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# NASD NEWS

Published by the National Association of Securities Dealers, Inc.

*Special Amendments Edition*

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NEWS

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**WALLACE H. FULTON,**  
*Executive Director,*  
*National Association of Securities Dealers, Inc.,*  
1616 Walnut St.,  
Philadelphia, Pa.

PHILADELPHIA, PA. — JUNE 15, 1942

## NEW MINIMUM CAPITAL REQUIREMENTS IN INTERESTS OF INVESTORS, BUSINESS

*Association's Primary Objects Will Be Furthered by Them, Board Feels*

Protection of investors and promotion of the welfare of the investment banking and securities business are considered by the Board of Governors to be the primary objectives of the National Association of Securities Dealers, Inc.

The means for attainment of these goals are the By-Laws and Rules of Fair Practice of the Association. Within the limits imposed by them, these have been effectively employed. However, it has been increasingly apparent that the Association was lacking in a vital essential of control. It could not refuse admission to an applicant for membership except to such applicants as had their registration with the SEC revoked or were the cause of such revocation. But for this restriction, any broker or dealer lawfully engaged in the securities business under applicable Federal and State laws could become a member of the Association and be continued in membership unless expelled by the Association for violation of its business conduct Rules or unless expelled by the SEC.

This situation can materially be corrected, the Board feels, by the addition to the By-Laws of the Association of a Rule prescribing minimum capital requirements for admission to and continuance of membership in the Association. Such minimum requirements have now been passed by the Board and are being presented to the members for their approval or disapproval.

In commenting upon the proposed new minimum requirements, H. H. Dewar, Chairman of the Board, has said that they will afford public investors a measure of protection to a degree heretofore unavailable to them and will further elevate standards within the business itself with which the Association is constantly concerned.

It is also recalled that the former Chairman, Robert W. Baird, speaking for the Board in numerous addresses to members and others throughout the country, advocated standards for the securities business which would secure for it recognition.

(Turn to page 6, column 3)

## NASD CHAIRMAN SAYS BOARD, COUNCIL UNANIMOUSLY OK'D AMENDMENTS

By H. H. DEWAR, Chairman  
National Association of Securities Dealers, Inc.

Members of the National Association of Securities Dealers, Inc., are being asked to vote on twenty-seven amendments to the By-Laws and Rules of Fair Practice of the Association. The text of these amendments and ballots accompany this edition of the **NASD NEWS**.

On behalf of the Board of Governors, which unanimously approved each and all of the amendments now being presented to the members, I solicit your careful and considered action on these proposals. The Board believes in all of the proposals but it hopes that each member will take the time to cast his ballot and that his vote will be guided by sound, practical weighing of the proposals before him.

Considerable effort has been expended by the Board and the administrative staff to explain the reasons which prompted the Board to consider and pass on these amendments. This issue of the **NEWS** attempts to set forth in question and answer form, as well as through the means of explanatory articles, information which, it is hoped, will be useful to the members in deciding the merits of all of these proposals.

I appreciate that the task is not an easy one but if the member will read the amendments and refer to the **NEWS** for explanations appropriate to the various changes, the member will be better informed to act on the proposals. The Table of Contents in an adjoining column provides a quick reference as to the location in the **NEWS** of the various discussions.

### Advisory Council

The fourteen District Chairmen of NASD serve as an Advisory Council to the Board of Governors. As such, they are entitled to attend all meetings of the Board but have no voting power. The terms of office of District Chairmen are for one year. Unless an incumbent succeeds himself, a new District Chairman is duly elected each January, as it happens, at approximately the time when the Board of Governors holds its annual organization meeting. To eliminate the possibility of old and new Chairmen attending this particular meeting of the Board and to avoid this unnecessary expense, the Board recommends that Section 17 of Article IV be amended so that newly elected Chairmen may attend the meeting but not the outgoing Chairmen.

