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:

NEW EXECUTIVE VP AND SIX STAFF VP's PICKED UNDER BROAD REORGANIZATION PLAN

John S. R. Schoenfeld has been named Executive Vice President of the NASD. Mr. Schoenfeld is presently the Administrative Partner of Ferris & Company, a securities firm in Washington, D. C. He will assume his new position with the Association on September 15, 1969.

The selection of Mr. Schoenfeld to the new post is part of a broad internal reorganization program now taking place in the organization according to NASD president, Richard B. Walbert. "The Association has experienced unprecedented growth in the past year," Mr. Walbert said, "and the new post was created along with six new vice presidents to enable us to better serve both our members and the investing public."

Named to the newly created position of vice president were the following:

Edward R. Gilleran, vice president of regulation. Gilleran, a native of New Jersey who has been with the NASD for seventeen years is director of the Association's regulatory activities in the field and supervises all district secretaries and examiners who periodically inspect the books and records of 4,000 members to insure compliance with the NASD's Rules of Fair Practice.

John H. Hodges, Jr., was named vice president in charge of member services. Hodges, originally from Philadelphia, Pennsylvania, has been with the organization since 1955 and most recently he has been the staff man in charge of developing the Association's automated quotations system for OTC securities which is expected to be put into operation in late 1970.

Lee C. Monett was named vice president of operations. Monett, who has been with the Association since 1952, will be responsible for the NASD's Uniform Practice and Foreign Securities Departments located in New York City. Currently, Monett is a member of the NASD staff team developing a national OTC clearing system to help alleviate the paper work problem within the securities business.

Bruce J. Simpson was made vice president of membership. A native of Geneva, Illinois, Simpson previously was in the brokerage business in Chicago and worked for the SEC as a member of the Special Study of the Securities Markets before joining the Association in 1963. Currently, Simpson is Director, Membership and Qualification and has been instrumental in working with the vast number of insurance companies who are now entering the securities business to sell mutual funds and variable annuities.

In addition, Lloyd J. Derrickson, General Counsel, and Jack A. Schindel, Treasurer, were both named vice presidents. Derrickson has been with the NASD since 1959 and has been in charge of the organization's legal activities since 1965. Schindel, originally from Hagerstown, Maryland, joined the NASD in 1957 from Price, Waterhouse & Co. and was appointed Treasurer of the organization in 1965.

Frank J. Wilson, presently the NASD's Associate General Counsel, was named Corporate Secretary. Wilson has been with the Association since 1963.

Mr. Schoenfeld possesses broad experience in administration and management. He has been in the securities business for twenty years and has been with Ferris & Company since 1952. In 1957 he became a general partner and in 1965 was made Administrative Partner of Ferris. He also served in a voluntary capacity in 1964 and 1965 on the NASD's District No. 10 Committee enforcing business conduct standards for the Washington and mid-Atlantic area and was elected Chairman of the Committee in 1966. Mr. Schoenfeld is a past president of the Invest in America Committee and is presently Chairman of the Advisory Board of The Peoples National Bank of Maryland. He is also a member of the Chevy Chase Club and the Metropolitan Club.

The son of the late Ambassador H. F. Arthur Schoenfeld and a native Washingtonian, Mr. Schoenfeld graduated form St. Albans School and is a past president of that institution's Alumni Association. He holds an AB in Economics from Washington & Lee University and is a graduate of the Institute of Investment Banking, Wharton Graduate School, University of Pennsylvania.

During World War II, Mr. Schoenfeld was in the U. S. Navy Air Corps. and was commissioned an Ensign in 1949. Long interested in aviation, Mr. Schoenfeld flies his own plane and is a member of the Aircraft Owners & Pilots Association.

NEWS BRIEFS

CLEARING

At the May Board meeting, the Governors approved an initial budgetary expenditure of two million dollars to design the proposed nationwide OTC clearing network. The two million dollar funding will be used primarily in the establishment of three regional clearing centers which later will be tied into a national clearing network. In a related move, the Board also allocated $367,000 to support a broad study of the transfer, clearance, settlement and distribution channels in the securities industry which is being conducted by the Rand Corporation. The Rand study will include the new issue market and mutual funds.

NASD TRAINING GUIDE

A new edition of the NASD Training Guide has just been published and is now ready for distribution. The new edition has been updated to include any rule changes made in the past year and has been expanded to include a section about variable contracts. Copies are available at 40 cents each and may be ordered by writing to the Treasurer's office of the NASD.

INSURANCE AND VARIABLE ANNUITIES

The Board recently endorsed a proposed new Rule of Fair Practice to apply solely to variable annuities sold by insurance affiliated members. The rule was drafted by a special group of insurance company representatives from a broad cross-section of the industry and will be sent to the NASD membership for approval after submission to the SEC.

The Association in a related move also named A. John Taylor as the Director of its new Variable Contracts Department which will include the coordination and guidance of all staff activities relating to variable contract products and sponsors. Mr. Taylor has been a vice president and director of training for Palic, a division of Aetna Life Insurance Company, and prior to that was director of training for the Variable Annuity Life Insurance Company in Washington, D. C. Taylor is the author of a widely used educational manual in the variable annuity field and has been a faculty member of the CLU Institute.

