NASD

NATIONAL ASSOCIATION OF SECURITIES DEALERS, INC.

1735 K STREET NORTHWEST • WASHINGTON D.C. 20006

December 31, 1974

TO: All NASD Members

SUBJECT: Universal Underwriting Service
352 Denver Street, #200
Salt Lake City, Utah 84111

RE: Notice to Members: 74-51
(December 16, 1974)

As previously indicated in NASD Notice to Members: 74-51 issued December 16, 1974, a court appointed Temporary Receiver was named on December 10, 1974 for the above captioned firm. Additionally, members were instructed that they may use "immediate close-out" procedures as provided in Section 59(j) of the NASD's Uniform Practice Code to close-out OTC contracts.

On Thursday, December 26, 1974, the court appointed said Temporary Receiver as the SIPC Trustee for the firm. Accordingly, questions regarding the firm should be directed to:

SIPC Trustee

Mr. Herschel Saperstein, Esq.
Pugsley, Hayes, Watkiss, Campbell & Cowley
315 E. 2nd Street
Salt Lake City, Utah 84111
(801) 328-0371

Questions regarding this notice may be directed to the Uniform Practice Division of National Clearing Corporation, Two Broadway, 8th floor, New York, New York 10004 (212) 952-4018.

NASD

NATIONAL ASSOCIATION OF SECURITIES DEALERS, INC.

1735 K STREET NORTHWEST • WASHINGTON D.C. 20006

January 7, 1975

NOTICE TO MEMBERS

TO: All NASD Members

RE: Potential Problems Relating to Transactions By Members With a Pension Plan Under the Employee Retirement Income Security Act of 1974

On January 1, 1975, the fiduciary responsibility provisions of the recently enacted Pension Reform Act became effective. These provisions may seriously restrict members in their transactions with Employee Welfare Benefit Plans and Employee Pension Benefit Plans, except those of the states, federal, county and municipal employees, and various church plans which are excluded.

The Act prohibits a "fiduciary", with respect to a plan, from causing the plan to engage in certain transactions with a "party in interest." Such transactions include, but are not limited to, the sale or exchange of any property, or the furnishing of goods, services, or facilities between the plan and a party in interest; or the transfer to a party in interest of any asset of the plan. The term "fiduciary" is defined as a person who renders investment advice to a plan for a fee or other direct or indirect compensation, and a "party in interest" is defined as a person, such as a broker/dealer, who renders any service to a plan. The causation or participation in the transactions prohibited by the Act may subject both the "fiduciary" and the "party in interest" to significant liabilities, including rescission, as well as other penalties.

The prohibitions against the provision of services (including execution of agency transactions) to a plan has been postponed by the Act until June 30, 1977, where certain conditions exist. These conditions include the existence on July 1, 1974, of a binding contract for such services, or the existence on June 30, 1974, of a practice by the "party in interest" of ordinarily and customarily furnishing such services, if such provision of services remains at least as favorable to the plan as an arm's length transaction with an unrelated party would be, and if such

transaction would not otherwise be prohibited under the Internal Revenue Code. On December 31, 1974, the Internal Revenue Service and the Department of Labor issued releases relating to the Act, which appear to exempt broker/dealers from the application of certain of the Act's prohibitions. However, the prohibition as to purchases or sales of securities in a principal capacity by broker/dealers falling within the definition of a "fiduciary" or "party in interest" with respect to a plan may not be specifically subject to postponement or delay.

Until the Departments of Labor and Treasury act further to clarify the Act, each member should give careful attention to the application of the Act to their transactions. Areas of principal activity which could present questions under the Act include the sale of new issues in which the member participates in the underwriting or distribution, the purchase or sale of securities where the member is a market maker, or otherwise acts as principal including the purchase or sale of Government and municipal securities.

The Association believes that a large number of members may be affected by the restrictions embodied in the aforementioned Act, and, therefore, urges that caution be exercised and that assistance of members' counsel be obtained. It is hoped that further clarification will soon be forthcoming. At such time as clarification is received, it will be provided to you promptly.

In connection with these problems you are referred to:

(1) Employees Retirement Income Security Act of 1974, Public Law 93-406.

(2) Internal Revenue Service Technical Information Release Numbers - TIR 1329, 1330, and 1331, dated December 31, 1974.

(3) Department of Labor, ERISA IB 75-1.

If you have questions pertaining to the status of these problems call the office of theAssociation's General Counsel (202-833-7365).

Gordon S. Macklin
President

NASD

NATIONAL ASSOCIATION OF SECURITIES DEALERS, INC.

1735 K STREET NORTHWEST • WASHINGTON D.C. 20006

January 7, 1975

To: All NASD Members

Re: Quarterly Check-List of Notices to Members (Fourth Quarter, 1974)

Listed below are the Notices to Members which have been issued during the fourth quarter of 1974.

Members should note that only one copy of each Notice to Members is mailed to every main office of every member. Copies are not mailed to branch offices or to additional personnel in the main office other than the Executive Representative. Therefore, we suggest that all members retain the original copy of each Notice to Members in a separate file in their main office, and that copies needed for internal or branch office distribution be duplicated from the original Notice.

If your main office file is missing any of the following notices, please write to the Office Services Administrator at the NASD Executive Office. Requests for copies should be accompanied by a self-addressed label.

Serial No.	Subject	Date
74-42	Holiday Settlement Schedule - Columbus Day, Veterans Day & Election Day.	10/2/74
74-43	Quarterly Check List (Third Quarter, 1974)	10/2/74
74-44	Proposed Amendment to Schedule D	10/16/74
74-45	Implementation Date of Examination Programs For Registered Representatives Selling Investment Company Products and Variable Contracts	11/7/74
74-46	Availability of SECTOR Services	11/13/74
74-47	Appointment of SIPC Trustee for Dow Financial	11/13/74
74-48	Holiday Settlement Schedule - Christmas Day and New Year's Day	12/13/74

- more -

Serial No.	Subject	Date
74-49	Restructuring of the National Newspaper Lists	12/13/74
74-50	Proposed Amendment to Article XV, Section 5, and Proposed Adoption Under Schedule A of Article III of Section 7 of the Association's By-Laws.	12/16/74
74-51	Appointment of SIPC Trustee for Universal Underwriting Service.	12/16/74
74-52	Proposed Article XVIII of the Association's By-Laws and Schedule G Thereunder.	12/20/74
74-53	Form U-4/ "Uniform Application for Securities and Commodities Industry Representative and/or Agent"	12/27/74
74-54	Potential Problems Relating to Dealings in Gold and Other Precious Metals	12/31/74

* * * * * * *

NOTICE TO MEMBERS: 75-4

NASD

NATIONAL ASSOCIATION OF SECURITIES DEALERS, INC.