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# QUESTIONS AND ANSWERS ON NEW CAPITAL RULE

## TEXT OF PROPOSED RULE

*Any broker or dealer in any of the 48 states of the United States or the District of Columbia who is authorized to transact and whose regular course of business consists in actually transacting any branch of the investment banking or securities business in the United States, under the laws of any State and/or the laws of the United States, except such brokers or dealers as are excluded pursuant to Section 2\* of this Article, shall be eligible to membership in the Corporation; provided, however, that no broker or dealer shall be admitted to or continued in membership unless he maintains in his business as a broker or dealer net capital sufficient to meet the requirements hereinafter set forth:*

- (a) *Any member who settles contracts or transactions with customers for himself or for any other broker or dealer shall maintain at all times net capital exclusive of fixed assets of not less than \$5,000; and*
- (b) *Any member who employs a bank or another member to settle all contracts and transactions effected by him with or for his customers and who does not receive securities or funds from or for the account of any customer, shall maintain at all times net capital exclusive of fixed assets of not less than \$2,500.*

*For the purpose of carrying out the provisions of this Section, the Board of Governors may, from time to time, by rules define the term "net capital" and prescribe the method by which it shall be computed and the time when and the manner in which members shall submit statements of financial condition to the Corporation.\*\**

\* See bottom column 3. \*\* Effective date, October 15, 1942.

**Q.** What are the requirements for membership in the National Association of Securities Dealers, Inc., if proposed new rules are approved?

**A.** The requirements for eligibility in the Association are three: (1) the applicant or member must be authorized to transact an investment banking or securities business in accordance with the laws of any state in which the organization is acting, and, if it transacts an interstate business, it must be registered with the Securities and Exchange Commission; (2) the applicant or member must be actually engaged in transacting some branch of the investment banking or securities business; and (3) the member or applicant firm must have net capital sufficient to meet the requirements of the By-Laws, i. e., (a) if the applicant or member settles contracts or transactions with customers for itself and for any other broker or dealer, it shall maintain at all times net capital, exclusive of fixed assets, of not less than \$5,000; and (b) if the applicant or member employs a bank or another member to settle for it all contracts or transactions with or for its customers and furthermore does not receive securities or funds from or for the account of any customer, it shall then maintain at

all times a net capital, exclusive of fixed assets, of not less than \$2,500.

**Q.** What meaning is attributed to the phrase "fixed assets"?

**A.** The meaning of the term "fixed assets" is that usually employed in good accounting procedures and would include, among other things, those assets which one holds in his business more or less permanently, such as furniture and fixtures, real property, automobiles, office equipment, etc.

**Q.** In the instance of a sole proprietorship or a partnership where either the sole proprietor or the partners own real estate free and clear of any encumbrances, would the value of such real estate be considered capital maintained "in the business"?

**A.** It might be considered capital maintained in the business if it is carried on the books of the firm as such. However, such property could conceivably be considered as a fixed asset and, therefore, excluded in the computation of net capital. If the property is not carried on the books as being an asset of the business, it can-

not be considered in computing net capital maintained in the business.

**Q.** A member who qualifies under Sub-section (b) (\$2,500) purchases a bond from a customer for cash and issues a check therefor. The member subsequently carries the bond in inventory for two days and then sells the bond to a customer for cash. The transactions are not settled through a bank or another member meeting the requirements of Sub-section (a) (\$5,000). May a member who qualifies only under Sub-section (b) so act in relation to his customer?

**A.** No. If the member qualifies only under Sub-section (b), he must employ a bank or another member to settle "all contracts and transactions" with customers. If the member wishes to settle contracts with customers, he must qualify under Sub-section (a).

