

VI- CONCLUSIONS AND RECOMMENDATIONS

The opinions of Cresap, McCormick and Paget regarding the Special Study's section on floor trading were expressed in the preceding chapter. This chapter is confined to the conclusions and recommendations resulting from Cresap, McCormick and Paget's own study.

Following an introductory statement outlining the approach taken by Cresap, McCormick and Paget are sections on recommended rules, general surveillance procedures, and general recommendations.

INTRODUCTORY  
STATEMENT

Drawing conclusions from this study and formulating recommendations represent a grave responsibility, because, at this stage of the controversy between the SEC and the Exchange, irreparable harm could come to the auction market from failure to devise an effective means of employing, to beneficial ends, the speculative risk-taking talent and capital on the Floor and within the member firm group. These recommendations propose to convert into a positive and constructive function the activities of members and member firms who now engage in speculative risk-taking and to retain the mobility of their capital. To differentiate them from other members and their functions, they might be designated as "registered dealers" (or some other appropriate term).

From a practical aspect, successful implementation of the plan will result in loss of some of the prerogatives heretofore enjoyed by some members and member firms. On the other hand, making constructive use of the group engaging in speculative risk-taking, under suitable standards of performance, should materially assist in maintaining continuity and stability of prices, and thereby provide support to the specialists when their particular stocks are subject to a major imbalance of supply and demand. Investors in general, as well as the Exchange, its members and member firms, should benefit substantially over the long term.

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Recommendation

Explanation

- Minimum "registered dealer" trading capital as established by the Exchange to ensure adequate performance of the function.

A strong correlation exists between the capital resources of traders and their likelihood to perform a constructive dealer function.

b. Any member organization and any individual member should be eligible to establish a "registered dealer" account, provided the above qualifications are met, including the capital requirements over and above those required for the member's or member organization's other activities.

Potential conflicts of interest between the "registered dealer" activity and the servicing of public orders should be eliminated insofar as is practical. On the other hand, the legitimate trading activities of members and member firms representing the public should not be curtailed, and the largest possible amount of constructive risk-taking capital should be channeled into the "registered dealer" activity. Commission firms that now trade regularly for the firm account are careful to put their customers' interest ahead of their own, and their trading activities are the collective responsibility of the principals of the firms.

- No organization which carries customer accounts should be permitted to establish a "registered dealer" account, unless the Exchange has previously investigated and approved the regular order handling and order supervision procedures of the organization in question as providing adequate protection for public orders and for fair and orderly markets.

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Recommendation

c. "Registered dealer" accounts should be required to meet minimum performance standards for the securities in which they deal.

- A standard of performance in stabilizing transactions, i. e., a percentage of volume against the trend as measured by the straight tick test, which would be established by the Exchange to ensure adequate accomplishment of the "registered dealer" function. This standard should be met or exceeded by the "registered dealer" account on a biweekly basis and should apply to all transactions effected for each "registered dealer" account. Also, with the objectives of improving the function, the standard might be changed in the future, as experience is gained in the conduct of "registered dealer" operations.

- If the performance of a "registered dealer" in any one security falls substantially below standard, an investigation should be undertaken by the Exchange.

Explanation

Statistical studies disclose that present floor trading tick test scores fall mainly within the range of 40 per cent to 60 per cent. Furthermore, the most active and most highly regarded floor trading accounts are those that generally achieve the highest scores. Once the "registered dealer" category is established, only those who demonstrate an ability to act in a constructive manner should be permitted to retain their registration. An initial minimum standard of 60 per cent stabilization, as measured by the straight tick test, appears to be feasible and realistic.

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Recommendation

- Additional and improved standards should be devised to evaluate "registered dealer" performance, including participation in difficult market situations, delayed openings and block transactions.

d. Failure to maintain performance should subject "registered dealers" to appropriate disciplinary measures, including suspension of registration as warranted.

e. Failure to maintain minimum capital required for the "registered dealer" account should result in suspension of registration, unless investigation by the Exchange reveals mitigating circumstances.

2. The following rule governing "registered dealer" accounts, is recommended:

a. All purchases effected for "registered dealer" accounts, whether on the bid or on the offer, should be limited to prices below the previous day's high, except:

- On minus or zero-minus ticks
- To close out or reduce short positions
- For bona fide arbitrage
- To correct a transaction made in error.

Explanation

Many floor traders presently participate constructively in many difficult market situations. Their performance appears comparable to that of the best of the specialists on such occasions. "Registered dealers" should be expected to meet those standards not subject to direct quantitative measurements but nevertheless recognized among floor professionals as essential to a constructive dealer function.

One of the effects of requiring a stabilization performance will be an over-all upgrading of "registered dealer" performance. In addition, if their capital is to be utilized in the most constructive way, they should be given greater latitude in the conduct of their trading. Establishing the previous day's high as the point above which purchases are limited to minus and zero-minus ticks recognizes the need for this greater latitude and yet is designed to prevent "registered dealer" activity from exerting undue upward pressure on the price of a stock or stocks. Purchases to cover short positions should remain unrestricted because, in effect, they are a liquidation of a short position and should be governed by the same principle as sales from a long position.

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b. If, in the opinion of the Exchange, price behavior of a stock has made the previous day's high unrealistic as a limit, then the limit should be reduced to the previous day's close.

(3) To ensure that public orders will receive the full preferential treatment to which they are entitled, the following rules are recommended:

a. No bid or offer, or response to a bid or offer, originated on the Floor by a member (or on an order originated off the Floor by such member on a day during which that member has been on the Floor) for an account in which such member has an interest, shall be entitled to parity based on time or price with, or precedence based on size over, a public order.

- Specialists and odd-lot dealers, when dealing in stocks in which they are registered, should be exempted from the provision of this rule.

b. A public order shall enjoy the same preferential treatment, as in (3a) above, in the specialist's book.

c. Every order subject to (3a) above shall be clearly designated as a "member order" when sent to the Floor, when left with a specialist or when given to another broker.

Explanation

There are occasions when, due to unusual activity in a given stock, the Exchange may find it expedient to exercise its discretion on trading price limits in the interest of maintaining an orderly market

An NYSE member who operates on the Floor of the Exchange has certain advantages over off-floor members and the investing public, in executing orders for his own or firm account. Present NYSE Rule 108 lessens the advantage of the Floor, and this recommendation is patterned on that Rule but expands its scope with the objective of further equalizing member trading conditions in the interest of making "registered dealer" activities a fully constructive force.

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4. No member (other than a specialist or an odd-lot dealer, in the stocks in which they are registered, or a "registered dealer") may initiate or effect a transaction, while on the Floor, for an account in which the member has an interest except:

- To correct a transaction made in error
- In the event a floor official has expressly invited buying or selling to assist in a difficult market situation such as a delayed opening, a reopening or the execution of a large order.

5. NYSE Rules 108, 109 and 110 (together with the clarification, interpretation and instructions to these rules) should be revised to conform with the concept and intent of the foregoing recommendations.

Explanation

The previous recommendations include rules to govern the activities of the "registered dealer." Those in this section are recommended to limit the activity of nonregistered members when making transactions for their own account.

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RECOMMENDATIONS  
ON TRADING  
SURVEILLANCE

To implement the proposed program for "registered dealer" operations requires improved self-regulation and surveillance of floor operations, and therefore the following recommendations are made:

1. The requirements for member reporting of transactions for their own or organization account should be specified in detail and brought to the attention of all members and member organizations. Adherence to reporting requirements and a review of accounting procedures for reporting should be a regular part of NYSE's periodic audits of member accounts.
2. The Exchange should establish the qualitative and quantitative standards of performance required of the "registered dealer."
3. The Exchange, in connection with its current review of organizational structure, should consider what steps are necessary for improvement of the procedures for making, adoption and implementation of rules relating to floor transactions and the operations of "registered dealers," and the surveillance of such operations.

GENERAL  
RECOMMENDATIONS

1. The Exchange should initiate a program of internal education to ensure that all members understand the changes which are adopted by the NYSE, together with the reasons for the changes. This program should be directed to members, allied members and registered representatives of member firms.
2. The Exchange should initiate a research program aimed at quantifying the concept of price "stability" and at developing additional trading rules in the interests of fair and orderly markets.
3. The Exchange should examine and recommend to the Federal Reserve System margin requirements appropriate for the "registered dealer" function.

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QUESTIONNAIRE RESPONSES BY PRINCIPAL ACTIVITY OF MEMBERS

1. As a member of the New York Stock Exchange, what is your principal activity?

a. Member not normally on Floor	182
b. Specialist	263
c. Commission broker	251
d. Floor trader	38
e. Two dollar broker	77
f. Other (bond, odd-lot, etc.)	84
Total	<u>895</u>

2. What is the total number of active partners or holders of voting stock (members and allied members) including yourself, in your firm?

