligations are also currently permitted under the advertising and sales literature rules, with proper disclosure.

Selective Availability

Selectivity or selective availability has never been, by itself, a bar to disclosure of information that otherwise comports with NASD rules governing communications with the public. Although some bond mutual fund risk ratings are selectively given on the basis of whether a fund pays for a rating and whether it chooses to reveal its rating, the use in supplemental sales literature of bond fund credit ratings that are also selectively available is currently permitted. The practice of selectivity, broadly speaking, is generally true of all advertising and sales literature. In deciding to promote one product over another, member firms selectively screen for a given attribute as a matter of course and, therefore, it is inescapable that selectivity will be involved when a firm advertises its performance. The use of mutual fund rankings, for example, is intended to emphasize the best performing fund in a given category or sub-category over selected time periods. In addition, using non-performance criteria, a particular member may wish to promote the fact that a certain fund group is a no-load group, allows switching between funds at no extra charge, or adheres to a certain investment philosophy.

Methodologies And Symbols

Institutional and individual investors are presented with voluminous and complicated information sources in making investment decisions. It is difficult for issuers, broker/dealers, various information vendors, and the financial press to present complicated financial information in a simplified way that is comprehensible without

being inaccurate. Conveying complicated information accurately through advertising and sales literature is particularly difficult. NASD advertising and sales literature rules require, among other things, that all communications with the public provide a sound basis for evaluating the facts in regard to a particular security or type of security or service offered. All supplemental sales literature is reviewed by the NASD RegulationSM staff for compliance with NASD rules within 10 days of first use, and NASD Regulation may require any changes to the content of such information or the manner in which it is presented as may be necessary to bring it into compliance with NASD rules.

Sales Practices

If the primary objection to the use of bond mutual fund risk ratings is that the ratings may be misinterpreted or otherwise misused by securities salespersons, it may be more appropriate for NASD Regulation to adopt any rules or interpretations to its sales supervision rules that are necessary to prevent such abusive sales practices or to address this issue through the examination process rather than prohibit the dissemination of the ratings information.

Solicitation Of Comments

NASD Regulation supports efforts to disclose the risks of investing in bond mutual funds in a way that is understandable and helpful to investors. At the same time, NASD Regulation needs to weigh the utility of any disclosure against the danger that it may be predictive, misleading, or otherwise inappropriate. NASD Regulation is requesting comment on whether, and to what extent, the use by members and associated persons of bond mutual fund risk ratings in

supplemental sales literature ought to be permitted under current NASD rules or new NASD rules. NASD Regulation asks members and other interested persons in commenting to consider the following specific questions and to provide any general comments they feel are appropriate.

1. In general, are bond mutual fund risk ratings represented by a single word, symbol, or number that attempts to be an all-encompassing measure of fund risk useful to investors?
2. Do bond mutual fund risk ratings, as described in this Request for Comment, constitute a projection or prediction of investment results in a way that could be considered misleading to an investor, or should risk ratings be viewed as forward-looking information that would be appropriate to provide to an investor? What additional disclosures, if any, would be appropriate to mitigate the concern that risk ratings could be considered predictive?
3. Should selectivity or selective availability for bond mutual fund risk ratings, as described in this Request for Comment, have any bearing on whether it is appropriate to provide bond mutual fund risk ratings to investors? Does the fact that ratings may only be provided to funds who pay for the rating and choose to make the rating available undermine the usefulness of the information? Is it appropriate or accurate for rating entities that provide ratings on a comparative basis to provide such ratings for a relatively small sample of the entire universe of bond funds that could be rated?
4. If disclosure of bond mutual fund risk ratings is permitted, how important is it for an investor also to understand the process (methodologies and

calculations) by which the rating is derived? Will investors tend to rely too heavily on an opinion of bond mutual fund risk represented by a word, symbol, or number that attempts to be a single, all-encompassing measure of fund risk? Can the potential for confusion be mitigated by disclosure?

5. Do current NASD rules for communications with the public provide a sufficient regulatory framework within which the characteristics and dangers of bond mutual fund risk ratings can be addressed? Would it be more appropriate to amend or revise the current NASD rules? Or, instead, would it be more appropriate to develop additional rules or guidelines for bond mutual fund risk ratings?
6. A decision to allow the use of bond mutual fund risk ratings would permit ratings from different rating entities using distinct analytical methods and approaches. What level and type of scrutiny should NASD Regulation staff provide in reviewing the use of ratings?
7. As mentioned above, bond mutual fund **credit** ratings are currently permitted to be used by members in supplemental sales literature, and volatility ratings for collateralized mortgage obligations are also currently permitted under the advertising and sales literature rules, with proper disclosure. Is there a reasonable basis for distinguishing between the use of bond fund credit ratings and collateralized mortgage obligation volatility ratings on the one hand and bond mutual fund risk ratings on the other hand?
8. Is it more appropriate to address the concerns related to inappropriate use of bond mutual fund risk ratings through heightened sales supervisory practices rather than disclosure or an

outright prohibition? If so, what sort of additional supervisory practices would you recommend be implemented?

Comments can be mailed to:

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

or e-mailed to:
pubcom@nasd.com.

Comments should be received by
February 24, 1997.

Endnotes

¹ "Supplemental sales literature" is not defined in federal securities statutes or the

NASD rules. It is used in the investment company industry to refer to sales literature that is given to customers or prospective customers when, or after, a prospectus is given to them and supplements, but does not replace, the prospectus.

² The NASD rules authorize the staff to prohibit the use by members and associated persons of information that predicts or projects future performance. Subparagraph (d)(1)(A) to NASD Conduct Rule 2210 states that "[a]ll member communications with the public should provide a sound basis for evaluating the facts in regard to any particular security....No material fact or qualification may be omitted if the omission...would cause the advertising or sales literature to be misleading." Subparagraph (d)(1)(B) to Rule 2210 states in addition that "[e]xaggerated, unwarranted or misleading statements or claims are prohibited in all public communications of members." Moreover, subparagraph (d)(2)(N) to Rule 2210 provides that

"[i]nvestment results cannot be predicted or projected."

³ See, Note 2, above.

⁴ See, Rule 175 under the Securities Act of 1933, Liability For Certain Statements by Issuers, 17 CFR 230.175.

⁵ See, Rule 3b-6 under the Securities Exchange Act of 1934, Liability for Certain Statements by Issuers, 17 CFR 240.3b-6.

⁶ See, Item 303 of Regulation S-K, Management's Discussion and Analysis of Financial Condition and Results of Operations, 17 CFR 229.303.

⁷ See, Item 4(c), Form N-1A, and Guide 21, Disclosure of Risk Factors, Guidelines for Form N-1A, 17 CFR 239.15A, and 274.11A.

⁸ See, Investment Company Act Rel. No. 20974 (March 29, 1995); 60 FR 17172 (April 4, 1995).

⁹ See, letter from Paul Schott Stevens, General Counsel, Investment Company Institute, to Jonathan G. Katz, Secretary, SEC, dated July 28, 1995.

NASD NOTICE TO MEMBERS 96-85

Customer Complaint Reporting Rule Update

Suggested Routing

- Senior Management
- Advertising
- Corporate Finance
- Government Securities
- Institutional
- Internal Audit
- Legal & Compliance
- Municipal
- Mutual Fund
- Operations
- Options
- Registration
- Research
- Syndicate
- Systems
- Trading
- Training

Executive Summary

On September 8, 1995, the Securities and Exchange Commission (SEC) approved NASD[®] Rule 3070 (formerly Article III, Section 50 of the NASD Rules of Fair Practice) (the Rule) for reporting customer complaint information and other specified events to NASD Regulation, Inc. (NASD Regulation). The Rule, which became effective on October 15, 1995, requires members to report to NASD Regulation the occurrence of 10 specified events, as well as quarterly summary statistical information regarding written customer complaints. Quarterly statistical electronic submissions were first due to NASD Regulation on January 15, 1996. (See *Special Notice to Members 95-81*.)

This Notice responds to the most common questions that members have raised relative to the Rule. Questions regarding this Notice may be directed to Daniel M. Sibears, District Oversight, NASD Regulation, at (202) 728-6911, or David A. Spotts, Office of General Counsel, NASD Regulation, at (202) 728-8014.

Background

NASD Regulation has established as a focus of its regulatory programs intense sales-practice examinations of member firms that employ registered persons who may pose heightened risks to public investors due to past misconduct related to abusive sales and trading practices (profiled registered representatives). To assist the NASD in the identification of profiled registered representatives, NASD Regulation has developed an automated system that draws on the Central Registration Depository (CRD) and NASD RegulationSM internal regulatory systems to analyze the current registered representative population. When this system is integrated with other sources of

information relating to examinations, disciplinary actions, customer complaints, and terminations for cause, NASD Regulation has the capacity to more precisely identify registered representatives who may pose risks to public investors, and thus, should be subject to closer than normal regulatory scrutiny.

In further support of these efforts, on October 1, 1995, the NASD adopted, with SEC approval, a customer complaint reporting rule. The Rule significantly strengthens NASD Regulation's regulatory and surveillance efforts by requiring member firms to report to NASD Regulation the occurrence of certain specified events, within 10 business days, and to file quarterly statistical information regarding written customer complaints.

The information reported by members provides NASD Regulation with important regulatory information that assists with the timely identification of problem members, branch offices, and registered representatives to detect and investigate potential sales practice violations. The Rule significantly parallels comparable provisions of New York Stock Exchange (NYSE) Rule 351 and it exempts members that are currently subject to NYSE 351 from the requirements of the Rule to ensure that there is no regulatory duplication for dual NASD/NYSE members.

To assist members in their compliance efforts, NASD Regulation is publishing this Notice to provide answers to frequently asked questions regarding the customer complaint reporting system and the Rule. The questions and answers have been organized into two sections; the first discusses system implementation issues and the second provides answers to interpretive questions regarding the application of the Rule.

Questions And Answers

I. Systems Implementation Questions And Answers

Question #1: What information is required to be provided when the firm's ID/CRD and SEC numbers are requested by the computer prompt?

Answer: The communications software, NASDnet, requires the member to provide six and five characters for the ID/CRD and SEC numbers, respectively. For example, if the firm's ID and SEC numbers are 12 and 8-99, respectively, provide 000012 for the firm's ID and 8-00099 for the SEC number.

Question #2: Under the customer complaint reporting section of the *Customer Complaint System User Manual* (Chapter Four, Page 29), what date should be provided when the software prompt asks for the date of the complaint letter? Should the member report the receipt date or the date of the written customer complaint letter?

Answer: To assist in a more efficient quarterly cutoff of customer complaint information, the complaint date should be the date the complaint letter is **first received** by the member. The member should maintain a systematic method (e.g., date stamping) for recording the dates that customer complaints are first received by the member. As a result of using the receipt date, the member may receive customer complaint letters during the current calendar quarter that are dated by the customer before the current calendar quarter.

Question #3: Once a customer complaint quarterly filing or specified event filing is submitted to NASD Regulation within the required time frames, is the member under any obligation to update or amend the earlier filing? For example, the member may subsequently learn

through an internal investigation that, in the member's opinion, the earlier submitted customer complaint is without merit.

Answer: No. A member should not update or modify an earlier submission to NASD Regulation unless the member learns that there was an error in the information previously submitted. Even if the member learns that the information in a customer complaint is later filed without action, a member is not permitted to delete or modify this earlier customer complaint submission.

Question #4: If a member receives a customer complaint letter regarding an associated person's conduct that includes more than one allegation, security, or damage amount, what information is the member required to submit to NASD Regulation?

Answer: The member is obligated to send one report for each customer complaint letter received. Even though the complaint may include more than one allegation, security, or damage amount, the member should report the most egregious problem code alleged (e.g., fraud, misrepresentation, unauthorized transaction), the security associated with the most egregious problem code, and the highest alleged damage amount.

Question #5: If more than one associated person is named in a customer complaint (i.e., an associated person and a branch manager or two associated persons), what information is the member required to submit to NASD Regulation?

Answer: A member is obligated to report a customer complaint filing for each person named in a customer complaint. Thus, if two associated persons are named by the complaint, the member should report two separate customer complaint filings to NASD Regulation.

II. Interpretive Questions And Answers

Question #1: Must all customer complaints received by a member, including non-sales practice complaints, be submitted to NASD Regulation through the electronic customer complaint reporting system?

Answer: Yes. All written customer complaints received on or after October 1, 1995, by a member are subject to the Rule and are required to be submitted to NASD Regulation. The term complaint would include all customer-initiated documents that involve a "written grievance."

Question #2: If a member receives a customer complaint on October 1, 1995, and receives a second written complaint from the same customer after October 1, 1995, regarding the same matter that includes new allegations regarding the member or an associated person, must the member consider the second letter a new customer complaint under the Rule?

Answer: Yes. Both letters would be subject to the Rule and should be submitted to NASD Regulation in the member's quarterly filing. The second letter involves a new grievance by the customer against an associated person or member, and the substance of the new allegations must be reported.

Question #3: Specified event number 10 [section (a)(10) of the Rule] requires a member to report to NASD Regulation the existence of any disciplinary action initiated by the member, including suspension, against an associated person. In this regard, is a member required to submit a filing under specified event item number 10 for each associated person who fails to meet his or her mandatory continuing education requirements under the Regulatory Element?

Answer: No. Associated persons who fail to satisfy their Regulatory Element continuing education requirements will have their registrations placed in an “inactive” status, and therefore, are not considered suspended under the specified event item. Of course, an associated person who is placed in an inactive status would be prohibited from functioning in any capacity that would require registration during this period of time.

Question #4: If a member and associated person(s) are defendants or respondents, or are subject to any claim for damages by a customer and, as a result of a judgement, award, or settlement, the parties have “joint and several” liability of over \$25,000, are two disclosure reports required to be submitted to NASD Regulation?

Answer: Yes. Both are involved in the claim for damages by the customer, and pursuant to the joint and several order, reports for each event must be made under the Rule. Under specified event items number 7 and 8 [Sections (a)(7) and (a)(8)] of the Rule, any judgment, award, or settlement in an amount over \$15,000 for an associated person and over \$25,000 for a firm, respectively, must be submitted to NASD Regulation. Since the liability is joint and several, the amount for each named party must be aggregated and reported as if the member and associated person(s) are separately liable for the specified amount. Since the amount in the above example is in excess of \$25,000, reports for the member firm and the associated person(s) must be filed.

