NASD

COPY

NATIONAL ASSOCIATION OF SECURITIES DEALERS, INC.

1735 K STREET NORTHWEST • WASHINGTON D.C. 20006

July 17, 1972

Lee A. Pickard, Esq.
Special Counsel to the Chairman
Securities and Exchange Commission
500 North Capitol Street
Washington, D. C. 20549

Re: Securities Exchange Act Release No. 9622;
Proposal to Adopt Rule 15c3-3 Under the
Securities Exchange Act of 1934.

Dear Mr. Pickard:

This is the National Association of Securities Dealers, Inc.'s response to the Commission's invitation to submit comments on the above-captioned proposal contained in Securities Exchange Act Release No. 9622 dated May 31, 1972. Due to the importance and complexity of this program, we believe that certain areas of the proposed rule require consideration particular to the broad membership of the Association, and therefore submit the following comments with respect to these areas:

Subparagraph (e) (3) requires that the reserve formula computations be made daily as of the close of the preceding business day and the deposits so computed be made in full by the broker or dealer no later than the next banking day. We wish to point out that a substantial portion of Association members are relatively small broker-dealers performing a very personal service to relatively few customers and cannot afford nor is the need present for sophisticated computerized equipment to perform these functions in their limited markets. Comments we have received from Association members in response to various questionnaires indicate that the daily collection of the data necessary to compute the formula would prove to be an onerous burden upon a large segment of the Association's membership. For example, items 8 through 12 on the credit side of the formula require market valuations to be made. This would be an extremely time-consuming task for members utilizing a manual bookkeeping system.

Further, broker-dealers, in computing the formula, are required to list separately the following: customers' free credit balances; customers' other credit balances; net debit balances in customers' fully secured accounts; and debit balances in bona fide cash accounts of customers and in omnibus accounts carried by other brokers or dealers (items 1, 2, 14, and 15). A single net customer control figure is generally more readily available on a daily basis. To express these amounts "broad"

would require an extremely time-consuming task which would not further the objectives of the proposed rule. Broker-dealers should be allowed to use a net amount to avoid a procedure that would significantly increase bookkeeping costs for those members utilizing a manual bookkeeping system.

We suggest that the Association be permitted to exercise its self-regulatory authority in the determination that certain broker-dealers be allowed to make the computation monthly. In this regard, we suggest a reserve of 105 per centum of that required be maintained if the monthly option is exercised.

The Commission has requested specific comments as to what additional control locations should be included in the proposed rule and the benefits which would flow to the operational cycle due to the addition of these new control locations. The Commission states in its release that "operational efficiency and prompt settlements with fewer securities in open transactions are of great concern to the Commission". The proposed rule significantly increases the probability of prompt settlement of open securities transactions by requiring prompt steps to be taken to obtain physical possession or control of fail to receive items over 25 days and by penalizing a broker-dealer for carrying fail to deliver items which are more than 30 days old. With these protective features in mind we suggest that fail to receive items less than 25 days old be considered under the control of the broker-dealer. We believe that the exclusion of these items as a control location would act to create severe operational problems, reduce the flow of securities and increase fails to deliver and fails to receive. It would result in a significant increase in the movement of securities as broker-dealers, who carried both cash and margin accounts, sought to reduce fully paid securities in fail to receive to their possession and control. The increased movement of securities in and out of bank loan, coupled with an increased use of more stock loans and stock borrowings would only serve to reduce the operational efficiency of the securities industry. Since these items are considered in the cash reserve formula, the customer would still be afforded the protection of the reserve requirement and these items would be corrected promptly in the normal course of business.

Similarly, we believe that securities due from customers less than 10 days past settlement should be considered as being under the control of the broker-dealer. Paragraph (m) of the proposed rule provides a close-out provision if customers who sold securities through the broker-dealer do not deliver within 10 days past settlement. We believe that if securities due from customers less than 10 days past settlement are not considered a control location it will result in substantial problems and inequities. For example, a broker-dealer executing a dual agency trade would be required to immediately reduce the fully paid securities of one side of the transaction to physical

possession or control while the contra side would have 15 days to make delivery. We feel that these items will promptly come under the possession and control of the broker-dealer through its normal course of business and through the Association's Interpretation with Respect to the Prompt Receipt and Delivery of Securities which requires reasonable assurance from the selling customer to the broker-dealer that the securities will be delivered to the broker-dealer within 5 days. Again, we believe that the failure to include these items as a control location will result in unwarranted increases in the movement of securities similar to the comments presented above.

Paragraph (c) (3) of the proposed rule states that "securities under the control of a broker or dealer shall be deemed to include securities which are the subject of bona fide items of transfer". However, securities are not to be deemed bona fide items of transfer if, within 30 days after they have been transmitted for transfer new certificates conforming to the instructions of the broker-dealer have not been received by him or he has not received a written statement from the issuer or its transfer agent acknowledging the transfer instructions and the possession of the securities. We believe that until such time as the transfer process is subject to regulation, a 30-day time limit as proposed is unrealistic. A broker-dealer has little control over the length of time a security may be in transfer and we believe that transfer agents will be reluctant to issue the written statement required under this paragraph. In addition, broker-dealers who engage in complex transactions such as estate liquidations and Rule 144 transactions would be unduly penalized. Accordingly, we suggest that until such time as the transfer period is subject to regulation, securities in transfer be considered under the control of the broker-dealer.

We recommend that the following additional locations be considered under the control of the broker-dealer:

a. Securities held by agencies such as Euro-Clear

b. Securities of foreign issuers held by foreign banks

c. Securities in transit via a bonded messenger service such as Brink's

d. Securities held by a bank designated as the agent of a broker or dealer

We also suggest that the effective date of the rule be extended from the proposed 45 days after adoption. We believe that an extra time period is needed to afford our members sufficient time to effect the

necessary operational changes for compliance and, in addition, to afford the Association sufficient time to educate and assist our members in accomplishing this objective.

In light of the Commission's request for comments as to additional control locations and for the assistance of those affected through the public comment process, we request that an additional draft of the proposed rule be promulgated for public comment.

The following additional comments, primarily definitional, are offered for the Commission's consideration:

(a) (1)

As defined, the term "customer" excludes general, special or limited partners, directors or officers of a broker-dealer. We believe that the definition would be clearer if it simply excluded from consideration those balances which are utilized in the broker-dealer's capital structure as defined in the SIPC Act of 1970 /Section 2(a)(ii)/.

(a) (3)

The exact meaning of the term "margin equity securities" as used in this subsection is not clear. We believe a more precise definition is necessary.

(a) (5)

The term "excess margin securities" should be defined so as to take into consideration a broker-dealer's rights under Section 220.7(b) of Regulation T, that is, the right of a creditor to accept or retain for his own protection additional collateral of any description including non-margin securities. Pursuant to paragraph (1) a customer has an absolute right to demand the delivery of excess margin securities. This definition therefore would allow a customer to demand delivery of a fully paid security which is long in his cash or margin account without consideration of any other existing debit balance or short position in any of his other accounts. A broker-dealer should be able to hold excess margin securities to collateralize a customer's other debit balances including those in cash accounts. We suggest the following language change:

> (5) The term "excess margin securities" shall mean those margin securities carried for the account of a customer, the market

value of which exceeds 140% of the net debit balances in ~~the general, special arbitrage, special subscription, special bond, special convertible debt security, and special equity funding account~~ any or all of the customer's accounts.

(a) (6)

"Qualified security" is defined as a security issued by the United States or a security in respect of which the principal and interest are guaranteed by the United States. In light of the number of Canadian broker-dealers to which the provisions of this rule would apply, the definition should include securities which are issued or guaranteed by the Dominion of Canada. In addition, we suggest that municipal bonds having the two highest recognized ratings which reach maturity within one year be considered as qualified securities.

(a) (8)

This subparagraph defines "free credit balances" as liabilities of a broker-dealer to its customers which are subject to immediate cash payment upon demand. In this respect, we suggest that a broker-dealer should not be obligated to immediately pay on demand that portion of the credit balance necessary to collateralize a short position in any of a customer's other accounts.

(c) (2)

This subparagraph states that securities under the control of a broker-dealer include those carried for the account of any customer by a broker-dealer registered with the Commission under Section 15 of the Act and are carried in a special omnibus account in the name of such registered broker-dealer by a member of a national securities exchange. This provision discriminates against broker-dealers who carry accounts at firms who are not members of a national securities exchange and thus are deprived of a control location.

(d)

This paragraph requires a broker-dealer to determine on a daily basis the quantity of fully paid and excess margin securities in his possession or control. We suggest that this paragraph be amended to require a broker-dealer to determine the quantity of fully paid and excess

margin securities not in his control. We believe that this would be consistent with the intent of the rule and would be easier to determine.

(d) (1)

This subparagraph requires that not later than the business day following the day on which a determination has been made that a broker-dealer has not obtained physical possession or control of all fully paid and excess margin securities and, securities of like kind are loaned to another broker-dealer, he must issue instructions for the return of the loaned securities and must obtain physical possession or control of these securities within 5 days. We suggest that in lieu of issuing these instructions, a broker-dealer be permitted to borrow stock from another broker-dealer or utilize intra-office borrowing techniques in order to reduce these securities to his possession or control. The use of these techniques would alleviate those situations where the broker-dealer would not be able to receive the loaned securities within the 5 day period prescribed by the proposed rule. We suggest the following language change:

> (1) Securities subject to a lien securing moneys borrowed by the broker or dealer or securities loaned to another broker or dealer, then the broker or dealer shall, not later than the business day following the day as of which such determination is made, issue instructions for the release of such securities from the lien or return of such loaned securities ~~and~~ or shall obtain physical possession or control of such securities within 2 days following the date of issuance of the instructions in the case of securities subject to lien securing borrowed moneys and within 5 days following the date of issuance of instructions in the case of securities loaned; or

(e) (1)

We suggest that the portion of this subparagraph requiring the maintenance of a "Reserve Bank Account" with a bank or banks having a banking office where the broker-dealer has his place of business be deleted since it does not take into consideration Canadian broker-dealers, broker-dealers with overseas branch offices or broker-dealers who may for various other reasons maintain bank accounts at locations away from their place of business. This subparagraph further requires that cash and

qualified securities be maintained in the reserve bank account. It appears that both cash and securities must be maintained in this account if any reserve is required. It is suggested that this subparagraph be amended as follows:

> (1) Every broker or dealer shall at all times have and maintain a "Special Reserve Bank Account for the Exclusive Benefit of Customers" (hereinafter referred to as the "Reserve Bank Account"). The Reserve Bank Account ~~shall be maintained with a bank or banks having a banking office where the broker or dealer has a place of business and~~ shall be separate from any other bank account of the broker or dealer, and he shall at all times maintain in such Reserve Bank Account, through deposits made therein, cash and/or qualified securities in amounts computed in accordance with the formula attached hereto as Exhibit A.

(l)

As has been stated above with respect to subparagraph (a)(5), this paragraph may abrogate an agreement or contract between a broker-dealer and its customers relating to the right of the broker-dealer to set forth higher margin requirements in terms of additional collateral securing either margin or cash debits. Further, this would allow a customer to demand delivery of a fully paid security which is long in his cash or margin account without consideration of any other existing debit balance or short position in any of his other accounts. We suggest that this paragraph be amended to take into consideration the rights of a broker-dealer under Section 220.7(b) of Regulation T to accept or retain additional collateral for his own protection.

(m)

This paragraph requires a broker-dealer to buy-in a customer who has not delivered to that broker-dealer, the securities necessary to cover a sell order by the tenth day after settlement date without taking into consideration bona fide situations when the delivery of securities is legitimately delayed. It is suggested that a procedure for an extension of time be granted similar to those provisions afforded under Regulation T.

An additional problem is present with respect to omnibus accounts. For example, if a stock exchange member located in the Midwest maintains

a special omnibus account with a stock exchange member in New York, the former is in fact a customer of the New York firm. Therefore, the New York firm must buy-in the Midwest firm 10 days past settlement. In many cases, distance and mail lags are the only reasons certificates have not reached the New York firm. In these cases we suggest that the responsibility be placed on the introducing firm to close out the transaction should its customers not deliver securities within the prescribed period.

(n)

The notice as written states that all securities credited to a customer's account will be held by the firm together with securities credited to the accounts of other customers. The notice does not take into consideration the practice of certain NASD members who physically segregate securities by issue and affix to each certificate a tab or other identification showing the name of the beneficial owner of the certificate. Additionally, the notice would not reflect the practice of NASD members who specifically segregate the certificates of each customer in separate envelopes or folders or clip the certificates together and identify the customer by tab or other notation affixed to the segregated certificates. Finally, the notice also does not consider the fact that customers' securities which are not fully paid or excess margin may be located in collateral bank loan or stock loan.