**Q.** By whom, how, and when will net capital be defined?

**A.** Net capital will be defined from time to time by the Board of Governors of the

"Section 2. No broker or dealer, except with the approval or at the direction of the Securities and Exchange Commission (hereinafter referred to as the Commission), in cases in which the Commission finds it appropriate in the public interest so to approve or direct pursuant to Section 15A (b) (4) of the Securities Exchange Act of 1934, as amended (hereinafter referred to as the Act), shall be admitted to or continued in membership in the Corporation if (1) such broker or dealer, whether prior or subsequent to becoming such, or (2) any partner, officer, director, or branch manager of such broker or dealer (or any person occupying a similar status or performing similar functions), or any person directly or indirectly controlling or controlled by such broker or dealer, whether prior or subsequent to becoming such (A) has been and is suspended or expelled from a securities association (whether national or affiliated) registered pursuant to Section 15A of the Act, or from a national securities exchange, registered pursuant to Section 6 of the Act, for violation of any rule of such association or exchange which prohibits any act or transaction constituting conduct inconsistent with just and equitable principles of trade, or requires any act the omission of which constitutes conduct inconsistent with just and equitable principles of trade, or (B) is subject to an order of the Commission denying or revoking his registration pursuant to Section 15 of the Act, or expelling or suspending him from membership in a registered securities association or a national securities exchange, or (C) by his conduct while employed by, acting for, or directly or indirectly controlling or controlled by, a broker or dealer, was a cause of any suspension, expulsion, or order of the character described in Clauses (A) or (B), which is in effect with respect to such broker or dealer."

Association and such definitions will be in accordance with established accounting procedure.

**Q.** Does the term "authorized to transact" mean that authority to transact an investment banking or securities business must be by license; or may a firm doing solely an intra-state business in exempted transactions make application for membership and be accepted, provided all other requirements are omitted?

**A.** If an applicant in any given instance shows that registration with the Securities and Exchange Commission or a State Securities Commission is not necessary under applicable statutes and all other requirements are fulfilled, the membership shall be granted.

**Q.** Will the Board of Governors ascertain whether all firms who are presently members of the Association are eligible to membership under this proposed new By-Law?

**A.** Yes, as soon as possible, if the rule is approved, after the effective date thereof.

**Q.** If a member's capital should fall below the requirements set forth in Section 1 of Article I, will he be expelled from the Association?

**A.** No, proposed new Section 14 of Article I provides for a procedure whereby the membership may be cancelled if a firm loses any of the requirements for membership. However, should the firm subsequently possess such requirements, it will then be eligible to readmission. Further, before a membership is cancelled on this basis, notice must be given to the member of the specific grounds upon which the member is said to be no longer qualified for membership and the member must be given an opportunity to be heard in connection with this alleged disability.

**Q.** Will the District Committee be empowered to cancel a membership if these requirements are not met?

**A.** No, the Board of Governors is the only body empowered to cancel a membership on this ground.

**Q.** Will it be necessary for an applicant for membership in the Association to submit a financial statement with his application for membership?

**A.** This question has not been determined, but the answer is probably yes.

**Q.** Will it be possible for a firm which is now a member to obtain a ruling should Section 1 of Article I become effective that it must do business under Sub-section (b) when there is some question presented as to whether or not the member firm meets the requirements of Sub-section (a)?

**A.** Such a ruling will be forthcoming upon application to the Board of Governors and upon presentation of all pertinent facts.

## NASD OBJECTIVES

*To promote through co-operative effort the investment banking and securities business, to standardize its principles and practices, to promote therein high standards of commercial honor, and to encourage and promote among members observance of Federal and State securities laws;*

*\* \* \**  
*To provide a medium through which its membership may be enabled to confer, consult, and co-operate with governmental and other agencies in the solution of problems affecting investors, the public and the investment banking and securities business;*

*\* \* \**  
*To adopt, administer and enforce rules of fair practice and rules to prevent fraudulent and manipulative acts and practices, and in general to promote just and equitable principles of trade for the protection of investors;*

*\* \* \**  
*To promote self-discipline among members, and to investigate and adjust grievances between the public and members and between members.—Extracts from the Certificate of Incorporation.*

## Panel System Proposed

In hearing and acting upon complaints filed against members in the various Districts it has been found helpful if District Business Conduct Committees could appoint panels of Local Business Conduct Committees as the need for such arises. Therefore, it is proposed that in Section 3 of Article VI of the By-Laws, which deals with the method of selecting business conduct committees, the word "annually" be deleted from the reference to the manner of appointment of Local Business Conduct Committees. This deletion will more clearly authorize the appointment of such committees whenever the need arises.

**Q.** Under Sub-section (b) of the new section, must a member clear all transactions through a bank or another member when the member does not meet the requirements of Sub-section (a), or is substantial compliance with the provision sufficient?

**A.** A member must clear all transactions through a bank or another member. Substantial compliance is not sufficient. Total compliance is necessary.