Question #5: If a member receives a claim for damages by a customer in an amount that exceeds the \$15,000 or \$25,000 reporting thresholds referenced in Question #4, and the member decides to rescind the transaction

that was the subject of the claim, must the member submit a filing with NASD Regulation based on a specified event item?

Answer: Yes. Although a member may believe that the customer’s actual damages were negligible (i.e., less than the reportable amount) in light of the rescission, the written complaint nevertheless involved amounts that triggered the reporting thresholds. It is the total amount claimed by the customer or the amount of the rescinded transaction that is taken into consideration in determining whether to file under the Rule.

Question #6: Are insurance affiliated broker/dealers (IABD), or broker/dealers who also maintain insurance operations in the same corporate entity, required to include in their quarterly customer complaint statistical reports customer complaints involving persons who are both registered representatives and insurance agents who receive customer complaints regarding the sale of insurance-related non-securities products (e.g., fixed insurance products)?

Answer: No. Subsection (c) of the Rule defines “customer” as any person other than a broker/dealer with whom the member has engaged, or has sought to engage, in **securities activities**, therefore, it was intended to exclude non-securities products.

All affected members must report all customer complaints involving securities products that involve persons who are both registered representatives and insurance agents, but should **not** report complaints that relate to non-securities activities (such as fixed insurance products) from the member’s quarterly customer complaint submission.

Question #7: As a follow-up to Question #6, are there any circumstances under which a member must

report a customer complaint involving the sale of an insurance-related non-securities product?

Answer: Yes. Sub-section (a)(2) of the Rule requires a member to report to NASD Regulation a specified event filing within 10 business days when a member or associated person “is the subject of any written customer complaint involving allegations of theft or misappropriation of funds or securities or of forgery.” Therefore, affected members must report certain customer complaint information, including information relating to the sale of insurance related non-securities products.

Question #8: If a member settles an arbitration or civil litigation on or after October 1, 1995, in excess of the threshold amounts for a matter commenced prior to October 1, 1995, is the member required to submit a filing based on a specified event item?

Answer: Yes. In determining whether to submit a filing based on specified event item number 7 [section (a)(7)], a member should submit a filing based on the date of the judgment, award, or settlement and not the date of the original matter.

Question #9: If a mutual fund distributor broker/dealer receives a customer complaint regarding an alleged sales practice problem of another selling broker/dealer (or associated person of such other broker/dealer), is the mutual fund distributor broker/dealer required to file the complaint with NASD Regulation?

Answer: No. Since the customer complaint involves the sales practices of another member broker/dealer, the mutual fund broker dealer is not obligated to file the report for the other member firm. The mutual fund broker/dealer should promptly provide the customer complaint to the

selling broker/dealer and retain a copy of the original customer complaint in its records. While not required by the Rule, the distributor broker/dealer is encouraged to provide a copy of the complaint to the local NASD Regulation District Office.

Question #10: If a member terminates a registered person as a result of an internal investigation or inquiry by the member and then properly files a Form U-5 with CRD, must the member also submit a specified event item with NASD Regulation under the Rule?

Answer: Yes. Although the member has submitted a timely Form U-5 through the CRD system, the member must also submit a specified event item number 10 [section (a)(10)] filing through the customer complaint reporting system.

Question #11: When NASD Regulation receives a customer complaint directly from a customer and the

member firm has not received the complaint or a copy, upon notification and receipt of the complaint by the member from NASD Regulation, is the member obligated to report the complaint through the customer complaint reporting system?

Answer: Yes. Although NASD Regulation is already investigating the customer complaint, the member is still required to report the complaint in its quarterly filing or specified event filing.

Question #12: If a member receives a customer complaint alleging theft, misappropriation of funds or securities, or forgery and files the appropriate specified event filing under section (a)(2) with NASD Regulation within 10 business days, is the member also required to submit a quarterly customer complaint filing with NASD Regulation regarding the same event?

Answer: Yes. Although a member timely files its specified event filing

number 2, the member is also obligated to submit a separate report of the customer complaint in its next quarterly statistical filing.

Question #13: If a member receives notification that it or an associated person was named in an arbitration or civil litigation regarding a customer dispute, is the member obligated to file either a specified event filing or a customer complaint filing with NASD Regulation?

Answer: No. Under the Rule, a member is obligated to report only settled or completed arbitrations or civil litigation matters and only where the award, judgment, or settlement exceeds a certain specified dollar amount. The member may, however, have a separate obligation to report these matters to the NASD through the CRD system on Forms U-4, U-5, and BD.

NASD NOTICE TO MEMBERS 96-86

NASD Regulation Reminds Members And Associated Persons That Sales Of Variable Contracts Are Subject To NASD Suitability Requirements

Suggested Routing

- Senior Management
- Advertising
- Corporate Finance
- Government Securities
- Institutional
- Internal Audit
- Legal & Compliance
- Municipal
- Mutual Fund
- Operations
- Options
- Registration
- Research
- Syndicate
- Systems
- Trading
- Training

Executive Summary

NASD Regulation, Inc. (NASD Regulation) reminds NASD® members and their associated persons who sell variable life insurance contracts and variable annuity contracts (Variable Contracts) of their obligations with respect to the suitability requirements of the NASD Conduct Rules. Variable Contracts are regulated as securities under federal securities laws and NASD rules. Members and their associated persons are reminded that the suitability requirements of NASD Conduct Rule 2310 (formerly Article III, Section 2 of the NASD Rules of Fair Practice) apply to the recommendation of any security, including a Variable Contract. Thus, a member and its associated persons must have reasonable grounds for believing that a Variable Contract recommended to a customer is suitable for that customer.

Questions concerning this Notice may be directed to Robert J. Smith, Office of General Counsel, NASD Regulation, at (202) 728-8176.

Discussion

Variable Contracts are issued by insurance companies and are insurance contracts subject to regulation under state law. Because owners of Variable Contracts assume certain investment risks, the contracts are also considered securities and are registered as such under the Securities Act of 1933. The contracts are funded by a separate account of a life insurance company registered as an investment company under the Investment Company Act of 1940. The distributor of the contracts is a broker/dealer under the Securities Exchange Act of 1934. Thus, an individual who sells a Variable Contract registered with the Securities and Exchange Commission (SEC) must not only be licensed under the applicable state jurisdictions to sell insurance, but must also be appropriately

affiliated with a member and registered as a securities representative with the NASD.

NASD Regulation recently took a disciplinary action against a registered representative for making unsuitable recommendations of variable life insurance contracts to public customers. The registered representative submitted an Offer of Settlement and, without admitting or denying the alleged violations, consented to NASD Regulation's findings that he did not have reasonable grounds for believing that his recommendations to certain public customers to purchase variable life insurance contracts were suitable for the customers based on the facts disclosed to him by the customers relating to their investment objectives, financial situation, and needs. Pursuant to the Offer, NASD Regulation fined the registered representative \$75,000, suspended him for 90 days from the securities industry, required him to return commissions to eight public customers, and required him to requalify before re-entering the securities industry by taking and passing an appropriate qualifying examination. In taking this action, NASD Regulation applied the existing suitability standards enunciated in Rule 2310 to the recommendation of variable life insurance policies.

As securities, the sales and distribution of Variable Contracts are fully subject to the NASD's sales practice rules. The issue of suitability under Rule 2310 arises when a Variable Contract is recommended and sold to a public customer. Rule 2310 requires that, in 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 regarding his or her

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other securities holdings and financial situation and needs.

In making such recommendations, the member and its registered representatives are required to make reasonable efforts to obtain information concerning the customer's financial and tax status, the customer's financial objectives, and such other information used or considered to be reasonable by the member or registered representative in making recommendations to the customer. Thus, for example, specific factors regarding a recommendation to purchase Variable Products that could be considered under the NASD's suitability rule include: (i) a representation by a customer that his or her life insurance needs were already adequately met; (ii) the customer's express preference for an investment other than an insurance product; (iii) the customer's inability to fully appreciate how much of the purchase payment or premium is allocated to cover insurance or other costs, and a customer's ability to understand the complexity of Variable Products generally; (iv) the customer's willingness to invest a set amount on a yearly basis; (v) the

customer's need for liquidity and short-term investment; (vi) the customer's immediate need for retirement income; and (vii) the customer's investment sophistication and whether he or she is able to monitor the investment experience of the separate account.

Further, as articulated in NASD Conduct Rule IM-2310.2, members and registered representatives have a fundamental responsibility for dealing fairly with their customers. Subparagraph (a)(2) to Rule IM-2310.2 requires, in relevant part, that "...sales efforts must be judged on the basis of whether they can be reasonably said to represent fair treatment for the persons to whom the sales efforts are directed, rather than ...[whether] they result in profits to customers." One of the practices that has resulted in disciplinary action, and that clearly violates the responsibility for fair dealing, is recommending the purchase of securities in amounts that are inconsistent with the reasonable expectation that the customer has the financial ability to meet such a commitment.

Finally, NASD Regulation is aware of the practice whereby a registered representative replaces a customer's existing variable contract with a new variable contract that doesn't improve the customer's existing position, but generates a new sales commission for the registered representative. Such a replacement practice designed merely to generate new sales commissions for the registered representative would be prohibited by NASD Conduct Rules requiring that members and registered representatives deal fairly with customers. In other securities contexts, for example, excessive trading designed solely to generate commissions has resulted in disciplinary action against members for violating their responsibility for fair dealing under Subparagraph (b)(2) to Rule IM-2310.2. "Excessive Trading Activity" is identified as "[e]xcessive activity in a customer's account, often referred to as 'churning' or 'overtrading.'" There are no specific standards to measure excessiveness of activity in customer accounts because this must be related to the objectives and financial situation of the customer involved."

NASD NOTICE TO MEMBERS 96-87

NASD Regulation PROCTOR Transition To Sylvan Continues

Suggested Routing

- Senior Management
- Advertising
- Corporate Finance
- Government Securities
- Institutional
- Internal Audit
- Legal & Compliance
- Municipal
- Mutual Fund
- Operations
- Options
- Registration
- Research
- Syndicate
- Systems
- Trading
- Training

Executive Summary

NASD Regulation, Inc. (NASD Regulation) as previously announced, has contracted with Sylvan Learning Systems, Inc., for the management and operation of its test center network. The current goal is to begin delivery in select Sylvan locations in January 1997. Candidates wanting to schedule appointments should continue to call the current PROCTOR® Certification and Training Centers. Candidates will be instructed by their local center on the details of the transition as it relates to their requested appointment date. Questions regarding locations available for computerized delivery of Qualification Examinations and the Continuing Education Program should be directed to the Quality & Service Teams.

Quality & Service Team 1
(301) 921-9499

Quality & Service Team 2
(301) 921-9444

Quality & Service Team 3
(301) 921-9445

Quality & Service Team 4
(301) 921-6664

Quality & Service Team 5
(301) 921-6665

Status Of The Transition

NASD Regulation and Sylvan are in the final stages of testing and approving the software that will be used to administer securities examinations and continuing education in Sylvan locations. The current plan calls for a

limited number of PROCTOR Certification and Training Centers to be replaced by authorized Sylvan Technology Centers in the same geographic area beginning in January 1997. As these sites become available, the PROCTOR Certification and Training Centers affected will give details of the site's transition to candidates who have or need appointments. The transition schedule varies by site and has numerous dependencies making it difficult to publish a schedule for all changes. For this reason, candidates should continue to contact their local PROCTOR Certification and Training Center to obtain the most current information regarding appointment scheduling.

Due to the delay in implementing delivery in the Sylvan network, we will continue to offer paper and pencil examinations in the domestic U.S. locations at least through March 1997.

Our current goal is to begin adding authorized Sylvan Technology Centers in geographic areas not currently serviced by a PROCTOR Certification and Training Center in January 1997. Please watch for further communications regarding additional sites in future *Notices to Members* and on NASD Regulation's Web page at www.nasdr.com.

NASD NOTICE TO MEMBERS 96-88

SOES Tier Levels Set To Change January 2, 1997

Suggested Routing

- Senior Management
- Advertising
- Corporate Finance
- Government Securities
- Institutional
- Internal Audit
- Legal & Compliance
- Municipal
- Mutual Fund
- Operations
- Options
- Registration
- Research
- Syndicate
- Systems
- Trading
- Training

Executive Summary

Effective January 2, 1997, tier sizes for 762 Nasdaq National Market[®] securities will be revised in accordance with NASD Rule 4710(g).

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

Description

Under Rule 4710, the maximum Small Order Execution System (SOES) order size for a Nasdaq National Market security is 1,000, 500, or 200 shares depending on the trading characteristics of the security. The maximum SOESSM order size for a Nasdaq National Market security also corresponds to the minimum quote size requirement for Nasdaq[®] market makers in that security [NASD Rule 4613(a)(2)]. The Nasdaq Workstation II indicates the minimum quote size requirement for each Nasdaq National Market security in its bid/offer quotation display. The indicator "NM10," "NM5," or "NM2" is displayed to the right of the security name, corresponding to a minimum-size display of 1,000, 500, or 200 shares, respectively.

The criteria for establishing SOES tier sizes are as follows:

- A 1,000-share tier size was applied to those Nasdaq National Market securities that had an average daily non-block volume of 3,000 shares or more a day, a bid price that was less than or equal to \$100, and three or more market makers.
- A 500-share tier size was applied to those Nasdaq National Market securities that had an average daily non-block volume of 1,000 shares or more a day, a bid price that was less than or equal to \$150, and two or more market makers.

- A 200-share tier size was applied to those Nasdaq National Market securities that had an average daily non-block volume of less than 1,000 shares a day, a bid price that was less than or equal to \$250, and less than two market makers.

In accordance with Rule 4710, Nasdaq periodically reviews the SOES tier size applicable to each Nasdaq National Market security to determine if the trading characteristics of the issue have changed so as to warrant a tier size adjustment. Such a review was conducted using data as of September 30, 1996, pursuant to the aforementioned standards. The SOES tier-size changes called for by this review are being implemented with three exceptions.

- First, issues were not permitted to move more than one tier-size level. For example, if an issue was previously categorized in the 1,000-share tier, it would not be permitted to move to the 200-share tier, even if the formula calculated that such a move was warranted. The issue could move only one level to the 500-share tier as a result of any single review. In adopting this policy, the NASD was attempting to maintain adequate public investor access to the market for issues in which the tier-size level decreased and to help ensure the ongoing participation of market makers in SOES for issues in which the tier-size level increased.
- Second, for securities priced below \$1 where the reranking called for a reduction in tier size, the tier size was not reduced.
- Third, for the top 50 Nasdaq securities based on market capitalization, the SOES tier sizes were not reduced regardless of whether the reranking called for a tier-size reduction.