1735 K STREET NORTHWEST • WASHINGTON D.C. 20006

January 10, 1975

TO: All NASD Members

Attention: Financial and Operational Officers, Partners and Proprietors

RE: Use of Certificates of Deposit in "Reserve Bank Account"

Recently the staff of the SEC was asked to consider whether or not funds held in the "Special Reserve Bank Account for the Exclusive Benefit of Customers ("Reserve Bank Account")" pursuant to Rule 15c3-3 can be invested in certificates of deposit.

In its response to this question, the Commission staff stated that, "if funds held pursuant to a certificate of deposit may be withdrawn at any time, pursuant to the requirements of Regulation Q of the Federal Reserve System, 12 C.R.F. § 217.4(d), such certificates may be held in a "Special Reserve Bank Account for the Exclusive Benefit of Customers."

This interpretation does not apply to certificates of deposit which are not subject to the provisions of Regulation Q. Also, it should be noted that this interpretation does not apply to Special Accounts established pursuant to paragraph (k)(2)(A) of SEC Rule 15c3-3. Broker-dealers subject to this exemptive paragraph may not hold certificates of deposit or any other security in lieu of cash in such accounts.

Should you have any questions concerning this matter, please contact Robert L. Smith at (202) 833-7356.

Frank J. Wilson
Senior Vice President
Regulation

NASD

NATIONAL ASSOCIATION OF SECURITIES DEALERS, INC.

1735 K STREET NORTHWEST • WASHINGTON D.C. 20006

January 10, 1975

TO: All NASD Members

The Permanent Subcommittee on Investigations of the United States Senate held extensive hearings during 1971 dealing with the role of organized crime in the theft and trafficking of stocks, bonds and negotiable instruments from brokerage houses, banks and the U.S. mails. At that time approximately $1.5 billion worth of stolen and missing securities had been reported. As of mid-1974, the amount has climbed to $5.3 billion. This present figure is incomplete since there is no accurate way of ascertaining the precise amount of unreported losses and thefts or to what extent counterfeited securities have infiltrated the securities markets, but recent estimates place this amount considerably higher.

In recognition of the need for full time efforts to combat this growing problem, the Department of Justice created the Securities Unit within the General Crimes Section of the Criminal Division. Among other responsibilities, this unit develops programs and practices designed to prevent the theft and counterfeiting of securities and their subsequent use.

As part of a nationwide campaign, one such program involved the preparation of comprehensive suggestions for implementation by securities firms and other financial institutions to aid in the detection and prevention of these crimes. Through the submission of comments and suggestions, the Association played an active role in assisting the Department of Justice in the preparation of these guidelines.

Because of the magnitude of the problems which are addressed by these guidelines, the Association has determined to reprint the full final version of the suggestions and a copy of the Attorney General's press release pertaining thereto.

While certain of the suggestions contained in the guidelines are already covered by long existing rules and regulations of the SEC, NASD and national securities exchanges, members are advised to review the adequacy of their present in-house practices, procedures and policies for the handling of marketable securities in light of these guidelines and to make adjustments where necessary.

In furtherance of this program, the NASD would like to remind members of the availability of the Association's long standing practice of notifying members of securities that are lost, stolen or missing. Subject to the following conditions, the Association publishes this information free of charge:

1. The member notifies appropriate local law enforcement authorities, the nearest office of the Federal Bureau of Investigation and the transfer agent or issuer immediately upon discovery of any lost, stolen or missing securities; and,

2. The member (a) confirms in writing to the Association that the notifications required above have been made, (b) submits a detailed listing of the issues by name, the denominations of the certificates and the names of the registered owners, and (c) supplies the name of a representative to be contacted upon discovery of such certificates.

All notices of lost, stolen or missing securities should be directed to the Director, Information Department, NASD Executive Office, 1735 K Street, N.W., Washington, D.C. 20006.

Sincerely,

Frank J. Wilson
Senior Vice President
Regulation

Attachment

Department of Justice

FOR IMMEDIATE RELEASE
MONDAY, DECEMBER 23, 1974

CRM

Attorney General William B. Saxbe announced today the Department of Justice is issuing comprehensive suggestions to financial institutions to improve the protection of marketable securities.

The suggestions were compiled through the joint efforts of the financial community and Federal government agencies.

Mr. Saxbe urged all financial institutions to re-examine their current practices, procedures, and policies in light of the suggestions.

"There is nothing in the suggestions that is over burdensome," the Attorney General said. "The ideas are of a common sense nature and what every citizen would expect a prudent and reasonable businessman to observe in his official dealings. If followed, the suggestions will certainly help to improve investor confidence."

Mr. Saxbe also urged the financial community to make better use of the FBI National Crime Information Center (NCIC) to report lost, missing, and counterfeit securities as well as stolen securities and to use NCIC to validate suspicious securities.

Mr. Saxbe noted that financial institutions in 90 percent of the country can have adequate access to NCIC through local and Federal law enforcement agencies in their areas for validation purposes.

MORE

Where it would be burdensome on law enforcement to service securities validation requests, the Justice Department is willing to discuss the feasibility of allowing the financial community to have direct "inquiry access" into NCIC's file on securities, as long as adequate internal security procedures are worked out, Mr. Saxbe said.

Law enforcement agencies that received the reports of lost, counterfeit, or stolen securities directly from the victim would continue to report these to NCIC.

Mr. Saxbe expressed his thanks to those persons and organizations that cooperated with the Justice Department in the preparation of the suggestions.