**Q.** If it is found that a member does not have sufficient capital to meet the requirements of this Section, may the member resign?

**A.** Yes.

## References to Predecessor of NASD

The National Association of Securities Dealers, Inc., was organized in June, 1939, as a successor to the Investment Bankers Conference, Inc. The By-Laws then drawn up contain references to this transition. It is now proposed that all such references be removed from NASD texts. This is the reason for a number of amendments upon which members are asked to vote, namely: Section 6, Section 7(b), and Sections 11, 12 and 13 of Article IV; Sections 1 and 2 of Article V. It will be seen from reference to the changes proposed in these Sections that only the historical language of the existing texts is affected in each of the provisions mentioned.

## Membership Is a Responsibility— VOTE

## Telephonic Voting

In order to facilitate action by the Board of Governors and District Committees on emergency matters and in the interests of economy, two amendments are proposed to the provisions of Section 8 and the present Section 15 (to be renumbered 14) of Article IV of the By-Laws to permit telephonic polling of members of these bodies. No provision has existed heretofore for formal action of the Board or District Committees to be accomplished in this manner. All such telephonic decisions must, however, be confirmed in writing.

## July 15 Is Deadline for Voting on the Amendments

## Majority of Members Required for Decision

As pointed out in the accompanying letter signed by Wallace H. Fulton, Executive Director, a majority of the members of the Association must vote on the amendments proposed and a majority of those voting must approve the proposals for them to be adopted. Members are therefore urged by the Board to give immediate attention to the matters presented in these amendments and upon deciding their course of action to mail their ballots to the Executive Offices promptly.

It is hoped, in view of the tabulating work to be done in counting of ballots, that members will not await the approach of the July 15 deadline to transmit their ballots. Prompt action by the membership is in the interest of all members as results can be announced more quickly if the membership votes early.

Your attention is again called to the fact that you can vote approval or disapproval of all amendments or signify your decision with respect to each amendment individually if that is your wish.

*Now Is the Time to Vote*

## FIVE CHANGES PROPOSED IN MEMBERSHIP PROVISIONS OF BY-LAWS

Five changes in membership provisions of the By-Laws are among the amendments being considered by NASD members. They are parts of Article I—specifically, Section 4(f), Section 7, Section 8, Section 9 and Section 14(a), the latter being a new addition to these provisions.

In the main, all of the changes are recommended in the interests of making more exact the terms upon which memberships become effective, are continued, may be transferred or terminated.

The first of the amendments, Section 4(f), would divorce financial obligations of an applicant to the Association from consideration of the timing of his admission. In the past, the new member was not admitted until dues, assessments and other charges had been paid and it is now proposed that references to these be deleted and the membership be made effective at the date the application is approved by the appropriate authority. This change will permit accelerated handling of applications for membership.

### TERMS OF WITHDRAWAL

Next in this sequence of changes is in Section 7. It will state more exactly the terms upon which a member can withdraw voluntarily from the Association. The changes proposed provide that a formal resignation must be submitted and, further, that in no event can a member resign "so long as any examination of such member is in progress." The purpose of the latter is to remove any exit of a member wishing to resign in view of an examination undertaken by the Association as a part of its enforcement program. The Board, if a resignation were submitted during the course of an Association examination, would not be prohibited from approving the request.

As to changes proposed in Section 8, the deletions and additions proposed have as their purpose a clarification of the procedure which is to be followed in the liquidation or winding up of the affairs of a member or partnership or corporation and provisions with respect to transfer of such a membership. The changes tend to remove the possibility of such a transfer making the member liable for a greater assessment and places within the authority of the Board power to interpret status of the member under the circumstances individual to the case. A similar purpose prompts the proposed changes in text of Article III, Section 1, "Dues, assessments and other charges."

### CANCELLATION PROVISIONS

The intention with respect to the present Section 9 is to strike it if the revised Section 7, above discussed, is approved, since the changes proposed in 7 will eliminate any need for the provisions contained in Section 9.