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

Thus, IPOs listed on Nasdaq within the 45 days prior to September 30, 1996, were not subjected to the SOES tier-size review.

Following is a listing of the 762 Nasdaq National Market issues that will require a SOES tier-level change on January 2, 1997.

Nasdaq National Market SOES Tier-Size Changes

All Issues In Alphabetical Order By Security Name
(Effective January 2, 1997)

Symbol	Company Name	Old Tier Level	New Tier Level	Symbol	Company Name	Old Tier Level	New Tier Level
HHHH	4HEALTH INC	200	500	AIFC	AMER INDEMNITY FIN	500	200
HHHHW	4HEALTH INC WT	200	500	ALGI	AMER LOCKER GROUP	500	200
A				AMGD	AMER VANGUARD CP	1,000	500
ABCB	A B C BANCORP	1,000	500	BETM	AMER WAGERING INC	500	1,000
ACMTA	A C M A T CP CL A	500	200	ADSI	AMERICAN DISPOSAL	200	500
ALZAW	A L Z A CP WTS	200	500	ANLG	ANALOGY INC	500	1,000
ANSS	A N S Y S INC	200	500	ANLY	ANALYSTS INTL CP	500	1,000
ASTSF	A S E TEST LTD ORD	200	500	ANDE	ANDERSONS INC (THE)	500	1,000
AANB	ABIGAIL ADAMS NATL	200	500	ADRX	ANDRX CP	500	1,000
ABRI	ABRAMS INDS INC	500	200	ANST	ANSOFT CP	500	1,000
ACRI	ACACIA RESEARCH CORP	200	500	AMSI	APACHE MEDICAL SYS	200	500
ACCI	ACC CONSUMER FIN CP	200	500	ARDM	ARADIGM CP	200	500
ACMI	ACCUMED INTL INC	500	1,000	ARGL	ARGYLE TELEVISION A	1,000	500
ACMIW	ACCUMED INTL INC WTS	500	1,000	ARKR	ARK RESTAURANTS CP	1,000	500
ACEC	ACE*COMM CORP	200	500	ARRO	ARROW INTL INC	500	1,000
AAGP	ACTIVE APPAREL GROUP	500	1,000	ARTW	ART S WAY MFG CO INC	200	500
ACRT	ACTRADE INTL LTD	500	1,000	AVEI	ARTERIAL VASCULAR	500	1,000
ADECY	ADECCO SA ADR	500	200	ARTNA	ARTESIAN RES CP A	200	500
ADTK	ADEPT TECH INC	500	1,000	ASAM	ASAHI/AMERICA INC	500	1,000
AERL	AERIAL COMM INC	500	1,000	ASDV	ASPECT DEVELOPMT	200	500
AFFI	AFFINITY TECH GROUP	500	1,000	ASBK	ASPEN BANCSHARES INC	500	1,000
AFFX	AFFYMETRIX INC	200	500	ATEA	ASTEA INTL INC	500	1,000
ATSS	AIR-CURE TECH INC	500	1,000	ATPC	ATHEY PRODUCTS CP	1,000	500
ANSY	AIRNET SYSTEMS INC	200	500	ATLB	ATLANTIC BK & TR(MA)	500	1,000
ASII	AIRPORT SYS INTL INC	1,000	500	AULT	AULT INC	500	1,000
AKSY	AKSYS LTD	200	500	ACAM	AUTOCAM CP	1,000	500
ALXN	ALEXION PHARM INC	500	1,000	APCO	AUTOMOBILE PROTEC	500	1,000
ALLE	ALLEGIANT BNCP INC	500	200	ATCI	AUTONOMOUS TECH CP	500	1,000
AORGB	ALLEN ORGAN CO B	500	200	AVGN	AVIGEN INC	200	500
ALLIF	ALLIANCE COMMUN CP B	200	500	AWRE	AWARE INC	200	500
ALLYP	ALLIANCE GMNG PFD B	200	500	AXNT	AXENT TECH INC	500	1,000
ALFC	ALLIED LIFE FINL CP	1,000	500	B			
ASFN	ALLSTATE FINL CP	1,000	500	BCBF	B C B FIN SVCS CP	500	200
ALPH	ALPHANET SOLUTIONS	500	1,000	BFSI	B F S BANKORP INC	200	500
AMIE	AMBASSADORS INTL INC	1,000	500	BHAG	B H A GROUP INC S2	1,000	500
ABIGP	AMER BNKR INS GR PFD	200	500	PAPA	BACK BAY RESTAURANT	1,000	500
AHEPZ	AMER HEALTH DEP SHRS	1,000	500	BACU	BACOU USA INC	500	1,000

Symbol	Company Name	Old Tier Level	New Tier Level	Symbol	Company Name	Old Tier Level	New Tier Level
BPMI	BADGER PAPER MILLS	500	200	CSPI	C S P INC	500	200
BWINB	BALDWIN LYONS CL B	1,000	500	KDUS	CADUS PHARM CORP	200	500
BPAO	BALDWIN PIANO ORGAN	1,000	500	CSTB	CALIFORNIA STATE BK	1,000	500
BGLV	BALLY'S GRAND INC	500	200	CAMH	CAMBRIDGE HEART INC	200	500
BGLVW	BALLY'S GRAND INC WT	500	200	CLZRW	CANDELA CP WTS	500	200
BTEK	BALTEK CP	500	200	CANX	CANNON EXPRESS INC	500	200
BFOH	BANCFIRST OHIO CP	500	1,000	CANNY	CANON INC ADR	500	1,000
BOMS	BANCORPSOUTH INC	500	1,000	CNTBY	CANTAB PHARM PLC ADR	500	200
BMCCP	BANDO MCGLOC PFD A	500	200	CNTL	CANTEL INDS INC	1,000	500
BCGA	BANK CORP OF GEORGIA	200	500	CAPF	CAPITAL FACTORS HLDG	200	500
BCOM	BANK OF COMMERCE(CA)	1,000	500	CAPS	CAPITAL SAV BNCP INC	500	1,000
BKLA	BANK OF LOS ANGELES	200	500	CPWY	CARDIAC PATHWAYS CP	200	500
BOYL	BANK OF YORBA LINDA	200	500	CGCP	CARDIOGENESIS CP	200	500
BPLS	BANK PLUS CP	500	1,000	CTSI	CARDIOTHORACIC SYS	500	1,000
BNKU	BANK UNITED CORP	200	500	CCVD	CARDIOVASCULAR DYNMC	200	500
BANCA	BANKATLANTIC BNCP A	500	1,000	CBNJW	CARNEGIE BANCORP WTS	500	1,000
BKUNO	BANKUNITED FIN PFD	500	200	CRSV	CARRIAGE SERVICES	200	500
VSLF	BANYAN STRAT FUND II	1,000	500	CATB	CATSKILL FIN CP	500	1,000
BBHF	BARBERS HAIRSTYLING	500	200	CCCG	CCC INFO SVCS GRP	200	500
BNTT	BARNETT INC	500	1,000	FLWR	CELEBRITY INC	1,000	500
BARR	BARRINGER TECH INC	500	1,000	CTBK	CENTER BANKS INC	500	200
BATSW	BATTERIES BATT WTS	500	1,000	CFAC	CENTRAL FIN ACCEPT	200	500
BATS	BATTERIES BATTERIES	500	1,000	CNSP	CENTRAL SPRINKLER CP	500	1,000
BILL	BILLING INFO CONCEPT	200	500	CVBK	CENTRAL VA BKSHS INC	500	200
BZET	BIOFIELD CP	500	1,000	CENX	CENTURY ALUMINUM CO	500	1,000
BTRN	BIOTRANSPLANT INC	500	1,000	CYFN	CENTURY FINANCIAL CP	200	500
BLYDY	BLYVOOR ADR NEW	200	500	CEON	CERION TECH INC	200	500
BOLD	BOLDER TECH CP	500	1,000	CFMT	CFM TECHNOLOGIES INC	200	500
BMTR	BONDED MOTORS INC	500	1,000	CHLN	CHALONE WINE GP LTD	1,000	500
BCGI	BOSTON COMMUN GROUP	200	500	CHANF	CHANDLER INS CO LTD	1,000	500
BOXXA	BOX ENERGY CP CL A	500	200	CHNL	CHANNELL COML CORP	200	500
BOYD	BOYD BROS TRANS INC	500	200	CHKPF	CHECK POINT SFTWARE	500	1,000
BRBK	BRENTON BANKS INC	1,000	500	CHERA	CHERRY CP CL A	1,000	500
BRID	BRIDGFORD FOODS CP	1,000	500	CHERB	CHERRY CP CL B	1,000	500
BVSN	BROADVISION INC	200	500	CHRX	CHIREX INC	500	1,000
BFPT	BROOKS FIBER PPTYS	500	1,000	CIMTF	CIMATRON ORD SHS	500	1,000
BMTC	BRYN MAWR BK CP	500	200	CNMWW	CINCINNATI MICRO WTS	1,000	500
				CNRMF	CINRAM LIMITED	500	200
				CICS	CITIZENS BKSH INC	1,000	500
C				CLMT	CLAREMONT TECH GP	200	500
CBBI	C B BANCSHARES INC	500	200	TOUR	COACH USA INC	500	1,000
CBHI	C BREWER HOMES INC A	1,000	500	CBSAP	COASTAL BANC PFD A	500	200
CNIT	C E N I T BNCP INC	500	1,000	COGNF	COGNOS INC	500	1,000
CERB	C E R B C O INC	500	200	COHR	COHERENT INC	500	1,000
CFCI	C F C INTL INC	500	1,000	WDYR	COINMACH LAUNDRY	200	500
CNBF	C N B FINANCIAL CP	500	200	CCLR	COLLABORATIVE CLIN	200	500
CNWK	C NET INC	200	500	CGPI	COLLAGENEX PHARM INC	200	500
CHRI	C O H R INC	500	1,000	CMCO	COLUMBUS MCKINNON CP	500	1,000
CRAU	C R ANTHONY COMPANY	200	500	CFBXZ	COMM FIRST DEP SH	500	200
CSGS	C S G SYS INTL INC	500	1,000	CBNY	COMMERCIAL BK OF N Y	500	1,000

Symbol	Company Name	Old Tier Level	New Tier Level	Symbol	Company Name	Old Tier Level	New Tier Level
CCLWF	COMMODORE HLDG WTS	200	500	E			
CCLNF	COMMODORE HLDGS LTD	200	500	ELXS	E L X S I CP	1,000	500
CFTP	COMMUNITY FED BNCP	500	1,000	EMCI	E M C INSURANCE GP	1,000	500
CSRV	COMPUSERV CP	500	1,000	EDSE	E S E L C O INC	500	200
CPLNY	CONCORDIA PAPER ADS	500	200	ESSF	E S S E F CP	1,000	500
CTWS	CONN WATER SVCS INC	500	1,000	EGRP	E*TRADE GROUP INC	200	500
CNKT	CONNECT INC	200	500	EGLB	EAGLE BANGROUP INC	200	500
CFIN	CONSUMERS FIN CP	500	200	ERIV	EAGLE RIVER INTERACT	500	1,000
COOP	COOPERATIVE BKSHS	1,000	500	ESTI	ECLIPSE SURGICAL TEC	200	500
DLVRV	CORTECS INTL SPO ADR	500	1,000	EDFY	EDIFY CP	500	1,000
CRVL	CORVEL CP	1,000	500	EMSI	EFFECTIVE MGMT SYS	500	1,000
CPWM	COST PLUS INC	500	1,000	ENBX	EINSTEIN/NOAH BAGEL	200	500
CSLI	COTTON STATES LIFE	1,000	500	ELAMF	ELAMEX SA DE CV CL 1	500	1,000
CAFEP	COUNTRY STAR PFD A	1,000	500	ELSE	ELECTRO SENSORS INC	500	200
CREG	CRAIG CONSUMER ELECT	200	500	EHST	ELECTRONIC HAIR STYL	200	500
CYCH	CYBERCASH INC	500	1,000	ETCIA	ELECTRONIC TELECOM A	500	1,000
CYLK	CYLINK CP	500	1,000	ESCP	ELECTROSCOPE INC	200	500
CYTC	CYTYC CP	500	1,000	ENPT	EN POINTE TECH INC	500	1,000
				ENEX	ENEX RESOURCE CP	1,000	500
				ENSY	ENSYS ENVIR PROD INC	500	1,000
D				ENMD	ENTREMED INC	200	500
SEEDB	D E K A L B GENET B	500	1,000	EPMD	EP MEDSYSTEMS INC	200	500
DALY	DAILEY PETROLEUM	200	500	EPIC	EPIC DESIGN TECH INC	500	1,000
DASTY	DASSAULT SYSTEME ADR	200	500	ERGO	ERGO SCIENCE CP	500	1,000
DDIM	DATA DIMENSIONS INC	500	1,000	ESCA	ESCALADE INC	500	1,000
DMAR	DATAMARINE INTL INC	1,000	500	EMED	EUROMED INC	500	1,000
DPSI	DAWSON PROD SVCS INC	500	1,000	EVAN	EVANS INC	1,000	500
DOCI	DECISIONONE HLDGS CP	500	1,000	EXAC	EXACTECH INC	200	500
DGTC	DEL GLOBAL TECH CP	200	500	XCIT	EXCITE INC	500	1,000
DLCH	DELCHAMPS INC	500	1,000				
DGAS	DELTA NATURAL GAS	500	1,000	F			
DCBK	DESERT COMMUNITY BK	500	200	FMBN	F & M BANCORP (MD)	1,000	500
DTRX	DETREX CP	1,000	500	FCNB	F C N B CP	1,000	500
DEVC	DEVCON INTL CP	1,000	500	FDPC	F D P CP	1,000	500
DCRN	DIACRIN INC	200	500	FMCO	F M S FINANCIAL CP	500	200
DCRNW	DIACRIN INC WT	200	500	FRPP	F R P PROPERTIES INC	500	200
DHMS	DIAMOND HOME SVCS	200	500	FRLN	FARALLON COMMUN INC	200	500
DITI	DIATIDE INC	200	500	FARM	FARMER BROTHERS CO	500	200
DIGE	DIGENE CP	200	500	FOBC	FED ONE BANCORP INC	500	1,000
DVID	DIGITAL VIDEO SYSTEM	500	1,000	FFFL	FIDELITY FED SAV(FL)	500	1,000
DVIDW	DIGITAL VIDEO WTS A	500	1,000	FFOH	FIDELITY FIN OF OHIO	500	1,000
DVIDZ	DIGITAL VIDEO WTS B	500	1,000	LION	FIDELITY NATL CP	500	200
DIME	DIME COMMUNITY BNCP	200	500	FINE	FINE HOST CP	200	500
DCTM	DOCUMENTUM INC	500	1,000	FACO	FIRST ALLIANCE CP	200	500
DRYR	DREYERS GRAND ICE	1,000	500	FBNC	FIRST BANCP TROY NC	200	500
DRLX	DRILEX INTL INC	200	500	FBCG	FIRST BKG CO SE GA	500	200
DPMI	DUPONT PHOTOMASKS	200	500	FCNCA	FIRST CITIZENS CL A	1,000	500
DRRA	DURA AUTO SYSTEMS	200	500	FENT	FIRST ENTERPRISE FIN	200	500
DYMX	DYNAMEX INC	200	500	FFBH	FIRST FED BCSHS ARK	500	1,000
DHTI	DYNAMIC HEALTHCARE	500	1,000				