In addition, the concept of a certificateless society which has been supported by the Commission would require customers to leave their securities on deposit so that through the use of depositories and clearing agencies, there will be a gradual reduction of the flow of certificates. The notice may act as a retardant to this concept since it may lead to an increased demand by customers for possession of their securities.

Note A

(1) This paragraph states that margin accounts receivable shall be reduced by the amount by which a specific security which is collateral for margin accounts exceeds in aggregate value ten percent of the total collateralization of all margin accounts. We suggest that securities guaranteed by the United States or the Dominion of Canada be excluded from the provisions of this paragraph.

In addition for the purpose of this paragraph, the word "collateral" should be defined further. Presently, it may be interpreted as all securities held in a margin account or the securities necessary to collateralize margin debits.

Note A - Cont'd

(2) This paragraph would require reduction from margin accounts receivable of certain margin debits arising from transactions with certain insider accounts if these accounts exceed ten percent of all margin accounts receivable. This paragraph appears to be redundant since the majority of these insider accounts have been eliminated from the definition of "customer" as per subparagraph (a) (1) of the proposed rule.

We also suggest that this paragraph be amended to take into consideration the difficulties of a publicly held broker-dealer to become immediately aware of the purchase and sale of beneficial interests in the firm.

Note B

This note which allows a broker-dealer to eliminate certain non-customer items from the reserve formula should also be applicable to Item 2 to cover those situations where the broker-dealer purchases a security as principal from a customer and the customer fails to deliver the security. If the broker-dealer has a long position he should be allowed to offset it against the customer credit. We feel that it is unfair to penalize a broker-dealer for a failure on the part of his customer.

In addition, we believe that since the formula is intended to be all inclusive, the inclusion of Items 7, 17, and 18 in Note B is unnecessary. It merely increases the complexity of the computation without any corresponding benefit to the firm's customers.

Note C

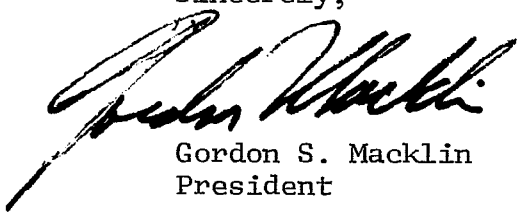
We suggest that the first part of Note C which adjusts cash debits by that amount which the receivable of one customer and his affiliates exceeds 10% of all accounts receivable be amended to exclude those accounts which by their very nature tend to create large debit balances. This exclusion might be directed to banks, insurance companies, and investment companies. We believe that this limitation as written would discriminate against smaller broker-dealers who would

Note C - Cont'd

be unable to execute a large transaction. Additionally, the term "affiliate" should be defined.

The Association appreciates the opportunity to comment upon these proposals and will be happy to provide any further assistance or information with regard to our views thereon upon request.

Sincerely,



Gordon S. Macklin
President

NASD

NATIONAL ASSOCIATION OF SECURITIES DEALERS, INC.

1735 K STREET NORTHWEST • WASHINGTON D.C. 20006

July 18, 1972

PLEASE DUPLICATE AND DIRECT
COPIES OF THIS NOTICE
TO OPERATIONS AND TRADING PERSONNEL
IN YOUR FIRM

TO: NASD Members and Branch Offices

SUBJ: Normal Unit of Trading of Convertible Debentures Quoted on the NASDAQ System

There has been some question as to what constitutes a "normal unit of trading" in the case of convertible debentures on the NASDAQ System. The NASDAQ Committee concluded at its meeting on May 23, 1972, that henceforth, $10,000 face amount of convertible debentures shall constitute a "normal unit of trading" unless indicated otherwise on NASDAQ CRT screens. Therefore, a NASDAQ registered market maker is expected to trade at least one such unit at his quotation appearing on NASDAQ Level 2 and Level 3 terminals at the time he receives either a buy or sell order.

Questions with respect to this memorandum may be directed to the NASDAQ Department in New York (Telephone: (212) 269-6393, 269-6394, 747-0482, 747-0483, 747-0484 and 747-0485); or to the NASDAQ Department in Washington, D.C. (Telephone: (202) 833-7210 and 833-7211).

Sincerely,

John H. Hodges, Jr.

John H. Hodges, Jr.
Senior Vice President
Member Services

NASD

NATIONAL ASSOCIATION OF SECURITIES DEALERS, INC.

1735 K STREET NORTHWEST • WASHINGTON D.C. 20006

July 18, 1972

To: All NASD Members

Re: Partial Abrogation of Article III, Section 25 of Rules of Fair Practice by SEC

On July 13 the Securities and Exchange Commission issued an order denying a motion of the Association for a stay of a Commission order of June 7, 1972 which partially alters the manner in which the Association has interpreted Article III, Section 25 of the Rules of Fair Practice. The June 7 order states, in part, as follows:

> "IT IS ORDERED that Section 25 of Article III of the Association's Rules of Fair Practice be, and it hereby is, abrogated to the extent that it permits or has been construed to permit the Association to bar a member's receipt of commissions, concessions, discounts, or other allowances from nonmember brokers or dealers, and that such limitation be incorporated in the Interpretation of the Board of Governors accompanying that Section, which is published in the Association's Manual."

The membership is, therefore, hereby notified that, effective immediately, the Association will interpret Section 25 to give effect to the order of the Commission.

Very truly yours,

Gordon S. Macklin
President

NASD

NATIONAL ASSOCIATION OF SECURITIES DEALERS, INC.

1735 K STREET NORTHWEST • WASHINGTON D.C. 20006

July 25, 1972

To: All NASD Members

Re: Obtaining Taxpayers Identification Number (TIN) at the time of opening a new account (TIN is same as social security number)

It should be noted that under the regulations to implement the Currency & Foreign Transactions Reporting Act (NASD Release dated April 28, 1972) recently adopted by the Treasury Department, there are certain references to the Taxpayer Identification Number:

103.35 Additional Records to be Made and Retained by Brokers and Dealers in Securities

(a) With respect to each brokerage account opened with a broker or dealer in securities after June 30, 1972, by a person residing or doing business in the United States or a citizen of the United States, such broker or dealer shall secure and maintain a record of the taxpayer identification number of the person maintaining the account; or in the case of an account of one or more individuals, such broker or dealer shall secure and maintain a record of the social security number of an individual having a financial interest in that account.

The attached notice, dated June 30, 1972, from the Department of the Treasury explains the requirements and procedures in greater detail.

Members are reminded that the TIN number must be included on the Uniform Transfer Instruction form, the use of which becomes mandatory on September 1, 1972.

Sincerely,

John S.R. Schoenfeld

John S.R. Schoenfeld
Executive Vice President

Enclosure

NOTICE

DEPARTMENT OF THE TREASURY
MONETARY OFFICES

FINANCIAL RECORDKEEPING AND REPORTING OF CURRENCY AND FOREIGN TRANSACTIONS

Instructions Relating to Taxpayer Identification Numbers

Any person residing or doing business in the United States who opens an account with a financial institution after June 30, 1972, must provide that institution with his taxpayer identification number at the time the account is opened.

This requirement is pursuant to the regulations contained in Part 103 of Title 31, Code of Federal Regulations, Financial Recordkeeping and Reporting of Currency and Foreign Transactions, published on April 5, 1972 (37 F.R. 6912). For individuals, the taxpayer identification number is his social security number. For corporations, partnerships, and other entities it is the IRS employer identification number.

Banks, savings and loan associations, building and loan associations, savings banks, credit unions, and brokers and dealers in securities are included in this requirement. If an account is opened in more than one individual's name, the financial institution is required to secure and maintain the social security number of at least one individual having a financial interest in that account.

If the customer does not have a number or has lost his card and is unaware of his number, for the convenience of financial institutions and their new customers, the Social Security Administration will furnish the customer's social security number to both parties, provided that the customer authorizes the Social Security Administration to furnish his number to the financial institution.

This authorization may be printed or stamped by financial institutions on the back of Form SS-5 (Application for Social Security Number), in the space immediately above the legend, "For Bureau of Data Processing and Accounts Use". The authorization must contain the following language:

Please furnish my SSN to:

NAME_____

ADDRESS_____

Signature_____

Relationship (If not signed by applicant)

_____

To accomplish this the customer must complete Form SS-5, in duplicate, sign the authorization on the back of the form and give both copies to the financial institution. The financial institution must mail one copy to the Social Security Administration in the pre-addressed envelope provided, and retain the other copy until the number is received.

If the customer is under 18 years of age, the authorization must be signed by his parent or legal guardian. The parent or guardian is required to indicate his relationship to the customer.

To obtain a new employer identification number for corporations, trusts, partnerships, nonprofit organizations, and other entities, the applicant should sign an appropriate authorization on the back of Part 2 of Form SS-4 (Application for Employer Identification Number). The IRS will then furnish the employer identification number to both the applicant and the financial institution.

With respect to accounts opened for trusts, charitable organizations, clubs, and similar entities the financial institution should secure the employer identification number of the entity. An employer identification number must be obtained for this purpose even though an organization may not otherwise require one.

The authorization to have the Internal Revenue Service furnish the EIN to both entities should contain the following language:

> Please furnish the EIN being applied for to:
>
> Name:
> Address:
> Signature:
> Title:

The authorization should be signed by an individual who is authorized to sign the Federal tax returns for the entity.

The customer is required to complete Form SS-4, in duplicate, sign the authorization on the back of Part 2 of the form, and give both copies to the financial institution. The financial institution will mail one copy to the Internal Revenue Service in the pre-addressed envelope provided, and retain the other copy until the number is received.

Financial institutions may obtain supplies of Form SS-5 and pre-addressed envelopes from their nearest Social Security Office, and supplies of Form SS-4 and pre-addressed envelopes will be available at the nearest Internal Revenue Service Center.

Eugene T. Rossides
Assistant Secretary for
Enforcement, Tariff and
Trade Affairs and Operations

Date: June 30, 1972

NASD

NATIONAL ASSOCIATION OF SECURITIES DEALERS, INC.

1735 K STREET NORTHWEST • WASHINGTON D.C. 20006

ATTENTION OPERATIONS OFFICERS

July 25, 1972

To: All NASD Members

The Board of Governors of the Association has recently adopted an amendment to Section 59 of the Uniform Practice Code concerning partial deliveries made when a buy-in is pending. The amendment will become effective on August 1, 1972. A copy of the new Section is attached.

Paragraph (e) of Section 59 has been rewritten to provide for a new method for making partial deliveries. Under the amended rule the criteria for determining a valid partial delivery when a buy-in is pending is as follows:

> When a buy-in notice has been given on a contract, the buyer shall accept any portion of the securities called for by the contract, provided the balance remaining undelivered is not an amount which includes an odd-lot which was not part of the original contract.

For example, if a contract calls for delivery of 550 shares the buyer would be required to accept (in proper denominations) such partial deliveries as 50 shares, 100 shares, 250 shares, 400 shares or 500 shares. The buyer would not be required to accept such partial deliveries as 125 shares, 240 shares, 315 shares, etc. Similarly, in the case of a contract calling for the delivery of 800 shares, a valid partial delivery would be certificates totalling any multiple of 100 shares.

Previously, a buyer was required to accept any portion of the securities called for by the contract, provided the portion remaining undelivered was available for cash or guaranteed delivery for buy-in purposes at the time the partial delivery was made. The amendment has been made to continue to allow a delivering member to limit his liability under the buy-in. A receiving member, as a result of the amendment, will no longer be placed in the untenable position of being left with an odd amount undelivered, which, in many cases, cannot be bought in for cash or guaranteed delivery. Essentially, members making a partial delivery must deliver an amount which does not give rise to an odd lot which was not originally transacted for.

Questions regarding this notice may be directed to the Member Operations Department, 17 Battery Place, Room 1325, New York, New York 10004 (212) 269-6393.

Sincerely,

John S. R. Schoenfeld

John S. R. Schoenfeld
Executive Vice President

Enclosure

Section 59(e) - Partial Delivery By Seller

Prior to the closing of a contract on which a "buy-in" notice has been given, the buyer shall accept any portion of the securities called for by the contract, provided the portion remaining undelivered at the time the buyer proposes to execute the "buy-in" ~~may be purchased for "cash" in the best available market, or at the option of the buyer for guaranteed delivery no later than five (5) business days after the regular settlement date. A "buy-in" may be executed by a member from its long position and/or from customers' accounts maintained with such member. In all cases, member must be prepared to defend the price at which the "buy-in" is executed relative to the current market at the time of the "buy-in".~~ is not an amount which includes an odd-lot which was not part of the original transaction.

NASD

NATIONAL ASSOCIATION OF SECURITIES DEALERS, INC.