The new Section 14 proposed as a part of these membership changes is one of some importance. The purpose of this new provision is to establish procedure for cancellation of the membership of any member who ceases to possess all of the qualifications for admission to member-

ship. This procedure would greatly facilitate the cancellation of the membership of those members who withdraw or lose their broker-dealer registrations (and who do not resign), state licenses, who cease to engage in the securities business. Further, if the change with respect to capital qualifications, which is made a part of these proposed amendments, is adopted, this procedure would provide means for cancelling the membership of any member found to be insolvent or found to have insufficient capital to meet the minimum requirements set forth in the new capital provision.

### Mail Your Ballot Today

## BOOKS AND RECORDS RULE AMENDED TO CON- FORM WITH LAWS, REGULATIONS

### Proper Accounts Kept by Majority of Members; Numerous Are Lax

The keeping of proper books and records and the preservation of them has long been recognized as an essential practice of organized business procedure. The Association, since organization, has had a rule with respect to the keeping and preservation of books, records, correspondence, etc., concerning the interpretation of which there has been some confusion. It is now deemed advisable, in the interests of uniformity, to amend the present rule to read as follows:

"A member shall keep and preserve books, accounts, records, memoranda, and correspondence in conformity with all applicable Federal and State laws and all rules and regulations promulgated thereunder."

This amendment of the former NASD rule was adopted by the Board of Governors after a long study of existing practice in the business, the Board being satisfied that, for the vast majority of the members, provisions of the rule would not be burdensome. The Board also was motivated by a desire to impel members who have been lax in this phase of their business to bring their practices up to date. During the course of the Association's examination of over 2,000 of its members it found instances where members were wholly lacking in books and records upon which analysis could be made of their financial condition and business practices. In still other cases, books and records were incomplete or were not kept current, or both.

The purpose of the amendment proposed is to make clear that, as an obligation of membership in the Association, members must keep books, records and appropriate accounts and that these must

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Executive Director

WALLACE H. FULTON

be kept in accordance with all applicable laws.

As to the scope of these requirements, the most reliable over-all guide is Rule X—17A—3 of the Securities and Exchange Commission—the "books and records" section of SEC regulations. This rule should be studied in conjunction with all State requirements of this nature. Members should refer to the "Miscellaneous" section of their NASD Manual, pages EI to E 17, for an explanatory memorandum on that rule as well as its text. It will be noted at section (b), the rule provides: "This rule shall not be deemed to require a member of a national securities exchange to make or keep such records of transactions cleared for such member by another member as are customarily made and kept by the clearing member." A similar exception might be expected to be made by the Board of Governors of NASD as applied to members who qualify for membership under sub-section (b) of the new minimum capital rule upon which members are now being asked to vote. Such exception, however, would not apply to other books and records appropriate to such a member's business.

## Confirmation Legend Issue Available

More than 8,000 copies of the April 15 issue of the **NASD NEWS**, containing feature articles on the subject of confirmation legends, have been distributed to the membership to date. Those members who wish to obtain copies of this useful issue should write to national headquarters before the remaining supply is exhausted.

Partners, cashiers, salesmen and traders of member organizations find this issue is valuable and interesting. In addition to specific examples of legends which can be used on confirmations to meet minimum disclosure requirements, the issue contains articles on hypothecation and commingling legends as well as a ruling by the National Uniform Practice Committee on the matter of legends to be employed in non-member transactions.

### Cast Your Ballot Now

## EXPERIENCE WITH BUSINESS CONDUCT CASES MAKES CERTAIN CHANGES ADVISABLE

### Board Approves Recommendations on Penalties, Reviews, Assessment of Costs

The Association has had a great deal of experience during the past two years in the enforcement of its Rules of Fair Practice. As a result of that experience several amendments to the By-Laws and Rules of Fair Practice are deemed advisable by the Board and are being offered to a vote by the membership.

The proposals in this field bear on Sections 1 and 2 of Article V of the Rules of Fair Practice and include a new suggested Rule to become Section 3 of this Article.

Section 1 sets forth penalties which may be imposed by the District Business Conduct Committee or the Board of Governors. This section also specifies time when such penalty shall take effect. In the past, a member could be censured, fined in the amount of \$500, be suspended or have his membership cancelled for violations of the Rules of Fair Practice. These provisions have been interpreted to mean that one or another could be imposed for each or any violation of the Rules of Fair Practice, as provided by Article VII, Section 3 of the By-Laws. Also the word "cancel" as used in this section has been defined to mean "expel" when it results from any disciplinary action of the District Business Conduct Committee or the Board of Governors, and, to make the use of the word consistent with the phraseology in the Act and in the By-Laws, the proposed change in this section is for the purpose of clarifying interpretations already in practice. It will further clarify the difference between a membership which has been cancelled and a member who has been expelled.