Symbol	Company Name	Old Tier Level	New Tier Level	Symbol	Company Name	Old Tier Level	New Tier Level
FFBG	FIRST FED SVGS BK GA	500	200	GSOE	GROUP I SOFTWARE INC	200	500
FGHC	FIRST GEORG HLDGS	500	200	GUMM	GUMTECH INTL INC	500	1,000
FSPG	FIRST HOME BNCP INC	500	200				
CASH	FIRST MIDWST FIN INC	500	200				
FMOR	FIRST MTGE CP	200	500	H			
FMSB	FIRST MUTUAL SAV BK	500	200	HFFC	H F FINANCIAL CP	1,000	500
FPBK	FIRST PATRIOT BKS	500	1,000	HMII	H M I INDUSTRIES INC	500	1,000
FRBK	FIRST REPUBLIC BNCP	500	1,000	HMTT	H M T TECHNOLOGY CP	500	1,000
FSNJ	FIRST SAV BK OF NJ	500	200	HPSC	H P S C INC	1,000	500
FSTH	FIRST SO BCSHS INC	1,000	500	HDVS	H. D. VEST INC	500	1,000
UNTD	FIRST UNITED BCSHS	500	200	HAMP	HAMPSHIRE GROUP LTD	1,000	500
FLMLY	FLAMEL TECH SA ADR	200	500	HWKN	HAWKINS CHEMICAL INC	500	1,000
FAME	FLAMEMASTER CP THE	500	200	HAYS	HAYES WHEELS INTL	200	500
FLDR	FLANDERS CORP	500	1,000	HCOR	HEALTHCOR HLDGS INC	200	500
FSOLF	FORASOL-FORAMER N V	500	1,000	HDIE	HEALTHDYNE INFO ENTR	500	1,000
FTIC	FORENSIC TECH INTL	500	1,000	HPRT	HEARTPORT INC	500	1,000
FRTE	FORTE SOFTWARE INC	500	1,000	HECHB	HECHINGER CO CL B	1,000	500
FRTG	FORTRESS GROUP INC	200	500	HELI	HELISYS INC	500	1,000
FUSA	FOTOBALL USA INC	500	1,000	HBCI	HERITAGE BANCORP INC	500	200
FUSAW	FOTOBALL USA INC WTS	500	1,000	HERS	HERITAGE FINL SVC IL	500	1,000
FPIC	FPIC INSURANCE GROUP	200	500	HTCO	HICKORY TECH CP	500	200
FELE	FRANKLIN ELEC INC	500	1,000	HBNK	HIGHLAND FEDERAL BK	1,000	500
FSON	FUSION MEDICAL TECH	200	500	HIFS	HINGHAM INSTI SAVING	500	200
FXEN	FX ENERGY INC	500	1,000	HPRKZ	HOLLYWOOD PK DEP SHS	1,000	500
				HLMS	HOLMES PROTECTION GP	500	1,000
				HOLO	HOLOPAK TECHS INC	500	1,000
G				HBENB	HOME BENEFICIAL CP B	500	1,000
GKNS	G K N HOLDING CP	200	500	HOMF	HOME FEDERAL BANCORP	500	1,000
GSES	G S E SYSTEMS INC	1,000	500	HPBC	HOME PORT BNCP INC	500	1,000
GGEN	GALAGEN INC	500	1,000	HMCI	HEMOCORP INC	500	200
GBOT	GARDEN BOTANIK A INC	200	500	HMHM	HORIZON MENTAL HLTH	500	1,000
GDSC	GATEWAY DATA SCI CP	500	1,000	HPIP	HOUGHTEN PHARM INC	500	1,000
GCABY	GEN CABLE PLC ADR	500	1,000	HFAB	HOUSE OF FABRICS	200	500
GMCC	GEN MAGNAPLATE CP	500	200	HSCL	HOUSECALL MED RES	500	1,000
GSII	GEN SURGICAL INN	500	1,000	HUBG	HUB GROUP INC A	500	1,000
GNWR	GENESEE & WYOMING A	200	500	HMAR	HVIDE MARINE INC	500	1,000
GENBB	GENESEE CP B	500	200				
GENXY	GENSET ADR	200	500	I			
GGIT	GEOGRAPHICS INC	500	1,000	ICOCZ	I C O INC DEP SHR	500	200
BOTX	GEORGIA BONDED FIBER	500	200	ICTG	I C T GROUP INC	200	500
GSCI	GEOSCIENCE CP	200	500	ICTSF	I C T S INTL NV	200	500
GERN	GERON CORP	200	500	IDTC	I D T CORP	500	1,000
GETTY	GETTY COMMUN ADR	200	500	IPSCF	I P S C O INC	500	200
JACK	GOLDEN BEAR GOLF	200	500	ICOR	I S O C O R	500	1,000
GPLB	GRAND PRIX ASSOC LB	200	500	ITWO	I2 TECHNOLOGIES	500	1,000
GTPS	GREAT AMER BNCP INC	500	1,000	IGYN	IMAGYN MEDICAL INC	200	500
GSFC	GREEN STREET FIN CP	500	1,000	IMCC	IMC MORTGAGE CO	200	500
GASIB	GREENWICH AIR SVCS B	500	1,000	IMPH	IMPATH INC	500	1,000
GBCOA	GREIF BROS CP CL A	500	1,000				

Symbol	Company Name	Old Tier Level	New Tier Level	Symbol	Company Name	Old Tier Level	New Tier Level
IGPFF	IMPERIAL GINSENG PRO	1,000	500	KRUG	KRUG INTL CP	1,000	500
ISTR	INCSTAR CP	200	500	KLIC	KULICKE AND SOFFA	500	1,000
IBNJ	INDEPENDENCE BNCP NJ	500	1,000	KLOCZ	KUSHNER-LOCK WT C	200	500
INHO	INDEPENDENCE HLDG CO	1,000	500				
INDV	INDIVIDUAL INC	500	1,000				
INFO	INFONAUTICS INC A	500	1,000	L			
SEEK	INFOSEEK CP	200	500	LATS	L A T SPORTSWEAR INC	1,000	500
INLD	INLAND CASINO CP	200	500	KNICW	L L KNICKBKR CO WTS	500	200
ISER	INNOSERV TECH INC	1,000	500	LXBK	L S B BANCSHARES NC	500	200
IIII	INNOTECH INC	500	1,000	LXEI	L X E INC	1,000	500
IDEA	INNOVASIVE DEVICES	200	500	LBOR	LABOR READY INC	200	500
INSL	INSILCO CP	1,000	500	LAMR	LAMAR ADVERTISING A	200	500
NTEG	INTEG INC	200	500	LNDC	LANDEC CP	500	1,000
IPAC	INTEGRATED PACKAGING	500	1,000	LANV	LANVISION SYS INC	500	1,000
ISCG	INTEGRATED SYS CONSL	500	1,000	LASRF	LASER INDUSTRIES LTD	200	500
IMII	INTELLIGENT MED IMAG	500	1,000	LVCI	LASER VISION CTRS	500	1,000
ITRC	INTERCARDIA INC	500	1,000	LASE	LASERSIGHT INC	500	1,000
INLK	INTERLINK COM SCIENC	200	500	CHAIZ	LIFE MED SCI WTS B	500	1,000
IVBK	INTERVISUAL BOOKS	1,000	500	LNDL	LINDAL CEDAR HOMES	1,000	500
INDQB	INTL DAIRY QUEEN B	500	200	MALT	LION BREWERY INC THE	500	1,000
IPCRF	IPC HOLDINGS LTD	500	1,000	LFUSW	LITTELFUSE INC WTS	500	200
IRIX	IRIDEX CP	500	1,000	LIVE	LIVE ENTERTAIN INC	500	1,000
ISKO	ISCO INC	1,000	500	LOEH	LOEHMANN'S INC	500	1,000
IIXC	IXC COMMUNICATION	200	500	LOFSY	LONDON & OVERSEA ADR	500	200
				LONDY	LONDON INTL PLC ADR	500	200
J				LSBI	LSB FINANCIAL CP	500	200
JPMC	J P M CO (THE)	500	1,000	LCOS	LYCOS INC	500	1,000
JXVL	JACKSONVILLE BANCORP	500	1,000				
JANNF	JANNOCK LIMITED	200	500	M			
JDAS	JDA SOFTWARE GRP INC	500	1,000	MARC	M A R C INC	1,000	500
JSBA	JEFFERSON SAV BNCP	1,000	500	MBLF	M B L A FINL CORP	500	200
				MCICP	M C I CAP 1 A QUIPS	200	500
K				MFSTP	M F S COMMUN DEP SHS	1,000	500
KLLM	K L L M TRANSPORT SV	1,000	500	MIMS	M I M CORPORATION	200	500
KVHI	K V H INDS INC	500	1,000	FLSHF	M-SYS FLASH DISK LTD	500	1,000
KTEL	K-TEL INTL INC	1,000	500	MWAV	M-WAVE INC	1,000	500
KARR	KARRINGTON HEALTH	200	500	MACD	MACDERMID INC	500	200
KASH	KASH N KARRY FOOD ST	500	1,000	MXICY	MACRONIX INTL CO ADR	500	1,000
KATC	KATZ DIGITAL TECH	500	1,000	MTCC	MAGNETIC TECH CP	500	200
KAYE	KAYE GROUP INC	500	200	MCSX	MANAGED CARE SOLU	500	1,000
KTCO	KENAN TRANSPORT CO	500	200	MAKL	MARKEL CP	500	1,000
KWIC	KENNEDY-WILSON INTL	500	200	MRKR	MARKER INTERNATIONAL	500	1,000
KNTK	KENTEK INFO SYS INC	500	1,000	MFAC	MARKET FACTS INC	500	200
KERA	KERAVISION INC	1,000	500	MFCX	MARSHALLTOWN FIN CP	200	500
KEQU	KEWAUNEE SCIENTIFIC	500	1,000	MRTN	MARTEN TRANSPORT LTD	500	200
KEYS	KEYSTONE AUTOMTV IND	200	500	MATR	MATRIA HEALTHCARE	500	1,000
KLRT	KLEINERTS INC	500	200	MTSN	MATTSON TECH INC	200	500
KRON	KRONOS INC	500	1,000	SPEH	MAY & SPEH INC	500	1,000
				MOIL	MAYNARD OIL CO	1,000	500

Symbol	Company Name	Old Tier Level	New Tier Level	Symbol	Company Name	Old Tier Level	New Tier Level
MCLD	MCLEOD INC CL A	200	500	NOVT	NOVOSTE CP	200	500
MBRK	MEADOWBROOK REHAB A	500	200	NUCM	NUCLEAR METALS INC	500	200
MECH	MECHANICS SAV BK	200	500	NUKO	NUKO INFO SYS INC	200	500
TAXI	MEDALLION FIN CP	200	500				
MGCC	MEDICAL GRAPHICS CP	1,000	500				
MDKI	MEDICORE INC	200	500	O			
MECS	MEDICUS SYSTEMS CP	500	1,000	OSBF	O S B FINANCIAL CP	500	200
MEDQ	MEDQUIST INC	200	500	OCIS	OACIS HLTHCR HLDG	200	500
MTEC	MERIDIAN MED TECH	1,000	500	OAKF	OAK HILL FIN INC	1,000	500
MRET	MERIT HOLDING CP	500	1,000	ODIS	OBJECT DESIGN INC	200	500
MTWKF	METROWERKS CORP	200	500	OCAL	OCAL INC	500	1,000
MINT	MICRO-INTEGRATION CP	1,000	500	OCFC	OCEAN FINANCIAL CORP	200	500
MCDE	MICROCIDE PHARM INC	500	1,000	ODETB	ODETICS INC CL B	500	200
MWAR	MICROWARE SYS CP	500	1,000	ODFL	OLD DOMINION FREIGHT	1,000	500
MIAMP	MID AM CUM CNV PFD A	500	200	ONBKP	ONBANCORP SER B PFD	1,000	500
MCBS	MID CONT BCSHS INC	1,000	500	OWAV	ONEWAVE INC	200	500
MSADY	MID-STATES ADR	500	200	ONYX	ONYX ACCEPTANCE CP	500	1,000
MLNM	MILLENNIUM PHARM INC	500	1,000	ONXX	ONYX PHARM INC	500	1,000
MFFC	MILTON FED FINL CP	1,000	500	OMKT	OPEN MARKET INC	200	500
MSPG	MINDSPRING ENTER INC	500	1,000	PLAN	OPEN PLAN SYS INC	200	500
MNES	MINE SAFETY APPLS CO	1,000	500	OPVN	OPENVISION TECH INC	500	1,000
MMAN	MINUTEMAN INTL INC	500	200	OPTT	OPTEK TECHNOLOGY INC	500	1,000
MIZR	MIZAR INC	500	1,000	OPTK	OPTIKA IMAGING SYS	200	500
MCRI	MONARCH CASINO	500	1,000	OCAD	ORCAD INC	500	1,000
MOYC	MOYCO TECH INC	1,000	500	OROA	OROAMERICA INC	1,000	500
MUEL	MUELLER PAUL CO	500	200	OSIA	OUTDOOR SYSTEMS INC	500	1,000
LABL	MULTI COLOR CP	1,000	500	OXGN	OXIGENE INC	500	1,000
MZON	MULTIPLE ZONES INTL	200	500	OXGNW	OXIGENE INC WTS	500	1,000
				OZEMY	OZEMAIL LTD ADR	1,000	500
N				P			
NSCC	N S C CORPORATION	1,000	500	PCDI	P C D INC	500	1,000
NPRO	NAPRO BIOTHERAPEUTIC	500	1,000	PCTHW	P C T HLDGS WTS	500	1,000
NCBE	NATL CITY BANCSHARES	500	1,000	PCTH	P C T HOLDINGS	500	1,000
NCBM	NATL CITY BNCP	1,000	500	PDSF	P D S FINANCIAL CP	500	1,000
NAIG	NATL INSURANCE GP	1,000	500	PFFB	P F F BANCORP INC	500	1,000
NPBC	NATL PENN BSCHS INC	1,000	500	PFINA	P F INDS INC A	1,000	500
NTEC	NEOSE TECH INC	500	1,000	PSNRY	P T PASIFIK SATL ADR	500	1,000
NTAP	NETWORK APPLIANCE CP	500	1,000	PCCI	PACIFIC CREST CAP	1,000	500
NBIX	NEUROCRINE BIOSCI	200	500	PGEX	PACIFIC GATEWAY EXCH	200	500
NHTB	NEW HAMPSHIRE THRIFT	500	1,000	PAMM	PACIFICAMERICA MONEY	200	500
NFSL	NEWNAN HOLDINGS INC	200	500	PMWI	PAGEMART WIRELESS A	200	500
NEDI	NOBEL EDUCA DYN INC	500	1,000	PALM	PALFED INC	500	1,000
NRTI	NOONEY REALTY TRUST	200	500	PVAT	PARAVANT COMP SYS	200	500
NRLD	NORLAND MED SYS INC	500	1,000	PVATW	PARAVANT COMP WTS	200	500
NSYS	NORTECH SYSTEMS INC	1,000	500	PBFI	PARIS CORP	1,000	500
TNFI	NORTH FACE INC (THE)	200	500	PFED	PARK BANCORP INC	200	500
NSRU	NORTH STAR UNIVERSAL	1,000	500	PVSA	PARKVALE FINL CP	1,000	500
NEIB	NORTHEAST IND BNCP	500	1,000	PCTY	PARTY CITY CP	500	1,000
NMTXW	NOVAMETRIX MED WTS A	500	1,000				