1735 K STREET NORTHWEST • WASHINGTON D.C. 20006

July 25, 1972

To: All NASD Members

Re: Stanley (G.M.) & Co., Inc.
55 Liberty Street
New York, New York 10005

The NASD's Uniform Practice Committee has been advised that a SIPC Trustee has been appointed for the above-mentioned firm. Pursuant to this, the Committee has determined that members may use the immediate close-out procedure under Section 59(h) of the Uniform Practice Code for open transactions with the Stanley firm.

All money differences and other matters of business should be taken up with the below-named trustee.

Winthrop J. Allegaert
Anderson, Allegaert & Russell
345 Park Avenue
New York, New York
Telephone: (212) 486-1484

Please refer to Section 59(h) for the detailed procedures. Questions regarding this notice may be directed to the NASD, Inc., Member Operations Department, 17 Battery Place - Room 1325, New York, New York 10004 (212) 269-6393.

Sincerely,

John S. R. Schoenfeld

John S. R. Schoenfeld
Executive Vice President

NASD

NATIONAL ASSOCIATION OF SECURITIES DEALERS, INC.

1735 K STREET NORTHWEST • WASHINGTON D.C. 20006

July 27, 1972

TO: All NASD Members and Interested Persons

RE: Proposed New Regulations and Amendments to Existing Regulations

1. Proposed Amendment (New Subsection (k)) of Article III, Section 26 of Rules of Fair Practice

   Proposed Interpretation of New Subsection (k) (Anti-reciprocal Rule)

2. Proposed Article III, Section 34 of Rules of Fair Practice

   Appendix C to Proposed Article III, Section 34 (Mandatory Bonding Rule)

3. Proposed Amendments to Free-Riding Interpretation

The Board of Governors of the Association has proposed certain new regulations and amendments to existing regulations, as referenced above, which are being published by the Board at this time to enable all interested persons an opportunity to comment thereon. Such comments must be in writing and be received by August 28, 1972 in order to receive consideration. After the comment period has closed, the proposals must again be reviewed by the Board. Thereafter, the proposed new rules or rules changes must be submitted to the membership for vote. If approved, the proposals must be submitted to and not disapproved by the Securities and Exchange Commission prior to becoming effective.

Explanation of Proposals

1. Proposed Amendment (New Subsection (k)) of Article III, Section 26 of Rules of Fair Practice

   Proposed Interpretation of New Subsection (k) (Anti-reciprocal Rule)

The Board of Governors of the Association has recently proposed an amendment to Section 26 of Article III of the Association's Rules of Fair Practice which would have for its purpose the abolition

of reciprocal business practices in connection with the distribution of mutual fund shares, i.e., the use of portfolio brokerage of mutual funds to reward broker-dealers for sales of fund shares. It has also proposed an Interpretation of the new provisions which is designed to make clear their intent. The authority for the proposal is contained in Section 15A (b) (8) of the Securities Exchange Act of 1934, as amended (the Maloney Act), 15 USC 78o-3 (b) (8); Section 22 of the Investment Company Act of 1940, as amended, 15 USC 80a-22, and Article VII of the Association's By-Laws. The proposed amendment would add a new subsection (k) to Section 26.

The use of brokerage to reward broker-dealers for sale of mutual fund shares has long been criticized by the Securities and Exchange Commission as being improper. It has spoken to the subject critically on a number of occasions including the Special Study of Securities Markets (1963), its Report on the Public Policy Implications of Investment Company Growth (1966), and the Institutional Investor Study (1970). More recently, in its Statement on the Future Structure of the Securities Market (1972) (Statement of Future Structure), it stated that it was seriously concerned about the widespread practice of investment company managers using portfolio brokerage of mutual funds to reward broker-dealers for the sale of fund shares. It concluded in that report that it would request the NASD "to direct its members to discontinue the use of reciprocal portfolio brokerage for the sale of investment company shares." It warned that if "such a response is not forthcoming, the Commission will then consider rulemaking to accomplish the desired result."

In following up on its statement that it would request the NASD to direct its members to cease the practice, the Commission's Chairman, on behalf of the full Commission, on February 10 of this year directed a letter to the Association wherein he reiterated the conclusions of the Statement on Future Structure concerning regulatory problems caused by the practice.

The letter states that the Commission expects the Association to promptly direct its members to discontinue the above-described reciprocal practices.

The attached proposed new subsection (k) of Section 26 of the Rules of Fair Practice, and the proposed Interpretation thereof, are designed to eliminate the potential regulatory problems cited by the Commission. The Interpretation is designed to make clear the Board's intent. It therefore outlines some, but not necessarily all, of the specific practices intended to be prohibited by proposed subsection (k).

In connection with this proposal, the Association's Board of Governors accepts as a fact that it is customary for most investment companies whose shares are distributed by members of the Association to follow the policy publicly stated in their prospectuses of selecting for

the execution of portfolio transactions brokers who are in a position to provide the best execution. It recognizes also that the selection of brokers among those equally qualified to provide the best execution frequently has been made on the basis of sales of shares of the investment company.

During the course of the development of the referred to proposals, the Association has reviewed various alternatives for the implementation of the Commission's request. It has determined that it is neither necessary nor in the public interest, nor in the best interests of investment company shareholders, to prohibit the execution of portfolio transactions by members who also sell shares of the investment company. The Association believes that an investment company should not be required to avoid those broker-dealers who may have sold its shares, however, sales of shares should not be a factor in selecting the broker-dealer for execution of the transaction.

Best execution will thus be the nexus of implementation of the rule and the guiding principle upon which a mutual fund should rely in determining where to place its brokerage business, not the number of shares sold by a dealer.

Section By Section Analysis

Paragraph (1) of proposed new subsection (k) provides that no member shall directly or indirectly favor or disfavor the distribution of shares of any investment company or group of investment companies on the basis of brokerage commissions received or expected by such member from any source. "Any source" includes any investment company or group of investment companies and any "covered account". The term "covered account" is defined in paragraph (6) as meaning (a) any other investment company or account managed by the investment adviser of such investment company, or (b) any other account from which brokerage commissions are received or expected as a result of the request or direction of any principal underwriter of such investment company or of any affiliated person of such investment company, or of such principal underwriter or of any affiliated person of an affiliated person of such investment company. Some of the activities which would be prohibited by paragraph (1), and which are delineated in the proposed Interpretation of subsection (k), are as follows:

1. Providing to salesmen, branch managers, or other sales personnel any incentive or additional compensation for sales of shares of specific investment companies based upon the amount of brokerage commissions received or expected from any source. This includes bonuses, preferred compensation lists, sales incentive campaigns or contests, or any other method of compensation which provides an incentive to sales personnel to favor or

disfavor any investment companies based upon brokerage commissions. (See subsection (a) (1) of Interpretation.)

2. Recommending specific investment companies to sales personnel or establishing "recommended", "selected", or "preferred" lists of investment companies, regardless of the existence of any special compensation or incentives to favor or disfavor the shares of such companies in sales efforts, if such companies are recommended or selected on the basis of brokerage commissions received or expected from any source. (See subsection (a) (2) of Interpretation.)

3. Granting to salesmen, branch managers, or other sales personnel any participation in brokerage commissions received by such member from portfolio transactions of an investment company whose shares are sold by such member or from any covered account if such commissions are directed by or identified with such investment company or covered account. (See subsection (a) (3) of Interpretation.)

The term "brokerage commissions", as defined in paragraph (6) of proposed subsection (k), is not limited to commissions on agency transactions but also includes underwriting discounts or concessions and fees paid to members in connection with tender offerings.

Paragraph (2) of proposed subsection (k) would prohibit any member from, directly or indirectly, demanding, requiring, or soliciting an offer or promise of an amount or percentage of brokerage commissions from any source in connection with or as a condition to the sale of shares of an investment company. This is intended to prohibit using sales of shares of an investment company as a factor in negotiating the price of or the amount of brokerage commissions to be paid on a portfolio transaction of an investment company or covered account whether such transaction is executed in the over-the-counter market or elsewhere. (See subsection (a) (4) of Interpretation.)

Paragraph (3) of proposed subsection (k) would prohibit a member from, directly or indirectly, offering or promising to another member, or requesting or arranging for the direction to any member, of an amount or percentage of brokerage commissions from any source as an inducement or reward for the sale of shares of an investment company. This section would, among other things, prohibit an underwriter member from suggesting, encouraging, or sponsoring any incentive campaign or special sales effort for another member with respect to the shares of any investment company which incentive or sales effort is to the knowledge and understanding of such underwriter member, to be based upon or financed by, brokerage commissions

directed or arranged by the underwriter member. (See section (b) of Interpretation.)

Paragraph (4) of proposed subsection (k) would prohibit members from circulating any information regarding the amount or level of brokerage commissions received by the member from an investment company or covered account to anyone other than management personnel who are required in the overall management of the member's business to have access to such information.

Paragraph (5) of proposed subsection (k) states that nothing in subsection (k) shall be deemed to prohibit the execution of portfolio transactions of investment companies by members who also sell shares of the investment company. It directs, however, that members shall adopt procedures to insure that sales of investment company shares are not a factor in the selection of broker-dealers for execution of portfolio transactions. This section would allow a member to compensate its salesmen and managers based upon total sales of investment company shares attributable to such persons, whether by use of overrides, accounting credits, or other compensation methods if such compensation is not designed to favor or disfavor sales of shares of investment companies on a basis prohibited by the proposed new subsection. (See subsection (a) (5) of Interpretation.)

2. Proposed Article III, Section 34 of Rules of Fair Practice

Appendix C to Proposed Article III, Section 34 (Mandatory Bonding Rule)

As most members are aware, the recent operational stresses upon the financial community resulted in the formation by Congress of the Securities Investor Protection Corporation (SIPC). SIPC was designed to protect the customers of broker-dealers against certain losses in the event that liquidation became necessary. It was within this framework that the Board of Governors of the Association formed the Committee on Bonding Coverage in December, 1971, to conduct a comprehensive study of the present bonding practices of the industry and to make recommendations responsive to a request by SIPC that misappropriation of assets be excluded from the risks assumed by that Corporation. The attached proposed new Section 34 of Article III of the Association's Rules of Fair Practice, and Appendix C thereto, have been proposed by the Board as a result of that Committee's recommendations. The statutory basis for this proposal is contained in Section 15A (b) (5) of the Maloney Act, 15 USC 78o-(b)(5).

Section By Section Analysis

Subsection (a) of proposed Section 34 would require every member, as specified by Appendix C, to carry a blanket fidelity bond in such form and amount as prescribed in Appendix C. Subsection (b) would authorize

the Board to change Appendix C without a vote of the membership, although established procedures would require that any such change be sent to the membership for a thirty day comment period before such could be adopted.

Proposed Appendix C to new Section 34 contains the requirements in respect to the mandatory bonding authorized by proposed Section 34. Proposed Appendix C contains four major provisions dealing with mandatory fidelity bonding for certain members.

First, the bond would be required to include provisions which would cover Fidelity, on Premises, in Transit, Forgery or Alteration, and Securities Losses. (See section (a) of Appendix C.)

Second, it would require that the minimum monetary coverage for all insuring agreements be $25,000 or 120% of required net capital, as defined in SEC Rule 15c3-1 (the net capital rule), whichever is higher. 1/ (See section (b) of Appendix C.)

Third, it would allow for self-insurance (deductible) up to $5,000 or 5% of the minimum insurance amount as required by the Association, whichever is greater, to be assumed by the member itself. Self-insurance in an amount exceeding the above maximum would be permitted upon prior approval by the Association if the member adequately demonstrates that it was unable to obtain a lower deductible provided the member agrees to reduce its deductible so as to comply with the above-stated limits as soon as possible. (See section (c) of Appendix C.)

Fourth, it would require that a firm report to the Association within ten (10) business days in the event that its coverage became insufficient. (See section (d) of Appendix C.)

With respect to compliance with the proposed bonding rule, it is contemplated that affected members would be required to conform to the provisions within three months of the effective date of the rule.

3. Proposed Amendments to the Free-Riding Interpretation

Several amendments have been proposed to the Interpretation With Respect to Free-Riding and Withholding. This Interpretation in its entirety appears on pages 2039 to 2044 of the Association's Manual. The proposed

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1/ The Association has determined, should such become necessary that it would consider alternative possibilities in the event that firms are unable to obtain mandatory coverage.

changes would amend paragraph 4 (page 2041 of the Manual), paragraph 8 (page 2042 of the Manual), the paragraph entitled "Issuer Directed Shares" (page 2043 of the Manual), and add a new section to be entitled "Institution Going Public". This new section would be inserted in the Interpretation after the paragraph entitled "Issuer Directed Shares" on page 2043 of the Manual.

The proposed amendments to paragraph 4 of the Interpretation are self-explanatory. They would add senior officers and employees of, or any person who may influence or whose activities directly or indirectly involve or are related to the function of buying and selling of securities for, a savings and loan institution or a registered investment company, to the categories of individuals restricted by the provisions of paragraph 4 from receiving securities of a "hot issue" contrary to the provisions of the Interpretation.