In the other sections of the By-Laws there is a procedure set up to cancel a membership on the grounds of ineligibility or because a member is lacking in certain qualifications for membership. Thus, it will be seen "cancel," as used in this sense, is not a disciplinary action. The time within which decisions of District Business Conduct Committees are to take effect is, if the amendment is adopted, to be changed from 60 days to 30 days in the case of review of the decision on its own motion by the Board or 15 days in the case of appeal to the Board of Governors by anyone aggrieved by a disciplinary decision. This change in the effective time for penalties was suggested by several of the Districts and its advisability recognized by the Board as a result of its own experience.

Respecting fines imposed on members found guilty of violating the Rules, it is proposed that such become due and payable within the time limits above discussed and that if not paid before the expiration of such limits that the Board be authorized to suspend or expel the member involved after giving him 7 days' notice of such intention.

Formal action against members has at times been costly and out of propor-

## EXTRA COPIES OF NEWS

It becomes increasingly important for key employees of NASD members, such as cashiers, traders, salesmen, as well as partners and officials, to keep abreast of Association activities, Rules and interpretations. The next regular edition of the NEWS (this is a special edition to explain the proposed amendments) will be published in a few weeks. The Association will supply all members with extra copies of all issues without extra cost. Write today to be placed on the mailing list for a supply of each issue of the NEWS and be sure to place a copy in the hands of everyone in your organization who should be informed on the publication's contents.

tion to the nature of the particular case. To relieve the membership at large from incurring excessive costs of complaint proceedings, it is proposed that District Business Conduct Committees and the Board of Governors be empowered to assess a reasonable proportion of costs against disciplined members. Costs for which the member may be assessed will be confined to actual proceedings before District groups or the Board and include such incidentals as the making of transcripts—although it remains for the Board to define the scope of "cost." No present proceedings pending before any District Business Conduct Committee or the Board will be affected by this proposed change.

## MEMBERS OF BOARD, DISTRICT CHAIRMEN VOTED UNANIMOUSLY FOR AMENDMENTS

### Names of Governors, Advisory Council Listed for Members of NASD

The meeting of the Board of Governors and Advisory Council on May 18-19, at which amendments to the By-Laws and Rules of Fair Practice were unanimously approved, was attended by 17 members of the Board and 9 members of the Council, the latter being made up of Chairmen of the fourteen NASD Districts.

In considering their vote on the amendments, members of NASD might wish to consult with the elected representatives to the Board and Council from their particular District. Following is a list of the representatives who attended the meeting and voted in favor of all of the amendments:

#### District No. 1 (Ida., Ore., Wash.)

Board Member: Beardslee B. Merrill, Richards & Blum, Inc., Spokane.  
Dist. Chairman: Richard H. Martin, Ferris & Hardgrove, Portland.

#### District No. 2 (Cal., Nev.)

Board Member: Harvey Roney, Merrill Lynch, Pierce, Fenner & Beane, Los Angeles.

#### District No. 3 (Ariz., Colo., N. M., Utah, Wyo.)

Board Member: E. Warren Willard, Boettcher and Company, Denver.

#### District No. 4 (Minn., Mont., N. D., S. D.)

Board Member: Lawrence B. Woodard, Woodard-Elwood & Co., Minneapolis.  
Dist. Chairman: Norman Nelson, Piper, Jaffray & Hopwood, Minneapolis.

#### District No. 5 (Kans., Okla., E. Mo.)

Dist. Chairman: Harlan Herrick, The Lathrop-Hawk-Herrick Company, Wichita.

#### District No. 6 (Texas)

Board Member: H. H. Dewar, Dewar, Robertson & Pancoast, San Antonio  
Dist. Chairman: William P. Smallwood, The State Investment Company, Fort Worth.