Symbol	Company Name	Old Tier Level	New Tier Level	Symbol	Company Name	Old Tier Level	New Tier Level
DOCSF	PC DOCS GROUP INTL	500	1,000	PILL	PROXYMED INC	500	1,000
PMFG	PEERLESS MFG CO	500	1,000	PCNA	PUBLISHING CO OF NA	200	500
PEGA	PEGASYSTEMS INC	200	500	PULS	PULSE BANCORP INC	1,000	500
PNNW	PENNICHUCK CP	500	200	PASW	PURE ATRIA CP	500	1,000
SPWY	PENSKE MOTORSPORTS	500	1,000				
PPLS	PEOPLES BK CP OF IND	1,000	500				
PBNB	PEOPLES SAV FINL CP	500	1,000	R			
TPMI	PERSONNEL MGMT INC	1,000	500	RHPS	R H PHILLIPS INC	500	1,000
PSALY	PETROLEUM SEC ADR	500	1,000	RAGS	RAG SHOPS INC	1,000	500
PMORW	PHAR-MOR INC WTS	500	200	RARB	RARITAN BANCORP INC	500	200
PPRT	PHARMAPRINT INC	200	500	RGFX	RASTER GRAPHICS INC	200	500
PHXX	PHOENIX INTL LTD	200	500	RLCO	REALCO INC	1,000	500
PHOC	PHOTO CONTROL CP	500	200	RECY	RECYCLING INDS INC	500	1,000
PTRN	PHOTRAN CP	200	500	RWTIP	REDWOOD TR PFD B	200	500
PHSS	PHYSICIAN SUPPORT SY	500	1,000	REED	REEDS JEWELERS INC	500	200
PHYX	PHYSIOMETRIX INC	500	1,000	REGI	REGISTRY INC (THE)	200	500
PIAM	PIA MERCH SVCS INC	500	1,000	REMX	REMEDYTEMP INC	200	500
PCTL	PICTURETEL CP	500	1,000	RENN	RENAISSANCE CAP GRWT	500	1,000
PIFI	PIEMONTE FOODS INC	500	200	REPB	REPUBLIC BCSHS INC	1,000	500
PNFI	PINNACLE FINL SVCS	500	1,000	RENG	RESEARCH ENGINEERS	200	500
PHFC	PITTSBURGH HOME FIN	500	1,000	RESR	RESEARCH INC	500	200
PHII	PLANET HOLLYWOOD A	500	1,000	RESM	RESMED INC	1,000	500
PLNSY	PLANNING SCIENCE ADR	500	1,000	REXI	RESOURCE AMER CL A	500	1,000
PTET	PLATINUM ENTERTAIN	500	1,000	RBKV	RESOURCE BANK	200	500
PBYP	PLAY BY PLAY TOYS	1,000	500	RTRK	RESTRAC INC	200	500
POBR	POE & BROWN INC	1,000	500	RZYM	RIBOZYME PHARM INC	500	1,000
PLCM	POLYCOM INC	500	1,000	RELL	RICHARDSON ELECT LTD	1,000	500
PCRV	POWERCERV CP	500	1,000	RISC	RISCORP INC A	500	1,000
PGTZ	PRAEGITZER INDS INC	500	1,000	RSGI	RIVERSIDE GP INC	200	500
PRRC	PRECISION RESPONSE	200	500	RBDS	ROBERDS INC	500	1,000
PFNT	PREFERRED NETWORKS	500	1,000	RUSH	RUSH ENTERPRISES INC	200	500
PBKC	PREMIER BKSHS	500	200	RMOC	RUTHERFORD-MORAN OIL	200	500
PFBI	PREMIER FIN BNCP INC	200	500				
PARK	PREMIER PARKS INC	200	500	S			
PRNI	PREMIERE RADIO NETWK	500	1,000	SDNB	S D N B FINANCIAL CP	500	1,000
PTEK	PREMIERE TECH INC	500	1,000	SITL	S I T E L CP	500	1,000
PRST	PRESSTEK INC	500	1,000	SRSL	S R S LABS INC	200	500
PRBC	PRESTIGE BNCP INC	200	500	SSNC	S S & C TECH INC	200	500
PETE	PRIMARY BANK	500	1,000	SBTK	SABRATEK CP	200	500
PMSI	PRIME MEDICAL INC	500	1,000	SHCID	SALICK HLTH NEW SPL	1,000	500
PRMEP	PRIME RETAIL PFD B	500	1,000	SAMC	SAMSONITE CP	500	1,000
PNBC	PRINCETON NATL BNCP	500	200	SABB	SANTA BARBARA BNCP	500	1,000
AFIS	PRINTRAK INTL INC	200	500	SAWS	SAWTEK INC	500	1,000
PRTW	PRINTWARE INC	200	500	SCHR	SCHERER HEALTHCARE	500	200
PRZM	PRISM SOLUTIONS	500	1,000	SEWY	SEAWAY FOOD TOWN INC	500	200
PFACP	PRO-FAC COOP PFD A	1,000	500	SECD	SECOND BANCORP INC	500	1,000
PSTFY	PROFESSIONL STAF ADR	200	500	SFNB	SECURITY FIRST NTWK	200	500
PRGX	PROFIT RECOVERY GRP	500	1,000	SNFCA	SECURITY NATL FINL A	500	200
PAMC	PROVIDENT AMER CP	500	1,000	SEGU	SEGUE SOFTWARE INC	500	1,000
PROV	PROVIDENT FIN HLD	200	500				

Symbol	Company Name	Old Tier Level	New Tier Level	Symbol	Company Name	Old Tier Level	New Tier Level
SLFX	SELFIX INC	1,000	500	T			
SEMX	SEMICONDUCTOR PACKG	500	1,000	TSRI	T S R INC	1,000	500
SENEA	SENECA FOODS CP A	500	200	TPNZ	TAPPAN ZEE FIN INC	500	1,000
SENEB	SENECA FOODS CP B	500	200	TPACP	TCI PAC COM EXCH PFD	200	500
SERX	SERVICE EXPERTS INC	200	500	TCDN	TECHDYNE INC	500	1,000
SEVN	SEVENSON ENVIRONMENT	1,000	500	TCDNW	TECHDYNE INC WTS	500	1,000
SMED	SHARED MEDICAL SYS	500	1,000	TSGIW	TECHNOLOGY SVC GP WT	500	1,000
SLFC	SHORELINE FIN CP	500	200	TSGI	TECHNOLOGY SVC GRP	500	1,000
SIBI	SIBIA NEUROSCIENCES	500	1,000	TCGX	TELCO COMMUN GROUP	200	500
SEBL	SIEBEL SYSTEMS INC	200	500	TCOMP	TELE COMMUN PFD B	200	500
SIGR	SIGNATURE RESORTS	200	500	TCGI	TELEPORT COMMUN GR A	200	500
SGIC	SILICON GAMING INC	200	500	TLSP	TELESPECTRUM WRLDWDE	200	500
SLVR	SILVER DINER INC	500	1,000	TTEC	TELETECH HLDGS INC	200	500
SIPX	SIPEX CP	500	1,000	TDCA	THERAPEUTIC DISC A	200	500
SMXC	SMITHWAY MOTOR XPRES	200	500	TDHC	THERMADYNE HLDGS CP	1,000	500
SOLR	SOLAR-MATES INC	500	1,000	TMXI	THERMATRIX INC	200	500
SOLRW	SOLAR-MATES INC WTS	500	1,000	TMSTA	THOMASTON MILLS A	500	200
SOMR	SOMERSET GP INC THE	500	200	THOR	THORATEC LABS CORP	500	1,000
SIMAW	SONICS & MATERIAL WT	500	1,000	TIMT	TITANIUM METALS CP	200	500
SIMA	SONICS & MATERIALS	500	1,000	TBDI	TMBR/SHARP DRILL INC	500	1,000
SRSV	SOURCE SERVICES CP	200	500	TKIOY	TOKIO MARINE ADR	1,000	500
SFFB	SOUTHERN FIN BNCP	500	200	TCTC	TOMPKINS COUNTY TRCO	500	200
SWPA	SOUTHWEST NATL CP	500	200	TELU	TOTAL-TEL USA COMMUN	500	1,000
SIMC	SPACETEC IMC CP	500	1,000	TRNI	TRANS INDS INC	1,000	500
SPAN	SPAN AMERICA MED SYS	500	1,000	TRCW	TRANSCOR WASTE SERV	1,000	500
SPEK	SPEC S MUSIC INC	1,000	500	TSIX	TRANSITION SYSTEMS	500	1,000
SLNK	SPECTRALINK CP	500	1,000	TRNS	TRANSMATION INC	1,000	500
SPCH	SPORT CHALET INC	1,000	500	TNZRY	TRANZ RAIL HLDGS ADR	200	500
SQAI	SQUARE INDUSTRIES	500	1,000	TRVS	TRAVIS BOATS & MOTOR	200	500
STHC	STAT HEALTHCARE NEW	500	1,000	TMAR	TRICO MARINE SVCS	200	500
STHCW	STAT HLTHCR WTS NEW	500	1,000	TRDT	TRIDENT INTL INC	500	1,000
STEK	STECK-VAUGHN PUBLISH	1,000	500	TEAL	TRITEAL CORPORATION	200	500
STRC	STERILE RECOVERIES	200	500	THBC	TROY HILL BNCP INC	500	1,000
STMD	STORMEDIA INC CL A	500	1,000	TFCO	TUFECO TECHS INC	1,000	500
SSYS	STRATASYS INC	500	1,000	PYTV	TV FILME INC	200	500
STRA	STRAYER EDUCATION	200	500				
SLAM	SUBURBAN LODGES AMER	200	500	U			
SUBI	SUN BANCORP INC	500	200	UFPT	U F P TECH INC	500	1,000
SUNH	SUNDANCE HOMES INC	500	1,000	UMBF	U M B FIN CP	500	1,000
SUNQ	SUNQUEST INFO SYS	200	500	USNA	U S A N A INC	500	1,000
SNRZ	SUNRISE ASSISTED LIV	200	500	USCS	U S C S INTL INC	200	500
SUPG	SUPERGEN INC	500	1,000	UGLY	UGLY DUCKLING CP	200	500
SUPGW	SUPERGEN INC WTS	500	1,000	ULTD	ULTRADATA CP	500	1,000
SNTL	SUPERIOR NATL INS GP	500	1,000	UFEM	ULTRAFEM INC	500	1,000
SUPR	SUPERIOR SVCS INC	500	1,000	UNFY	UNIFY CP	200	500
SPPR	SUPERTEL HOSPITALITY	1,000	500	UBSC	UNION BKSHS LTD	1,000	500
SWMAY	SWEDISH MATCH AB ADR	500	1,000	UPCPO	UNION PLANTERS PFD E	500	1,000
SYKE	SYKES ENTERPRISES	500	1,000	UASI	UNITED AIR SPEC INC	500	1,000
NZYM	SYNTHETECH INC	500	1,000	UBMT	UNITED FINANCIAL CP	500	200

