

NASD

News

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NATIONAL ASSOCIATION OF SECURITIES DEALERS, INC., 888 17TH ST., N.W., WASHINGTON, D.C.

To NASD Members and Registered Representatives:

As you can readily see, we have changed the format of the NASD News in an effort to make the publication more informative and responsive to the needs of its readers. We intend to publish the newsletter four or more times a year as situations and events warrant and newsworthy material becomes available.

All phases of the Association's activities and programs will be reported as well as other significant stories affecting NASD members and registered representatives. The NASD News will be supplemented from time to time by Special Reports to members and branch offices covering rule changes, new regulations and interpretations, implementation of certain recommendations in the Special Study Report and Association efforts on behalf of the business in negotiations with the SEC and Congress.

NEW AMENDMENT TO THE SECURITIES ACTS BECOMES LAW

The SEC-sponsored and NASD-supported Bill amending the 1933 & '34 Securities Acts was passed by voice vote in the House of Representatives on August 5, reconciled with the Senate version and approved by that body on August 6, and signed into law by President Johnson on August 20. This seemingly break-neck pace belies the fact that the legislation was introduced almost a year and a half ago in Congress. The Senate version, S1642, was approved in July 1963 and differed considerably from what finally came out of the House. However, the provisions of the House bill were immediately adopted by the Senate without going to a joint House-Senate conference committee.

Essentially, the final Bill accomplishes the following:

- (1) Extends to over-the-counter companies with one million dollars or more in total assets and 750 stockholders the same requirements that now apply to securities listed on an exchange, such as disclosure by the issuer of certain financial information; periodic reporting; proxy solicitation information and reports of change in holdings by officers, directors, etc.
- (2) Requires regulatory associations to establish standards of training, experience and competence for members and their employers as well as capital requirements for members.
- (3) Permits the SEC and the NASD to proceed directly against employees of firms in disciplinary actions and allows the Commission to use various sanctions short of revocation of registration.
- (4) Allows the NASD to establish rules designed to produce fair and informative quotations both at the wholesale and retail level.
- (5) Grants the SEC power to regulate broker/dealers not wishing to become members of a registered securities association so that all in the securities

**NEW LAW
(CONTINUED)**

business will be subject to comparable regulation either by the NASD or by the Commission itself.

(6) Broadens the Commission's power to alter or supplement Association rules regarding organization, discipline and eligibility for membership. Also, eliminates the necessity of proving use of the mails and instrumentalities of interstate commerce in SEC fraud cases.

(7) Authorizes the Association to adopt rules excluding from membership persons suspended or expelled from national securities exchanges and shortens the period of appeal to the Commission from NASD disciplinary action from 60 to 30 days.

(8) For first or unseasoned issues the required time for delivery of prospectuses after the commencement of a distribution was lengthened from 40 to 90 days.

Exempted from the reporting requirements for over-the-counter companies under the new Laws are insurance companies, building and loan associations and other similar institutions. However, stock insurance companies may be exempted only if state law requires comparable information to be filed.

Securities of foreign issuers may be exempted by the Commission from the reporting requirement of the new Bill after a determination that such action is in the public interest. The administration of the reporting requirements for bank securities was vested in the appropriate Federal bank regulatory agencies.

As originally introduced, the Bill would have required all broker/dealers to become members of some self-regulatory association. This provision was eliminated in the House version and is not contained in the Bill that was finally signed into law.

**SEC CHAIRMAN
CARY RESIGNS**

William L. Cary, SEC Chairman since 1961, resigned effective August 21, immediately after Congress passed the new securities law amendments. President Johnson has named Commissioner Manuel F. Cohen to succeed Mr. Cary as Chairman. Mr. Cohen had been on the Agency staff for 21 years before being appointed to the Commission in 1961 by the late President Kennedy.

Francis M. Wheat, a Los Angeles attorney, was named by the President to fill the unexpired term of Mr. Cary.

Prior to this, President Johnson had appointed Hugh F. Owens, former Securities Commissioner of Oklahoma, and Hamer H. Budge, a State Judge and former Republican Congressman from Idaho, to fill two other vacancies on the Commission. These men, along with Byron D. Woodside, who was named by Eisenhower and re-appointed by Kennedy, provide the Commission with a considerably different composition since the beginning of the year. Chairman Cohen, and Commissioners Owens and Wheat are Democrats, while Budge and Woodside are Republican members of the bi-partisan agency.

**SOME NASD MEMBERS
FILE LATE SEC
REPORTS**

The SEC has informed the Association that certain NASD firms are continually late in filing required financial condition reports under rule 17a-5, and the NASD is now considering disciplinary action against those members that persist in ignoring these prompt filing requirements. Among the 15 firms involved, reports have been filed anywhere from 3 to 103 days late, and the Commission had pointed out that the same firms have also been tardy in previous years. The SEC further stated that it planned to proceed directly against certain other firms who have never filed financial statements as required. In addition, NASD members should give

particular attention to all Association as well as SEC requests for information on which time limitations have been placed. Late replies to NASD requests for information will very likely result in disciplinary action being taken.