#### District No. 7 (Ark., W. Mo., E. Ky.)

Board Member: Albert Theis, Jr., Albert Theis & Sons, Inc., St. Louis, Mo.  
Dist. Chairman: Joseph G. Petersen, Eckhardt-Petersen and Co., Inc., St. Louis, Missouri.

#### District No. 8 (Ia., Nebr., Ill., Ind., Wis., Mich.)

Board Members: Robert W. Baird, The Wisconsin Company, Milwaukee; William A. Fuller, Fuller, Cruttenden & Company, Chicago; Francis F. Patton, A. G. Becker & Co., Incorporated, Chicago.  
Dist. Chairman: Paul S. Grant, The Milwaukee Company, Milwaukee.

#### District No. 9 (Tenn., Miss., Ala., Ga., S. C., Fla., La.)

Board Member: Hagood Clarke, Johnson, Lane, Space and Co., Inc., Atlanta.  
Dist. Chairman: Clement A. Evans, Clement A. Evans & Company, Atlanta.

#### District No. 10 (Ohio, E. Ky.)

Board Member: Edward Brockhaus, Edward Brockhaus & Co., Cincinnati.

#### District No. 12 (Pennsylvania, Delaware)

Dist. Chairman: Nathan K. Parker, Kay Richards & Company, Pittsburgh.

#### District No. 13 (N. Y., N. J., Conn.)

Board Members: Edward Bosson, Putnam & Co., Hartford; James Coggeshall, Jr., The First Boston Corporation, New York; Lee M. Lambert, Blyth & Co., Inc., New York; Laurence M. Marks, Laurence M. Marks & Co., New York; Clarence E. Unterberg, C. E. Unterberg, New York.  
Dist. Chairman: Henry G. Riter, 3rd, Riter & Co., New York.

#### District No. 14 (Mass., Vt., N. H., Me., R. I.)

Board Member: Hermann F. Clarke, Estabrook & Co., Boston.

## Membership Lists

In the interests of economy and efficiency, the Section of Article III of the By-Laws providing that the Association supply each District office with a list of the membership containing the dues-paying classification of each member is to be amended so as to permit the Board of Governors to give to each District annually a list such as this containing only the names of the members of the particular District.

## Control of Salesmen

### NEW RULE OUTGROWTH OF BUSINESS CONDUCT MATTERS

A new rule requiring members of the Association to exercise proper supervision over employed salesmen is among amendments to the Rules of Fair Practice upon which members are asked to vote. The proposed rule reads as follows:

"Any member who employs any salesman shall supervise the sales methods of such salesman and his correspondence in relation to offers of securities for sale to investors; and any sale made by any such salesman to any investor shall be approved by a partner, duly accredited executive, or branch office manager of such member. Such approval shall be evidenced by a written endorsement made upon a copy of a memorandum of such sale and each such memorandum so endorsed shall be made a part of the permanent records of such member.

"Any member who employs any salesman shall require that all orders taken by such salesman for the purchase of or subscription to any security shall be subject to acceptance and confirmation by such member."

#### ENFORCEMENT PROGRAM EXPERIENCE

This new rule is proposed by the Board out of experience with the enforcement program of the Association. It was found that, although it is common practice in the securities business for partners or officials of dealers to exercise control over methods and practices of salesmen, a number of NASD members were lax in applying this advisable business policy. As a result, complaints have had to be filed against members because of acts of salesmen which, in nearly every instance, were alleged to be unknown to the employing member when the cases were heard. In a few such instances, heavy penalties were imposed upon the member

### Board Favors Definition of "Bank"; Same as Act's

Certain of the amendments upon which members are asked to vote propose to formalize policies and interpretations which experience has demonstrated are sound and practical.

One such amendment is that in Article I of the By-Laws wherein it is proposed that a new sub-section be added to define the term "bank." This amendment is desirable, the Board of Governors feels, for the purpose of defining terms in common usage, particularly with respect to possible candidates for membership in the Association. This proposed Sub-section (e) should be read in conjunction with Sub-section (a) of Article I in which the term "broker" is defined. After setting forth the definition of "broker," the sub-section specifically excludes "a bank" from being included in such definition. The definition proposed for "bank" is the same as that contained in the Securities Exchange Act of 1934 and is the same as that which has been used by the Association informally in the past.

for the rules violations traceable to salesmen's disregard of inherent responsibilities of their job.

