

NASD

NOTICE TO MEMBERS: 80-30
Notices to Members should be
retained for future reference.

NATIONAL ASSOCIATION OF SECURITIES DEALERS, INC.

1735 K STREET NORTHWEST • WASHINGTON D.C. 20006

July 7, 1980

M E M O R A N D U M

TO: All NASD Members and Companies Quoted in the NASDAQ System

RE: Proposed Revisions to Qualification Requirements For Companies
Quoted in the NASDAQ System

The Board of Governors of the Association has proposed an amendment to Schedule D under the Article XVI of the By-Laws of the Association which would increase the qualification requirements for companies quoted in the NASDAQ System. The proposal is being published at this time to provide all interested persons an opportunity to submit comments.

After the expiration of the comment period, the Board will again review the proposed amendment and give due consideration to the comments received. If at that time the Board approves the amendment, or a revised version thereof, it will be submitted to the Securities and Exchange Commission for approval.

Background and Explanation of the Proposed Amendment


The Board of Governors proposes to amend Schedule D, Part II, "Qualifications for Authorized Securities," of the Association's By-Laws to increase the total assets and capital and surplus requirements that govern the eligibility of an issuer's security for initial and continued inclusion in the NASDAQ System. Currently, the initial qualification requirements are \$1 million in total assets and \$500,000 in capital and surplus; the continuing qualification requirements are \$500,000 in total assets and \$250,000 in capital and surplus.

Since these qualification requirements have not been adjusted in light of inflation since their adoption in 1971, the Board believes that they should be increased so that the level of stringency of the financial criteria is more comparable to that which was established at

the inception of the NASDAQ System. Accordingly, the proposed amendment would (1) increase the initial qualification requirements by 100 percent to \$2 million in total assets and \$1 million in capital and surplus and (2) increase the continuing qualification requirements by 50 percent to \$750,000 in total assets and \$375,000 in capital and surplus. Companies currently in NASDAQ would become subject to the higher continuing qualification requirements six months after the effective date of the amendment to Schedule D.

Comments on these proposals should be in writing and addressed to David P. Parina, Secretary, National Association of Securities Dealers, Inc., 1735 K Street, N.W., Washington, D.C., 20006, and should be received by August 8, 1980. All comments will be available for inspection. Questions concerning this notice should be directed to Molly G. Bayley, Vice President, NASDAQ Operations at (202) 833-7213.

Sincerely,


Gordon S. Macklin
President

* * * * *

TEXT OF PROPOSED AMENDMENT TO PART II OF SCHEDULE D OF
ARTICLE XVI OF THE BY-LAWS

(Text to be deleted is stricken, text to be added underlined)

QUALIFICATION FOR AUTHORIZED SECURITIES

...

B. Rules for Authorized Domestic Securities

...

3. An eligible security shall not be authorized, and an authorized security shall be subject to suspension of authorization, if:

...

j. The issuer's total assets shall be less than ~~\$1,000,000~~ \$2,000,000 in the case of an eligible security not yet authorized or ~~\$500,000~~ \$750,000 in the case of an authorized security.*

k. The issuer's total capital and surplus shall be less than ~~\$500,000~~ \$1,000,000 in the case of an eligible security not yet authorized or ~~\$250,000~~ \$375,000 in the case of an authorized security.*

* Until (six months after adoption), the minimum amounts of authorized securities shall be \$500,000 total assets and \$250,000 total capital and surplus.

NASD

NATIONAL ASSOCIATION OF SECURITIES DEALERS, INC.
1735 K STREET NORTHWEST • WASHINGTON D.C. 20006

July 8, 1980

TO: All NASD Members and Interested Persons

RE: New Qualification Requirements and Test Administration
System for Limited Representatives

ATTENTION: TRAINING DIRECTORS AND REGISTRATION PERSONNEL

The purpose of this notice is to inform the membership of the following developments in the Association's qualification examination program for representatives.