The proposed change in paragraph 8 would simply change the words "underwriting agreement" to "agreement among underwriters". The present language was inadvertently inserted when that paragraph was adopted. As written, it would refer to the agreement between the managing underwriter and the issuer, and such was not the intent. The intent was to refer to the agreement between the several underwriters and the managing underwriter and the proposed change clarifies that intent.

The proposed amendment to the paragraph entitled "Issuer Directed Shares" specifically brings under the Interpretation the situation where an issuer directs shares of a public offering to restricted accounts by withholding a portion of the issue from the underwriting and selling the shares directly to restricted accounts on a non-underwritten basis. The proposed amendment provides that in such situations the managing underwriter shall be responsible for these sales being in compliance with the Interpretation.

The paragraph entitled "Institution Going Public" would permit institutions such as banks, savings and loan institutions, insurance companies, registered investment advisory firms, or any other institution going public to, notwithstanding the other provisions of the Free-Riding Interpretation, direct securities of the public offering to their bona fide employees or bona fide employees of their affiliates. Thus, such employees who come within the restrictive provisions of the Interpretation because of their relationship with the issuer-institution would be permitted to make purchases notwithstanding that relationship.

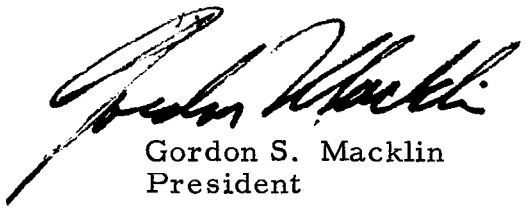
Specifically, the proposed paragraph would provide that a bank, savings and loan institution, insurance company, registered investment advisory firm, or any other institution going public may direct shares to its own bona fide employees or to the employees of an affiliate who are restricted persons under the Interpretation, providing the shares are specifically directed by the issuer and are directed in compliance with

the Interpretation with respect to Review of Corporate Financing. That Interpretation, which provides for review by the Association of underwriting arrangements, terms, and conditions, among other things, requires that the number of issuer directed shares be reasonable in amount under the prevailing circumstances and bear a reasonable relationship to the total number of shares being offered and that shares shall be reserved only for persons who are directly related to the conduct of the issuer's business. These criteria shall apply to the new exemptive provision.

The new paragraph would also provide that if an affiliate of the institution going public is a member of the Association, sales of such securities to employees of such affiliates would be restricted from further sale or transfer for a period of twelve (12) months.

Any comments should be addressed to Mr. Donald H. Burns, Secretary, National Association of Securities Dealers, Inc., 1735 K Street, N. W., Washington, D. C. 20006, on or before August 28, 1972. All communications will be considered available for inspection.

Very truly yours,



Gordon S. Macklin
President

Text Of Proposals

1. Proposed New Subsection (k) to Article III, Section 26 of the Rules of Fair Practice

Reciprocal Brokerage for Sales

(k) (1) No member shall, directly or indirectly, favor or disfavor the distribution of shares of any investment company or group of investment companies on the basis of brokerage commissions received or expected by such member from any source, including such investment company, or any covered account.

(2) No member shall, directly or indirectly, demand, require, or solicit an offer or promise of an amount or percentage of brokerage commissions from any source in connection with, or as a condition to, the sale of shares of an investment company.

(3) No member shall, directly or indirectly, offer or promise to another member, or request or arrange for the direction to any member, of an amount or percentage of brokerage commissions from any source as an inducement or reward for the sale of shares of an investment company.

(4) No member shall circulate any information regarding the amount or level of brokerage commissions received by the member from any investment company or covered account to other than management personnel who are required, in the overall management of the member's business, to have access to such information.

(5) Nothing herein shall be deemed to prohibit the execution of investment company portfolio transactions by members who also sell shares of the investment company, but members shall adopt procedures to insure that sales of investment company shares are not a factor in the selection of broker-dealers for execution of investment company portfolio transactions.

(6) Definitions

a. Covered Account shall mean (i) any other investment company or other account managed by the investment adviser of such investment company, or (ii) any other account from which brokerage commissions are received or expected as a result of the request or direction of any principal underwriter of such investment company or of any affiliated person (as defined

in the Investment Company Act of 1940) of such investment company or of such principal underwriter, or of any affiliated person of an affiliated person of such investment company.

b. Brokerage Commissions as used herein, or in any Interpretation hereof by the Board of Governors, shall not be limited to commissions on agency transactions but shall include underwriting discounts or concessions and fees paid to members in connection with tender offers.

Proposed Interpretation of New Subsection (k)

Pursuant to the provisions of Article IV, Section 2 (b) and Article VII, Section 3 (a) of the By-Laws, the following Interpretation has been adopted by the Board of Governors:

It shall be deemed conduct inconsistent with just and equitable principles of trade and in violation of Article III, Sections 1 and 26 (k) of the Rules of Fair Practice, for any member, subsequent to the effective date of this Interpretation, to engage in any of the following activities:

(a) With respect to a member's retail sales of shares of investment companies:

(1) To provide to salesmen, branch mangers or other sales personnel any incentive or additional compensation for sales of shares of specific investment companies based on the amount of brokerage commissions received or expected from any source including such investment companies or any covered accounts (as defined in Section 26 (k) of Article III of the Rules of Fair Practice) of such investment companies. Included in this prohibition are bonuses, preferred compensation lists, sales incentive campaigns or contests, or any other method of compensation which provides an incentive to sales personnel to favor or disfavor any investment company or group of investment companies based on brokerage commissions.

(2) To recommend specific investment companies to sales personnel, or establish "recommended", "selected", or "preferred" lists of investment companies, regardless of the existence of any special compensation or incentives to favor or disfavor the shares of such company or companies in sales efforts, if such companies are recommended or selected on the basis of brokerage commissions received or expected from any source.

(3) To grant to salesmen, branch managers or other sales personnel any participation in brokerage commissions received by such member from portfolio transactions of an investment company whose shares are sold by such member, or from any covered account, if such commissions are directed by, or identified with, such investment company or any covered account.

(4) To use sales of shares of any investment company as a factor in negotiating the price of, or the amount of brokerage commissions to be paid on, a portfolio transaction of an investment company or of any covered account, whether such transaction is executed in the over-the-counter market or elsewhere.

(5) Nothing herein shall prevent a member from compensating its salesmen and managers based on total sales of investment company shares attributable to such salesmen or managers, whether by use of overrides, accounting credits, or other compensation methods, provided that such compensation is not designed to favor or disfavor sales of shares of particular investment companies on a basis prohibited by this Interpretation.

(b) With respect to a member's activities as an underwriter of investment company shares to suggest, encourage, or sponsor any incentive campaign or special sales effort of another member with respect to the shares of any investment company which incentive or sales effort is, to the knowledge or understanding of such underwriter-member, to be based upon, or financed by, brokerage commissions directed or arranged by the underwriter-member.

2. Proposed Article III, Section 34 of Rules of Fair Practice

(a) Every member, as specified in Appendix C, shall be required to carry blanket fidelity bonds in such form and amount as the Association might prescribe in Appendix C.

(b) The amount and type of coverage required, and other requirements authorized hereby, shall be set forth in Appendix C to be attached to and made part of this rule. The Board of Governors shall have the power to alter, amend, supplement or modify the provisions of Appendix C from time to time without recourse to the membership for approval, as would otherwise be required by Article VII of the By-Laws. All contemplated changes will, however, be submitted to the

membership for comment prior to effectiveness. Appendix C shall become effective as the Board of Governors may prescribe unless disapproved by the Securities and Exchange Commission.

Proposed Appendix C to Article III, Section 34

Every member required to join the Securities Investor Protection Corporation who is subject to Rule 15c3-1 under the Securities Exchange Act of 1934 and has employees shall:

(a) Maintain blanket fidelity bond coverage which would include agreements that would cover: (i) Fidelity (including Fraudulent Trading), (ii) on Premises (including Misplacement), (iii) in Transit (including misplacement), (iv) Forgery or Alteration, and (v) Securities (including Securities Forgery) losses;

(b) Have the minimum monetary coverage for all insuring agreements (defined in Section (a) above) of $25,000 or 120% of required net capital as defined in SEC Rule 15c3-1, whichever is higher;

(c) Be permitted up to $5,000 or 5% of the minimum insurance requirement established by the Association, whichever is greater, to be assumed by the member. Self-insurance in an amount exceeding the above maximum shall be permitted by the Association provided the member adequately demonstrates that it is unable to obtain a lower deductible and provided that the member also agrees to reduce its deductible so as to comply with the above-stated limits as soon as possible; and

(d) Report to the Association, within ten (10) business days, in the event that the coverage decreases below the minimum established by Section (b) above.

3. Proposed Amendments to Free-Riding Interpretation

New material indicated by underlining
Deleted material indicated by striking out

Paragraph (4) of the "Free-Riding and Withholding" Interpretation (page 2041 of the Association's Manual) is proposed to be amended as follows:

4. Sell any securities to any senior officer of a bank, savings and loan institution, insurance company, registered investment company, registered investment advisory firm or any

other institutional type account, domestic or foreign, or to any person in the securities department of, or to any employee or any other person who may influence or whose activities directly or indirectly involve or are related to the function of buying or selling securities for any bank, savings and loan institution, insurance company, registered investment company, registered investment advisory firm, or other institutional type account, domestic or foreign, or to a member of the immediate family of any such person.

Paragraph 8 (a) of the "Free-Riding and Withholding" Interpretation (page 2042 of the Association's Manual) is proposed to be amended as follows:

8 (a) In the case of a foreign broker-dealer or bank which is participating in the distribution as an underwriter, the ~~underwriting agreement~~ agreement among underwriters contains a provision which obligates the said foreign broker-dealer or bank not to sell any of the shares which it receives as a participant in the distribution to persons enumerated in paragraphs (1) through (5) above, or in a manner inconsistent with the provisions of paragraph (6) hereof; or

The paragraph of the "Free-Riding and Withholding" Interpretation entitled "Issuer Directed Shares" (page 2043 of the Association's Manual) is proposed to be amended as follows:

Issuer Directed Shares

This Interpretation shall apply to securities which are part of a public offering notwithstanding that some or all of those shares are specifically directed by the issuer to accounts which are included within the scope of paragraphs (1) through (8) above. Therefore, if a person within the scope of those paragraphs to whom shares were directed did not have an investment history with the member from whom they were to be purchased, the member would not be permitted to sell him such shares. Also, the "disproportionate" and "insubstantial" tests would apply as in all other situations. Thus, the directing of a substantial number of shares to any one person would be prohibited as would the directing of shares to such accounts in amounts which would be disproportionate as compared to sales to members of the public. This Interpretation shall also apply to securities which are part of a public offering notwithstanding that some of those securities are specifically

directed by the issuer on a non-underwritten basis. In such cases, the managing underwriter of the offering shall be responsible for insuring compliance with this Interpretation in respect to those securities.

A new paragraph entitled "Institution Going Public" is proposed to be added to the "Free-Riding and Withholding" Interpretation at page 2043 of the Association's Manual after the paragraph entitled "Issuer Directed Shares" as follows:

Institution Going Public

Notwithstanding the above, in a situation where the public offering is of securities of a bank, savings and loan institution, insurance company, registered investment advisory firm or any other institution, the Board of Governors of the Association recognizes that employees of such institutions may be interested in purchasing an interest in their company. With this in mind, therefore, in those cases where a bank, savings and loan institution, insurance company, registered investment advisory firm, or any other institution "going public" wishes to sell securities to its bona fide employees or to bona fide employees of its affiliates who are included within the scope of paragraph (4) above, such may be done without contravening any of the provisions of this Interpretation, provided, however, that the sale of such securities must be specifically directed by the issuer and such direction of securities must comply with the provisions of the paragraph entitled "Issuer Reserved or Directed Securities" contained in the Guidelines of the Interpretation with respect to Review of Corporate Financing (page 2030 of the Association Manual) and provided, further, that in the case of sales to employees of an affiliate of the institution which is a member of the Association, the sale or transfer of such securities shall be restricted for a period of twelve (12) months except in the case of a bona fide gift or transfer by operation of law in which case the period of restriction shall apply to the donee or transferee and shall be measured as of the date of the termination of the offering.

ERG

NASD

NATIONAL ASSOCIATION OF SECURITIES DEALERS, INC.

1735 K STREET NORTHWEST • WASHINGTON D.C. 20006

August 3, 1972

To All NASD Members:

Enclosed for your information and review is the Association's letter of comment to the Securities and Exchange Commission concerning the proposal to adopt Rule 15c3-3 under the Securities Exchange Act of 1934.

Very truly yours,

Gordon S. Macklin
President

Enclosure

NASD

NATIONAL ASSOCIATION OF SECURITIES DEALERS, INC.