	<u>O. F.</u>	<u>Spec.</u>	<u>C. B.</u>
a. Individual member	26	13	3
b. 2 - 4	35	114	29
c. 5 - 9	51	97	61
d. 10 or more	53	29	128
e. Unclassified size	17	10	30

Key To Abbreviations

O. F. - Off Floor; Member Not Normally On Floor  
 Spec. - Specialist  
 C. B. - Commission Broker  
 F. T. - Floor Trader  
 \$2 - Two Dollar Broker  
 Other - Bond, Odd-Lot, Miscellaneous

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	<u>O. F.</u>	<u>Spec.</u>	<u>C. B.</u>	<u>F. T.</u>	<u>\$2</u>	<u>Other</u>	<u>Total</u>
3. Does your firm have a policy or practice which:							
a. Restricts <u>off-floor</u> orders for the firm account or its Exchange members from being entered during Exchange trading hours?							
Yes	13	30	25	1	-	4	73
No	103	178	190	26	33	26	556
Not applicable	61	54	30	8	32	49	234
b. Specially labels <u>off-floor</u> orders as being for the firm account or Exchange member's account when they are sent to the Floor for execution?							
Yes	32	55	91	5	11	4	198
No	80	115	109	18	21	20	363
Not applicable	64	87	42	10	32	54	289
c. Imposes any other restrictions (in addition to the NYSE regulations) governing <u>off-floor</u> trading for the firm or Exchange member's account?							
Yes	13	26	22	2	3	11	77
No	101	172	184	25	28	18	528
Not applicable	62	59	37	7	34	49	248

If yes, please describe:

Recurring comments indicate that many members are prohibited by their firms from carrying securities in a margin account and are required to pay full commission on NYSE transactions.

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	<u>O. F.</u>	<u>Spec.</u>	<u>C. B.</u>	<u>F. T.</u>	<u>\$2</u>	<u>Other</u>	<u>Total</u>
4. Does your firm have a policy or practice which:							
a. Requires prior approval by any other partner or officer before execution of an <u>on-floor</u> trade?							
Yes	19	24	21	1	2	-	67
No	57	199	165	26	26	32	505
Not applicable	102	38	55	10	35	48	288
b. Limits <u>on-floor</u> trades to those <u>intended</u> to be of long term (6 months or more) duration?							
Yes	1	15	5	1	1	-	23
No	74	211	174	28	20	33	540
Not applicable	103	35	63	8	42	46	297
c. Requires that orders for own account be relayed back from the Floor to your order desk <u>before</u> execution?							
Yes	9	7	47	1	14	2	80
No	56	179	134	28	18	26	441
Not applicable	111	70	62	8	30	50	331
d. Requires that any orders for the account of a <u>floor</u> member be entered before the opening or after the close of the market?							
Yes	1	3	20	-	-	-	24
No	58	205	179	30	35	32	539
Not applicable	116	49	46	7	28	46	292

	<u>O.F.</u>	<u>Spec.</u>	<u>C.B.</u>	<u>F.T.</u>	<u>\$2</u>	<u>Other</u>	<u>Total</u>
5. Does your firm impose any other restrictions (in addition to the NYSE regulations) governing <u>on-floor</u> trading for own account?							
a. Yes	6	31	34	1	10		98
b. No	67	190	163	30	25		497
c. Not applicable	104	35	44	6	28		258

If yes, please describe:

Restrictions frequently mentioned include outright prohibition of floor trading, prohibition of members carrying securities in a margin account and requirement that members pay full commission on NYSE transactions.

6. Does your policy restricting <u>on-floor</u> trading extend to \$2 brokers who transact business for your firm on a continuing basis?							
a. Yes	5	3	6	1	9		25
b. No	45	59	129	12	7		262
c. Not applicable	126	189	105	22	45		552

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7. Generally speaking, in the past 24 months, how often have you executed an on-floor transaction for your own or your firm's account (other than in stocks in which you are registered as a specialist or odd-lot dealer)?

Own Account

	<u>O. F.</u>	<u>Spec.</u>	<u>C. B.</u>	<u>F. T.</u>	<u>\$2</u>	<u>Other</u>	<u>Total</u>
Almost daily	1	3	13	19	8	4	48
About once or twice a week	3	22	16	1	10	3	55
About once or twice a month	4	19	13	2	6	6	50
A few times a year	19	85	48	1	16	4	173
Never	146	108	146	10	31	63	504

If never, please check:

Prohibited by firm's policy	4	16	34	-	7	7	68
Not our firm's practice	13	36	30	5	6	11	101
Just too busy	1	4	19	-	2	8	34
Personal preference - don't care to trade for own or firm's account	11	51	55	2	17	33	169
Not on Floor normally	125	-	10	-	1	-	134
Other (please explain below):	7	3	5	2	1	-	22

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7. Generally speaking, in the past 24 months, how often have you executed an on-floor transaction for your own or your firm's account (other than in stocks in which you are registered as a specialist or odd-lot dealer)?

Firm's Account

	<u>O. F.</u>	<u>Spec.</u>	<u>C. B.</u>	<u>F. T.</u>	<u>\$2</u>	<u>Other</u>	<u>Total</u>
Almost daily	1	4	27	21	5	6	64
About once or twice a week	3	1	18	-	1	2	25
About once or twice a month	1	18	6	-	4	-	29
A few times a year	13	92	40	1	3	3	152
Never	142	109	135	4	28	47	465

If never, please check:

Prohibited by firm's policy	5	22	28	-	7	6	68
Not our firm's practice	17	62	77	1	8	18	183
Just too busy	-	6	4	-	2	4	16
Personal preference - don't care to trade for own or firm's account	10	17	16	-	9	14	66
Not on Floor normally	114	-	9	-	1	-	124
Other (please explain below):	7	2	7	3	2	5	26

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8. In the past 24 months, how often have you entered an off-floor order for your own or your firm's account?

Own Account

	<u>O.F.</u>	<u>Spec.</u>	<u>C.B.</u>	<u>F.T.</u>	<u>\$2</u>	<u>Other</u>	<u>Total</u>
Almost daily	12	-	3	-	1	2	18
About once or twice a week	18	1	5	4	2	2	32
About once or twice a month	19	11	10	9	3	10	62
A few times a year	59	101	87	11	25	35	318
Never	63	136	128	9	40	30	406

If never, please check:

Prohibited by firm's policy	3	12	10	-	3	-	28
Not our firm's practice	32	45	30	3	6	6	122
Just too busy	2	7	18	-	5	5	37
Personal preference - don't care to trade for own or firm's account	17	51	64	2	22	17	173
Other (please explain below):	11	8	10	-	3	2	34

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	<u>O. F.</u>	<u>Spec.</u>	<u>C. B.</u>	<u>F. T.</u>	<u>\$2</u>	<u>Other</u>	<u>Total</u>
8. In the past 24 months, how often have you entered an <u>off-floor</u> order for your own or your firm's account?							
<u>Firm's Account</u>							
Almost daily	16	1	16	-	1	2	36
About once or twice a week	10	2	6	3	-	2	23
About once or twice a month	6	1	7	8	1	3	26
A few times a year	35	48	45	9	4	6	147
Never	83	156	150	7	31	43	470

If never, please check:

Prohibited by firm's policy	7	19	21	-	5	5	57
Not our firm's practice	46	79	83	3	8	19	238
Just too busy	1	7	9	-	3	3	23
Personal preference - don't care to trade for own or firm's account	16	26	21	-	12	10	85
Other (please explain below):	11	9	14	3	1	5	43

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9. In terms of dollars invested, roughly what proportion of NYSE transactions (on-floor and off-floor) for your own or firm's account during the past 24 months did you make with the intent that these transactions be of long-term (6 months or more) duration?

Own Account

On-Floor

	<u>O.F.</u>	<u>Spec.</u>	<u>C.B.</u>	<u>F.T.</u>	<u>\$2</u>	<u>Other</u>	<u>Total</u>
All	7	18	12	-	5	3	45
Most	8	25	9	1	4	1	48
About half	4	7	9	1	4	-	25
Less than half	1	5	3	5	7	2	23
Few	5	48	28	10	12	6	109
None	52	81	93	10	28	33	297
Not applicable	51	33	48	3	7	20	162
Don't know	8	12	8	-	2	1	31

Off-Floor

All	24	25	29	-	7	23	108
Most	31	15	16	4	3	9	78
About half	14	5	5	1	2	1	28
Less than half	6	2	1	3	4	1	17
Few	10	23	19	6	5	5	68
None	38	87	85	6	25	24	265
Not applicable	27	32	43	5	8	9	124
Don't know	11	5	7	1	2	1	27



9. In terms of dollars invested, roughly what proportion of NYSE transactions (on-floor and off-floor) for your own or firm's account during the past 24 months did you make with the intent that these transactions be of long-term (6 months or more) duration?