The organizations included the FBI, Postal Service, Secret Service, Federal Deposit Insurance Corporation, Federal Reserve Board, Comptroller of the Currency, Bureau of Public Debt of the Treasury Department, Securities and Exchange Commission, Securities Investor Protection Corporation, National Association of Securities Dealers, Securities Industry Association, American Bankers Association, Bank Administration Institute, New York Stock Exchange, American Stock Exchange, Chase Manhattan Bank, Morgan Guaranty Trust Company, Merrill Lynch, Pierce, Fenner and Smith, Inc., Loeb Rhoades and Company, Paine, Webber, Jackson, and Curtis, Inc., and United States Banknote Company.

###

Suggestions by the Department of Justice for Safe Handling of Marketable Securities by Financial Institutions, Including Hints for Detecting Counterfeit, Forged, Worthless and Spurious Securities.

The Department of Justice has the following suggestions:

A. Use of Centralized Depositories and Book Entry Systems

1. On-premises storage of securities should be kept to a minimum consistent with business need. Financial institutions are encouraged to utilize central certificate depositories which use the book entry system. Government marketable securities should be kept at the Federal Reserve Banks and Branches where most of the governmental securities are available in book entry form. (See 31 CFR 306.115 - .122)

2. Self-regulatory organizations are urged to educate their members about the advantages of the book entry system and discourage them from requiring personal possession of securities.

3. Central depositories must constantly evaluate and scrutinize their operations and procedures and use the best security practices available to guard against possible fraudulent misuse of the computer system. The growth of central depositories will therefore depend upon their performance. In addition, the various state legislatures will have to enact appropriate legislation in regard to ownership of central depositories and physical control of certificates by fiduciaries.

4. The amount of "bearer" instruments in circulation should be reduced in favor of book entry systems. Consideration should be given to eliminating "bearer" securities altogether in favor of registered securities. Efforts should be made to place municipal and state securities into the book entry systems.

B. On-Premises Physical Security

1. All securities held by a financial institution should be kept in a vault or other highly secure area. This includes blank securities, as well as those held as collateral on loans, in trust, and in the institution's own portfolio. Special care should be given to bearer instruments.

2. Maintain securities separate from the actual trust or loan file. Keep an up-to-date inventory list with serial numbers of trust securities and collateral securities both with the trust or loan file and in the securities folder file which is kept in the secure area unless the trust asset ledgers and loan collateral registers are considered adequate. No person should have access to both forms of records. Do not destroy such inventory lists or similar records for a reasonable period after the termination of the account.

3. Establish practical procedures and records of accountability for each marketable security from the time it enters the financial institution, as it passes through the various processes, and up through the time it is delivered safely out of the financial institution and into the custody of the next authorized holder.

4. Make scheduled and unscheduled periodic and spot checks of the stored securities.

5. Use an employee identification system which delineates which employees will be allowed to go to certain areas in the financial institution and which requires the use of ID badges or cards to indicate the access areas allowed to each employee. Require employees and visitors who enter controlled areas to sign appropriate logs.

6. Control the movement of non-employees by issuing and keeping a record of temporary badges for visitors, auditors, etc., and by not permitting repairmen, service people and janitors free movement within the premises especially in the secured and restricted areas.

7. Control the points of entrance and exit to the secure areas where the securities are held. Records should be maintained which accurately reflect those securities brought into or taken out of the secure area and the persons doing so. The movement of securities should be reconciled on a daily basis.

8. Use a secure method of transmitting securities. It is advisable not to use the mails to transport securities unless absolutely necessary. However, if the mails are utilized, use registered mail, especially when mailing "bearer" instruments. Certified mail which can provide proof of mailing and a receipting signature, does not provide the protection and indemnity available through registered mail. Do not normally use ordinary mail! Maintain a record of the serial numbers of all securities sent through the mails. This record should include the respective registry of the registered mail number. A duplicate record of the serial numbers can be mailed separately from the securities to provide the addressee with independent notification of the mailing. This would assure prompt notification of non-receipt. In situations where stock powers are being utilized, they should also be sent under separate cover, if possible.

   In addition, the financial institution should consider the use of restrictive endorsements on those securities to be sent through the mail. Treasury Circular #853, which can be obtained from the Federal Reserve, contains helpful suggestions in this area. (See 31 CFR 328)

   As an alternative to avoid the mechanical and cost problems of registered mail for non-government and non-bearer securities, the financial institution might consider utilizing blanket mail insurance coverage policies which are now generally available through various private insurers. These contracts permit daily reporting to the insurance carrier of the number of items sent and the value of each on a single reporting form. It is then possible to mail these non-government and non-bearer securities by ordinary mail.

9. Keep a duplicate set of fingerprint cards of all present and former employees on file, unless state law prohibits such a procedure. Having two sets of fingerprint cards kept separately will guard against possible removal or substitution of such card by a corrupt employee, serve as a possible prior deterrent, and promote the progress of a criminal investigation if the need should occur. Also keep duplicate photographs and keep them current.

C. Procedures for Theft or Loss of Marketable Securities

When any theft or disappearance of any securities occurs, whether it be through possible burglary, theft from the mails, misplacement, embezzlement, or loss, IMMEDIATELY —

1. Notify key people within the institution.

2. Identify what is missing by —

   a) conducting a physical search;

   b) back tracking through audit trail, utilizing the assistance of internal auditors, the controller and others, to check the institution's records in order to trace the movement of the securities from the time received and to determine if the securities might have been misrecorded or misrouted; and

   c) interviewing employees.

3. Immediately thereafter notify law enforcement, including the FBI or, if mailed, Postal Inspectors, in order that the securities can be entered into the National Crime Information Center (NCIC) and an appropriate criminal investigation initiated. Remember NCIC lists missing, embezzled and counterfeit securities as well as stolen securities.

4. Insist that all officials and employees cooperate fully with law enforcement; identify for law enforcement those employees having access to the securities and provide law enforcement a flow chart of your operations for its investigative use.

5. Notify the New York Stock Exchange Clearing Corporation so that a "lost notice" will be prepared for circulation.

6. Place "stops" with the transfer agent for stocks and "notations" or "caveats" with the paying agent for bonds.

7. Complete appropriate Postal Service forms to assist in tracing securities sent by mail.

8. Notify the local Federal Reserve Bank and the Claims Section, Division of Securities Operations, Bureau of Public Debt, Treasury Department, Washington, D.C. 20226, if Federal Government bonds or securities are involved.