- Implementation of New Qualification Examination for Investment Company Products/Variable Contracts (IC/VC) Representatives (Test Series 6) on August 1, 1980.
- Implementation of New Qualification Examination for Direct Participation Programs (DPP) Representatives (Test Series 22) on August 1, 1980.
- Pre-requisite Representative Registration Requirements for Limited Principals
- Automation of Test Administration for the New Limited Representative Examinations

Implementation of New Qualification Examinations for Limited Representatives

The Association will implement new qualification examinations for Investment Company Products/Variable Contracts Representatives and for Direct Participation Programs Representatives on August 1, 1980. Effective that date all persons who apply for registration as either IC/VC Representatives or DPP Representatives will be required to take and pass the appropriate examination for the designated category of registration. Under NASD rules, a representative is defined as a person associated with the member, including an assistant officer other than a principal, who is engaged in the investment

banking or securities business of the member, including the functions of supervision, solicitation, conduct of business or the training of persons associated with a member for any of these functions.

Persons who meet the definition of a representative, but whose activities are limited to investment company products and variable contracts, may satisfy the Association's minimum qualification requirements by passing the IC/VC Representative Examination. Such products include redeemable securities of companies registered pursuant to the Investment Company Act of 1940; securities of closed-end companies registered pursuant to the Investment Company Act of 1940 during the period of original distribution only; and variable contracts and insurance premium funding programs registered pursuant to the Securities Act of 1933.

Persons who meet the definition of a representative, but whose activities are limited to direct participation programs, may satisfy the Association's minimum qualification requirements by passing the DPP Representative Examination. The term "direct participation programs" shall mean programs which provide for flow-through tax consequences regardless of the structure of the legal entity or vehicle for distribution including, but not necessarily limited to, oil and gas programs, real estate programs, agricultural programs, cattle programs, condominium securities, Subchapter S corporate offerings and all other programs of a similar nature, regardless of the industry represented by the program, or any combination thereof. Excluded from this definition are real estate investment trusts, tax qualified pension and profit sharing plans pursuant to Sections 401 and 403(a) of the Internal Revenue Code and individual retirement plans under Section 408 of that Code, tax sheltered annuities pursuant to the provisions of Section 403(b) of the Internal Revenue Code and any company, including separate accounts, registered pursuant to the Investment Company Act of 1940.

The new examinations represent minimum qualification standards for limited representatives. Persons whose activities will extend to both investment company products/variable contracts and direct participation programs may satisfy the Association's minimum qualification requirements by passing both the IC/VC Representative Examination and the DPP Representative Examination. All limited representatives may elect to satisfy the Association's qualification requirements by taking the General Securities Representative Examination. Successful completion of this examination will entitle a registrant to function as an IC/VC Representative and as a DPP Representative, as well as to engage in activities with respect to other investment instruments.

* * *

Pre-Requisite Representative Registration Requirements for Limited Principals

Since June 1, 1979, all new applicants for registration as Investment Company Products/Variable Contracts Principals and/or Direct Participation Programs Principals have been required to be registered with the Association as either General Securities Representatives or Limited Representatives before taking their limited principal examinations. Limited Representatives have qualified since September, 1974, by taking the NASD Series 1 examination. Any applicant for registration as an IC/VC Principal and/or a DPP Principal will continue to satisfy the pre-requisite representative registration requirements if such applicant has qualified as either a General Securities Representative or a Limited Representative by virtue of passing the NASD Series 1 examination.

Beginning August 1, 1980, new applicants for registration as limited representatives will normally qualify as either IC/VC Representatives or DPP Representatives. Persons so qualified and registered will satisfy the pre-requisite representative registration requirements with respect to the comparable category of principal registration only. Thus, a person registered as an IC/VC Representative will satisfy the pre-requisite requirements for the IC/VC Principal category of registration only. A person registered as a DPP Representative will satisfy the pre-requisite requirements for the DPP Principal category of registration only.

* * *

Study Outlines

The Association has published study outlines for both the IC/VC Representative Examination and the DPP Representative Examination. These outlines are available from the NASD Executive Office in Washington, D. C. and any of its fourteen district offices at a cost of \$2.00 each.

The IC/VC Representative Examination will be two hours in length and will be comprised of 100 multiple-choice questions. The DPP Representative Examination will also be two hours in length and comprised of 100 multiple-choice questions. The study outlines for these examinations contain additional detail regarding their structure and content.

* * *

Implementation Procedures for the New Limited Representative Examinations

Effective August 1, 1980, all new applicants for registration as IC/VC Representatives and/or DPP Representatives will be enrolled for the appropriate examination on the Plato system. Testing on the system will commence on August 1, 1980. The testing fee for each limited representative examination will be \$40.