	<u>O. F.</u>	<u>Spec.</u>	<u>C. B.</u>	<u>F. T.</u>	<u>\$2</u>	<u>Other</u>	<u>Total</u>
<u>Firm's Account</u>							
<u>On-Floor</u>							
All	5	8	3	-	1	-	17
Most	5	11	1	-	-	-	17
About half	3	6	1	1	1	-	12
Less than half	-	3	4	2	-	3	12
Few	4	57	5	12	5	2	85
None	47	84	95	6	19	26	277
Not applicable	52	32	67	6	11	25	193
Don't know	6	8	15	2	3	5	39
<u>Off-Floor</u>							
All	9	11	7	-	1	1	29
Most	15	8	5	2	-	1	31
About half	10	4	6	-	1	-	21
Less than half	5	1	8	1	-	1	16
Few	10	9	16	9	4	2	50
None	48	92	88	4	22	20	274
Not applicable	37	45	54	7	9	25	177
Don't know	10	6	24	2	3	5	50

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	<u>O.F.</u>	<u>Spec.</u>	<u>C.B.</u>	<u>F.T.</u>	<u>\$2</u>	<u>Other</u>	<u>Total</u>
10. Floor broker A phones an order from the Floor to his office to buy 100 shares of ZYX stock for his own account. The order is sent to the order desk and from there back to the Floor <u>designated as broker A's order</u> . It is executed by floor broker B of the same firm.							
a. Do you consider this transaction an on-floor trade?							
Yes	97	207	174	33	52	55	618
No	35	46	59	4	16	16	176
Not necessarily	14	6	12	-	3	4	39
b. Would floor broker A, who originated the transaction, be required to report this transaction on Form 82?							
Yes	96	216	181	35	56	59	643
No	24	28	52	2	10	10	126
Not necessarily	8	9	8	-	3	2	30
c. Would floor broker B, in executing the order, be governed by the rules governing on-floor trading?							
Yes	94	201	161	33	48	55	592
No	27	47	74	3	16	16	183
Not necessarily	14	6	9	-	6	3	38
d. If the order happened to be executed by floor broker A, when it came back to the Floor, would you consider it an on-floor trade?							
Yes	112	230	196	36	60	62	696
No	19	24	39	1	9	11	103
Not necessarily	7	2	8	-	1	2	20

O. F.    Spec.    C. B.    F. T.    \$2    Other    Total

11. At a partners' meeting of member firm D, it is decided to buy 10,000 shares of stock ZYX for the firm account. Partner J, who is also a member of the Exchange and was present at the meeting, then proceeds to buy on the Floor the 10,000 shares during the ensuing week.

a. The accumulation of this block is subject to the rules governing . . .

Floor trading	70	141	89	20	29	38	387
Off-floor trading	46	89	115	15	27	27	319
Neither	17	24	38	1	14	7	101

b. Which form or forms should be submitted to the Exchange in connection with this accumulation?

The correct answer is Form 82 and Form 121. Many members answered one or the other, but very few answered both.

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	<u>O. F.</u>	<u>Spec.</u>	<u>C. B.</u>	<u>F. T.</u>	<u>\$2</u>	<u>Other</u>	<u>Total</u>
12. Specialist B, while at his post at noon, summons \$2 broker C and gives him an order to buy 1,000 shares of ZYX stock in which B is <u>not</u> registered as a specialist.							
a. Would \$2 broker C be governed by the rules covering on-floor trading while executing this trade?							
Yes	114	250	223	36	66	66	755
No	15	10	15	-	4	4	48
Not necessarily	4	1	10	1	2	1	19
b. Who would be required to report this transaction on Form 82?							
Specialist B	86	251	222	36	69	60	724
\$2 broker C	15	3	7	1	-	1	27
Both B and C	14	1	9	-	1	5	30
Neither	6	2	6	-	1	1	16
c. If specialist B had given \$2 broker C an order to buy 1,000 shares of ZYX stock while at his post at 9:45 in the morning, would you consider the execution of this order an on-floor trade?							
Yes	101	231	186	37	60	50	665
No	21	22	46	-	7	17	113
Not necessarily	7	7	15	-	4	3	36
d. If specialist B had given \$2 broker C an order to buy 1,000 shares of ZYX stock while on the train after the close of the market, would you consider the subsequent execution of this order by C an on-floor trade?							
Yes	48	65	70	16	22	15	236
No	68	164	149	18	46	51	496
Not necessarily	14	31	27	3	4	5	84

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13. Commission broker A bids 91 for 2,000 shares of ZYX, 1/4 point below the last transaction and 2 points below the preceding close. Simultaneously, commission broker B offers 1,500 shares long (public order), commission brokers C and D each offer 500 shares long (public orders), and floor trader X offers 2,000 shares long (from own account) - all at 91.

Under existing rules, who is entitled to sell?

a. B and either C or D (settled by toss)	73	15	48	1	11	24	172
b. B and either C or D or X (settled by toss)	10	4	9	-	1	3	27
c. B and X toss; if B wins, X, C and D toss	4	3	6	-	-	2	15
d. X	31	229	163	35	58	39	555

Do you consider the existing rules governing this transaction fair to all concerned? Why?

A significant number of members do not feel it is fair that X is entitled to sell. Their comments indicate that they feel the public should come first at all times.

An equally large number of replies stated that, in many similar situations, floor traders have voluntarily stepped aside and either have given the public orders preference or have reduced their offer so that the order was divided among the group.

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Spec.    C. B.    F. T.    \$2    Other    Total

14. We would like you to indicate how floor trading activity has affected the market in certain situations which you yourself have observed on the Floor over the past 24 months.

Listed below are 9 market situations. In each situation where you have observed floor trading activity, please indicate whether floor traders were usually buying or usually selling (or both) and whether - based on what you saw happen - this floor trading activity has usually helped or hurt fair and orderly markets, (or both).

If you observed floor trading, but could not determine whether it helped or hurt fair and orderly markets, please check the appropriate "Could not say" column. If you cannot recall observing any floor trading for a given situation, check the "Did not observe" column for that situation.

Floor Trader Buying

<u>Market Situation</u>	<u>Your Observation</u>	Spec.	C. B.	F. T.	\$2	Other	Total
a. Delayed opening	Helped	210	160	36	54	36	517
	Hurt	9	11	-	2	1	23
	Could not say	17	21	1	11	8	61
b. Reopening	Helped	202	155	36	54	32	501
	Hurt	6	10	-	1	1	18
	Could not say	19	21	1	9	8	59
c. Large buy order	Helped	102	72	17	32	14	244
	Hurt	40	42	3	9	8	105
	Could not say	36	42	4	14	15	115

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<u>Market Situation</u>	<u>Your Observation</u>	<u>Spec.</u>	<u>C.B.</u>	<u>F.T.</u>	<u>\$2</u>	<u>Other</u>	<u>Total</u>
d. Large sell order	Helped	208	165	36	58	37	524
	Hurt	5	8	1	-	-	14
	Could not say	19	14	1	7	7	49
e. Active stock	Helped	149	108	34	41	23	366
	Hurt	25	42	3	11	6	89
	Could not say	49	34	2	13	16	120
f. Inactive stock	Helped	85	47	24	27	11	205
	Hurt	11	13	1	3	6	34
	Could not say	98	88	10	24	22	247
g. Unsettled price condition	Helped	118	68	32	33	11	275
	Hurt	12	17	2	4	4	40
	Could not say	64	61	2	17	18	166
h. Market crisis (e. g., 5/29/62)	Helped	170	108	33	36	25	389
	Hurt	8	11	-	5	3	28
	Could not say	36	34	2	7	9	89
i. Other	Helped	11	5	2	-	1	19
	Hurt	1	3	-	-	-	4
	Could not say	4	2	-	2	4	12

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		<u>Spec.</u>	<u>C. B.</u>	<u>F. T.</u>	<u>\$2</u>	<u>Other</u>	<u>Total</u>
<u>Floor Trader Selling</u>							
<u>Market Situation</u>	<u>Your Observation</u>						
a. Delayed opening	Helped	176	141	33	49	33	451
	Hurt	9	15	-	3	1	28
	Could not say	23	28	2	13	10	79
b. Reopening	Helped	171	142	33	50	31	448
	Hurt	11	13	-	2	1	27
	Could not say	25	23	1	12	7	69
c. Large buy order	Helped	190	133	33	52	33	460
	Hurt	3	12	-	1	-	16
	Could not say	15	32	1	8	13	72
d. Large sell order	Helped	91	67	14	31	13	223
	Hurt	37	41	1	10	10	101
	Could not say	29	42	4	11	16	106
e. Active stock	Helped	141	93	33	38	22	338
	Hurt	21	43	1	11	5	82
	Could not say	39	38	1	13	19	118
f. Inactive stock	Helped	71	39	23	22	7	172
	Hurt	11	13	1	3	7	35
	Could not say	88	94	8	26	26	251
g. Unsettled price condition	Helped	89	56	25	26	12	219
	Hurt	16	23	2	7	3	54
	Could not say	67	66	3	20	21	183

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<u>Market Situation</u>	<u>Your Observation</u>	<u>Spec.</u>	<u>C.B.</u>	<u>F.T.</u>	<u>\$2</u>	<u>Other</u>	<u>Total</u>
h. Market crisis (e.g., 5/29/62)	Helped	94	49	19	17	9	197
	Hurt	28	39	2	11	11	95
	Could not say	43	47	3	9	16	119
i. Other	Helped	9	4	2	-	1	16
	Hurt	1	5	-	-	-	6
	Could not say	4	3	-	2	3	12

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15. From your own observations on the Floor over the past 24 months, have the various classes of members shown below - when engaging in floor trading - conducted their activities in a clearly responsible manner?