9. Notify a private securities clearing house computer facility, if you are a subscriber or can otherwise arrange to do so (ie., through correspondent bank, etc.).

D. Dealing with Customers Who Are Not Financial Institutions

1. The identity, integrity, and responsibility of any customer presenting securities at the institution should be established. This is especially the case in regard to those transactions in recently opened accounts.

2. The transfer agent or paying agent should be contacted to determine whether there are any "stops" on any security where indications of suspicious circumstances are present.

3. If the customer is not the registered owner, the financial institution should contact the registered owner and apprise him of the pending transaction. Assignments and powers-of-attorney should be verified as to authenticity. The customer should provide "indisputable" evidence of his right to pledge or sell the securities. In regard to bearer securities, the customer should provide evidence of ownership which shows proof of purchase and valid delivery. This verification should be completed before cash proceeds are paid out or otherwise made subject to withdrawal.

4. Securities registered in street names should not be accepted from other than the registered owner unless the appropriate checks via telegram or telephone have been made with the named-holder of the securities and the transfer or paying agent and indisputable evidence of rightful ownership or use has been presented.

5. If there is a use or attempted use of stolen or counterfeit securities by a customer at a financial institution:

   a) notify the appropriate law enforcement agency including the local field office of the Federal Bureau of Investigation and request an appropriate investigation including immediate assistance if needed;

   b) if possible retain the certificate until law enforcement arrives. If the customer has a claim of ownership which appears to make him a true holder-in-due-course be careful about absolute retention of the certificate if return is demanded by the customer but consult with the bank's legal counsel before returning the certificate. (Note: If the security is counterfeit, there can be no holder-in-due-course and such a certificate should not be returned.) If possible, keep certificate out of the presence of the customer and stall for time in an appropriate fashion. If customer becomes adamant, advise him that law enforcement has been notified, request his assistance, and ask him to wait. Do not physically restrain him yourself. If customer flees, quickly and carefully gather and protect from further handling any papers or other objects he might have touched. Activate the surveillance cameras of the financial institution to film his departure; and

c) if loan has already been executed and the proceeds have been paid out, the financial institution should take whatever legal steps are available to it to seize or acquire suitable assets of the customer in order to protect the financial institution. Notify law enforcement of such efforts.

E. General Considerations

1. The authenticity of securities presented to the financial institution should be verified at the outset, especially when presented by strangers or not purchased through the financial institution. Accordingly, arrangements should be made with local law enforcement so that when securities are first presented as loan collateral, etc., they can be readily checked through NCIC by local law enforcement to determine whether or not they are stolen or counterfeit. This should be done before the transaction is completely negotiated. Primary emphasis should be placed on securities presented or tendered under strange, suspicious, or unusual circumstances and in all situations, except on transactions between financial institutions, where the person presenting the securities is not the registered owner and the loan is for $25,000 or more or the sale amounts to $10,000 or more.

2. Present inventory of stocks and bonds should also be checked through NCIC by a local law enforcement agency or a private organization offering this service. If the number of such securities is so large that this is impractical, arrangements made with local law enforcement should provide for the check to be done over a period of time with preference to bearer instruments and street named securities. A spot check of all securities might be done instead, if a complete check is too burdensome.

3. The financial institution should consider subscribing to an appropriate securities clearing house computer facility for missing, stolen and counterfeit securities, in addition to other means of protection and validation of securities.

4. The financial institution should consider special training courses on how to detect counterfeit securities for key employees who handle securities. (See Appendix A.) The financial institution should also be alert to worthless and spurious securities. (See Appendix B.)

5. To guard against possible counterfeiting, the financial community should improve the printing standards for stock certificates which are traded in the national markets and bring more of them into compliance with the minimum standards of the major Exchanges.

6. Stock certificates which bear highly visible restrictive legends for a maximum number of shares such as "100 shares" or "less than 100 shares" probably provide more security and flexibility for the customer. Single denomination shares, the so called "jumbo" certificates, could create more problems than they solve for the normal owner of securities although such "jumbo" certificates printed in 5,000, 10,000, etc., share denominations may be beneficial for the use in central depositories.

7. The financial institution should consider utilizing the practice of having registered securities held in its trust departments or as collateral on loans of 60 days or more duration transferred into the name of the financial institution or its nominee.

8. In regard to bearer instruments which have coupons attached thereto, the financial institution should assume coupon collection responsibilities.

Appendix A.

Ten Checks for Counterfeit or Forged Securities

Any reasonable and prudent individual in a financial institution can assure himself of the authenticity and genuiness of a stock certificate by a sight and touch examination. Although over-the-counter stocks will not have all the characteristics listed below, stocks selling on the New York and American Stock Exchanges will. Check for the following:

1. The engraved decorative border design is in a color other than black and has the feel of "slightly coarse" sandpaper.

2. The color design has a crisp look, is sharp in definition and not washed out or flat looking. Even the finest white or color lines are clean and clear.

3. The hand-engraved "vignette," or picture which is almost always printed in black ink is sharp with the flesh tones of the allegorical figure that is frequently part of the vignette given careful attention. The vignette figure is well defined and almost always three dimensional, with eyes that are clearly visible. The background is clear without any traces of fading or coarse broken patterns. The vignette feels like "very fine" sandpaper.

4. The face of the certificate shows a hand-engraved title as well as script text which is clear and distinct. The name of the company feels more raised than the script text which also feels slightly raised. Neither should feel flat with the paper.

5. The certificate is serially numbered in a provided number panel, in a sharp clear distinctive type style. Although, obvious, remember that no two certificates should have the same serial number.

6. No alterations have been made to any of the features of the certificate, either in the preprinted portions of the certificate or the later inscribed information such as the owner's name or the amount of shares represented. Any signs of erasures should be a flag of trouble.

7. The number of shares inserted does not exceed the limitations imposed by the certificate, such as on a "less than 100 shares" certificate.