1735 K STREET NORTHWEST • WASHINGTON D.C. 20006

ATTENTION TRAINING DIRECTORS

August 15, 1972

TO: All NASD Members

FROM: Department of Standards for Training and Qualification

RE: Study Guidelines - Financial Principal Examination

The following guidelines suggest areas of review which may benefit the candidate in his preparation for the Financial Principal Examination.

I. S.E.C. Rule 15c3-1 -- A thorough knowledge of the Commission's net capital rule as amended 6/14/72* is required with particular emphasis on the allowability of assets for net capital purposes. The test candidate should also have a complete understanding of "haircut" requirements as well as the treatment of liabilities as to their inclusion in "aggregate indebtedness".

*S.E.C. Release No. 9633

II. S.E.C. Rule 17a-11 -- A knowledge of this financial reporting Rule is required especially as it relates to the amended S.E.C. net capital rule.

III. A knowledge of S.E.C. books and records requirements (17a-3 & 4) is important with particular emphasis on records to be used in verifying a statement of financial condition.

IV. S.E.C. Rule 17a-12 -- A knowledge of capital requirements for members who file under this Rule is required.

V. Other rules and regulations suggested for study include S.E.C. 17a-5, Federal Reserve Regulation T.

The above rules and regulations are included in the N.A.S.D. Manual Reprint. The S.E.C. net capital rule should be reviewed in conjunction with the amendment release cited above.

NASD

NATIONAL ASSOCIATION OF SECURITIES DEALERS, INC.

1735 K STREET NORTHWEST • WASHINGTON D.C. 20006

To: All NASD Members

Re: Amendments to Schedule C to the By-Laws

Date: August 15, 1972

FINANCIAL PRINCIPAL - NEW MEMBERS

The Board of Governors recently approved amendments to Schedule C to the By-Laws creating a new class of registration to be designated Financial Principal. Paragraph (2) of Part I of the attached amendments stipulates that, effective September 1, 1972, every broker/dealer making application for membership must designate and qualify with the Association a Financial Principal before the firm will be admitted to membership. The duties of a Financial Principal shall include, but not necessarily be limited to, the actual preparation and/or approval of financial statements together with supporting schedules and net capital computations. The Financial Principal must be an officer, partner, or sole proprietor and must also qualify to be registered as a principal under the existing requirements of Schedule C. The amendments further provide that if a broker/dealer is admitted to membership after September 1, 1972, it must continue to have a Financial Principal designated and registered with the Association.

FINANCIAL PRINCIPAL - EXISTING MEMBERS

Beginning September 1, 1972, all existing members must designate with the Association as a Financial Principal any person applying for registration as a principal who will be performing the duties described in the above paragraph. Also beginning September 1, 1972, if an existing member changes the duties of a currently registered principal to include those of a Financial Principal the firm must designate and register him with the Association as such.

TWO REGISTERED PRINCIPALS REQUIRED FOR NEW MEMBERS

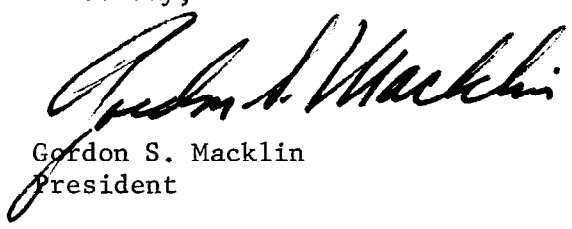
Paragraph (3) of Part I of the attached amendments requires applicants for membership, with the exception of sole proprietorships, to have at least two persons qualified to be registered as principals before the membership shall be declared effective.

CONFIDENTIALITY OF EXAMINATIONS

New Part VI of the attached amendments states that any improper use of the NASD's Qualification Examination is prohibited and will be considered a violation of the Association's Rules of Fair Practice.

The full text of Schedule C as amended will appear in the August supplement to the NASD Manual.

Sincerely,



Gordon S. Macklin
President

The designation of a "Financial Principal" shall not relieve other persons of their responsibilities in this area of operations.

(ii) Before a broker or dealer shall be admitted to membership in the Corporation the designated "Financial Principal" must pass or have passed separately Parts I and II of a two-part Qualification Examination for Principals unless he is currently qualified to be registered as a principal pursuant to paragraph (1) hereof in which case he must pass Part II, only.

(iii) After a broker or dealer has been admitted to membership he must continue to have a designated and registered "Financial Principal" who must satisfy the requirements of subparagraph (b) hereof.

(b) Existing Members --

(i) Every member of the Corporation must designate with it as a "Financial Principal" any person becoming registered as a principal after September 1, 1972, whose duties will involve the actual preparation and/or approval of financial statements together with supporting schedules and net capital computations as well as any registered principal whose duties with a member are changed after the referred to date to involve such matters. If any such designated "Financial Principal" is required to take an examination pursuant to paragraph (1) hereof he must pass separately Parts I and II of a two-part Qualification Examination for Principals. If such "Financial Principal" is qualified pursuant to the provisions of paragraph (1) hereof but satisfied such requirements after the above date he must nevertheless pass Part II of the two-part Qualification Examination for Principals.

(ii) Any designated "Financial Principal" who was registered or qualified to be registered under paragraph (1) hereof on the above date and has been continuously so registered or qualified since then shall not be required to take either Part of the two-part Qualification Examination for Principals unless such person becomes subject to the provisions of subparagraph (a) of this paragraph (2) in which case he shall be required to take Part II.

(3) Requirement of Two Registered Principals for New Applicants for Membership --

(a) An applicant for membership in the Corporation, except a sole proprietorship, shall have at least two officers or partners who are qualified to become registered as principals pursuant to

the provisions of paragraph (1) or (2) hereof, whichever is applicable, before it shall be admitted to membership.

(b) The President of the Corporation may in situations which indicate conclusively that only one person associated with a member should be required to register as such, and upon a written request for such, waive the provisions of this paragraph (3).

VI

CONFIDENTIALITY OF EXAMINATIONS

The Corporation considers all of its Qualification Examinations to be highly confidential. The removal from an examination center, reproduction, disclosure, receipt from or passing to any person, or use for study purposes of any portion of such Qualification Examination, whether of a present or past series, or any other use which would compromise the effectiveness of the Examinations and the use in any manner and at any time of the questions or answers to the Examinations are prohibited and are deemed to be a violation of Article III, Section 1 of the Rules of Fair Practice.

New language is indicated by underlining.
Deleted language is indicated by lining out.

PROPOSED AMENDMENTS TO SCHEDULE C TO THE BY-LAWS

Part I of Schedule C to the By-Laws of the Corporation has been amended by designating the existing language thereof as paragraph (1) by relettering the subparagraphs thereof, by adding two new paragraphs (2) and (3) and by adding a new Part VI thereto as follows:

(1) Registration Requirements -- All persons associated with a member who are designated as Principals must be registered and must pass a Qualification Examination for Principals before their registration can become effective:

~~(1)~~ (a) Persons associated with a member, enumerated in ~~(a)~~-~~(e)~~- (i) - (v) hereafter, who are actively engaged in the management of the member's investment banking or securities business, including supervision, solicitation, conduct of business or the training of persons associated with a member for any of these functions, are designated as Principals. Such persons shall include:-~~(a)~~ - (i) Sole Proprietors;-~~(b)~~ (ii) Officers; ~~(c)~~ (iii) Partners; ~~(d)~~ (iv) Managers of Offices of Supervisory Jurisdiction, and ~~(e)~~ (v) Directors of Corporations.

~~(2)~~ (b) Any person who was registered with the Corporation on or before October 1, 1965, and designated as a Sole Proprietor, Officer, Partner, Manager of Office of Supervisory Jurisdiction or Director is not required to pass a Qualification Examination for Principals, subject to the provisions of paragraph ~~four~~ (d) ~~herein.~~ hereof.

~~(3)~~ (c) Any person associated with amember as a representative whose duties are changed by the same member after October 1, 1965, so as to require his classification as a Principal will be allowed a reasonable period of time following such change to pass a Qualification Examination for Principals.

~~(4)~~ (d) Any Principal whose most recent registration has been terminated for a period of two years or more immediately preceding the filing of a new application shall be required to pass a Qualification Examination for Principals.

(2) Registration of Financial Principals --

(a) New Members --

(i) Effective September 1, 1972, every broker and dealer making application for admission to membership must designate with the Corporation an officer or partner, or himself in the case of a sole proprietorship, as a "Financial Principal." The duties of a "Financial Principal shall include, but not necessarily be limited to, the actual preparation and/or approval of financial statements together with supporting schedules and net capital computations.

NASD

NATIONAL ASSOCIATION OF SECURITIES DEALERS, INC.

1735 K STREET NORTHWEST • WASHINGTON D.C. 20006

August 22, 1972

To: All NASD Members and Interested Persons

Re: Proposed Amendment (New Subsection (k)) of Article III, Section 26 of Rules of Fair Practice

Proposed Interpretation of New Subsection (k) (Anti-reciprocal Rule)

This is to advise you that the last date for comment in connection with the above proposals has been extended from August 28, 1972 to September 29, 1972.

Very truly yours,

Gordon S. Macklin
President

NASD

NATIONAL ASSOCIATION OF SECURITIES DEALERS, INC.

1735 K STREET NORTHWEST • WASHINGTON D.C. 20006

August 23, 1972

TO: All NASD Members

RE: Missing Certificates of Shares of Equity Funding Corporation of America

The NASD has been notified by Equity Funding Corporation of America that 250 certificates of 100 shares each of Equity Funding Corporation of America stock, which is listed on the New York Stock Exchange, are missing. The numbers of the missing certificates run consecutively from LC-64201 to LC-64450. The certificates are blank and negotiable.

The certificates were lost in Los Angeles between the printer and the transfer agent around the first of August. The face value of these certificates is approximately $1,000,000.

If an NASD member comes into the possession of any of these certificates, he should contact: Ralph Silverstein, Equity Funding Corporation of America, 1900 Avenue of the Stars, Los Angeles, California (213) 553-2100.

Sincerely,

John H. Hodges, Jr.

John H. Hodges, Jr.
Senior Vice President
Member Services

NASD

NATIONAL ASSOCIATION OF SECURITIES DEALERS, INC.

1735 K STREET NORTHWEST • WASHINGTON D.C. 20006

August 23, 1972

TO: All NASD Members

RE: Transfer of Customer Accounts Between Member Organizations

The Association wishes to remind members of the importance of promptly completing the transfer of customer accounts, once proper instructions have been issued to them. It is considered good practice for members to obtain signed instructions and a statement of the account to be transferred from customers requesting account transfers.

Upon receipt of signed instructions and a statement of the account, the receiving member should immediately present these documents to the carrying member. Once the carrying member is in receipt of the proper instructions and statement of account, it is incumbent upon him to expedite the transfer, in order that neither the customer nor the receiving member will incur any liability as a result of undue delay. If there is disagreement between the two members on the accuracy of the statement of account, then all due effort should be made by both parties to promptly rectify the differences so that the account can be promptly and properly transferred.

Questions regarding this notice may be directed to the NASD, Inc., Member Operations Department, 17 Battery Place, Room 1325, New York, New York 10004 (212) 269-6393.

Sincerely,

Lee C. Monett

Lee C. Monett
Vice President
Member Operations

NASD

NATIONAL ASSOCIATION OF SECURITIES DEALERS, INC.

1735 K STREET NORTHWEST • WASHINGTON D.C. 20006

August 29, 1972

TO: All NASD Members

RE: 1. "Free Shipments" of Securities Under the Commission's Net Capital Rule

2. Arranging for Loans by Others

"Free Shipments" of Securities Under the Commission's Net Capital Rule

There have been several recent Association disciplinary actions where violations of the requirements of Securities and Exchange Commission's Rule 15c3-1 (the "net capital rule") have been found. These actions appear to reflect an unawareness by members as to the proper treatment of "free shipments" of securities for net capital purposes.

"Free shipments" or "securities shipped free" are receivables which arise out of the practice of delivering securities sold to another broker-dealer with only a request for payment instead of shipping by draft or correspondent for payment against delivery. It is the view of the Commission that "free shipments" of securities are not allowable assets for net capital purposes since they give rise to unsecured accounts receivable and are not readily convertible into cash. Accordingly, in making net capital computations members should consider receivables arising from "free shipments" as deductions from net worth.

Arranging for Loans by Others

During the past several months, the Association has encountered a number of situations which seem to suggest the possibility of a misunderstanding on the part of some members and their representatives with certain of the requirements of Regulation T of the Federal Reserve Board, especially those pertaining to "arranging for loans by others".

In this regard, members are reminded that, pursuant to the provisions of Regulation T, a broker-dealer may not directly or

indirectly arrange for the extension or maintenance of credit to or for any customer by any other person except upon the same terms and conditions as those upon which the broker-dealer itself may extend or maintain such credit.