<u>Symbol</u>	<u>Company Name</u>	<u>Old Tier Level</u>	<u>New Tier Level</u>	<u>Symbol</u>	<u>Company Name</u>	<u>Old Tier Level</u>	<u>New Tier Level</u>
UPUP	UNITED PAY & UN PROV	200	500	WCSTF	WESCAST INDS INC A	500	1,000
UTVI	UNITED TELEVISION	1,000	500	WCBO	WEST COAST BNCP ORE	500	1,000
UOUT	UNIVERSAL OUTDOOR	200	500	WCEC	WEST COAST ENTERTAIN	500	1,000
UCOR	UROCOR INC	200	500	WOFC	WESTERN OHIO FIN	500	1,000
ULGX	UROLOGIX INC	200	500	WSTF	WESTERN STAFF SVCS	500	1,000
				WWCA	WESTERN WIRELESS A	200	500
				WEYS	WEYCO GP INC	500	200
V				WFRAF	WHARF RESOURCES LTD	500	200
VDRY	VACU DRY CO	500	200	WHIT	WHITTMAN-HART INC	500	1,000
VNTV	VANTIVE CP (THE)	500	1,000	WKGP	WORKGROUP TECH CP	500	1,000
VMSI	VENTANA MED SYSTEMS	200	500	WTLK	WORLD TALK COMMUN CP	500	1,000
VRLK	VERILINK CP	200	500				
VRSA	VERSA TECH INC	1,000	500	X			
VSNT	VERSANT OBJECT TECH	200	500	XVRC	XAVIER CORP	200	500
VCAM	VINCAM GROUP INC THE	500	1,000	XEIKY	XEIKON N V ADR	500	1,000
VRII	VIRUS RESEARCH INST	200	500	XYLN	XYLAN CP	500	1,000
VGINF	VISIBLE GENETICS	500	1,000				
VSGN	VISIGENIC SOFTWARE	200	500	Y			
W				YHOO	YAHOO INC	500	1,000
WVFC	W V S FINANCIAL CP	500	200	YFCB	YONKERS FINANCIAL CP	500	1,000
WAIN	WAINWRIGHT BK TR CO	1,000	500	YRKG	YORK GRP INC (THE)	500	1,000
WSHI	WALSH INTL INC	500	1,000	YSII	YOUTH SVCS INTL INC	500	1,000
WALS	WALSHIRE ASSURANCE	1,000	500				
WRNB	WARREN BANCP INC	1,000	500	Z			
WASH	WASHINGTON TRUST	200	500	ZSEV	Z SEVEN FUND INC THE	500	200
WATFZ	WATERFORD PLC ADR UT	500	200	ZHOM	ZARING HOMES INC	1,000	500
WYNE	WAYNE BANCORP INC	200	500				

NASD NOTICE TO MEMBERS 96-89

NASD 1997 Holiday Schedule

Suggested Routing

- Senior Management
- Advertising
- Corporate Finance
- Government Securities
- Institutional
- Internal Audit
- Legal & Compliance
- Municipal
- Mutual Fund
- Operations
- Options
- Registration
- Research
- Syndicate
- Systems
- Trading
- Training

The NASD will observe the following holiday schedule for 1997:

January 1	New Year's Day
February 17	Presidents' Day
March 28	Good Friday
May 26	Memorial Day
July 4	Independence Day
September 1	Labor Day
November 27	Thanksgiving Day
December 25	Christmas Day

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

NASD NOTICE TO MEMBERS 96-90

Trade Date-Settlement Date Schedule For 1997

Suggested Routing

- Senior Management
- Advertising
- Corporate Finance
- Government Securities
- Institutional
- Internal Audit
- Legal & Compliance
- Municipal
- Mutual Fund
- Operations
- Options
- Registration
- Research
- Syndicate
- Systems
- Trading
- Training

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

The schedule of trade dates-settlement dates below reflects the observance by the financial community of Martin Luther King, Jr., Day, Monday, January 20, 1997. On January 20, 1997, The Nasdaq Stock Market and the securities exchanges will be open for trading. However, it will not be a settlement date because many of the nation's banking institutions will be closed.

<u>Trade Date</u>	<u>Settlement Date</u>	<u>Reg. T Date*</u>
Jan. 13	Jan. 16	Jan. 20
14	17	21
15	21	22
16	22	23
17	23	24
20	23	27
21	24	28

Note: January 20, 1997, is considered a business day for receiving customers' payments under Regulation T of the Federal Reserve Board.

Transactions made on January 20 will be combined with transactions made on the previous business day, January 17, for settlement on January 23. Securities will not be quoted ex-dividend, and settlements, marks to the market, reclamations, and buy-ins and sell-outs, as provided in the Uniform Practice Code, will not be made and/or exercised on January 20.

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

Presidents' Day: Trade Date-Settlement Date Schedule

The Nasdaq Stock Market and the securities exchanges will be closed on Monday, February 17, 1997, in observance of Presidents' Day, "Regular way" transactions made on the business days noted below will be subject to the following schedule:

<u>Trade Date</u>	<u>Settlement Date</u>	<u>Reg. T Date*</u>
Feb. 11	Feb. 14	Feb. 19
12	18	20
13	19	21
14	20	24
17	Markets Closed	—
18	21	25

Good Friday: Trade Date-Settlement Date Schedule

The Nasdaq Stock Market and the securities exchanges will be closed on Good Friday, March 28, 1997. "Regular way" transactions made on the business days noted below will be subject to the following schedule:

<u>Trade Date</u>	<u>Settlement Date</u>	<u>Reg. T Date*</u>
March 24	March 27	April 1
25	31	2
26	April 1	3
27	2	4
28	Markets Closed	—
31	3	7

Memorial Day: Trade Date-Settlement Date Schedule

The Nasdaq Stock Market and the securities exchanges will be closed on Monday, May 26, 1997, in observance of Memorial Day. "Regular way" transactions made on the business days noted below will be subject to the following schedule:

<u>Trade Date</u>	<u>Settlement Date</u>	<u>Reg. T Date*</u>
May 20	May 23	May 28
21	27	29
22	28	30
23	29	June 2
26	Markets Closed	—
27	30	3

Independence Day: Trade Date-Settlement Date Schedule

The Nasdaq Stock Market and the securities exchanges will be closed on Friday, July 4, 1997, in observance of Independence Day. "Regular way" transactions made on the business days noted below will be subject to the following schedule:

<u>Trade Date</u>	<u>Settlement Date</u>	<u>Reg. T Date*</u>
June 30	July 3	July 8
July 1	7	9
2	8	10
3	9	11
4	Markets Closed	—
7	10	14

Labor Day: Trade Date-Settlement Date Schedule

The Nasdaq Stock Market and the securities exchanges will be closed on Monday, September 1, 1997, in observance of Labor Day. "Regular way" transactions made on the business days noted below will be subject to the following schedule:

<u>Trade Date</u>	<u>Settlement Date</u>	<u>Reg. T Date*</u>
Aug. 26	Aug. 29	Sept. 3
27	Sept. 2	4
28	3	5
29	4	8
Sept. 1	Markets Closed	—
2	5	9

Columbus Day: Trade Date-Settlement Date Schedule

The schedule of trade dates-settlement dates below reflects the observance by the financial community of Columbus Day, Monday, October 13, 1997. On this day, The Nasdaq Stock Market and the securities exchanges will be open for trading. However, it will not be a settlement date because many of the nation's banking institutions will be closed.

<u>Trade Date</u>	<u>Settlement Date</u>	<u>Reg. T Date*</u>
Oct. 6	Oct. 9	Oct. 13
7	10	14
8	14	15
9	15	16
10	16	17
13	16	20
14	17	21

Note: October 13, 1997, 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 16. Securities will not be quoted ex-dividend, and settlements, marks to the market, reclamations, and buy-ins and sell-outs, as provided in the Uniform Practice Code, will not be made and/or exercised on October 13.

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

The schedule of trade dates-settlement dates below reflects the observance by the financial community of Veterans' Day, Tuesday, November 11, 1997, and Thanksgiving Day, Thursday, November 27, 1997. On Tuesday, November 11, The Nasdaq Stock Market and the securities exchanges will be open for trading. However, it will not be a settlement date because many of the nation's banking institutions will be closed in observance of Veterans' Day. All securities markets will be closed on Thursday, November 27, in observance of Thanksgiving Day.

<u>Trade Date</u>	<u>Settlement Date</u>	<u>Reg. T Date*</u>
Nov. 4	Nov. 7	Nov. 11
5	10	12
6	12	13
7	13	14
10	14	17
11	14	18
21	26	Dec. 1
24	28	2
25	Dec. 1	3
26	2	4
27	Markets Closed	—
28	3	5

Note: November 11, 1997, is considered a business day for receiving customers' payments under Regulation T of the Federal Reserve Board.

Transactions made on November 11 will be combined with transactions made on the previous business day, November 10, for settlement on November 14. Securities will not be quoted ex-dividend, and settlements, marks to the market, reclamations, and buy-ins and sell-outs, as provided in the Uniform Practice Code, will not be made and/or exercised on November 11.

Christmas Day And New Year's Day: Trade Date-Settlement Date Schedule

The Nasdaq Stock Market and the securities exchanges will be closed on Thursday, December 25, 1997, in observance of Christmas Day, and Thursday, January 1, 1998, in observance of New Year's Day. "Regular way" transactions made on the business days noted below will be subject to the following schedule:

<u>Trade Date</u>	<u>Settlement Date</u>	<u>Reg. T Date*</u>
Dec. 19	Dec. 24	Dec. 29
22	26	30
23	29	31
24	30	Jan. 2, 1998
25	Markets Closed	—
26	31	5
29	Jan. 2, 1998	6
30	5	7
31	6	8
Jan. 1, 1998	Markets Closed	—
2	7	9

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

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

NASD NOTICE TO MEMBERS 96-91

Fixed Income Pricing
System Additions,
Changes, And Deletions
As Of November 29, 1996

Suggested Routing

- Senior Management
- Advertising
- Corporate Finance
- Government Securities
- Institutional
- Internal Audit
- Legal & Compliance
- Municipal
- Mutual Fund
- Operations
- Options
- Registration
- Research
- Syndicate
- Systems
- Trading
- Training

As of November 29, 1996, the following bonds were added to the Fixed Income Pricing System (FIPS).

Symbol	Name	Coupon	Maturity
UIS.GG	Unisys Corp	11.750	10/15/04
TLLP.GC	Toll Corp	8.750	11/15/06
MCCC.GA	McCrory Corp	7.770	7/15/94
TALR.GA	Total Renal Care	12.000	8/15/04
ROGC.GB	Rogers Cable Systems Ltd	11.000	12/1/15
ROGC.GA	Rogers Cable Systems Ltd	10.000	12/1/07
KOPI.GA	Koppers Industries	8.500	2/1/04
ISPT.GA	ISP Chem/ISP Tech	9.000	3/1/99
DEEP.GA	Deep Tech Intl	12.000	12/15/00
WBB.GC	Webb (Del) Corp	9.000	2/15/06
LD.GA	Louis Dreyfus Nat Gas	9.250	6/15/04
CNP.GA	Crown Central Petroleum	10.875	2/1/05
GSTE.GB	GS Technologies Oper	12.000	9/1/04
CONG.GA	Congoleum Corp	9.000	2/1/01
MUZC.GA	Muzak LP/Capital	10.000	10/1/03
FGAS.GA	Forcenergy Inc	9.500	11/1/06
VTS.GA	Veritas DGC Inc	9.750	10/15/03
AGY.GB	Argosy Gaming	12.000	6/1/01
LAMR.GB	Lamar Advertising	9.625	12/1/06
BYD.GB	Boyd Gaming Corp	9.250	10/1/03
STO.GL	Stone Container Corp	11.875	8/1/16
KBH.GC	Kaufman & Broad Home Corp	9.625	11/15/06
HOA.GA	Showboat Marina CP/Finl Corp	13.500	3/15/03
MIKE.GA	Michaels Stores Inc	10.875	6/15/06

As of November 29, 1996, the following bonds were deleted from FIPS.

Symbol	Name	Coupon	Maturity
UIS.GC	Unisys Corp	8.875	7/15/97
PIR.GA	Pier 1 Imports Inc	11.500	7/15/03
TDY.GA	Teledyne Inc	10.000	6/1/04
VISC.GA	Vis Cap Corp	12.375	7/1/98
WOA.GA	Worldcorp Inc	13.875	8/15/97
NMK.GA	Niagara Mohawk Power Corp	5.875	11/1/96
PLS.GA	Paracelsus Healthcare Corp	9.875	10/15/03

As of November 29, 1996, changes were made to the symbols of the following FIPSSM bonds:

New Symbol	Old Symbol	Name	Coupon	Maturity
PLS.GB	PHCR.GB	Paracelsus Healthcare Corp	10.000	8/15/06
ENQ.GB	AMMO.GA	American Media Operations Inc	11.626	11/15/04

All bonds listed above are subject to trade-reporting requirements. Questions pertaining to FIPS trade-reporting rules should be directed to James C. Dolan, NASD[®] Market Regulation, at (301) 590-6460.

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

NASD RULE FILING STATUS

Rule Filing Status As Of
December 3, 1996

NASD Rule Filing Status

Following is a list of rule filings by the NASD regarding broker/dealer regulation that are pending at the Securities and Exchange Commission (SEC) or recently approved. The information set forth below is current as of December 3, 1996. Copies of rule filings (and any amendments thereto), the SEC release publishing the rule proposal for comment, and the SEC release approving the rule change are available from the SEC Public Reference Room at (202) 942-8090 or, call Kristine Gwilliam, NASD® Office of General Counsel, at (202) 728-8821 (in certain cases a fee may be required). NASD rule changes are not effective until the date approved by the SEC.

Rule Filings That Have Not Been Published For Comment

96-42

Amend Uniform Practice Code Rule 11580 to grant authority to staff to provide exemptions from the requirement to use Standardized Transfer Forms when transferring limited partnership securities.

96-34

Amend Uniform Code of Arbitration Rule 10335 (formerly Section 47 of the Code of Arbitration Procedure) to clarify that parties are required to expedite any proceeding where a court has issued temporary injunctive relief and that failure to expedite a proceeding under the Rule will constitute a failure to arbitrate in violation of NASD rules.

Rule Filings That Have Been Published For Comment But Have Not Been Approved By The SEC

96-40

Amend Rule 6800 to permit smaller mutual funds to disseminate their prices via Mutual Fund Quotation Service. Published for comment by

the SEC in Rel. No. 34-37922 (11/5/96); 61 FR 58271 (11/13/96).

96-39

Amend IM-2210-3 to allow for the use in advertisements and sales literature of investment company rankings that represent short-, medium-, and long-term performance. Published for comment by the SEC in Rel. No. 34-37987 (11/25/96); 61 FR 64185 (12/3/96).

96-38

Amend IM-8310-2 to expand the categories for the release of information contained in the Central Registration Depository (CRD) regarding disciplinary history. Published for comment by the SEC in Rel. No. 34-37994 (12/2/96); 61 FR 64549 (12/5/96).

96-28

Add new Rule 2211 and amend Rule 3110 (formerly Article IV, Section 21 of the NASD Rules of Fair Practice) to impose time restriction and disclosure requirements on telemarketing calls. Published for comment by the SEC in Rel. No. 34-37475 (7/24/96); 61 FR 39686 (7/30/96).

95-63

Amend the NASD rules to adopt a new section to regulate the conduct of a broker/dealer on the premises of a financial institution. Published for comment by the SEC in Rel. No. 34-36980 (3/15/96); 61 FR 11913 (3/22/96).