Principal Activity of Member

a. Floor trader

	<u>Spec.</u>	<u>C.B.</u>	<u>F.T.</u>	<u>\$2</u>	<u>Other</u>	<u>Total</u>
Yes - all do	106	52	15	22	23	218
Yes - most do	121	121	20	36	36	334
Some do and some don't	23	38	2	10	12	85
No - most do not	4	2	-	-	-	6
No - all do not	-	-	-	-	-	-
No opinion	2	7	1	2	8	20

b. Commission broker

Yes - all do	113	88	10	30	32	273
Yes - most do	106	105	21	33	35	300
Some do and some don't	18	9	3	3	3	36
No - most do not	-	1	-	-	-	1
No - all do not	-	-	-	-	-	-
No opinion	8	13	2	2	8	33

c. \$2 broker

Yes - all do	108	64	10	34	30	246
Yes - most do	110	121	21	30	33	315
Some do and some don't	18	12	3	4	4	41
No - most do not	-	1	-	-	-	1
No - all do not	-	-	-	-	-	-
No opinion	8	4	2	3	9	36

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	<u>Spec.</u>	<u>C.B.</u>	<u>F.T.</u>	<u>\$2</u>	<u>Other</u>	<u>Total</u>
d. Specialist						
Yes - all do	113	56	10	19	19	217
Yes - most do	113	110	22	28	36	309
Some do and some don't	11	41	3	20	18	93
No - most do not	-	-	-	1	-	1
No - all do not	-	1	-	-	-	1
No opinion	5	9	1	1	7	23
e. Other						
Yes - all do	29	13	3	9	16	70
Yes - most do	24	27	3	7	18	79
Some do and some don't	4	2	-	3	1	10
No - most do not	-	1	-	-	-	1
No - all do not	-	-	-	-	-	-
No opinion	12	18	2	5	10	47

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16a. In the past 24 months, have you personally observed any instances of questionable floor trading practices?

Yes	67	111	15	21	17	231
No	189	120	22	50	57	438
Not applicable	3	3	-	-	4	10

b. If yes, what were these practices?

Price manipulation	1	2	-	1	1	5
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Since members who observe illegal price manipulation are required to report it to the Exchange, it is likely that the response to question 16 was of the variety which, in the opinion of the respondents, violated the spirit of NYSE rules but not the rules themselves.

Congregating	52	91	9	18	9	179
Dominating market	20	56	1	14	7	98
Unauthorized access to broker's order	4	11	3	5	3	26
Unauthorized access to specialist's book	6	20	2	3	3	34
Improper bid or offer	7	12	1	4	2	26
Other (please specify)	7	10	2	3	2	24

"Other" practices cited include impermanency of bid or offer, circumventing on-floor trading restrictions, and evasion of trading rules.

c. How often did these instances occur?

Once or twice	11	12	3	3	5	34
Three or four times	7	17	3	3	5	35
A half dozen times	16	29	4	5	3	57
A dozen times or more	29	52	5	10	5	101

d. How many different individuals indulged in these practices?

One	1	2	1	1	1	6
Few	31	43	9	11	13	107
Half dozen	18	40	3	4	-	65
More than a half dozen	16	27	2	5	4	54

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17. In your activities on the Floor, have you personally encountered any instances in the past 24 months where floor traders have hampered your own efforts to complete a transaction?

	<u>Spec.</u>	<u>C. B.</u>	<u>F. T.</u>	<u>\$2</u>	<u>Other</u>	<u>Total</u>
a. Constantly	-	1	-	-	-	1
b. Frequently	-	3	1	1	-	5
c. Occasionally	18	44	2	11	9	84
d. Seldom	75	77	6	17	24	199
e. Never	160	105	26	41	43	375
f. Not applicable	6	2	2	-	6	16

18. In your activities on the Floor, have you personally encountered any instances in the past 24 months where floor traders have helped you to complete a transaction?

a. Constantly	18	19	11	7	5	60
b. Frequently	78	115	19	36	28	276
c. Occasionally	107	86	6	22	26	247
d. Seldom	31	6	-	1	6	44
e. Never	19	5	-	4	10	38
f. Not applicable	4	1	1	-	7	13

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Size Of Specialist Firm

19. In the conduct of your business as a specialist, has floor trading activity affected the profitability of your operations at any time within the past 24 months?

	<u>Individ.</u>	<u>2 - 4</u>	<u>5 - 9</u>	<u>10 or More</u>	<u>Unclass.</u>	<u>Total</u>
a. Always contributes to profitability	-	3	-	-	-	3
b. Usually contributes to profitability	2	6	11	3	2	24
c. Occasionally contributes to profitability	1	5	6	1	2	15
d. Sometimes helps and sometimes hurts profitability	5	41	37	3	3	89
e. Has no effect on profitability	2	44	32	21	3	102
f. Occasionally hurts profitability	-	7	2	-	-	9
g. Usually hurts profitability	-	2	-	-	-	2
h. Always hurts profitability	-	-	-	-	-	-
i. No opinion	2	4	6	-	-	12

If floor trading activity has helped or hurt profitability, in what ways?

Recurring comments indicate that increased volume, regardless of the source, tends to aid profitability.

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 NY *[Signature]* MARS, Date *4/2/09*

Size Of Specialist Firm

Individ.	2 - 4	5 - 9	10 Or More	Unclass.	Total
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20. In fulfilling your responsibility as a specialist to maintain fair and orderly trading in the stock(s) in which you are registered, has floor trading activity created any problems for you at any time within the past 24 months?

a. Never	6	80	55	24	6	171
b. Rarely	5	28	35	3	4	75
c. Occasionally	1	6	2	1	-	10
d. Frequently	-	-	1	-	-	1
e. Usually	-	-	-	-	-	-
f. Always	-	-	-	-	-	-
g. No opinion	1	-	1	-	-	2

If so, in what ways?

Criticisms were made of the additional confusion and noise level engendered by the presence of floor traders.

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	<u>O. F.</u>	<u>Spec.</u>	<u>C. B.</u>	<u>F. T.</u>	<u>\$2</u>	<u>Other</u>	<u>Total</u>
21. What classification of members <u>on the Floor</u> do you feel should be allowed to trade for their own or their firm's account?							
a. Commission brokers							
Yes	93	215	179	33	49	62	631
No	27	20	29	1	14	5	96
Not sure	8	8	6	1	2	1	26
No opinion	20	7	17	1	-	8	53
b. \$2 brokers							
Yes	88	228	190	36	57	63	662
No	29	7	9	-	8	3	56
Not sure	10	12	6	1	2	3	34
No opinion	19	3	16	-	-	6	44
c. Floor traders							
Yes	118	250	204	38	65	71	746
No	10	2	6	-	3	1	22
Not sure	6	2	4	-	2	-	14
No opinion	19	2	15	-	-	5	41
d. Specialists (Other than stocks in which they are registered)							
Yes	94	233	162	36	55	62	642
No	29	15	31	-	14	6	95
Not sure	11	4	10	1	1	2	29
No opinion	18	2	23	1	-	6	50



	<u>O.F.</u>	<u>Spec.</u>	<u>C.B.</u>	<u>F.T.</u>	<u>\$2</u>	<u>Other</u>	<u>Total</u>
e. Odd-lot dealers (Other than stocks in which they are registered)							
Yes	90	212	155	30	46	55	588
No	26	24	29	4	13	10	106
Not sure	9	5	6	-	2	1	23
No opinion	24	8	30	3	3	9	77
f. Others							
Yes	50	121	68	13	20	23	295
No	12	4	4	-	3	2	25
Not sure	8	1	-	1	1	-	11
No opinion	34	12	33	1	5	9	94

If "No" or "Not sure," please give reason:

Members commenting on this question typically felt that a member should utilize his time and capital pursuing his primary function. In this way, conflicts of interest would be avoided, and better markets would be maintained.

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	<u>O.F.</u>	<u>Spec.</u>	<u>C.B.</u>	<u>F.T.</u>	<u>\$2</u>	<u>Other</u>	<u>Total</u>
22. Should Governors under certain circumstances be empowered to prohibit temporarily <u>floor trading only</u> in a particular stock?							
a. Yes	81	117	118	8	27	25	376
b. Depends on circumstances	29	61	56	10	21	20	197
c. No	19	63	44	15	19	21	181
d. No opinion	35	9	26	5	5	15	105

If "Yes" or "Depends on circumstances," please specify which circumstances:

The circumstances most often specified were those in which a stock is fluctuating wildly and the Governors feel that floor trading would tend to accentuate the movement.