Prohibitions against arranging for credit in excess of that permitted under Regulation T apply also to arrangements for credit made by salesmen of broker-dealers regardless of whether the arrangements are for the accounts of the salesmen themselves, members of their families, or for unrelated customers. In a landmark case, the SEC stated that "A salesman who effects transactions in his own account occupies a dual role: in this capacity he is clearly a customer, although in acting in other capacities he is a representative of the broker-dealer". 1/ In this connection, the Commission went on to say that "a salesman effecting transactions in his own account is a customer to whom the broker-dealer may advance credit for the purchase of securities only as permitted for all other customers", and further that, "it follows that the broker-dealer may arrange for the extension of credit by another to the salesman-customer only to the same extent as for other customers".

Arranging for the extension of credit by others has been held by the SEC to include such activities by a broker-dealer or its representatives as obtaining or filling out for the customers the forms or documents necessary to carrying out the credit transactions. When a member or representative becomes the intermediary between a customer and a lender with respect to the customer's dealings with the lender, such as by conveying the customer's communications or instructions to the lender and responding to requests or directions of the lender concerning the customer's transactions, the member and its representative become so involved in the extension or maintenance of credit for the customer by the lender as to be held to be arranging.

These restrictions are effective regardless of whether the lender is extending credit on securities transactions in conformity with Regulations G or U of the Federal Reserve Board.

Sincerely,

Frank J. Wilson
Senior Vice President
Regulation

1/ See Securities Exchange Act Release No. 7052, dated April 10, 1963.

NASD

NATIONAL ASSOCIATION OF SECURITIES DEALERS, INC.

1735 K STREET NORTHWEST • WASHINGTON D.C. 20006

August 30, 1972

To: All NASD Members

Re: Prompt Receipt and Delivery of Securities, Interpretation of the Board of Governors

An amended interpretation of the Board of Governors regarding prompt receipt and delivery of securities received clearance from the Securities and Exchange Commission on August 21, 1972, and will become effective September 1, 1972. The amended interpretation is attached to this notice.

The amendment to the interpretation (which currently appears on page 2036 of the NASD Manual) provides an exception to a member's obligation to receive reasonable assurance from a customer that securities to be sold for that customer will be delivered in good deliverable form within five business days of the execution of the order. If the securities the customer wishes to sell are part of a public offering, the prompt receipt and delivery interpretation will now not apply until seven business days after the date of settlement between the underwriter and the issuer of the securities. A member must, however, believe in good faith that the customer has actually purchased the securities that he desires to sell.

This new provision will enable a customer who purchases securities of a new issue to resell them through any broker/dealer. Present provisions would require that they be resold through the firm from which they were purchased, since, for all practical purposes, possession of the securities is required to sell them elsewhere.

The amended interpretation stipulates that the exception does not apply to public offerings covered under proposed Article III, Section 31 of the Rules of Fair Practice, concerning "best efforts" underwritings. Proposed Article III, Section 31, which has been approved by the membership,

-continued-

is currently awaiting clearance by the Securities and Exchange Commission, and, therefore, is not yet effective. That rule imposes certain requirements with regard to aftermarket trading of securities distributed through "best efforts" underwritings.

The amended interpretation will be included in the supplementary material to the NASD Manual distributed to the membership in late September.

Very truly yours,

Frank J. Wilson
Senior Vice President
Regulation

New language is underlined.
Deleted language is lined out.

PROMPT RECEIPT AND DELIVERY OF SECURITIES

It shall be deemed a violation of Article III, Section I of the Rules of Fair Practice of the Association for a member to violate the provisions of the following interpretation thereof:

(a) Purchases: No member may accept a customer's purchase order for any security unless it has first ascertained that the customer placing the order or its agent agrees to receive securities against payment in an amount equal to any execution, even though such an execution may represent the purchase of only a part of a larger order.

(b) Sales:

(1) No member or persons associated with a member shall execute a sell order for any customer in any security unless:

~~(1)~~ a. The member has possession of the security;

~~(2)~~ b. The customer is long is his account with the member;

~~(3)~~ c. Reasonable assurance is received by the member, or person associated with a member, from the customer that the security will be delivered to it in good deliverable form within five (5) business days of the execution of the order; or

~~(4)~~ d. The security is on deposit in good deliverable form with a member of the Association, a member of a national securities exchange, a broker/dealer registered with the Securities and Exchange Commission, or any organization subject to state or federal banking regulations and that instructions have been forwarded to that depository to deliver the securities against payment.

(2) Except as provided in Article III, Section 31 of the Rules of Fair Practice (Note: Proposed Article III, Section 31, already approved by the Association's membership, is not yet effective and is currently awaiting clearance by the Securities and Exchange Commission), in the case of a public offering of securities, paragraph (1) hereof shall not apply during the period from the commencement of the public offering until seven (7) business days following the date of settlement between the underwriter and the issuer of the securities; provided, however, that the member believes in

good faith that the customer has purchased the securities.

To satisfy the requirements of "reasonable assurance" contained in ~~(3)~~ subparagraph (1)(c) above, the member or person associated with a member must make a notation on the order ticket at the time he takes the order which reflects his conversation with the customer as to the present location of the securities in question, whether they are in good deliverable form and his ability to deliver them to the member within five (5) business days.

NASD

NATIONAL ASSOCIATION OF SECURITIES DEALERS, INC.

1735 K STREET NORTHWEST • WASHINGTON D.C. 20006

August 31, 1972

I M P O R T A N T !

PLEASE DIRECT THIS NOTICE

TO ALL

FINANCIAL AND OPERATIONS OFFICERS AND PARTNERS

TO: All NASD Members

RE: Violations of Net Capital and Record-Keeping Requirements

In view of the recent amendment to SEC Rule 15c3-1 (the "net capital rule") and the adoption of a variety of related rules pertaining to financial reporting and operational condition, the Association would like to take this opportunity to remind members of their obligations and responsibilities under these rules and to reemphasize the seriousness and concern with which it views any violation of these requirements.

With regard to the latter point, members are advised that from the experience gained during the 1968 to 1970 crisis period, the Business Conduct Committees of the Association have concluded that the penalties imposed for net capital and books and records violations may have been inadequate in some cases in that certain members who were disciplined for such violations failed to initiate the corrective action required to prevent a recurrence of their problems. As a result, these members conducted their businesses while in a very marginal or precarious condition which, when left unchecked, frequently deteriorated even further. Ultimately, situations such as these gave rise to additional disciplinary actions and increased sanctions. As a consequence, the Business Conduct Committees of the Association will henceforth give added consideration to a wider range of penalties including, among other things, extended suspensions, expulsions and revocations for net capital and record-keeping violations. In view of the importance of these requirements, under no circumstances will the Association consider violations of these rules as purely technical in nature.

In regard to broker-dealer financial responsibility standards, the Association again stresses the fact that the fundamental concept underlying the SEC Net Capital Rule is that of immediate liquidity.

Accordingly, it is absolutely essential that members become completely familiar with all of the aspects of the rule to include its recently amended provisions before commencing or continuing to engage in a business which involves enormous potential loss to the public and other broker-dealers.

Sincerely,

Frank J. Wilson
Senior Vice President
Regulation

NASD

NATIONAL ASSOCIATION OF SECURITIES DEALERS, INC.

1735 K STREET NORTHWEST • WASHINGTON D.C. 20006

September 13, 1972

TO: All NASD Members (Attention Operational Officers)

RE: Holt, Murdock Securities, Inc.
801 North Main, P. O. Box 1153
Helena, Montana 59601

Northeast Investors Planning Corp.
308 East 149th Street
Bronx, New York 10451

The NASD's Uniform Practice Committee has been advised that SIPC Trustees have been appointed for the above-mentioned firms. Pursuant to this the Committee has determined that members may use the immediate close-out procedure under Section 59(h) of the Uniform Practice Code for open transactions with these firms.

All money differences and other matters of business should be taken up with the below-named trustees:

FOR: Holt, Murdock Securities, Inc.

TRUSTEE: Mr. Thomas Dowling
1230 11th Avenue
Helena, Montana 59601
Telephone: (406) 442-9000

FOR: Northeast Investors Planning Corp.

TRUSTEE: Mr. David Handel
Irving Handel & Co.
1350 Avenue of Americas
New York, New York 10019
Telephone: (212) 489-1940.

Please refer to Section 59(h) of the Uniform Practice Code for the detailed procedures. Questions regarding this notice may be directed to the NASD, Inc., Member Operations Department, 17 Battery Place - Room 1325, New York, New York 10004, (212) 269-6393.

Sincerely,

Lee C. Monett

Lee C. Monett
Vice President, Member Operations

NASD

NATIONAL ASSOCIATION OF SECURITIES DEALERS, INC.

1735 K STREET NORTHWEST • WASHINGTON D.C. 20006

September 21, 1972

To All NASD Members:

The Board of Governors has declared that the Emergency Rules of Fair Practice Nos. 70-1, 70-2 and 70-3 will continue in effect. The full text of these Emergency Rules can be found on page 2005 of the NASD Manual.

Although the Board agrees there has been significant improvement in the areas which gave rise to the original declaration of emergency, the conditions have not changed sufficiently to justify a change in procedures at this time.

The Emergency Rules will be in effect from September 22, 1972, and will remain in effect for a six-month period unless rescinded earlier by action of the Board of Governors.

Sincerely,

John S. R. Schoenfeld

John S. R. Schoenfeld
Executive Vice President

Note: The resolution of the Board of Governors regarding these Emergency Rules appears on the reverse side of this notice.

RESOLUTION CONTINUING EMERGENCY CAUSED BY FAILS AND BOOKS AND RECORDS PROBLEMS

WHEREAS, the Board of Governors has previously on March 17, 1972, declared an emergency to exist as a result of the large number and dollar amounts of "fails to deliver" securities to a buyer and/or "fails to receive" securities from a seller and because of the lack of currency of books and records of many members of the Association, each of which factors has a potential adverse effect on a member's net capital position; and

WHEREAS, notwithstanding that there has been a material and significant improvement in the various areas which gave rise to the initial and subsequent declarations of the existence of the emergency, especially as to the currency of the books and records of members, the conditions which gave rise to the previously declared emergency have not abated sufficiently to warrant a change in procedures at this time; and

WHEREAS, the Board of Governors of the Corporation has been informed of and/or has knowledge, and/or is aware of information which is indicative of the continuation of the previously declared emergency situation; and

WHEREAS, the Board of Governors believes that the said emergency condition continues to exist; and

WHEREAS, the National Association of Securities Dealers, Inc. is charged with the responsibility and function of carrying out the purposes of the Maloney Act, codified as Section 15A of the Securities Exchange Act of 1934, as amended, 15 U.S.C. 78o-3, et seq; and

WHEREAS, the Aforesaid Act authorizes and requires rules of the Corporation to be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade and, in general, to protect investors and the public interest and to remove impediments to and perfect the mechanism of a free and open market and that they are not designed to permit unfair discrimination between customers, or issuers, or brokers or dealers; and

WHEREAS, pursuant to the provisions of Article VII, Section 1 of the By-Laws of the Corporation the Board of Governors is authorized to reassess the facts and circumstances which gave rise to an emergency previously declared to exist and to declare by resolution, if it deems such appropriate under the facts and circumstances then existing, the emergency to continue to exist for successive six-month periods as required;

NOW, THEREFORE, BE IT RESOLVED, that based upon information which has been supplied to and is before the Board, an emergency condition is hereby found to continue to exist.

September 12, 1972

NASD

NATIONAL ASSOCIATION OF SECURITIES DEALERS, INC.

1735 K STREET NORTHWEST • WASHINGTON D.C. 20006

September 26, 1972

TO: All NASD Members

Recently there have been several articles in the Investment Dealers' Digest and the Wall Street Journal concerning the NASDAQ system and the over-the-counter market. Enclosed for your review are reprints of these stories, which have also been distributed to NASDAQ company officials.

Sincerely,

Gordon S. Macklin

Gordon S. Macklin
President

NASDAQ Report

The Investment Service Scene

By William Galle

With NASDAQ now beyond its infancy, it's becoming increasingly apparent to market buffs that over-the-counter stocks have gained in stature. The twin stigmas of questionable marketability and highly speculative quality are fading. And NASDAQ statistical indicators are showing volume and price trends, thus giving unlisted stocks a new visibility *vis-a-vis* national and regional listed securities.

One of the more tangible signs of the higher esteem shown towards the OTC market can be found among advisory service and brokerage house research departments. As usual, quality stocks such as American Express, BankAmerica and Tampax hold the spotlight because they are prestigious companies with enviable track records and marketable stock floats.

But the focus appears to be shifting to other stock groups. Volume figures are now showing more depth and liquidity in high quality new OTC issues and growth stocks. The latter, in fact, are often discovered to be undervalued compared to similar Big Board issues. What's more, they frequently sport better price earnings ratios.