95-61

Amend Rules 2830 and 2820 (formerly Article III, Sections 26 and 29 of the NASD Rules of Fair Practice) to regulate the receipt by members and their associated persons of cash and non-cash compensation for the sale of investment company and variable contract securities. Published for comment by the SEC in Rel. No. 34-37374 (6/26/96); 61 FR 35822

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(7/8/96). Comment period extended by the SEC in Rel. No. 34-37528 (8/5/96); 61 FR 41816 (08/12/96).

Rule Filings Recently Approved By The SEC

96-36

Amend Schedule A to the NASD By-Laws to adopt CRD fees. Immediate effectiveness granted by the SEC in Rel. No. 34-37826 (10/22/96); 61 FR 54830 (10/22/96).

96-32

Amend Rule IM-8310-2 to permit the NASD to provide a copy of any disciplinary complaint or decision

upon request and require that such copy be accompanied by a disclosure statement in certain circumstances. Accelerated approval granted by the SEC in SEC Rel. No. 34-37797 (10/9/96); 61 FR 53984 (10/16/96).

96-29

Permanent approval requested for the Plan of Allocation and Delegation setting forth the purpose, function, governance, procedures, and responsibilities of the NASD, NASD Regulation, and Nasdaq. Temporary accelerated approval granted by the SEC and publication for comment in Rel. No. 34-37425 (7/11/96); 61 FR 37518 (7/18/96). Temporary acceler-

ated approval granted by the SEC in Rel. No. 34-37957 (11/15/96; 61 FR 59267 (11/21/96) through 5/15/97.

96-20

Amend the NASD By-Laws to make them consistent with the Delegation Plan. Published for comment by the SEC in Rel. No. 34-37282 (6/6/96); 61 FR 29777 (06/12/96). Temporary accelerated approval granted by the SEC in Rel. No. 34-37424 (7/11/96); 61 FR 37515 (7/18/96). Temporary accelerated approval granted by the SEC in Rel. No. 34-37956 (11/15/96; 61 FR 59265 (11/21/96) through 5/15/97.

DISCIPLINARY ACTIONS

Disciplinary Actions Reported For December

NASD Regulation, Inc. (NASD Regulation) has taken disciplinary actions against the following firms and individuals for violations of NASD® Rules; securities laws, rules, and regulations; and the rules of the Municipal Securities Rulemaking Board. Unless otherwise indicated, suspensions will begin with the opening of business on Monday, December 16, 1996. The information relating to matters contained in this Notice is current as of the end of November. Information received subsequent to the end of November is not reflected in this edition.

Firm Expelled

Rothschild Global Investments, Inc. (Tampa, Florida) was fined \$25,000 and expelled from membership in the NASD. The sanctions were based on findings that the firm conducted a securities business while failing to maintain its minimum required net capital and filed inaccurate FOCUS Part I and IIA reports with the NASD. The firm also prepared an inaccurate general ledger, trial balance, and net capital computation and failed to give telegraphic notice of its net capital deficiency.

Firm Fined, Individual Sanctioned Everest Securities, Inc. (Minneapolis, Minnesota) and **Jeanne Alyce Kunkel (Registered Principal, Minneapolis, Minnesota)**. The firm and Kunkel were fined \$15,000, jointly and severally and required to pay \$22,500 in restitution. Kunkel was barred from association with any NASD member in a principal capacity and required to requalify by exam as a registered representative. The Securities and Exchange Commission (SEC) affirmed the sanctions following appeal of a September 1994 National Business Conduct Committee (NBCC) decision. The sanctions were based on findings that the firm and Kunkel offered and sold securities using documents that were

misleading. The firm, acting through Kunkel, also failed to maintain accurate books and records.

This action has been appealed to a United States Court of Appeals, and the sanctions, other than the bar, are not in effect pending consideration of the appeal.

Firm And Individual Fined

The Trading Desk, Inc. (Englewood, Colorado) and **Jerry W. Manning (Registered Principal, Englewood, Colorado)**. The firm was fined \$75,000 and Manning was fined \$10,000. The sanctions were based on findings that the firm engaged in a series of purchases and sales transactions involving margin trading of government securities derivatives with institutional customers that were speculative and excessive in size and frequency and were unsuitable for the customers on the basis of their investment objectives, financial situations, and needs. Furthermore, the firm, acting through Manning, failed to properly supervise the activities of a registered representative.

Individuals Barred Or Suspended

Charles E. Anderson, Jr. (Registered Representative, Seneca, South Carolina) was fined \$20,000 and barred from association with any NASD member in any capacity. The sanctions were based on findings that Anderson failed to respond to NASD requests for information about his termination from a member firm.

Terrance L. Areford (Registered Representative, Morgantown, West Virginia) submitted an Offer of Settlement pursuant to which he was fined \$10,000 and barred from association with any NASD member in any capacity. Without admitting or denying the allegations, Areford con-

sent to the described sanctions and to the entry of findings that he affixed the signature of a public customer to an application for a variable annuity and submitted the application to his member firm without the authorization or consent of the customer.

Charles T. Birdsong (Registered Representative, Tampa, Florida) was fined \$5,000 and suspended from association with any NASD member in any capacity for 30 days. The sanctions were based on findings that Birdsong promised two public customers that he would reimburse them for the losses they incurred in their securities accounts and sent checks totaling \$11,350 to the customers to cover margin calls in their accounts.

Birdsong's suspension began November 18, 1996 and concluded December 17, 1996.

Jeffrey N. Boone (Registered Representative, Mt. Juliet, Tennessee) submitted a Letter of Acceptance, Waiver and Consent pursuant to which he was fined \$3,740 and suspended from association with any NASD member in any capacity for one month. Without admitting or denying the allegations, Boone consented to the described sanctions and to the entry of findings that he recommended and engaged in purchase transactions for public customers without receiving an acknowledgment in writing from the customers that they understood that such purchases could have been executed at a reduced sales charge at certain breakpoint levels. The NASD found that Boone did not have reasonable grounds for believing that these recommendations and resultant transactions were suitable for the customers based on their financial situation, investment objectives, and needs. The findings also stated that Boone sent correspondence to public customers before obtaining written

supervisory approval of the correspondence from a principal of his member firm.

Charles H. Boyd (Registered Principal, Baltimore, Maryland) was fined \$50,000 and barred from association with any NASD member in any capacity. The sanctions were based on findings that Boyd affixed the endorsements of public customers on a \$25,000 check and deposited the check to a bank account of a corporation in which he had an ownership interest without the prior authorization of the customers. Boyd also failed to respond to NASD requests for information.

John S. Brownson, Jr. (Registered Representative, North Miami Beach, Florida) was fined \$30,000 and barred from association with any NASD member in any capacity. The sanctions were based on findings that Brownson opened a securities account with his member firm under a false customer name and failed to disclose that the address and telephone number on the account card was the old office address and telephone of another individual who controlled the account.

Edwin G. Carpenter, II (Registered Representative, Philadelphia, Pennsylvania) submitted an Offer of Settlement pursuant to which he was fined \$20,000 and barred from association with any NASD member in any capacity. Without admitting or denying the allegations, Carpenter consented to the described sanctions and to the entry of findings that he failed to respond to NASD requests to appear and provide testimony in connection with an investigation.

Clayton L. Chamberlain (Registered Representative, Fulton, New York) was fined \$20,000 and barred from association with any NASD member in any capacity. The sanctions were based on findings that

Chamberlain failed to respond to NASD requests for information about customer complaints.

Christopher C. Chaney (Registered Representative, Jessup, Maryland) was fined \$25,000 and barred from association with any NASD member in any capacity. The sanctions were based on findings that Chaney purchased shares of stock for the account of a public customer without the customer's knowledge or consent. Chaney also failed to respond to NASD requests for information.

Michael G. Cohen (Registered Principal, Philadelphia, Pennsylvania) submitted an Offer of Settlement pursuant to which he was fined \$20,000 and barred from association with any NASD member in any capacity. Without admitting or denying the allegations, Cohen consented to the described sanctions and to the entry of findings that he failed to respond to NASD requests to provide testimony.

Francis P. Collins (Registered Representative, Drexel Hill, Pennsylvania) submitted a Letter of Acceptance, Waiver and Consent pursuant to which he was fined \$250,000 and barred from association with any NASD member in any capacity. Without admitting or denying the allegations, Collins consented to the described sanctions and to the entry of findings that he distributed internal summaries to registered representatives regarding recommended stocks that failed to disclose material risks and material adverse financial information about the stocks. The findings also stated that Collins discouraged registered representatives from doing their own research into recommended stocks and gave scripts to registered representatives about stocks for use in their sales presentations to public customers containing price predications, materi-

al omissions, and material misrepresentations. Furthermore, the NASD found that Collins discouraged registered representatives from processing unsolicited sell orders from customers and encouraged or permitted registered representatives he supervised to execute unauthorized trades in customer accounts to purchase recommended stocks.

John R. Cox (Registered Representative, Unionville, Pennsylvania) was fined \$20,000 and barred from association with any NASD member in any capacity. The sanctions were based on findings that Cox failed to respond to NASD requests for information about allegations by policyholders of misrepresentation and unauthorized loan transactions.

Michael F. Fuoco (Registered Representative, Cherry Hill, New Jersey) was fined \$20,000 and barred from association with any NASD member in any capacity. The sanctions were based on findings that Fuoco failed to respond to NASD requests for information.

Maureen Galligan (Registered Representative, San Diego, California), Gerald Seroy (Registered Representative, Basking Ridge, New Jersey), and Jeffrey K. Trilling (Registered Representative, Rockville, Maryland) submitted Offers of Settlement pursuant to which Galligan was fined \$6,567.15 and suspended from recommending any transactions in penny stocks for one year. Seroy was fined \$2,552.94 and suspended from recommending any transactions in penny stocks for one year, and Trilling was fined \$2,812 and suspended from recommending any transactions in penny stocks for one year. Without admitting or denying the allegations, the respondents consented to the described sanctions and to the entry of findings that Galligan, Seroy, and Trilling effected \$54,480 in penny

stock transactions for public customers in contravention of Section 15(g) of the Securities Exchange Act of 1934.

Samuel Allen Goldsmith (Registered Representative, San Francisco, California) submitted a Letter of Acceptance, Waiver and Consent pursuant to which he was fined \$100,000 and barred from association with any NASD member in any capacity. Without admitting or denying the allegations, Goldsmith consented to the described sanctions and to the entry of findings that he effected the improper transfer of customer funds and thereby caused the misuse of the funds. The findings also stated that Goldsmith failed to respond to NASD requests for information.

Lynn B. Hall (Registered Representative, San Francisco, California) submitted a Letter of Acceptance, Waiver and Consent pursuant to which she was fined \$50,000 and barred from association with any NASD member in any capacity. Without admitting or denying the allegations, Hall consented to the described sanctions and to the entry of findings that she signed customer names to life insurance policies and to a request for policy cancellation form without the customers' knowledge or consent.

Anthony D. Hammond (Registered Representative, Owings Mills, Maryland) was fined \$20,000 and barred from association with any NASD member in any capacity. The sanctions were based on findings that Hammond failed to respond to NASD requests for information about customer complaints.

Karen Shaolin Hsieh (Registered Representative, Hercules, California) submitted a Letter of Acceptance, Waiver and Consent pursuant to which she was fined \$500,000 and barred from association with any

NASD member in any capacity. Without admitting or denying the allegations, Hsieh consented to the described sanctions and to the entry of findings that she effected the improper transfer of customer funds and thereby caused the misuse of the funds.

Robert C. Intrieri (Registered Representative, North Wales, Pennsylvania) submitted an Offer of Settlement pursuant to which he was fined \$10,000 and barred from association with any NASD member in any capacity. Without admitting or denying the allegations, Intrieri consented to the described sanctions and to the entry of findings that, without the prior authorization or consent of public customers, he affixed signatures purporting to be those of the customers to insurance forms and thereafter submitted them to his member firm.

John T. Jarvis (Registered Representative, Pittsburgh, Pennsylvania) was fined \$20,000 and barred from association with any NASD member in any capacity. The sanctions were based on findings that Jarvis failed to respond to NASD requests for information about customer complaints.

Dean R. Jennings (Registered Representative, Tolland, Connecticut) submitted a Letter of Acceptance, Waiver and Consent pursuant to which he was fined \$25,000 and barred from association with any NASD member in any capacity. Without admitting or denying the allegations, Jennings consented to the described sanctions and to the entry of findings that he facilitated loan distributions from insurance and annuity policies of public customers totaling \$5,316.39 and caused the checks to be cashed or deposited to his account for his personal use and benefit without the knowledge or consent of the customers.

James Henry Jones, Jr. (Registered Representative, St. Petersburg, Florida) was fined \$20,000 and barred from association with any NASD member in any capacity. The sanctions were based on findings that Jones failed to respond to NASD requests for information about customer complaints.

Lester H. Lane (Registered Principal, Englewood, Colorado) was fined \$10,000 and suspended from association with any NASD member in any principal capacity for one year. The sanctions were based on findings that Lane caused and permitted his member firm to violate its restriction agreement.

James A. Madorma (Registered Representative, Wellington, Florida) was fined \$30,000 and barred from association with any NASD member in any capacity. The sanctions were based on findings that Madorma effected or caused to be effected purchase transactions in the account of a public customer without the customer's prior knowledge or authorization. Madorma also failed to respond to an NASD request for information.

Russell Charles Martin (Registered Representative, Miami Beach, Florida) was fined \$10,000, suspended from association with any NASD member in any capacity for 30 days, and ordered to requalify by exam as a general securities sales representative. The sanctions were based on findings that Martin effected or caused to be effected the purchase of warrants in the joint account of public customers without their prior knowledge or authorization.

Joseph K. McCusker (Registered Representative, Center Conway, New Hampshire) submitted a Letter of Acceptance, Waiver and Consent pursuant to which he was fined \$5,000 and barred from association

with any NASD member in any capacity. Without admitting or denying the allegations, McCusker consented to the described sanctions and to the entry of findings that he forged customer signatures on insurance policy dividend checks totaling \$505.46 without the customers' knowledge or consent.

Robert R. McMurtrie (Associated Person, Voorhees, New Jersey) was fined \$250,000 and barred from association with any NASD member in any capacity. The sanctions were based on findings that McMurtrie engaged in a fraudulent scheme to misstate his member firm's reported assets, capital, and net capital, thereby concealing its actual financial condition. McMurtrie's aforementioned conduct enabled his member firm to effect securities transactions while failing to maintain its required level of net capital. McMurtrie also failed to respond to NASD requests for information.