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	<u>O.F.</u>	<u>Spec.</u>	<u>C.B.</u>	<u>F.T.</u>	<u>\$2</u>	<u>Other</u>	<u>Total</u>
23. With respect to the <u>number</u> of full-time floor traders, in your opinion would fair and orderly markets be better served by . . .							
a. . . . fewer full-time floor traders?	9	10	35	-	6	2	62
b. . . . about the same number as at present?	21	99	88	10	25	21	264
c. . . . more full-time floor traders?	39	71	50	23	23	20	226
d. Not in a position to express a definite opinion at this time	90	76	62	3	16	37	284

Please explain your choice:

The most significant comments state that it is the quality of the floor traders present that is important, not the quantity.

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24. With respect to the volume of floor trading, in your opinion would fair and orderly markets be better served by . . .

	<u>O. F.</u>	<u>Spec.</u>	<u>C. B.</u>	<u>F. T.</u>	<u>\$2</u>	<u>Other</u>	<u>Total</u>
a. . . . much less floor trading?	11	4	13	-	3	1	32
b. . . . somewhat less floor trading?	5	12	20	-	5	1	43
c. . . . about the same amount of floor trading as presently exists?	25	93	99	11	27	22	277
d. . . . somewhat more floor trading?	21	37	31	16	16	13	134
e. . . . much more floor trading?	19	46	22	8	13	11	119
f. Not in a position to express a definite opinion at this time	78	61	52	1	9	32	233

Please explain your choice:

Here again, most comments stress quality rather than quantity of trading.

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 BY *[Signature]*  
 NARS, Date *12/10/05*

25. Disregarding your personal opinion of floor trading, does the existence of floor trading hurt the "image" of the NYSE in the eyes of the investing public or the financial community?

Investing Public

	<u>O.F.</u>	<u>Spec.</u>	<u>C.B.</u>	<u>F.T.</u>	<u>\$2</u>	<u>Other</u>	<u>Total</u>
Yes	35	26	42	9	11	9	132
Probably	28	47	53	1	11	13	153
Perhaps	27	62	57	12	17	19	194
Unlikely	13	24	28	4	3	10	82
No	35	73	48	11	25	13	205
No opinion	20	22	15	-	3	14	74

Financial Community

Yes	17	8	21	3	4	2	55
Probably	12	15	13	6	3	6	55
Perhaps	13	28	33	2	9	9	94
Unlikely	15	32	35	3	10	13	108
No	74	123	104	22	28	32	383
No opinion	18	16	13	-	4	15	66

Would you please give the reason for your answers:

Recurring comments from those answering "Yes," or "Probably," indicate that a misunderstanding of the role of the floor trader, and the desire to find a scapegoat in the market place on the part of investors, has led to a lowering of the image of the NYSE.

Those answering "No," or "Unlikely," felt that the floor trader is virtually unknown off the Floor of the Exchange, and those who do know of his activities do not feel negatively toward him.

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	<u>O.F.</u>	<u>Spec.</u>	<u>C.B.</u>	<u>F.T.</u>	<u>\$2</u>	<u>Other</u>	<u>Total</u>
26. With respect to the <u>ethics</u> of floor trading, which one of the following statements most nearly expresses your own point of view?							
a. Floor trading is essentially unethical	2	1	3	-	1	1	8
b. There are some aspects of floor trading which could be considered unethical	15	6	12	-	1	3	37
c. Under sound rules and proper surveillance, there should be not ethical problems	78	105	126	10	30	31	380
d. By and large, there is nothing ethically wrong with floor trading	21	50	45	5	20	12	153
e. Floor trading is fundamentally ethical	24	90	51	23	20	22	230
f. Not in a position to express a definite opinion at this time	26	6	6	-	2	12	52

Please explain your choice:

An often repeated comment states that there should be no ethical problems, given sound rules, proper surveillance, and uniform interpretation of the rules by floor officials.

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27. With respect to floor trading rules, which one of the following statements most nearly expresses your own point of view?

	<u>O. F.</u>	<u>Spec.</u>	<u>C. B.</u>	<u>F. T.</u>	<u>\$2</u>	<u>Other</u>	<u>Total</u>
a. Floor trading should be eliminated	9	1	5	-	1	-	16
b. Floor trading rules should be much more restrictive than they are now	5	4	6	-	2	2	19
c. Floor trading rules should be more restrictive than they are now	27	29	41	-	12	7	116
d. Floor trading is well-controlled under present rules	59	187	141	29	43	49	508
e. Floor trading rules should be somewhat less restrictive than they are now	6	16	7	4	5	5	43
f. Floor trading rules should be much less restrictive than they are now	4	7	5	3	2	2	23
g. There should be no restrictions on floor trading	3	5	5	1	4	1	19
h. Not in a position to express a definite opinion at this time	50	8	24	1	3	14	100

Please state reason for choice:

The large number of members who feel floor trading is well-controlled under present rules also commented on the need for uniform interpretation of these rules by all floor officials.

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	<u>O.F.</u>	<u>Spec.</u>	<u>C.B.</u>	<u>F.T.</u>	<u>\$2</u>	<u>Other</u>	<u>Total</u>
28. In your judgment and experience, are the rules governing floor trading . . . .							
a. . . . reasonably uncomplicated?							
Unfavorable comment	22	43	47	7	15	18	152
Neutral comment	-	1	-	-	-	-	1
Favorable comment	26	116	88	20	23	23	296
b. . . . sufficiently comprehensive?							
Unfavorable comment	13	20	25	4	8	7	77
Neutral comment	-	-	1	-	-	1	2
Favorable comment	26	135	106	24	30	31	352
c. . . . clearly worded?							
Unfavorable comment	23	62	56	11	18	25	195
Neutral comment	-	1	2	-	-	1	4
Favorable comment	25	100	82	16	22	15	260
d. . . . easy to interpret in practice?							
Unfavorable comment	18	37	40	3	14	19	131
Neutral comment	-	2	3	-	-	1	6
Favorable comment	21	117	92	24	26	19	299
e. . . . simple to apply on the floor?							
Unfavorable comment	16	35	32	4	12	18	117
Neutral comment	-	3	-	-	1	1	5
Favorable comment	21	120	92	23	25	18	299
f. . . . easy to enforce adherence to in busy markets?							
Unfavorable comment	26	52	62	3	13	19	175
Neutral comment	1	2	4	-	-	1	8
Favorable comment	15	98	57	24	26	15	235

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 BY NARS, Date 4/10/09



29. Specifically, what changes in floor trading rules would you suggest?

	<u>O.F.</u>	<u>Spec.</u>	<u>C.B.</u>	<u>F.T.</u>	<u>\$2</u>	<u>Other</u>	<u>Total</u>
a. No changes at all	21	151	81	18	30	16	317
b. Not sufficiently acquainted with the workings of the rules in actual practice to make suggestions at this time	111	38	93	-	23	45	310
c. Changes as follows:	15	57	45	18	13	14	162

Because of the wide variety of answers to this question, recommended changes will be covered in the next section dealing with further comments by members.

DETERMINED TO BE NOT  
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E.O. 12065, Section 6-102  
By *[Signature]* NARS, Date *11/2/09*

DETERMINED TO BE AN  
ADMINISTRATIVE MARKING  
E.O. 12065, Section 6-102  
By *[Signature]* NARS. DATE *12/2/09*

APPENDIX B

NEW YORK STOCK EXCHANGE

ELEVEN WALL STREET

NEW YORK 5, N. Y.

HENRY M. WATTS, JR.  
CHAIRMAN OF THE BOARD

December 19, 1963

TO: All Members of the Exchange  
SUBJECT: Questionnaire on Floor Trading

As you know, the Exchange has retained the management consulting firm of Cresap, McCormick and Paget to make an independent study of Floor Trading. This firm has been actively engaged in studying trading statistics, the SEC study and other reports. They have also observed operations on the Floor and interviewed members and others.