To capitalize on the OTC market's newly acquired stability and vibrancy, numerous services are boosting their recommendations of unlisted stocks. For example, Harry Laubscher, director of research for Walston & Co., pointed out that his firm's market letter is recommending 25% to 35% more NASDAQ-OTC issues compared to pre-NASDAQ days. "We feel more free to recommend OTC stocks because we can follow them more closely since NASDAQ."

More investment services are recommending OTC stocks and a few are specializing exclusively in NASDAQ issues.

Equity Research Associates, a division of Halle & Stieglitz, Inc., has even gone one step further: the establishment of a special service devoted to NASDAQ stocks. Called the ERA Junior Growth Stock Survey, it monitors NASDAQ listed stocks under the $50,000,000 sales category and then advises clients, mainly institutions, of good situations

Even when stocks list on an exchange or top the $50,000,000 level, Equity still follows them. Managing editor David Liebowitz says that ERA's monthly service expects to be following 75 to 100 companies over the next two years — more than triple the present number of monitored companies and almost seven times the start-up figure of 15 last November.

NASDAQ has spurred other investment firms to expand their OTC coverage, too. Just last month, the William O'Neil Fund of Los Angeles started an OTC computer stock selection service. According to president O'Neil, "this is a basic reference service for institutional investors." Mr. O'Neil maintains his computerized service is "probably the most comprehensive" with 1,500 OTC stocks covered bi-monthly for 90 subscribers.

What do subscribers get for their money? Among other things, he cited fundamental and technical analysis, five-year growth records with different graphs and earnings estimates. Mr. O'Neil further boasted that "if institutions come to us with 10 OTC companies they are interested in, there's a strong likelihood that eight or nine are in our service."

Poston-based Keystone Custodian Funds, Inc., an OTC mutual fund complex, also relies on computer data for its new and omnibus NASDAQ fund. The latter, dubbed the Keystone OTC Fund, went public in mid-July and is growth-oriented. Ernest Martin, the fund's manager, says that positions are held in some 65 OTC stocks located in three major economic sectors — the consumer, recreation and technology industries.

Most services, meanwhile, are shying away from becoming completely NASDAQ-oriented. Instead, they lean toward using NASDAQ's range of information for innovative flourishes, expanded internal usage, or to complement existing investment advice.

"NASDAQ volume has facilitated charting which makes it easier to come up with good recommendations. Harry Laubscher, director of Research, Walston & Co.

A good case in point is the use of NASDAQ symbols in Standard & Poor's over-the-counter reports and stock guide. Fred DiAngelis, vice president in charge of S&P's corporate data services, also observes that "We are now able to supply monthly volume for our stock guide and are really happy about the whole thing."

Equally significant, NASDAQ's data stream is being utilized to aid research analysis. Russell Wayne, executive editor of *The Value Line OTC Special Situations Service*, reports that Value Line will have access to a comprehensive NASDAQ-OTC data bank by year end. Object: more effective stock selections.

Research efforts such as Value Line's are being helped considerably by charting. Prior to NASDAQ, technical analysis was a risky proposition without volume figures. Now bar charts, point and figure charts and price-volume charts can plot OTC price movements and trading activity. The result, as Walston's Harry Laubscher observes, is that "it makes it easier to come up with good situations."

Notwithstanding charts and visible trendlines, good OTC stock buys don't necessarily have to come from the universe of NASDAQ stocks. "We look for stocks with a story," declared William Sanders, managing editor of T. J. Holt & Co. "I don't think NASDAQ has had much impact on existing services except to facilitate special services geared to the OTC market." Philip Albrect, assistant division director of securities research for Merrill Lynch, Pierce, Fenner & Smith Inc., added, "NASDAQ has helped advance our business, but has changed our determination where we will direct our analytical effort."

On the other hand, some, like Ralph Coleman, are highly critical of those services that overspecialize in NASDAQ stocks. Investment manager of the OTC Securities Fund, Mr. Coleman chided services for concentrating exclusively in NASDAQ issues. "This approach precludes excellent investment opportunities elsewehere. Only around 50% of our stocks [250] are on NASDAQ — which should be just one criterion for picking stocks."

"NASDAQ has heightened institutional interest in regional research and small growth companies." David Wilds, director of research, J. C. Bradford & Co.

Not everybody shares Mr. Coleman's negative view, however. Harry Laubscher of Walston "sees more and more people specializing in NASDAQ-OTC companies" along with "increasing coverage from wire houses," and David Wilds, director of research for J. C. Bradford & Co., Nashville, detected "more interest in the regional research approach and heightened institutional interest in smaller growth companies. . . . Institutions are now finding out that good companies are not necessarily headquartered east of the Hudson River."

Reprinted from INVESTMENT Dealers' DIGEST
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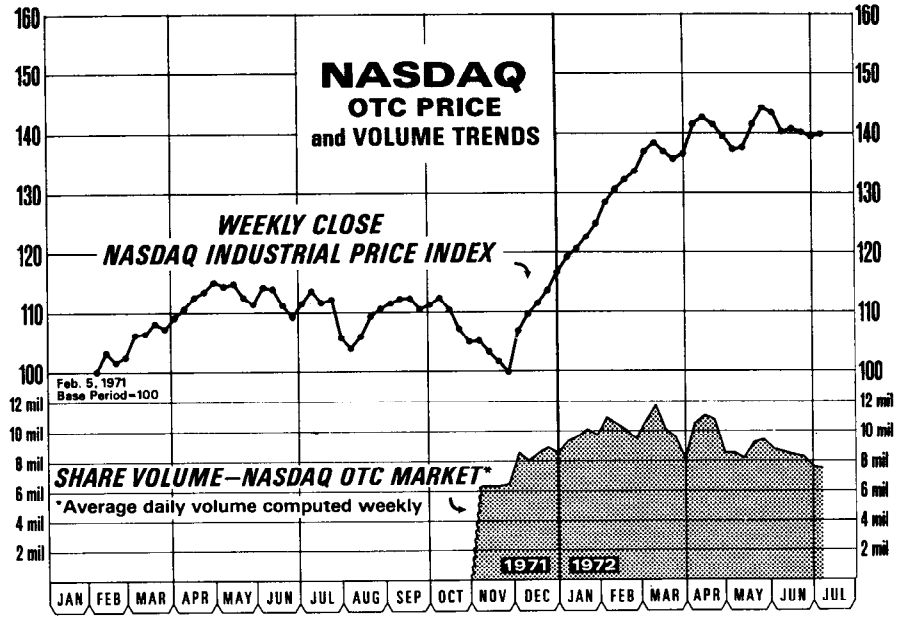

NASDAQ INDICATORS

Sharpest gainer among the NASDAQ price indicators is the industrial index, shown in a steep climb since last November. It is one of the most broadly based indices computed on a daily basis and covers 1,750 over-the-counter stocks quoted on NASDAQ. This chart also shows aggregate volume for stocks on the system, which has averaged 9,000,000 shares a day and hit a peak of 12,856,200 on Feb. 2, 1972. (Note: Chart is updated through July 7, 1972).

Perhaps the single best measure of NASDAQ's progress is the quotation system's statistics. The release of volume figures has stamped NASDAQ as the country's second largest stock market where 9,000,000 shares are traded daily — half the Big Board's trading figure and double the Amex total. Furthermore, the NASDAQ industrial index from NASDAQ's debut in February, 1971, through 1972's first half gained 39%, vs. 9% for the NYSE industrial average and .02% for the Amex price index.

Small wonder, then, that there's a widespread euphoric feeling about the over-the-counter market's vigor these days. And while this sense of buoyancy may not last forever, it appears that the unlisted market's higher standing and new appeal will remain a permanent part of the investment horizon.

Heard on the Street

By JOSEPH ROSENBERG

There's an unaccustomed feeling of status about the over-the-counter market these days.

Some big institutional investors, in fact, say it's the best place to look for good-quality stock buys right now. They believe the over-the-counter market lately has achieved an appealing level of stability. Moreover, they are impressed by the relatively high caliber of new unlisted issues—stocks whose histories and prospects contrast sharply to the storied entries that boomed and burst not long ago.

Speculations still abound, and one broker observes, "People have been burned before and they still come back for another singeing." Nonetheless, memories of the recent past have cut down speculative interest considerably.

As a more tangible sign of this market's high standing, Morton Weiss of Troster, Singer & Co. cites the National Quotation Bureau's industrial average of 35 "blue chip" issues, which traditionally has lagged behind the jagged path of the Dow Jones industrial average of 30 prime New York Stock Exchange stocks.

NQB fell into a deep trough with the 1968-1969 bear market, and trailed the Dow Jones average as it slowly pulled out. But early last year, the NQB surpassed the Dow Jones index, Mr. Weiss says, and from January through June this year it rose 22.3%, compared with a 4.4% rise in the Dow Jones average. The more comprehensive National Association of Securities Dealers' NASDAQ industrial index, covering some 1,700 of the 3,326 NASDAQ securities, posted a 19.7% gain in the same five months, compared with a 6.5% rise in the Standard & Poor's index of 425 industrials. Since then the indexes have retreated slightly.

"My theory about this," says Mr. Weiss, "is that people have discovered that over-the-counter growth stocks are undervalued compared with similar issues on the Big Board, and also have better price earnings multiples." Some of the attractive sectors cited by brokers were mobile homes, medical, time-sharing, communications and advertising, catalog sales and service groups.

As usual, they remark, quality stocks hold the spotlight, with institutions leaning towards **BankAmerica, Anheuser-Busch, Pabst, American Express** and **Tampax.** Harold Clauser Sr., vice president at Laird Inc.'s Wilmington office, also asserts that banks are first in line for these stocks, followed by some funds looking for performance and then by conservative funds and insurance companies.

Recalling his 32 years in the market, Mr. Clauser declares this is the "biggest year" for institutions in unlisted stocks. He and others believe the advent of NASDAQ's instantaneous reporting of prices some 15 months ago had a big effect, one facet of which was to bring in additional markets.

Putting their money where their recommendations are, Laird has tripled its allocation for over-the-counter dealings, says Mr. Clauser. "Other houses have done this, too, maybe even before us," he says, "but we feel there are opportunities in the over-the-counter market we want to take advantage of."

Mr. Clauser asserts also that the NASDAQ stocks may be more stable than their Big Board counterparts because, he says, while one specialist is handling a stock on the Big Board, up to 15 or more specialists may be handling an active unlisted issue.

Another broker agrees. "With more specialists," he declares, "there is more competition, which should help keep prices on a more even keel. Also, if you don't like one specialist you just pick another. You can't do that on the Big Board," he adds.

In the past, Mr. Clauser recalls, a vulnerable unlisted stock could be knocked down five or even 10 points by traders. On the Big Board, the impact may be negligible, but when it happened on the over-the-counter market, "it used to knock hell out of a stock. Now when someone comes in with 5,000 shares of a good issue, it gets placed with any trouble," Mr. Clauser says. He cr NASDAQ with its greater stock visibility for the improvement.

The type of new issue coming in is a source of strength say brokers. "In contrast with 1968 and 1969 underwriting new stocks is far more difficult if they don't have some sort of track record" says William Norton president of the company bearing his name and a specialist in unlisted securities. "Investors are more sophisticated and prudent in making their decisions. They're less bound by dreams or by rumors as they were in earlier speculative markets." Others observe that while some people still buy on stories rather than facts there is still wide interest in price-earnings multiples, book value and growth potential.

Mr. Norton looks for "earnings-type" situations particularly in the field of education which he believes may benefit from recent federal allocations. He shrugs off "fad industries" like modular housing which he believes has too many problems with earnings, production, shipping and storage as well as "concept issues" like **Auto-Train** the company that ships cars and their passengers by rail between Washington, D.C. and Florida. The stock hurtled from an opening price of around 10 a year ago to 56 was derailed and is currently in the mid-20s.

Some unlisted issues have been the victims of "sharpshooting" lately, particularly by hedge funds that sell secondary offeri short and then help depress prices by ca ing at the last moment their indications to buy. "It isn't a new technique," one broker says, "but lately it's cut up quite a few stocks." This may be bad for the issuing company, he adds, but as a result an investor can pick up a bargain.

Reprinted from The Wall Street Journal
Issue of July 26, 1972, Vol. CLXXX, No. 17

NASDAQ Report

NASDAQ's Impact On The Listing Decision

by William Galle

"Listing American Express Co.'s stock on the New York Stock Exchange is a subject under regular, constant study by management. . . . We are not close to such listing."

So reads an excerpt from the report of American Express' annual meeting last April. The behemoth financial conglomerate has been a perennial fixture on the OTC market for almost 30 years. In a sense the company has somewhat of a vested interest in remaining on the unlisted market with a score or more market makers merchandising its enormous stock float. And as the report further points out, "this system and NASDAQ has given almost everybody access to the market prices being offered by these firms."