8. The paper has a substantial and good feel to it, like a snap and crackle when it is handled crisply.

9. If the certificate has planchettes [little dots of several different colors imbedded in the paper], they are not found in identical places on any two certificates and some should be removable with a pin. If several certificates are placed together on top of each other in the same order, a pin pushed through a planchette on the top certificate should not go through a similar planchette in a certificate below because of the random manner in which planchettes are mixed into the paper mash as it was rolled.

10. The certificate may have an overprint, such as a correction of the par value, a change in company name, or a silvering out of the transfer agent or the registrar panel with insertion of a different bank's name or of the authorized corporate officer. Such changes do not mean that the certificate is counterfeit or fraudulently altered, but they should alert you to verify the changes by a telephone call to the corporate secretary or to the banknote company.

If you follow the above checklist and you have questions about the authenticity and genuiness of the certificate, you should telephone the transfer agent or paying agent, corporate secretary or other appropriate corporate official, and/or the banknote printing company to resolve your questions. If counterfeit, immediately thereafter notify the appropriate law enforcement agency and retain the counterfeit certificate if possible.

Appendix B.

Tips for Detecting Worthless or Spurious Securities of Non-Asset Businesses

While detection of a worthless or spurious security, as distinguished from a stolen or counterfeit security, is frequently difficult, there are several indicia or flags of such instruments that should put an alert financial institution on its guard. These flags are applicable to many forms of securities including stocks, bonds, certificates of deposit, warehouse receipts, letters of credit, guaranty bonds, re-insurance contracts, etc. The more flags perceived the greater the caution that should be exercised by the institution in accepting the security. The more prevalent indicia of a worthless or spurious security are:

1. A security issued by or presented on behalf of a company whose name is very similar to the name of a fairly well known and highly reputable organization.

2. Issuing company is an "offshore" entity existing under the laws of a jurisdiction that is not known for its close regulations of commercial institutions.

3. An inexplicable or otherwise unwarranted need for speed in consummating the transaction.

4. An unjustified suggestion that the institution being offered the securities will receive additional and far more lucrative business in the future if the transaction in consummated.

5. A balance sheet for the issuing company which reflects:

   a) Millions of dollars of alleged assets in various categories of holdings all of which are valued in round numbers.

   b) A certification by a relatively unknown accountant or accounting firm whose resources and standing in the profession are inconsistent with an account of the alleged value of the issuing company.

   c) Certifications based on statements of offshore banks attesting to the value of various securities held by them on behalf of the issuing company which value in truth and fact is set by the issuing company itself.

   d) Vague balance sheets which fail to provide enough information to enable one to verify the various classes of assets purportedly held by the issuing company.

   e) Large portfolio of securities all of which are of little known and thinly traded companies.

In addition to these flags mentioned above, the financial institution should keep in mind the following:

1. Secondary verification sources, such as Dun & Bradstreet, are generally insufficient to detect such spurious instruments. The main and only source of their information is frequently the very person or entity you are seeking possible adverse information on. Exclusive reliance on such sources is an invitation to disaster.

2. Reliance on trade journals, bank directories, indices of corporations operating in a given field and similar journals are frequently an inadequate means of even verifying the existence of an entity much less its value as they are compiled without any verification and are in a real sense just advertisements.

3. Recognize that while standard phraseology may be used in various securities issued by foreign based entities, their legal import may be entirely different from domestic usage. For example, letters of credit and certificates of deposits may be issued payable not only on the passage of a set period of time but also on the purchaser first paying for the instrument in full by a date certain. The very possibility of such conditions may appear on the instrument in small print in a foreign language.

With the widespread appearance of numerous international con artists in the past decade, it pays to exercise extreme caution in this area. If you feel that you are a potential victim or have actually become a victim of a con artist's fraudulent scheme, notify law enforcement immediately and cooperate with its investigation.

Notice to Members: 75-6

file

NASD

NATIONAL ASSOCIATION OF SECURITIES DEALERS, INC.

1735 K STREET NORTHWEST • WASHINGTON D.C. 20006

January 13, 1975

N O T I C E

TO: All NASD Members

RE: Mandatory Fidelity Bonding Rule

Under Article III, Section 32 of the Association's Rules of Fair Practice, all members of the Association who are required to be members of the Securities Investor Protection Corporation, who have employees, and who are subject to the Securities and Exchange Commission's net capital rule (15c3-1) must carry a fidelity bond for an amount, and including the various coverages, stated in Appendix C of the Rule.

So that the Association may be fully informed of the current bonding status of its membership, each member must complete and return the attached form to the Association by January 31, 1975.

Members are also reminded that they must report any cancellation, termination, or substantial modification of their bond to the Association within ten days of such occurrence.

Sincerely,

Frank J. Wilson
Senior Vice President
Regulation

F O R M B 1

Report of Blanket Fidelity Bond Coverage--1975

Please send this report to Mr. A. John Taylor, Vice President Variable Contracts, National Association of Securities Dealers, Inc., 1735 K Street, N.W., Washington, D.C. 20006, by January 31, 1975.

1. Amount of Bond

   Primary Coverage $_____

   Excess Coverage $_____

   Fraudulent Trading $_____

   Securities Forgery $_____

2. NASD Notification of Termination Rider — Yes ☐ No ☐

3. Bond Number #_____

4. Issuing Insurance Company

   Primary Insurer _____

   Excess Insurer _____

5. Annual Premium $_____

EXEMPT MEMBERS

If your firm is exempt from the rule place a check mark in the appropriate box:

1. Not required to join SIPC ☐
2. No employees ☐
3. Not subject to Rule 15c3-1 (SEC Net Capital Rule) (This would include members of Exchanges and members who have a written exemption from the SEC) ☐

_____
Principal

NASD

NATIONAL ASSOCIATION OF SECURITIES DEALERS, INC.

1735 K STREET NORTHWEST • WASHINGTON D.C. 20006

MAIL VOTE

IMPORTANT!

OFFICERS * PARTNERS * PROPRIETORS

To: Members of the National Association of Securities Dealers, Inc.

Date: January 27, 1975

Re: Mail Vote on Proposed Amendments to Regulations Governing Sales Charges on Mutual Fund Shares and Variable Annuity Contracts

1) Proposed Amendments to Subsections (a), (b) and (d) of Article III, Section 26 of Rules of Fair Practice.