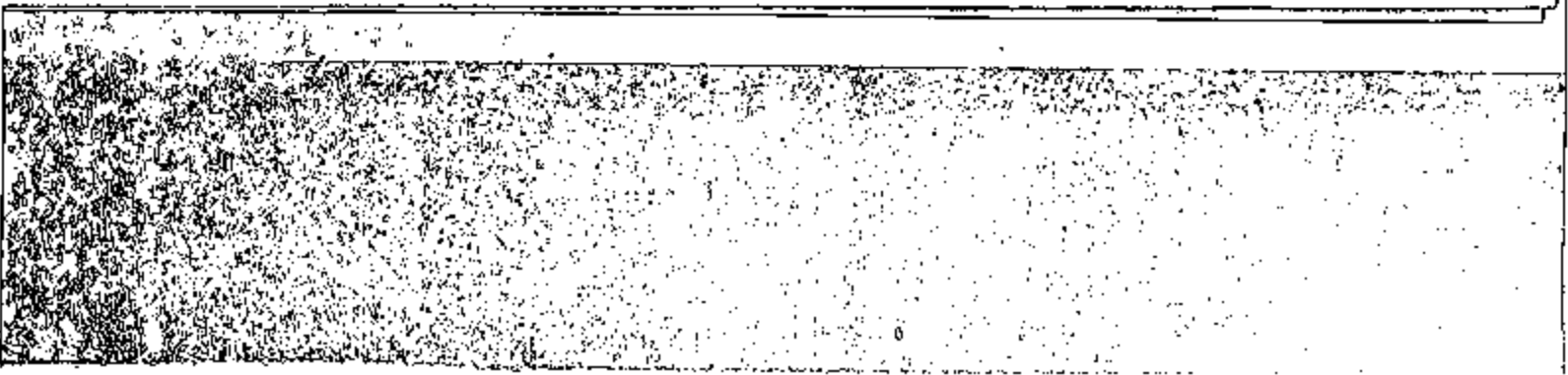
The firm has found that it is impossible for them to interview personally every member in the time they have been given to prepare their Report. Since they would like to have the opinions of all members, however, they have prepared the enclosed questionnaire in which they would like you to express your views on Floor Trading confidentially.

It is urgently requested that you answer this questionnaire as completely as possible, and return it unsigned in the enclosed envelope not later than December 30. Your cooperation in this matter will expedite the study and enable our consultants to do a more thorough job.

*Henry M. Watts Jr.*

Enclosure

— OWN YOUR SHARE OF AMERICAN BUSINESS —



DETERMINED TO BE AN  
ADMINISTRATIVE MARKING  
E.O. 12065, Section 8-102  
NARS. Date 12/2/69

CONFIDENTIAL SURVEY OF MEMBERS OF THE NEW YORK STOCK EXCHANGE  
ON MEMBER TRADING FOR THEIR OWN OR THEIR FIRM'S ACCOUNT

INTRODUCTION

As Mr. Watts pointed out in his letter, this is your opportunity to express your thoughts anonymously and in complete confidence. When you mail this questionnaire to us, it becomes our property and no one connected with the New York Stock Exchange will ever see it.

We wish we could talk with all of you, because those members with whom we have talked have been most helpful. However, in the time available we must rely on this questionnaire to get your opinions and ideas.

Some of your fellow members have aided us in making sure that this questionnaire is clear and practical, and will provide answers which will materially assist us in our work.

In addition to the questions, space is provided for any additional comments you may wish to make.

Please return the enclosed questionnaire UNSIGNED in the enclosed envelope no later than MONDAY, DECEMBER 30, 1963.

If you have any questions, please call Mr. J. W. O'Reilly or Mr. T. E. Jensen, of the Floor Department.

Thank you for your assistance.

Yours very truly,

CRESAP, McCORMICK and PAGET

YOUR CLASSIFICATION

THE PURPOSE OF QUESTIONS 1 AND 2 IS TO ENABLE US TO CLASSIFY ANSWERS BY PRINCIPAL ACTIVITY OF MEMBER AND BROADLY BY SIZE OF FIRM.

1. As a member of the New York Stock Exchange, what is your principal activity?

- |                                 | <u>CHECK ONE</u> |
|---------------------------------|------------------|
| a. Member not normally on floor | _____ 1-1        |
| b. Specialist                   | _____ 1-2        |
| c. Commission broker            | _____ 1-3        |
| d. Floor trader                 | _____ 1-4        |
| e. Two dollar broker            | _____ 1-5        |
| f. Other (bond, odd-lot, etc.)  | _____ 1-6        |

THE FOLLOWING QUESTION IS TO BE ANSWERED ONLY BY SPECIALISTS, COMMISSION BROKERS AND MEMBERS NOT NORMALLY ON FLOOR.

2. What is the total number of active partners or holders of voting stock (members and allied members) including yourself, in your firm?

- |                      | <u>CHECK ONE</u> |
|----------------------|------------------|
| a. Individual member | _____ 2-1        |
| b. 2 - 4             | _____ 2-2        |
| c. 5 - 9             | _____ 2-3        |
| d. 10 or more        | _____ 2-4        |

DETERMINED TO BE AN ADMINISTRATIVE MARKING  
E.O. 12065, Section 6-102  
by *[Signature]* NARS. Date *12/2/09*

### YOUR FIRM'S POLICY OR PRACTICE - TRADING FOR SELF OR FIRM

QUESTIONS ON THIS PAGE ARE FOR ALL MEMBERS

3. Does your firm have a policy or practice which:

a. Restricts off-floor orders for the firm account or its Exchange members from being entered during Exchange trading hours?

- CHECK ONE
- Yes  3-1
- No  3-2
- Not applicable  3-3

b. Specially labels off-floor orders as being for the firm account or Exchange member's account when they are sent to the floor for execution?

- CHECK ONE
- Yes  4-1
- No  4-2
- Not applicable  4-3

c. Imposes any other restrictions (in addition to the NYSE regulations) governing off-floor trading for the firm or Exchange member's account?

- CHECK ONE
- Yes  5-1
- No  5-2
- Not applicable  5-3

If yes, please describe:

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### YOUR FIRM'S POLICY OR PRACTICE - TRADING FOR SELF OR FIRM

QUESTIONS ON THIS PAGE ARE FOR ALL MEMBERS

Does your firm have a policy or practice which:

a. Requires prior approval by any other partner or officer before execution of an on-floor trade? CHECK ONE

Yes \_\_\_\_\_ 6-1

No \_\_\_\_\_ 6-2

Not applicable \_\_\_\_\_ 6-3

b. Limits on-floor trades to those intended to be of long term (6 months or more) duration? CHECK ONE

Yes \_\_\_\_\_ 7-1

No \_\_\_\_\_ 7-2

Not applicable \_\_\_\_\_ 7-3

c. Requires that orders for own account be relayed back from the floor to your order desk before execution? CHECK ONE

Yes \_\_\_\_\_ 8-1

No \_\_\_\_\_ 8-2

Not applicable \_\_\_\_\_ 8-3

d. Requires that any orders for the account of a floor member be entered before the opening or after the close of the market? CHECK ONE

Yes \_\_\_\_\_ 9-1

No \_\_\_\_\_ 9-2

Not applicable \_\_\_\_\_ 9-3

Does your firm impose any other restrictions (in addition to the NYSE regulations) governing on-floor trading for own account? CHECK ONE

a. Yes \_\_\_\_\_ 10-1

b. No \_\_\_\_\_ 10-2

c. Not applicable \_\_\_\_\_ 10-3

If yes, please describe:

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

Does your policy restricting on-floor trading extend to \$2 brokers who transact business for your firm on a continuing basis? CHECK ONE

a. Yes \_\_\_\_\_ 11-1

b. No \_\_\_\_\_ 11-2

c. Not applicable \_\_\_\_\_ 11-3

## YOUR OWN EXPERIENCE TRADING FOR SELF OR FIRM

QUESTIONS ON THIS PAGE ARE FOR ALL MEMBERS

7. Generally speaking, in the past 24 months, how often have you executed an on-floor transaction for your own or your firm's account (other than in stacks in which you are registered as a specialist or odd-lot dealer?)

QUE  
9.

CHECK ONE IN EACH COLUMN

	<u>Own Account</u>	<u>Firm's Account</u>
Almost daily	_____ 12-1	_____ 13-1
About once or twice a week	_____ 12-2	_____ 13-2
About once or twice a month	_____ 12-3	_____ 13-3
A few times a year	_____ 12-4	_____ 13-4
Never	_____ 12-5	_____ 13-5

If never, please check:

CHECK ONE OR MORE IN EACH COLUMN

	<u>Own Account</u>	<u>Firm's Account</u>
Prohibited by firm's policy	_____ 14-1*	_____ 15-1*
Not our firm's practice	_____ 14-2*	_____ 15-2*
Just too busy	_____ 14-3*	_____ 15-3*
Personal preference - don't care to trade for own or firm's account	_____ 14-4*	_____ 15-4*
Not on floor normally	_____ 14-5*	_____ 15-5*
Other (please explain below):	_____ 14-6*	_____ 15-6*

8. In the past 24 months, how often have you entered an off-floor order for your own or your firm's account?

CHECK ONE IN EACH COLUMN

	<u>Own Account</u>	<u>Firm's Account</u>
Almost daily	_____ 16-1	_____ 17-1
About once or twice a week	_____ 16-2	_____ 17-2
About once or twice a month	_____ 16-3	_____ 17-3
A few times a year	_____ 16-4	_____ 17-4
Never	_____ 16-5	_____ 17-5

If never, please check:

CHECK ONE OR MORE IN EACH COLUMN

	<u>Own Account</u>	<u>Firm's Account</u>
Prohibited by firm's policy	_____ 18-1*	_____ 19-1*
Not our firm's practice	_____ 18-2*	_____ 19-2*
Just too busy	_____ 18-3*	_____ 19-3*
Personal preference - don't care to trade for own or firm's account	_____ 18-4*	_____ 19-4*
Other (please explain below):	_____ 18-5*	_____ 19-5*

**YOUR OWN EXPERIENCE TRADING FOR SELF OR FIRM**

QUESTIONS ON THIS PAGE ARE FOR ALL MEMBERS

9. In terms of dollars invested, roughly what proportion of NYSE transactions (on-floor and off-floor) for your own or firm's account during the past 24 months did you make with the intent that these transactions be of long-term (6 months or more) duration?