NASDAQ's mention in this context is significant. In the view of Charles Cuccinello, a senior vice president of American Express, "NASDAQ has been a boon for the OTC market." Not surprisingly, other bellwether OTC companies feel the same way about the quotation system.

"NASDAQ has provided more information about OTC stocks and closed a lot of gaps," declares Leland Prussia, Jr., senior vice president and manager of Bank of America's Investment Securities division. Equally impressed with NASDAQ's visible markets and electronic capabilities is Peter McGivney, executive vice president-finance of Tampax Inc. Mr. McGivney even thinks that "NASDAQ may well be the future national exchange everybody is talking about."

Encomiums aside, NASDAQ is now compelling numerous OTC corporations to think in less axiomatic terms before listing on either the American or New York Stock Exchanges. "So much is happening these days with NASDAQ, and with talk of a joint tape and central market place; consequently, many companies are more inclined to put listing problems aside and see what happens," according to Brian Saffer, a corporate financial counselor with the Irving Trust Co. of New York and author of the bank's recent pamphlet entitled *The Listing Decision.*

This chary attitude is especially true in the case of the small-medium sized NASDAQ company. Darrell Booth, president of Kampgrounds of America Inc. in Billings, Mont., notes that "a year ago listing would really have been attractive to us. But narrower spreads, more market makers and institutional interest in our stock since NASDAQ have changed our minds."

On the other hand, listening and talking to NASDAQ corporate executives and security industry representatives persuaded Earl Rappaport, president of Pittsburgh-based Decorator Industries, to convince his board of directors to remain on the NASDAQ system. Betz Laboratories in Trevose, Pa., adopted a more empirical approach. "The classical theory," treasurer Roger Colley explained, "is that when a stock can sell itself, its time to go to the listed exchanges. Our theory, however, is that if a stock has done well, and continues to perform well, why disturb a good thing?"

"Prestige should not be the only reason to list, but it's hard to fight."
Brian Saffer, corporate financial counselor and author of "The Listing Decision"

At the same time some companies appear to be benefiting in other ways. Both Messrs. Colley and Rappaport, among others, report higher volume for their respective companies following the release of daily volume figures last November. And Mr. Prussia points out that there are currently around 20 market makers in the bank's stock — double the number before NASDAQ's start-up in February, 1971.

Other companies, nonetheless, remain warmly receptive to listing. For example, Dow Jones may eventually join the Big Board. "The only thing we lack is the requisite number of round lot holders (1,800)," reveals John McCarthy, vice president of finance.

Harper & Row, Inc., too, is interested in leaving the negotiated market. Treasurer Norman Cannon believes "the New York Stock Exchange offers a greater chance to raise funds and improve our P/E."

Each company, of course, weighs its own interests before taking the listing step. In writing *The Listing Decision,* Mr. Saffer observed that "the crucial question is whether a significant portion of the activity in the stock is the result of interest by retail purchasers, rather than due to the efforts of the trader. . . . If investor interest in the stock is low, new markets for the stock that will open on listing may not offset the dealer's sales effort."

Mr. Saffer makes a special point to treat each company's situation with judicious detachment. Several of his study's key points are: listing doesn't boost the stock's average price or lower its volatility and it should be primarily evaluated relative to its impact on the stock's market behavior. "Prestige," he cautions, "should not be the only reason for listing, but it's hard to fight."

However, prestige in tandem with greater quotation exposure and new markets invariably impel many companies to travel the listed route. In listing on the American Stock Exchange last month, an official from Sun City Industries Inc., Miami, paradoxically observed that "we're all going to be on NASDAQ eventually, but we have to solve our immediate needs."

What were the needs? Begging anonymity, he cited lack of company news such as annual meetings and earnings statements in national newspapers. In addition, he felt that "there was a correlation between not being publicized and the company's low P/E." "You can have eight market makers, but generally one is the prime one who has the greatest influence on your stock and who invariably makes the other traders fall in line."

"We've watched our competition on the New York Stock Exchange and haven't seen any difference in their performance after listing."
Leland Prussia, Jr., senior vice president and manager, Bank of America

For companies about to list, the move is often viewed as natural and right. Yet, in some instances, there are mixed feelings expressed by management. Robino-Ladd Co., a diversified builder headquartered in Wilmington, Del., typifies this ambivalence. Michael Schwartz, the company's comptroller, believes that "the investment public looks more favorably at listed stocks — that's why we intend to list on the Amex." Still, Mr. Schwartz concedes that the theory of stepping up the listing ladder to the New York Stock Exchange "may be

a cliche applicable to the 1950s and 1960s."

Conversely, the potential benefits envisaged after listing may turn out to be a will-'o'-the-wisp. Regional firms, in particular, almost always lose their multiple market maker sponsorship. Even worse, the specialist may not be interested in them.

Perhaps the classic case is that of Wolverine-Pentronix. On July 9, 1965, the day the Detroit company (then Wolverine Aluminum) listed on the Amex, a block of stock its chairman, Donald Smith, bought was sold short by the specialist. Mr. Smith immediately opted for delisting — a rare occurrence — and a long litigation battle ensued with the Amex.

During this altercation, Mr. Smith complained that the specialist was doing a poor job and that the stock's price was not keeping pace with Wolverine's growth. "Finally, after two years, the exchange agreed to let me voluntarily delist. I accomplished what I wanted, and they lost an outspoken adversary," he recalls.

Nor does he have any regrets. Although the stock is trading around the same price (12 bid), "we have eight or nine market makers in our stock because of NASDAQ."

Cost can be another deterrent for staying unlisted. "There's no direct fee for being on NASDAQ, which is one reason we chose to remain on the system," says Eric Anderson, Friendly Ice Cream's treasurer. (In 1971 the minimum continuing annual fee for the NYSE was $5,000, $500 for the Amex with a maximum of $3,500.)

No doubt the biggest concern for companies ready to list is whether a good specialist will be assigned to it. Getting a bad one, needless to say, could be disastrous. At present there are roughly 6½ market makers per NASDAQ stock, as opposed to one specialist for each listed security.

Does having more market makers mean better marketability for a company's stock? In most cases, yes. At least that's the opinion of OTC traders and critics of the specialist system.

One of the latter, who wishes to remain nameless, flatly assailed the specialist "as a high-paid clerk who generally doesn't know what he's doing. Not only that, he's in a conflict position: he must sell in an up market and buy in a down market."

There are presently 470 NASDAQ stocks that have higher margin requirements than the listing criteria for the American Stock Exchange and all the regional exchanges.

"The specialist," he continued, "has capital problems in handling big orders (10,000 shares or more). And in a low volume market the OTC trader does a better job because he trades for his own account."

Despite a refurbished image since NASDAQ, the bias against unlisted stocks remains strong. Spokesmen from the National Association of Securities Dealers, NASDAQ's regulator, point to three major sore spots: Federal credit rules favoring listed securities; State security laws granting special status to listed stocks *vis-a-vis* unlisted issues, which filters down to investment policies of public pension funds, and spotty newspaper coverage of OTC stocks in most metropolitan areas.

State laws, in particular, are outdated and should be repealed, according to NASD officials. Virtually, all these laws adhere to the theory that the public is still uninformed about the OTC market, even though SEC disclosure rules apply to all NASDAQ and OTC companies with $1,000,000 in assets and 500 or more shareholders. At this writing, the matter is currently under consideration by The North American Securities Administrators.

In an effort to give the negotiated market more prestige, NASDAQ company spokesmen like Thomas DePetrillo of Avtek Corp., which does business in Providence, R. I., have urged the adoption of Federal Reserve Board margin requirements for NASDAQ — OTC stocks. Well aware that smaller companies would be eliminated by an automatic margin requirement, Mr. DePetrillo suggested that another category be created for them on NASDAQ.

Echoing Mr. DePetrillo's view is Howard Levin, treasurer of Associated Madison Cos. Mr. Levin, formerly an underwriter of new issues, maintains that as more companies go on NASDAQ, "the NASD will have to be more discriminating in selecting them."

For other NASDAQ company officials, improving NASDAQ's reporting mechanism and channels of communication with the National Association of Securities Dealers carry equal if not more weight. To begin with, Mr. Rappaport would like to see inter-dealer trades eliminated from volume reporting because "they lead to duplication. Associated Madison's Mr. Levin favors representation for NASDAQ companies on the NASD's board of governors plus a nationwide stock transfer service to facilitate the flow of securities. And B. H. McGehee, treasurer of Noland Co. bemoans the fact that local papers in cities, where his Virginia-headquartered firm operates and has shareholders, don't carry information about Noland's stock.

The NASD is anxious to ameliorate these problems. John Hodges, Jr., vice president of member services, says a special NASD committee is studying techniques to improve present volume procedures. Commenting on the inter-dealer trades, he said: "I'm surprised at the amount of stock traded that doesn't get back to the transfer agent." This recording gap reportedly accounts for a lot of duplication.

At the same time the NASD is emulating the central exchanges and expanding the representation on its board of governors to include people outside the securities industry. Dr. James Lorie, professor at the Graduate School of Business at the University of Chicago, was recently elected a board member. And the possibility that NASDAQ companies can also sit on the governing board is being seriously considered, according to Gordon Macklin, the NASD's president.

The NASD plans to have volume figures on each NASDAQ stock flashed on the quotation system in the coming weeks.

More reporting information on NASDAQ stocks is also imminent. Shortly, according to a high-ranking NASD official, volume figures will be flashed on every NASDAQ stock. As a result, NASD local quotation committees will be able to tailor stock lists to local papers. This, in turn, will enable traders to check total volume in each individual stock as well as keep tabs on what their competitors did the previous day.

Ideally, the NASD would like the fourth estate to apply more equitable standards in printing news about NASDAQ companies. Coverage of unlisted stocks in general is sketchy, even in major papers like the *Wall Street Journal* and *The New York Times*. With 470 NASDAQ stocks out of 3,200 having higher margin requirements than the listing criteria of the American and regional stock exchanges, the NASD's case is compelling, indeed.

Statistically, the listing trend continues upward. In 1971, 162 companies joined the American Stock Exchange and Amex officials hope to top 1969's peak figure of 187 by year-end. On the Big Board, last year was a record breaker with 103 new listings, and another new high is expected again.

One big plus working in favor of the primary markets is that the universe of potential companies free to list is expanding at a higher rate than several years ago. Then, too, the traditional preference for listed stocks (especially by institutions and foreign investors), coupled with the prestige element, is giving a nice fillip to listing applications.

Presumably, the cessation of discriminatory leanings toward listed stocks — or even expanded press coverage — might sway fewer OTC companies to list, especially those meeting Amex standards. Companies, nevertheless, will continue to list until, as one industry wag quipped: "We're all in the same merry ballpark, watching the same players obeying the same rules and listening to the same umpire."

NASD

NATIONAL ASSOCIATION OF SECURITIES DEALERS, INC.

1735 K STREET NORTHWEST • WASHINGTON D.C. 20006

September 27, 1972

To: All NASD Members

Re: Legal Bank Holidays -- October, 1972

Banks and the Federal Government will observe Monday, October 9, and Monday, October 23, as legal holidays.

However, the NASD and the exchanges will be open, with all NASD offices staffed sufficiently to handle service calls and inquiries. It is requested that all NASD members also keep their OTC operations open on the above dates.

Deliveries of securities or payment of funds ordinarily due on October 9 and on October 23 (except with respect to "cash" transactions) shall be due on the business day following these dates. Transactions executed on these days will be combined for settlement with transactions made on the business day preceding October 9 and October 23.

These two holidays are not to be considered business days in determining the day for settlement of a contract, the day on which stock shall be quoted ex-dividend or ex-rights, or in computing interest on contracts in bonds or premiums on loans of securities.

Firms should not mark to the market, make reclamation, or close contracts (other than "cash" contracts) on these days.

There will be no change in present procedure with respect to comparisons and "DK's."

Telephone inquiries regarding this notice should be directed to the National Uniform Practice Division, New York City, (212) 269-6395.

Continued . . .

A schedule of delivery dates for "regular-way" contracts and ex-dividend dates is listed below:

Delivery dates for "regular way" contracts		"Ex-dividend" Dates	
Trade Date	Delivery Date	Record Date	"Ex" Date
(other than U. S. Government securities)			
Oct. 2	Oct. 10	Oct. 6 and 9	Oct. 2
3	11	10	3
4	12	11	4
5	13	12	5
6 and 9	16	13	6
16	24	Oct. 20 and 23	16
17	25	24	17
18	26	25	18
19	27	26	19
20 and 23	30	27	20
(U. S. Government securities)			
Oct. 6 and 9	Oct. 10		
20 and 23	24		

Sincerely,

John S. R. Schoenfeld

John S. R. Schoenfeld
Executive Vice President

JSRS:akd