2) Proposed Amendment to Subsection (c) of Article III, Section 29 of Rules of Fair Practice.

LAST VOTING DATE IS FEBRUARY 26, 1975

Enclosed herewith are proposed amendments to the Association's Rules of Fair Practice which would establish specific standards for sales charges on mutual fund shares and variable annuity contracts. These proposals, in substantially identical form, were previously sent to the membership for comment on November 6, 1972, and were subsequently submitted to the Securities and Exchange Commission in connection with the Commission's public hearings on mutual fund distribution in February, 1973. Changes have been made in the proposals as a result of member comments and the public hearings, although the changes are largely technical in nature. If the proposed amendments are approved by the membership, they must be submitted to and not disapproved by the Securities and Exchange Commission prior to becoming effective.

The authority for these proposals 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.

Background and Explanation of Proposals

Under the 1970 Amendments to Section 22(b) of the Investment Company Act of 1940, the NASD has the obligation to formulate and enforce rules preventing sales charges on mutual fund shares which are "excessive." In establishing such rules, the allowance of "reasonable compensation for sales personnel, broker-dealers, and underwriters," and the imposition of "reasonable" sales charges for investors is specifically provided for in the legislation. To assist in the objective formulation of sales charge rules, the Association engaged a firm of independent consultants to undertake an intensive "Economic Study of the Distribution of Mutual Funds and Variable Annuities" ("Study") with the objective of formulating criteria for the appraisal of sales charges in light of all relevant factors.

As originally understood, the Study was to have covered sales charges only for open-end investment company shares. However, the scope of the Study was widened to include contractual plans and variable annuity contracts, as well as consideration of alternative methods of distributing mutual fund shares. All phases of the Study have been completed. Without necessarily endorsing all aspects of the Study, the Association has, after review of the Study facts and conclusions, accepted the regulatory approach recommended by the consultants and the proposed amendments to Article III, Sections 26 and 29 of the Association's Rules of Fair Practice.

The guiding considerations that underlie the proposed rules are the protection of investors and the maintenance of an industry structure that will promote services of a high quality. To insure these objectives, the proposals are not the result of a particular formula, but reflect a judgmental weighing of factual evidence bearing on the following four standards used for evaluation of the reasonableness of the sales charges:

1. Effective competition: Competition may take the form of price and product competition. The Association is directing its regulatory authority, as a supplement to market forces, toward remedying imperfections in the market so as to assure a price-product structure consistent with effective competition. The objective is to maintain a sales charge structure where the sales charge rate declines as the size of the purchase increases and where higher sales charge rates are accompanied by better purchase terms.

2. Value of Service: Charges to the investor should not exceed the value provided to the investor by diversification plus: (a) the value of various product features; and (b) the value of services rendered coincident with the sale of investment company securities. The value to the investor is measured by the cost that the investor would incur if he sought on his own to purchase the benefits and services he received through the acquisition of investment company securities.

3. Salesmen's Compensation: Sales charges must allow for compensation levels that are sufficient to attract personnel commensurate with the quality of the service required, giving consideration to the time spent in the selling effort, the level of education, and professional experience of sales personnel.

4. Cost of Distribution: Sales charges should be sufficient to cover the costs incurred by underwriters and broker-dealers plus a reasonable allowance for profit. The relevant costs are those functionally related to the sales of investment company securities within an industry structure characterized by a sufficient number of efficiently managed large and small firms to insure effective competition.

The results of the application of these standards, both in terms of conclusions expressed in the Study and in terms of the relationship of these conclusions to the proposed amendments to the rules, are discussed separately as they relate to sales charges on mutual fund shares and variable annuity contracts.

Sales Charges on Mutual Fund Shares -- Proposed Amendments to Section 26

Proposed Amendment to Subsection (a)

The proposed amendment to subsection (a) of Section 26 is a conforming amendment necessitated by those provisions contained in the proposed amendments to subsection (d) pertaining to "single payment" investment plans issued by a unit investment trust registered under the Investment Company Act of 1940.

Proposed Amendments to Subsection (b)

The proposed amendments to subsection (b) are for the purpose of defining terms used in the proposed amendments to subsection (d).

Subsection (b) (4) defines Rights of Accumulation in a manner which, while establishing minimum standards, permits flexibility in establishing the quantity of shares held by an investor. Thus the quantity can be based either on the current value of the shares owned or on the investor's purchase cost of the shares, or, as a third option, the higher of current value or cost. If based on current value, the value may be the net asset value or the offering price.

Subsection (b) (5) establishes a minimum standard in terms of persons who shall be entitled to the features specified in the rule, when such features are offered. It requires that such benefits be offered either to "any person" or to any "purchaser" as those terms are defined in Rule 22d-1 under the Investment Company Act of 1940.

Proposed Amendment to Subsection (d)

The proposed amendment to subsection (d) of Section 26 would prevent members from selling shares of an open-end investment company or a single payment investment plan issued by a unit investment trust registered under the Investment Company Act of 1940 if the public offering price includes a sales charge which is excessive taking into consideration all relevant circumstances. Following this general prohibition are several provisions which if not conformed to would deem a sales charge to be excessive. These provisions were developed taking into consideration the four regulatory criteria discussed above.

The application of the four regulatory criteria to the distribution of mutual fund shares reflects the following:

1. Effective Competition: During the decade of the 1960's, the competitive forces in the industry brought about significant improvements in the terms on which investors are able to acquire mutual funds. The Study clearly indicates that there has been a decline in the minimum purchases needed to benefit from quantity discounts; the availability of cumulative quantity discounts has

become more widespread; an increasing proportion of funds offer reinvestment of dividends without sales charges; and exchange and combination privileges are now offered by virtually all underwriters selling several funds. These improvements in the terms, together with other factors, have resulted, despite a rise in maximum sales charges, in a 30 percent decline in the average sales charge to investors, from 6.3 percent in 1960 to 4.4 percent in 1970. The investor has also benefited from lower minimum purchase requirements, a widespread offering of retirement plan services, and an improvement in the conditions of eligibility for withdrawal plans.