Edward Milman (Associated Person, Granada Hills, California) submitted an Offer of Settlement pursuant to which he was fined \$20,000 and barred from association with any NASD member in any capacity. Without admitting or denying the allegations, Milman consented to the described sanctions and to the entry of findings that he arranged to have an imposter take the Series 7 exam for him. The findings also stated that Milman failed to respond to NASD requests for information.

Stacy Gene Nettinga (Registered Representative, Mitchell, South Dakota) submitted an Offer of Settlement pursuant to which he was fined \$100,000, barred from association with any NASD member in any capacity, and required to pay \$18,500 in restitution. Without admitting or denying the allegations, Nettinga consented to the described sanctions and to the entry of findings that he

failed to respond to NASD requests for information. The findings also stated that, without the knowledge or consent of public customers, Nettinga misused customer funds totaling \$22,000 by changing their address to a post office box and either sending checks to that address or transferring funds between customer accounts.

Dennis F. Nuss (Registered Representative, Maspeth, New York) submitted a Letter of Acceptance, Waiver and Consent pursuant to which he was fined \$100,000, barred from association with any NASD member in any capacity, and required to pay restitution. Without admitting or denying the allegations, Nuss consented to the described sanctions and to the entry of findings that he misappropriated and converted customer funds totaling \$350,000 for his own use and benefit without the knowledge or consent of the customers. The findings also stated that in an effort to conceal his activity, Nuss prepared and sent fictitious confirmations, monthly account statements, and Internal Revenue Service forms to public customers from whom he misappropriated the funds.

Anthony W. Palma (Registered Principal, Ft. Lauderdale, Florida) was fined \$20,000 and barred from association with any NASD member in any capacity. The sanctions were based on findings that Palma submitted false information to the NASD in connection with an investigation.

Joseph A. Panasiuk (Registered Representative, Ardsley, Pennsylvania) was fined \$20,000 and barred from association with any NASD member in any capacity. The sanctions were based on findings that Panasiuk failed to respond to NASD requests for information.

David J. Pawlicki (Registered Representative, Pittsburgh, Pennsylvania) submitted an Offer of Settlement

pursuant to which he was fined \$15,000 and barred from association with any NASD member in any capacity. Without admitting or denying the allegations, Pawlicki consented to the described sanctions and to the entry of findings that he affixed a customer's signature to a life insurance policy application, a policy delivery receipt, and related documents and submitted the applications to his member firm without the customer's authorization or consent. The findings also stated that Pawlicki, in connection with the submission of the aforesaid application, caused \$302.90 to be withdrawn from another policy owned by the customer and applied to pay the initial annual premium on the new application.

Rick E. Pierson (Registered Principal, Houston, Texas) was fined \$5,000 and suspended from association with any NASD member in any capacity for one week. The sanctions were based on findings that, in connection with purchase and sale transactions of United States government agency securities, Pierson knowingly or recklessly failed to independently determine the market price for the transactions, and in so doing, Pierson participated in, and furthered, an "adjusted trading" scheme. Furthermore, Pierson failed to reflect on his member firm's books and records that these transactions were not effected at the then current market prices.

Roy Allan Rubin (Registered Principal, Collegeville, Pennsylvania) and **Joseph Francis Chester, Jr. (Registered Principal, Princeton, New Jersey)** submitted Offers of Settlement pursuant to which Rubin was fined \$250,000 and barred from association with any NASD member in any capacity. Chester was fined \$150,000 and barred from association with any NASD member in any capacity. Without admitting or deny-

ing the allegations, the respondents consented to the described sanctions and to the entry of findings that Rubin and Chester engaged in abusive sales practices and directed, fostered, or induced registered representatives to also engage in abusive sales practices. The findings also stated that Chester engaged in unauthorized trading and directed registered representatives he supervised to engage in unauthorized trading as well. Furthermore, the NASD determined that Rubin and Chester failed to establish, implement, and enforce reasonable procedures to deter or prevent the above violations.

Paul M. Spear (Registered Principal, Redondo Beach, California) was fined \$15,000, suspended from association with any NASD member in any capacity for one year, barred from association with any NASD member in any principal capacity with the right to re-apply after two years, and required to requalify by exam. The sanctions were based on findings that Spear permitted unregistered persons to solicit business for his member firms and compensated them for the transactions that resulted from their efforts. Furthermore, Spear shared securities commissions with an unregistered entity and solicited members of the public to become customers and place orders to purchase securities by misrepresenting that certain transactions would be executed without charge to the customers when he knew that the price to the customer would include a markup. Spear also induced a customer to purchase stock by projecting and promising future prices in excess of the customer's purchase prices without a reasonable basis and by failing to disclose to the customer the risks associated with the purchase of stock.

Ira Weiner (Registered Representative, Sunrise, Florida) submitted a

Letter of Acceptance, Waiver and Consent pursuant to which he was fined \$145,000 and barred from association with any NASD member in any capacity. Without admitting or denying the allegations, Weiner consented to the described sanctions and to the entry of findings that he obtained from a public customer checks totaling \$29,000 intended for the purchase of shares of a common stock, deposited the checks in the bank account of an entity over which he exercised control, and converted the funds for his own use and benefit.

William T. Weiss (Registered Representative, Orangeville, Pennsylvania) submitted an Offer of Settlement pursuant to which he was fined \$50,000 and barred from association with any NASD member in any capacity. Without admitting or denying the allegations, Weiss consented to the described sanctions and to the entry of findings that without the authorization or consent of public customers, he affixed or caused to be affixed to checks and a disbursement request form the endorsements of public customers, negotiated the checks, and deposited one of the checks in his bank account.

Michael A. Wynn (Registered Representative, Scottsdale, Arizona) was fined \$18,400, suspended from association with any NASD member in any capacity for 20 business days, required to pay \$30,000 plus interest in restitution to a customer, and required to requalify by exam. The sanctions were based on findings that Wynn recommended to a public customer the purchase of stock that was unsuitable for the customer in light of her investment objectives, financial situation, and needs. Wynn also exercised discretion in the account of a public customer without obtaining written authorization from the customer or written acceptance by his member firm.

Firms Expelled For Failure To Pay Fines, Costs And/Or Provide Proof Of Restitution In Connection With Violations

Helix Securities, Inc., Salt Lake City, Utah

Firms Suspended

The following firms were suspended from membership in the NASD for failure to comply with formal written requests to submit financial information to the NASD. The actions were based on the provisions of NASD Rule 8210 and Article VII, Section 2 of the NASD By-Laws. The date the suspension commenced is listed after each entry. If the firm has complied with the requests for information, the listing also includes the date the suspension concluded.

Amerifidelity Securities, Orlando, Florida (November 22, 1996)

Avatar Financial Group, Ltd, Blue Bell, Pennsylvania (November 22, 1996)

Benson Maxwell Financial, Bellevue, Washington (November 22, 1996)

Colwell Partners, Inc., Tustin, California (November 22, 1996)

C.K. Cooper & Company, Inc., Lakeport, California (November 22, 1996)

T.E. Desmond Co., Hartford, Connecticut (November 22, 1996)

Dougherty & Company, Inc., New York, New York (November 22, 1996)

Innovative Consulting, Sligo, Pennsylvania (November 22, 1996)

Kitef Investments Co., Ingelwood, California (November 22, 1996)

John A. Levin & Co., Inc., New York, New York (November 22, 1996)

Nova Financial, Inc., Salt Lake City, Utah (November 22, 1996)

Old Naples Securities, Inc., Naples, Florida (November 22, 1996)

Pan American Securities, Inc., New York, New York (November 22, 1996)

Stonington Partners Group, New York, New York (November 22, 1996)

Suspensions Lifted

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

Conservative Securities Company, Colorado Springs, Colorado (October 25, 1996)

Trinity Group Securities, Inc., Mendham, New Jersey (October 31, 1996)

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

Peter C. Bucchieri, Las Vegas, Nevada

Salvatore J. Cannatella, Williamsville, New York

Edward W. Cheatwood, Thousand Oaks, California

Troy Wayne Collins, Houston, Texas

Patricia L. Faulkner, Salt Lake City, Utah

David M. Gass, White Plains, New York

Carol Karp Goodman, Los Angeles, California

Michael S. Hall, Lake Forest, California

Lamar Jones, Midwest City, Oklahoma

Willard N. Kilgrow, Draper, Utah

Robert J. Laws, New York, New York

Scott E. Lencz, Studio City, California

Raymond H. Lubeck, Jr., San Francisco, California

Marcel A. Martinez, Jr., Maple Valley, Washington

John G. Pearce, West Palm Beach, Florida

Individual Whose Registration Was Canceled/Suspended Pursuant To NASD Rule 9622 For Failure To Pay Arbitration Awards
Paul A. Laude, Long Beach, New York

NASD Regulation Bars Nine Registered Representatives Suspected Of Using An Impostor To Take Qualification Examination
NASD Regulation, Inc. (NASD Regulation) announced that it has censured and barred nine individuals suspected of paying an impostor to take a qualification examination on their behalf. In addition, each individual was fined in amounts ranging from \$25,000 to almost \$490,000.

Fines included \$25,000 for cheating on the examination, \$25,000 for failure to respond, and forfeiture of all commissions earned while the individual functioned in a registered capacity.

The disciplinary action is a continuation of an earlier investigation, which resulted in the barring and fining of 12 registered representatives. The investigation was conducted by the NASD RegulationSM New York District Office, which identified several individuals suspected of having paid an impostor to take a qualifying examination on their behalf. "Industry rules require that securities professionals who deal with the public pass certain examinations designed

to test their knowledge of the securities markets and regulations. These examinations are an important feature of the investor protection framework. In a business built on trust and confidence, there is no room for any person who would cheat on the exam," said Mary L. Schapiro, president of NASD Regulation.

Upon identification, each of the nine individuals listed were ordered to appear immediately for on-the-record testimony to answer questions regarding the qualification examination at issue. Seven of the nine either refused to appear at the interview or appeared but refused to answer questions.

The individuals who have been barred are:

Christopher Avena
Eric Balonik
Charles V. Betta
Charles F. Cacioppo
Chance Miglino
Charles Ouanounou
Peter J. Reynolds
Mario Russo
Russell Walker

NASD Regulation is continuing its investigation and more disciplinary action is expected soon.

FOR YOUR INFORMATION

SEC Limit Order Handling Rules Effective January 10, 1997

Nasdaq will be implementing the new SEC Limit Order Handling Rules on January 10, 1997. This will affect all Advanced Computerized Execution System (ACES[®]) market makers because ACES limit orders will not be linked to the inside market calculation and will not automatically update your quotes.

Specifically, the Limit Order Display Rule requires a market maker that receives a customer limit order priced at or better than its current quote and does not immediately execute the order, to display the order to the entire marketplace. If the order is priced better than the market maker's quote, whether or not the quote is at the inside market price, the market maker is obligated to display the order's price and size.

To ensure compliance with these rules as well as the existing limit order protection rules, ACES market makers that accept limit orders may choose to receive ACES orders by means of a "pass-thru" arrangement under which orders are sent via a Computer-to-Computer Interface (CTCI) into their in-house systems. The alternative for firms not using the CTCI approach is to manually check their limit orders in ACES against their quotes and replace their quotes with the limit order price and size when appropriate. Based on each firm's business volume and the momentum of the market, this may not be a feasible solution.

For ACES market makers with CTCI that elect to receive ACES orders into their in-house systems:

- Market makers will be responsible for reporting the trades to Automated Confirmation Transaction service (ACTSM). ACES will no longer lock-

in trades or report trades to ACT automatically for trades executed in the market makers' systems;

- Order-entry firms will be responsible for reporting the order-entry side of the trade to ACT (except in the case of a QSR relationship).

This ACES "pass-thru" is currently available to all ACES market makers. Please direct any questions you may have to Jack Donlon, Director, Product Development, The Nasdaq Stock Market, Inc., at (212) 858-4327.

Correction To Disciplinary Actions For October

Jerry Manning (Registered Principal, Englewood, Colorado) was suspended from association with any NASD[®] member in any principal capacity. The October *Notices to Members* erroneously stated that Manning was suspended from association with any NASD member in any capacity.

SEC Approves New Telemarketing Rules

On December 2, 1996, The Securities and Exchange Commission (SEC) approved new NASD[®] Conduct Rule 2211 to impose time restrictions and disclosure requirements regarding telephone calls to customers by members and their associated persons. In the same release, the SEC also approved amendments to NASD Conduct Rule 3110 to require members and their associated persons to follow certain procedures regarding customer authorization of a demand draft [Securities Exchange Act Rel. No. 34-38009 (December 2, 1996)]. The new rules are effective immediately.

Rule 2211 prohibits members and their associated persons from calling an individual's residence to solicit

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the purchase of securities or related services at any time other than between 8 a.m. and 9 p.m. local time, without the prior consent of the person. Rule 2211 also requires members and their associated persons to promptly and clearly disclose to the called person the caller's identity, firm, telephone number or address at which the caller may be contacted, and that the purpose of the call is to solicit the purchase of securities or related services.

Exemptions from the time-of-day and disclosure requirements of Rule 2211 are available for telephone calls by an associated person (or another associated person acting at his or her direction) to a broker or dealer, or to the associated person's existing customers who maintain an active account. An "existing customer" is a customer for whom the broker or

dealer, or a clearing broker or dealer on behalf of such customer, carries an account. An account is active for purposes of the new Rule if an existing customer: (i) has, within the preceding 12 months, effected a securities transaction in or made a deposit of funds or securities into the account, or (ii) has, **at any time**, effected a securities transaction in or made a deposit of funds or securities into the account, **and** the account has earned interest or dividend during the preceding 12 months. Also, in order to use this exemption, the customer account must have been under the control of the associated person making the telephone call at the time of the securities transaction or deposit of funds or securities.

Rule 3110 currently requires that members make and maintain a centralized do-not-call list of persons

who do not wish to receive telephone solicitations. Rule 3110 was amended to prohibit members and associated persons from obtaining from a customer or submitting for payment a check, draft, or other form of negotiable paper drawn on a customer's checking, savings, share, or similar account (demand draft), without that person's express written authorization, and to require the retention of such authorization for three years.

A *Notice to Members* containing a complete discussion of these new rules will be published in the January 1997 *Notices to Members*. However, the Notice is currently available on NASD Regulation's Web site at www.nasdr.com/2610.htm.