CHECK ONE IN EACH COLUMN

	Own Account		Firm's Account	
	<u>On-Floor</u>	<u>Off-Floor</u>	<u>On-Floor</u>	<u>Off-Floor</u>
All	_____ 20-1	_____ 21-1	_____ 22-1	_____ 23-1
Most	_____ 20-2	_____ 21-2	_____ 22-2	_____ 23-2
About half	_____ 20-3	_____ 21-3	_____ 22-3	_____ 23-3
Less than half	_____ 20-4	_____ 21-4	_____ 22-4	_____ 23-4
Few	_____ 20-5	_____ 21-5	_____ 22-5	_____ 23-5
None	_____ 20-6	_____ 21-6	_____ 22-6	_____ 23-6
Not applicable	_____ 20-7	_____ 21-7	_____ 22-7	_____ 23-7
Don't know	_____ 20-8	_____ 21-8	_____ 22-8	_____ 23-8

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 E.O. 12065, Section 6-102  
 NARS. DATE 12/2/09

## YOUR OWN INTERPRETATION OF FLOOR TRADING RULES

QUESTIONS ON THIS PAGE ARE FOR ALL MEMBERS

BECAUSE OF THE COMPLEXITY OF FLOOR TRADING RULES, THERE MAY BE PROBLEMS OF INTERPRETATION. WE WOULD LIKE YOUR OWN INTERPRETATION OF THE RULES IN THE FOUR EXAMPLES DESCRIBED BELOW INVOLVING TRADING ON THE EXCHANGE. PLEASE ANSWER THE QUESTIONS AFTER EACH EXAMPLE.

10. Floor broker A phones an order from the floor to his office to buy 100 shares of ZYX stock for his own account. The order is sent to the order desk and from there back to the floor designated as broker A's order. It is executed by floor broker B of the same firm.

a. Do you consider this transaction an on-floor trade?

- CHECK ONE
- Yes  24-1
- No  24-2
- Not necessarily  24-3

b. Would floor broker A, who originated the transaction, be required to report this transaction on Form 82?

- CHECK ONE
- Yes  25-1
- No  25-2
- Not necessarily  25-3

c. Would floor broker B, in executing the order, be governed by the rules governing on-floor trading?

- CHECK ONE
- Yes  26-1
- No  26-2
- Not necessarily  26-3

d. If the order happened to be executed by floor broker A, when it came back to the floor, would you consider it an on-floor trade?

- CHECK ONE
- Yes  27-1
- No  27-2
- Not necessarily  27-3

11. At a partners' meeting of member firm D, it is decided to buy 10,000 shares of stock ZYX for the firm account. Partner J, who is also a member of the Exchange and was present at the meeting, then proceeds to buy on the floor the 10,000 shares during the ensuing week.

a. The accumulation of this block is subject to the rules governing . . .

- CHECK ONE
- Floor trading  28-1
- Off-floor trading  28-2
- Neither  28-3

b. Which form or forms should be submitted to the Exchange in connection with this accumulation?

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## YOUR OWN INTERPRETATION OF FLOOR TRADING RULES

QUESTIONS ON THIS PAGE ARE FOR ALL MEMBERS

12. Specialist B, while at his post at noon, summons \$2 broker C and gives him an order to buy 1,000 shares of ZYX stock in which B is not registered as a specialist.

- a. Would \$2 broker C be governed by the rules covering on-floor trading while executing this trade? CHECK ONE
- |                 |       |      |
|-----------------|-------|------|
| Yes             | _____ | 29-1 |
| No              | _____ | 29-2 |
| Not necessarily | _____ | 29-3 |

- b. Who would be required to report this transaction on Form 82? CHECK ONE
- |              |       |      |
|--------------|-------|------|
| Specialist B | _____ | 30-1 |
| \$2 broker C | _____ | 30-2 |
| Both B and C | _____ | 30-3 |
| Neither      | _____ | 30-4 |

- c. If specialist B had given \$2 broker C an order to buy 1,000 shares of ZYX stock while at his post at 9:45 in the morning, would you consider the execution of this order an on-floor trade? CHECK ONE
- |                 |       |      |
|-----------------|-------|------|
| Yes             | _____ | 31-1 |
| No              | _____ | 31-2 |
| Not necessarily | _____ | 31-3 |

- d. If specialist B had given \$2 broker C an order to buy 1,000 shares of ZYX stock while on the train after the close of the market, would you consider the subsequent execution of this order by C an on-floor trade? CHECK ONE
- |                 |       |      |
|-----------------|-------|------|
| Yes             | _____ | 32-1 |
| No              | _____ | 32-2 |
| Not necessarily | _____ | 32-3 |

13. Commission broker A bids 91 for 2,000 shares of ZYX, 1/4 point below the last transaction and 2 points below the preceding close. Simultaneously, commission broker B offers 1,500 shares long (public order), commission brokers C and D each offer 500 shares long (public orders), and floor trader X offers 2,000 shares long (from own account) - all at 91.

- Under existing rules, who is entitled to sell? CHECK ONE
- |   |       |      |
|---|-------|------|
| a. B and either C or D (settled by toss)      | _____ | 33-1 |
| b. B and either C or D or X (settled by toss) | _____ | 33-2 |
| c. B and X toss; if B wins, X, C and D toss   | _____ | 33-3 |
| d. X  | _____ | 33-4 |

Do you consider the existing rules governing this transaction fair to all concerned? Why?

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DETERMINED TO BE AN ADMINISTRATIVE MARKING  
 E.O. 12065, Section 6-102  
 BY *[Signature]* NARS, DATE 12/2/09

## YOUR OBSERVATIONS OF FLOOR TRADING ACTIVITY

QUESTIONS ON THIS PAGE ARE ONLY FOR MEMBERS WHO ARE NORMALLY ON THE FLOOR

14. We would like you to indicate how floor trading activity has affected the market in certain situations which you yourself have observed on the floor over the past 24 months.

Listed below are 9 market situations. In each situation where you have observed floor trading activity, please indicate whether floor traders were usually buying or usually selling (or both) and whether - based on what you saw happen - this floor trading activity has usually helped or hurt fair and orderly markets, (or both).

If you observed floor trading, but could not determine whether it helped or hurt fair and orderly markets, please check the appropriate "Could Not Say" column. If you cannot recall observing any floor trading for a given situation, check the "Did Not Observe" column for that situation.

### YOUR OBSERVATION OF:

MARKET SITUATION	YOUR OBSERVATION OF:						DID NOT OBSERVE FLOOR TRADING ACTIVITY
	Floor Trader Buying			Floor Trader Selling			
	Helped	Hurt	Could Not Say	Helped	Hurt	Could Not Say	
a. Delayed Opening	34-1*	34-2*	34-3*	34-4*	34-5*	34-6*	34-
b. Reopening	35-1*	35-2*	35-3*	35-4*	35-5*	35-6*	35-
c. Large Buy Order	36-1*	36-2*	36-3*	36-4*	36-5*	36-6*	36-
d. Large Sell Order	37-1*	37-2*	37-3*	37-4*	37-5*	37-6*	37-
e. Active Stock	38-1*	38-2*	38-3*	38-4*	38-5*	38-6*	38-
f. Inactive Stock	39-1*	39-2*	39-3*	39-4*	39-5*	39-6*	39-
g. Unsettled Price Condition	40-1*	40-2*	40-3*	40-4*	40-5*	40-6*	40-
h. Market Crisis (e.g. 5/29/62)	41-1*	41-2*	41-3*	41-4*	41-5*	41-6*	41-
i. Other (please specify):	42-1*	42-2*	42-3*	42-4*	42-5*	42-6*	42-

15. From your own observations on the floor over the past 24 months, have the various classes of members shown below - when engaging in floor trading - conducted their activities in a clearly responsible manner?

### CHECK ONE IN EACH COLUMN

#### Principal Activity Of Member

	Floor Trader	Commission Broker	\$2 Broker	Specialist	Other
Yes - all do	43-1	44-1	45-1	46-1	47-1
Yes - most do	43-2	44-2	45-2	46-2	47-2
Some do and some don't	43-3	44-3	45-3	46-3	47-3
No - most do not	43-4	44-4	45-4	46-4	47-4
No - all do not	43-5	44-5	45-5	46-5	47-5
No opinion	43-6	44-6	45-6	46-6	47-6

If there have been instances of floor trading which were not clearly responsible, please indicate in what ways:

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## YOUR OWN OBSERVATIONS OF FLOOR TRADING ACTIVITY

QUESTIONS ON THIS PAGE ARE ONLY FOR MEMBERS WHO ARE NORMALLY ON THE FLOOR

16a. In the past 24 months, have you personally observed any instances of questionable floor trading practices?