While the Study shows that the price-product structure is generally consistent with conditions of effective competition, the proposed amendments to subsection (d) of Section 26 are intended to improve competition in the following areas:

(a) The disparities in maximum sales charges among the various funds were not generally found to be product related; i.e., funds with a higher maximum sales charge do not generally offer better terms than funds with a lower maximum. Proposed subsection (d)(1) of Section 26 therefore prohibits sales charges which exceed an established maximum level of 8.5% of offering price.

(b) The Study revealed that a significant proportion of mutual funds offering dividend reinvestment at regular sales charges do not have lower maximum sales charges or offer better terms than funds offering dividend reinvestment without sales charges (i.e., at net asset value). Consequently, proposed subsection (d)(2) of Section 26 provides that if reinvestment of dividends at net asset value is not offered, there shall be a stated reduction from the maximum sales charge otherwise authorized. If dividends are reinvested at net asset value, a reasonable service fee may be charged for each dividend reinvestment transaction.

(c) According to the Study, a significant proportion of mutual funds that do not offer Rights of Accumulation to individuals do not have lower maximum sales charges or offer investors better terms than funds that do offer such discounts. Accordingly, proposed subsection (d)(3) of Section 26 provides that if Rights of Accumulation are not offered, there shall be a stated reduction from the maximum sales charge otherwise authorized.

(d) The Study found considerable variance in the discounts granted for volume purchases. As a result, proposed subsection (d) (4) of Section 26 establishes minimum standards for quantity discounts for the first and second gradations, or breakpoints. If the quantity discounts offered do not meet these minimum standards, there shall be a stated reduction from the maximum sales charge otherwise authorized.

The reductions in maximum sales charge required by the above proposals are cumulative so that if, for example, none of the specific services offered meet the minimum requirements of the rule, the maximum permissible sales charge on any transaction would be 6.25 percent.

2. Value of Service: The Study supports the conclusion that the proposed rule amendments will result in a structure of sales charges where the value of service received by the investor exceeds the cost of acquisition, giving consideration to the diversification needed to reduce risk, the benefit of other product features, and the services rendered by salesmen. This is particularly true for the smaller investors.

3. Salesmen's Compensation: The Study shows that relatively few salesmen earn substantial incomes from the sale of mutual fund shares, and that, in relation to the sales effort involved, the structure of sales charges does not permit or encourage "excessive" compensation to mutual fund salesmen.

4. Cost of Distribution: According to the Study, the existing structure of sales charges did not provide "excessive" compensation for underwriters or broker-dealers in recent years. Moreover, in 1970, the last year for which data are available, only the largest, diversified, broker-dealer firms achieved profitable operations from their mutual fund business.

The proposed rule amendments are in the form of alternatives and have been limited to the four most important variables that bear on the effective sales charge paid by investors; the maximum sales charge, quantity discounts, dividend reinvestment, and rights of accumulation. The proposals are intended to be sufficiently flexible to permit adjustments based on an assessment of changing competitive conditions in the particular market that is served and to allow innovations in product features, services, and distribution methods.

It is recognized that other aspects, such as exchange and combination privileges, and letters of intent, also influence the effective sales charges. The Association intends to keep these and other product features offered under surveillance and, if necessary, make such features the subject of specific rules. The surveillance is intended to guard against attempts to circumvent the effect of the proposed amendments by changing the terms on which product features are now offered to investors or by instituting charges or special fees for the redemption of outstanding mutual fund shares, or for other services or features not covered specifically in the proposed rule amendments.

In this connection, the Securities and Exchange Commission has requested the Association to consider amending the proposed rule to establish a penalty for the absence of an exchange privilege and to establish a lower maximum sales charge for so-called "money market" funds. The Commission's request is currently under study and the attached proposals do not contain such provisions.

Subsection (d)(5) would establish a filing requirement for principal underwriters of investment company shares. It requires that the Association be notified of any increases in sales charges prior to the implementation of such changes. While not a part of this proposal, it is anticipated that, if approved, an additional one-time filing requirement will be established in connection with the initial implementation of the rule.

Sales Charge on Variable Annuities - Proposed Amendment to Section 29

In view of the fact that variable annuities differ substantially from mutual funds, particularly with respect to industry structure, degree of maturity, regulatory aspects and price-product characteristics, a separate rule is required for variable annuity sales charges.

As with the Study of Mutual Funds, the consultant firm applied the four criteria or standards of regulation (Effective Competition, Value of Service, Salesmen's Compensation and Cost of Distribution) to the appraisal of variable annuity sales charges and concluded that, although the existing level of sales charges on variable annuities generally is not excessive either from an investor's or the industry's viewpoints, there were some existing market imperfections which the proposed rule is intended to remedy:

(a) A wide dispersion of prices and price structures exists in a market where higher sales charges may not always be accompanied by better terms. Proposed subsection (c)(1) of Section 29 provides that sales charges on variable annuity contracts shall not exceed an established percentage of purchase payments in the first twelve contract years.

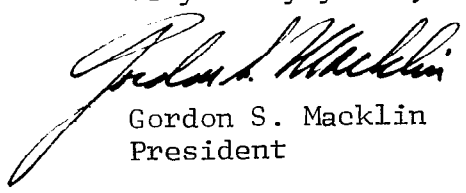
(b) It was brought out in the Study that approximately three-fourths of single payment variable annuity contracts provide for graduated sales charges based on the size of purchase payments. Therefore, proposed Subsection (c)(2) of Section 29 requires that a specific minimum scale of graduated sales charges be offered.

(c) In a very few contracts, deductions from purchase payments are not separated according to the nature of the expenses that they cover. Consequently, the Study concluded that in such cases it is not possible to determine what part of the charge is for sales and what part is for administrative expenses. Proposed Subsection (c)(3) of Section 29 therefore requires that if the charges are not stated separately, the total charge shall be regarded as a sales charge and brought within the established limitations.

(d) In order to facilitate enforcement of the rule by the Association, Subsection (c)(4) of Section 29 requires each member who is an issuer and/or an underwriter of variable annuities to file with the Association details of any proposed increases in sales charges on their variable annuities prior to the time they are implemented.

The proposed amendments are considered necessary and appropriate in the public interest and the Board urges that you vote affirmatively for their adoption. Please mark your ballot according to your convictions and return it in the enclosed stamped envelope to "The Corporation Trust Company." Ballots must be postmarked no later than February 26, 1975. The text of the proposed rule follows.