**SEC CUSTOMER CREDIT
BALANCE RULE
BECOMES EFFECTIVE**

A new SEC rule designated 15c3-2 concerning the reporting, at least every three months, of free credit balances held for customers became effective August 3. Broker/dealer statements for calendar quarters ending in September and December, 1964 should contain the required notice that such customer monies are available on demand and may be used by the firm, if such is the case.

Since many broker/dealers still have large supplies of monthly statement forms which do not contain the required notice under the new rule, the SEC has consented to allow interim monthly statements for October and November, 1964, and January and February, 1965, to omit this mandatory information. Commencing with March, 1965, however, all customer statements should contain the required notice.

Rule 15c3-2 provides that no broker/dealer shall use any free credit balance funds left in a customer's account in connection with the operation of its business unless the firm has established adequate procedures to give notice to customers concerning the use of such funds. If no statement is given to customers for which the broker/dealer carries free credit balances, then the firm must not use such monies directly or indirectly in the operation of its business and these balances should be segregated in separate bank accounts. According to the SEC, such bank accounts should be clearly designated in the firm's records as agency or trust accounts for customers' funds and should contain only such funds and no monies of the broker/dealer.

The Commission has indicated it would be appropriate for broker/dealers to maintain a record of such accounts which indicates the date and amount of deposits and withdrawals, the names of all customers who have interest in the account and the amount of each customer's interest. Balance sheets maintained by NASD members should indicate that customer balances segregated in separate accounts are not being used by the firm in its day-to-day operation.

**MEMBERS VOTE
APPROVAL OF BY-LAW
CHANGES**

Four major changes in the Association's By-Laws have been approved by the membership by a vote of 2,206 in favor and 67 against. Although the voting period ran to August 18, the required number of approvals was reached on August 10, 1964. The Board of Governors will be enlarged from 21 members to 23. A Governor-at-Large will be selected from among those members who are principal underwriters of investment company shares. Also, the President of the Association will become a member of the Board.

The fourth By-Law change permits the office of Treasurer to be filled by someone other than a member of the Board of Governors. However, there will be no change in the Board of Governors' control of financial matters.

The NASD will shortly submit for a vote of members three new Rules of Fair Practice covering selling methods and procedures in the business. These are: an expanded supervision rule, an expanded rule on discretionary accounts and a new regulation concerning maintenance of customer records. In addition, the Association has developed a Guideline concerning fair dealing with customers that will be published in due course.

**NEW ADVERTISING
INTERPRETATION
EFFECTIVE SEPT. 1**

Beginning September 1, all members of the Association using advertising to promote their business or recruit salesmen are required to file copies of advertisements for review within five days after first use or publication. The Advertising Interpretation recently sent to members prohibits "exaggerated, unwarranted or misleading statements in all advertising" and covers the use of past recommendations, claims and promises of results, the use of testimonials and hedge clauses.

**EXAM CHEATERS
REVOKED**

New systems of surveillance, establishing the authenticity of each candidate taking the NASD examination, have led to loss of registration for four securities representatives.

In the first case of its kind ever handled by the Association, it was found that a registered representative for a New York firm had taken the qualification examination for a personal friend, who was a trainee in another firm. Both individuals were immediately dismissed by their employers and in subsequent disciplinary action their registrations were revoked.

Similar action was instituted against two employees of another dealer. The Association found that an officer of the firm had taken the qualification examination for a trainee in the company.

In making the decision in these two cases, the Association stated that "the question of qualifications and examinations is fundamental to the securities industry and for a person to make a mockery of the examination procedure which has been established by the NASD cannot be permitted."

**PINK SHEET QUOTES
MUST BE IDENTIFIED**

The SEC recently adopted Rule 15c2-7 relating to identification of certain quotations by dealers using an inter-dealer quotation system, which presently involves only the sheets as published by the National Quotations Bureau. The Rule is designed to prevent improper use of the sheets and to eliminate the appearance of greater market depth and activity than actually exists.

Stated briefly, the Rule requires two primary disclosures:

1. A correspondent submitting a quotation for another broker/dealer must disclose the relationship and the identity of the broker/dealer for whom he is acting.
2. Two or more dealers participating in an arrangement, as defined, and submitting quotations for the same security, must disclose that an arrangement exists, and must disclose the identity of the other broker/dealers participating in the arrangement.

The Rule will become effective in two stages. As of October 1, 1964, disclosure of an arrangement will be required, and as of January 1, 1965, it will be required that the identity of other broker/dealers participating in an arrangement be revealed.

In the drafting of Rule 15c2-7, designed to respond to certain problems presented by the Special Study, special effort was made by the SEC and the NASD Trading Committee to recognize and not interfere with, legitimate and established trading practices.

On June 1 of this year the NASD moved its Executive Offices to
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