The Board concluded, after studying such cases, that it would be in the interests of the whole membership if more careful supervision of salesmen were imposed as a requisite of membership in the Association. The Board felt that for the majority of the members, the Rule would involve no new obligation and that insofar as those members were concerned who would have to begin exercising control over salesmen or increase the extent of such control, the Rule would become a valued principle of the member's business and possibly prevent such member from being faced with a complaint growing out of an employee's carelessness or recklessness. Whether this Rule is passed or not the member has a legal obligation for the conduct of salesmen, who are his agents.

#### SUPERVISION OF SALES METHODS

In its application, the Rule will require that all sales methods and correspondence in relation to offers of securities for sale to investors must be supervised by a responsible official of the member. Furthermore, any sale made by a salesman to an investor will need to be approved by a partner or another accredited to act in such capacity. This approval may be evidenced by initials or some appropriate marking on the office copy of the confirmation sent to customers. Sub-section (a) of Section 27 (see text of proposed Rule) proposes that approval and supervision shall relate to sales methods of the salesmen.

Each transaction handled by salesmen of a member, therefore, must if the Rule is approved, be authorized by an accredited executive, partner, branch manager or other responsible person employed by the member.

This section will apply only to members' dealings with the public. It will not apply to business as between dealers or brokers.

#### Assessment Reports

Article III of the By-Laws contains several sections dealing with dues, assessments and other charges which may be levied by the Board of Governors on the membership and these sections set forth the scope of authority vested in the Board as well as the ways in which it may enforce its decisions.

It is proposed that a new section be inserted in this division of the By-Laws to be a new Section 2. This section has as its purpose stating requirements of the members in respect to the filing of personnel, underwriting and like reports and also, to provide a basis for suspension or cancellation of the membership of any member refusing to co-operate with the Board in these matters. The succeeding Section 3, as amended and changed from its former designation of Section 2, recites the specific nature of the Board's authority and the time factor involved in exercise of its authority.

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tion as a profession operating on a high plane of public service.

The Board does not in any way feel that these minimums are guaranties of the financial character or business integrity of those who may qualify under them. On the other hand, the Board believes that as a practical matter and in the furtherance of its advocacy of sound business policies, it should propose for Association members minimum standards as to capital as well as other standards for the conduct of members' business in the interests of their customers' and the industry's welfare. The Board also feels, based upon its experience in examination of over 2,000 members, that the problem of enforcement of Association rules can be lessened and the cost of that program reduced with the adoption of the minimum capital requirements now recommended. Through its examination program, the Board will be able accurately to establish the financial position of members and to act promptly in those cases of non-conformity with the Rule being presented.

#### TALKS TO COMMISSIONERS

Speaking of the Association's program and purposes, Mr. Baird, in an address at the annual convention of the National Association of Securities Commissioners last year voiced the following sentiments for the Board of Governors in respect to the Association's position and future program:

"I don't know how much time we have to accomplish our objectives and to make our position secure," Mr. Baird said. "We all realize that the public's participation in the investment market is continuing to widen. The defense bond program alone is going to make a new army of investors. We all realize also that present conditions make the investor's problems most difficult. We realize too that no rule of our Association can prevent the fool and his money from being parted. But when losses come again, somebody is going to be blamed again, and we hope that our investment fraternity will be found to have discharged faithfully its responsibility in this matter.

#### PROFESSIONAL STATUS SOUGHT

"Meanwhile—and this may sound idealistic—the time may come when we can arrive at a more professional status and we can give more of our attention to setting up standards as to who should be in the investment business.

"The securities dealer is getting away from that false sportsmanship that he always had of defending anybody in the securities business. We in our Association have already realized the paradoxical position we have been in of defending our members without any control of who came into the business or what they did after they got in; and we are beginning to find that we have been unwittingly defending indefensible practices and unwittingly protecting some of our membership who are not entitled to protection.

"We realize very fully that as we broaden our experience with our examinations we may need some additional rules of fair practice to cover situations that are not in our present rules."