MUTUAL FUND LEGISLATION

The much discussed mutual fund legislation that has been before Congress for the past several years was again passed by a voice vote of the Senate and sent to the House for consideration. The Bill was almost identical to the legislation that was passed by the Senate during the last session of Congress which later died in the House.

The four main provisions of the Senate Bill provide:

1. Commissions charged on sales of mutual funds will be subject to regulations by the NASD. If the NASD does not establish regulations concerning mutual fund sales commissions within 18 months after the bill becomes law then the SEC may establish its own rules and regulations to cover sales charges.
2. Front-end load plans can be sold under either of two alternatives. Sellers could continue the present plan of charging a commission of 50 percent of the first year's payments. Under this plan, however, the entire transaction can be rescinded in the first 60 days and for the first three years the shareholder could get a refund of his payments minus a 15 percent commission. The other alternative plan available limits the sales charge on contractual plans to 20 percent each year for the first three years and 64 percent over all for the first four years.
3. The SEC or a shareholder may bring suit to test whether fund managers had met their fiduciary duty in establishing management fees.
4. The bill also would let savings and loan associations, as well as banks, set up co-mingled investment accounts.

RECORD INSURANCE DIVIDENDS FOR GROUP LIFE/HEALTH PLANS

The NASD Insurance Trust announced dividends equal to 20% of annual premiums on the Group Comprehensive Medical plan and 40% of annual premiums on the Group Life program. These are payable to firms participating as of April 30th, 1969.

The dividends are the highest ever paid; prior dividends have ranged from 10% to 30% on the Life Plan, and 5% to 15% on the Medical Plan.

Both life and health plans are now open to member firms for enrollment for a limited period on a non-medical basis. For information, write to the NASD Insurance Trust, 888 - 17th St., N.W., Washington, D.C. 20006

MANAGEMENT & SUPERVISION NOTES

STIFF FINES GIVEN MEMBER FIRMS FOR EMERGENCY RULE VIOLATIONS

Complaints against two NASD member firms for emergency rule violations have resulted in heavy fines at the District Business Conduct level.

In the first case, a regional member of the New York Stock Exchange was censured and fined $6,000 for executing 261 transactions in 12 different securities in which the firm had fails 120 day old or older. It was also found that the firm executed sell orders for customers when the firm did not have the securities in hand or reasonable assurance from customers that the securities could be delivered within the prescribed five business days.

In the hearing on the case, it was brought out that the member had received adequate notice, as did all members, of the adoption of Emergency Rule 68-4 which among other things restricted trading in any security in which there was 120 day old fails to receive or deliver. It also became apparent at the business conduct hearing that the member did not set up adequate procedures to establish whether securities were received at the proper time. An examination of the firm by the Association disclosed that there was a failure to receive securities in the prescribed five business days in a substantial number of instances and in no instance was an order ticket marked to show that reasonable assurance of delivery had been obtained from a selling customer.

In the second case, the Association fined a Midwest Stock Exchange member $3,000, also for violating Emergency Rule 68-4.

It was found that the firm had executed 51 sales of 5 different securities when under the provisions of the emergency rule the member was restricted from affecting such transactions as a result of having a fail to deliver in each security that was 60 days old or older at the same time that its total dollar volume of fails to deliver over 30 days old was more than 30 percent of all fails. In addition, it was found that the member had executed 56 transactions in 3 different securities where there was a fail to deliver that was 120 days old or older.

All of the charges in the complaint were readily admitted by the member firm which stated that a majority of the transactions occurred because of problems in its cashiering department which in turn caused a lack of communications with the sales, trading and supervisory personnel of the firm.

GUIDE TO FREE RIDING INTERPRETATION SPELLED OUT BY BOARD DECISION

The obligations of members under the Association's "Free-riding and Withholding" Interpretation were recently clarified in a case before the Board involving allocations of new offerings to joint accounts held by restricted persons and members of the public.

It was undisputed both before the District Business Conduct Committee and the Board of Governors that a member had allocated 850 shares of a "hot" issue out of its 3,000-share selling group participation to three accounts beneficially owned both by persons coming within the restricted categories established by the free-riding interpretation and by members of the general public. The District Business Conduct Committee dismissed the complaint, stating that the 850 shares allocated to the accounts in quesion should be reduced to 417, equaling the percentage interest in the accounts of the persons covered by the interpretation. Under this formula, the member was found to have allocated to restricted persons 13.9 percent of its participation, which the Committee concluded was not substantial or disproportionate in comparison to sales to the general public. The Committee also concluded that there were investment histories in these accounts adequate to support the allocations.

The matter was called for review by the Board of Governors, which reversed the Committee's dismissal of the complaint and censured and fined the member in the amount of $1,000. The Board stated that there is nothing in either the language or the intent of the interpretation which permits utilization of a pro rata formula. The Board further stated that where a person in one of the "free-riding" interpretation's restricted categories has a beneficial interest in an account, it is clear under the interpretation that the account itself is restricted and not merely the percentage reflecting the restricted individual's interest. The Board concluded that since total allocations to such accounts must be considered, it was clear that 28 percent of the member's selling group participation was allocated to restricted accounts, which was substantial and disproportionate in violation of the interpretation. The Board also noted that in any event the 13.9 percent figure used by the District Committee would have been substantial and disproportionate under the circumstances.