CHECK ONE

- Yes \_\_\_\_\_ 48-1  
No \_\_\_\_\_ 48-2  
Not applicable \_\_\_\_\_ 48-3

b. If yes, what were these practices?

CHECK ONE  
OR MORE

- Price manipulation \_\_\_\_\_ 49-1  
Congregating \_\_\_\_\_ 49-2  
Dominating market \_\_\_\_\_ 49-3  
Unauthorized access to  
broker's order \_\_\_\_\_ 49-4  
Unauthorized access to  
specialist's book \_\_\_\_\_ 49-5  
Improper bid or offer \_\_\_\_\_ 49-6  
Other (please specify): \_\_\_\_\_ 49-7  
\_\_\_\_\_  
\_\_\_\_\_

c. How often did these instances occur?

CHECK ONE

- Once or twice \_\_\_\_\_ 50-1  
Three or four times \_\_\_\_\_ 50-2  
A half dozen times \_\_\_\_\_ 50-3  
A dozen times or more \_\_\_\_\_ 50-4

d. How many different individuals indulged in these practices?

CHECK ONE

- One \_\_\_\_\_ 51-1  
Few \_\_\_\_\_ 51-2  
Half dozen \_\_\_\_\_ 51-3  
More than a half dozen \_\_\_\_\_ 51-4

DETERMINED TO BE AN ADMINISTRATIVE MARKING  
E.O. 12065, Section 8-102  
By *[Signature]* NARS, Date *12/2/09*

### YOUR OWN OBSERVATIONS OF FLOOR TRADING ACTIVITY

QUESTIONS ON THIS PAGE ARE ONLY FOR MEMBERS WHO ARE NORMALLY ON THE FLOOR

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17. In your activities on the floor, have you personally encountered any instances in the past 24 months where floor traders have hampered your own efforts to complete a transaction?

19.

CHECK ONE

- a. Constantly \_\_\_\_\_ 52-1
- b. Frequently \_\_\_\_\_ 52-2
- c. Occasionally \_\_\_\_\_ 52-3
- d. Seldom \_\_\_\_\_ 52-4
- e. Never \_\_\_\_\_ 52-5
- f. Not applicable \_\_\_\_\_ 52-6

18. In your activities on the floor, have you personally encountered any instances in the past 24 months where floor traders have helped you to complete a transaction?

CHECK ONE

- a. Constantly \_\_\_\_\_ 53-1
- b. Frequently \_\_\_\_\_ 53-2
- c. Occasionally \_\_\_\_\_ 53-3
- d. Seldom \_\_\_\_\_ 53-4
- e. Never \_\_\_\_\_ 53-5
- f. Not applicable \_\_\_\_\_ 53-6

20.

QUESTIONS ON THIS PAGE ARE FOR SPECIALISTS

QUESTIONS ON THIS PAGE ARE FOR SPECIALISTS

19. In the course of your business, has your trading activity in the securities market ever affected the profitability of your operations at any time within the past 24 months?

CHECK ONE

- a. Always contributes to profitability ..... 1-1-1
- b. Usually contributes to profitability ..... 1-1-2
- c. Occasionally contributes to profitability ..... 1-1-3
- d. Sometimes helps and sometimes hurts your profitability ..... 1-1-4
- e. Has no effect on profitability ..... 1-1-5
- f. Usually hurts profitability ..... 1-1-6
- g. Usually hurts profitability ..... 1-1-7
- h. Always hurts profitability ..... 1-1-8
- i. No opinion ..... 1-1-9

If so, in what way?

20. In fulfilling your responsibilities as a specialist in securities, has your trading activity in the stock(s) in which you are registered, has the trading activity ever interfered with your ability to perform any time within the past 24 months?

CHECK ONE

- a. Never ..... 1-2-1
- b. Rarely ..... 1-2-2
- c. Occasionally ..... 1-2-3
- d. Frequently ..... 1-2-4
- e. Usually ..... 1-2-5
- f. Always ..... 1-2-6
- g. No opinion ..... 1-2-7

If so, in what way?

*Handwritten notes and signatures at the top of the page.*

QUESTIONS THAT ARE BEING ASKED FOR THE HEARING

QUESTIONS THAT ARE BEING ASKED FOR THE HEARING

24. With respect to the flow of floor trading, in your opinion, would (a) and (b) or (c) and (d) or (e) and (f) be better served by:

CHECK ONE

- a. much less floor trading? \_\_\_\_\_ 65-1
- b. somewhat less floor trading? \_\_\_\_\_ 65-2
- c. about the same amount of floor trading \_\_\_\_\_ 65-3
- as presently exists?
- d. somewhat more floor trading? \_\_\_\_\_ 65-4
- e. much more floor trading? \_\_\_\_\_ 65-5
- f. no position to express a definite opinion \_\_\_\_\_ 65-6

Please indicate your choice by

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

25. Disregarding your personal opinion on floor trading and the existence of floor trading but the "image" of the NYSE to the public, do you believe the Department should:

CHECK ONE IN EACH COLUMN

	<u>Investing</u>	<u>Financial</u>
	<u>Public</u>	<u>Community</u>
Yes	_____ 65-1	_____ 65-1
Probably	_____ 65-2	_____ 65-2
Perhaps	_____ 65-3	_____ 65-3
Unlikely	_____ 65-4	_____ 65-4
No	_____ 65-5	_____ 65-5
No opinion	_____ 65-6	_____ 65-6

Would you please give the reason for your answer:

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

*Handwritten notes and scribbles at the top of the page.*

YOUR OWN OPINIONS ON FLOOR TRADING

QUESTIONS ON THIS PAGE ARE FOR ALL MEMBERS

25. With respect to the ethics of floor trading, which one of the following statements most nearly expresses your own point of view?

27

CHECK ONE

- a. Floor trading is essentially unethical
- b. There are some aspects of floor trading which could be considered unethical
- c. Under sound rules and proper surveillance, there should be no ethical problems
- d. By and large, there is nothing ethically wrong with floor trading
- e. Floor trading is fundamentally ethical
- f. Not in a position to express a definite opinion at this time

\_\_\_\_\_ 67-1

\_\_\_\_\_ 67-2

\_\_\_\_\_ 67-3

\_\_\_\_\_ 67-4

\_\_\_\_\_ 67-5

\_\_\_\_\_ 67-6

Please explain your choice:

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

28.

29.

DETERMINED TO BE BY  
 ADMINISTRATIVE MARKING  
 E.O. 12065, Section 6-102  
 NARS. Date 12/2/09

## YOUR THOUGHTS ON FLOOR TRADING RULES

QUESTIONS ON THIS PAGE ARE FOR ALL MEMBERS

27. With respect to floor trading rules, which one of the following statements most nearly expresses your own point of view?
- |  | <u>CHECK ONE</u> |
|--|------------------|
| a. Floor trading should be eliminated  | _____ 68-1       |
| b. Floor trading rules should be much more restrictive than they are now     | _____ 68-2       |
| c. Floor trading rules should be more restrictive than they are now          | _____ 68-3       |
| d. Floor trading is well controlled under present rules                      | _____ 68-4       |
| e. Floor trading rules should be somewhat less restrictive than they are now | _____ 68-5       |
| f. Floor trading rules should be much less restrictive than they are now     | _____ 68-6       |
| g. There should be no restrictions on floor trading                          | _____ 68-7       |
| h. Not in a position to express a definite opinion at this time              | _____ 68-8       |

Please state reason for choice:

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28. In your judgment and experience, are the rules governing floor trading . . .
- |  | <u>PLEASE COMMENT ON EACH</u> |
|--|-------------------------------|
| a. . . . reasonably uncomplicated?                     | _____ 69-                     |
| b. . . . sufficiently comprehensive?                   | _____ 70-                     |
| c. . . . clearly worded?                               | _____ 71-                     |
| d. . . . easy to interpret in practice?                | _____ 72-                     |
| e. . . . simple to apply on the floor?                 | _____ 73-                     |
| f. . . . easy to enforce adherence to in busy markets? | _____ 74-                     |

29. Specifically, what changes in floor trading rules would you suggest?
- |   | <u>CHECK ONE</u> |
|---|------------------|
| a. No changes at all  | _____ 75-1       |
| b. Not sufficiently acquainted with the workings of the rules in actual practice to make suggestions at this time | _____ 75-2       |
| c. Changes as follows:  | _____ 75-3       |

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DETERMINED TO BE AN  
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E.O. 12065, Section 6-102

BY *[Signature]* NARS. DATE *12/2/09*

YOUR FURTHER COMMENTS

This space is for all members' comments, ideas and recommendations. Attach additional pages if necessary.

Thank you for helping us to develop an authoritative account of floor trading.

CRESAP, McCORMICK and PAGET

NARD - CP

RG 266 UD - WW Entry 176

Chairman Files

Box 180, Folder "Floor Trading"