Very truly yours,



Gordon S. Macklin
President

Proposed Amendment to Article III,
Section 26 of Rules of Fair Practice

New material indicated by underlining
Deleted material indicated by striking out

(a) Except for the provisions of paragraph (d), this rule shall apply exclusively to the activities of members in connection with the securities of an "open-end management investment company" as defined in the Investment Company Act of 1940.

(b) (4) The term "Rights of Accumulation" as used in paragraph (d) of this Rule shall mean a scale of reducing sales charge in which the sales charge applicable to the securities being purchased is based upon the aggregate quantity of securities previously purchased or acquired and then owned plus the securities being purchased. The quantity of securities owned shall be based upon:

a) the current value of such securities (measured by either net asset value or maximum offering price); or

b) total purchases of such securities at actual offering prices; or

c) the higher of the current value or the total purchases of such securities.

The quantity of securities owned may also include redeemable securities of other registered investment companies having the same principal underwriter.

(5) The term "any person" as used in this rule shall mean "any person" as defined in paragraph (a) or "purchaser" as defined in paragraph (b) of Rule 22d-1 under the Investment Company Act of 1940.

Sales Charge

(d) No member ~~who is an underwriter~~ shall ~~participate in the~~ offer~~ing~~ or ~~in the sale~~ sell ~~of any such security~~ the shares of any open-end investment company or any "single payment" investment plan issued by a unit investment trust registered under the Investment Company Act of 1940 if the public offering price includes a ~~gross selling commission or load (i.e., the difference between the public offering price and the price received by the issuer)~~ sales charge which is ~~unfair~~ excessive, taking into consideration all relevant circumstances~~, including the current marketability of such security and all expenses involved~~. Sales charges shall be deemed excessive if they do not conform to the following provisions:

(1) The maximum sales charge on any transaction shall not exceed 8.50% of the offering price.

(2) (a) Dividend reinvestment shall be made available at net asset value per share to "any person" who requests such reinvestment at least ten days prior to the record date, subject only to the right to limit the availability of dividend reinvestment to holders of securities of a stated minimum value, not greater than $1,200, and provided that a reasonable service charge may be applied against each reinvestment of dividends.

(b) If dividend reinvestment is not made available on terms at least as favorable as those specified in subsection (2)(a), the maximum sales charge on any transaction shall not exceed 7.25% of offering price.

(3) (a) Rights of Accumulation (cumulative quantity discounts) shall be made available to "any person" for a period of not less than ten (10) years from the date of first purchase in accordance with one of the alternative quantity discount schedules provided in subsection (4)(a) below, as in effect on the date the right is exercised.

(b) If Rights of Accumulation are not made available on terms at least as favorable as those specified in subsection (3)(a), the maximum sales charge on any transaction shall not exceed:

(1) 8.0% of offering price if the provisions of subsection (2)(a) are met; or

(2) 6.75% of offering price if the provisions of subsection (2)(a) are not met.

(4) (a) Quantity discounts shall be made available on single purchases by "any person" in accordance with one of the following two alternatives:

(1) A maximum sales charge of 7.75% on purchases of $10,000 or more and a maximum sales charge of 6.25% on purchases of $25,000 or more; or

(2) A maximum sales charge of 7.50% on purchases of $15,000 or more and a maximum sales charge of 6.25% on purchases of $25,000 or more.

(b) If quantity discounts are not made available on terms at least as favorable as those specified in subsection (4)(a), the maximum sales charge on any transaction shall not exceed:

(1) 7.75% of offering price if the provisions of subsections (2)(a) and (3)(a) are met;

(2) 7.25% of offering price if the provisions of subsection (2)(a) are met but the provisions of subsection (3)(a) are not met;

(3) 6.50% of offering price if the provisions of subsection (3)(a) are met but the provisions of subsection (2)(a) are not met;

(4) 6.25% of offering price if the provisions of subsection (2)(a) and (3)(a) are not met.

(5) Every member who is an underwriter of shares of an open-end investment company or of a "single payment" investment plan issued by a unit investment trust shall file with the Investment Companies Department of the Association, prior to implementation, the details of any changes or proposed changes in the sales charges on any such securities, if the changes or proposed changes would increase the effective sales charge on any transaction. Such filings shall be clearly identified as an "Amendment to Investment Company Sales Charges".

Proposed Amendment to Article III,
Section 29 of Rules of Fair Practice

New material indicated by underlining.
Deleted material indicated by striking out.

Sales ~~Load~~ Charges

(c) No member shall participate in the offering or in the sale of variable annuity contracts if the purchase payment includes a sales ~~load~~ charge which is ~~unfair~~ excessive: ~~taking into consideration all relevant circumstances.~~

(1) Under contracts providing for multiple payments a sales charge shall not be deemed to be excessive if the sales charge stated in the prospectus does not exceed 8.5% of the total payments to be made thereon as of a date not later than the end of the twelfth year of such payments, provided that if a contract be issued for any stipulated shorter payment period, the sales charge under such contract shall not exceed 8.5% of the total payments thereunder for such period.

(2) Under contracts providing for single payments a sales charge shall not be deemed to be excessive if the prospectus sets forth a scale of reducing sales charges related to the amount of the purchase payment which is not greater than the following schedule:

First $25,000 - 8.5% of purchase payment
Next $25,000 - 7.5% of purchase payment
Over $50,000 - 6.5 % of purchase payment

(3) Under contracts where sales charges and other deductions from purchase payments are not stated separately in the prospectus the total deductions from purchase payments (excluding those for insurance premiums and premium taxes) shall be treated as a sales charge for purposes of this rule and shall not be deemed to be excessive if they do not exceed the percentages for multiple and single payment contracts described in paragraphs (1) and (2) above.

(4) Every member who is an underwriter and/or an issuer of variable annuities shall file with the Variable Contracts Department of the Association, prior to implementation, the details of any changes or proposed changes in the sales charges of such variable annuities, if the changes or proposed changes would increase the effective sales charge on any transaction. Such filings should be clearly identified as an "Amendment to Variable Annuity Sales Charges".