Candidates who apply for registration as limited representatives prior to August 1, 1980, will be issued Series 1 examination tickets (the current test for limited representatives) and will be able to use these tickets through October 31, 1980, at the Association's traditional paper and pencil testing centers. As of August 1, 1980, the Association will discontinue the issuance of Series 1 examination tickets. Successful completion of the Series 1 examination during the period August 1, 1980, through October 31, 1980, will qualify applicants as both IC/VC and DPP Representatives. All Series 1 examinations will be withdrawn from the field on November 1, 1980, and this examination will no longer satisfy Association qualification requirements as of that date. Applicants who do not use their Series 1 tickets by October 31, 1980, will be required to submit NASD Forms ER-1 and the appropriate testing fees in order to be enrolled on Plato for the new IC/VC and/or DPP Representative examinations.

After August 1, 1980, candidates who take and fail the Series 1 examination will be enrolled on Plato for the new IC/VC and/or DPP Representative examinations upon submission of NASD Form ER-1 and the appropriate testing fees for re-examination. Between August 1, 1980, and October 31, 1980, however, candidates may return their unused Series 1 tickets to the Registration Section of the Association's Membership Department and request enrollment on Plato for the IC/VC and/or DPP Representative examinations without charge.

* * *

Automation of Test Administration

Administration of the limited representative examinations will be accomplished in an automated manner using the Plato system of the Control Data Corporation. Plato is a large, fully dedicated time-sharing system capable of delivering a wide variety of programs to remote visual display terminals located in learning centers owned and operated by Control Data Corporation. The system has been modified to serve as a medium for delivering the types

of qualification examinations utilized by the Association. Control Data learning centers are currently operating in cities where existing NASD test centers account for approximately 90% of the examinations administered each year.

The automated capabilities of the Plato system will eliminate the need to administer the limited representative examinations on a fixed schedule. When enrolled on the system by the NASD, a candidate need only make an appointment at the nearest learning center to sit for an examination. All learning centers are open between the hours of 8:30 A.M. to 5:30 P.M. local time. Some learning centers are also open in the evenings and on weekends. Using Plato, the Association will also be able to enter the bank of test questions for the limited representative examinations into the system and to program the computer to generate a unique examination for each candidate. Within one day of a candidate's testing date, a hard-copy grade report will be generated at the Association's Executive Office and forwarded to the sponsoring member firm as well as to the state securities commissions designated on the candidate's registration application. A more detailed description of test administration on the Plato system is contained in the sections which follow.

Plato Enrollment - After receiving a candidate's registration application and appropriate fees, the Association will enroll the candidate on the Plato system. Enrollment must occur in order for a candidate to sit for an examination on the system. After a candidate has been enrolled on the system, a confirmation notice will be sent to the sponsoring member firm. This notice will identify the candidate, the qualification examination for which the candidate has been enrolled and the expiration date of the enrollment. The expiration date will be 90 calendar days from the date the enrollment is entered into the system. If a candidate does not sit for the examination during this period, he may be re-enrolled on the system upon receipt by the Association of another \$40 testing fee accompanied by NASD Form ER-1.

Appointment Scheduling - Along with the enrollment confirmation notice sent to the firm, the Association will include a schedule of Control Data learning centers at which the examination can be taken. The candidate need only call the nearest learning center in order to make an appointment to sit for the examination. Due to the volume of NASD testing on the Plato system, candidates are advised to schedule their appointments as far in advance as possible in order to be certain of securing the desired testing date. Appointments will not be made for candidates who are not enrolled on the system or for candidates requesting an appointment date which falls after the expiration date of the candidate's enrollment. The sponsoring member

firm will be charged a penalty fee of \$10.00 in the event that a candidate does not appear for a scheduled appointment or cancels a scheduled appointment less than 72 hours prior to the appointed time and date. At the learning center administrator's discretion, a candidate who arrives more than 15 minutes late for a scheduled appointment may not be allowed to sit for the examination if the terminal has been otherwise reserved, in which case a penalty fee of \$10.00 will also be levied. All penalty fees will be billed to member firms by the Association.

Group Reservations - Member firms or training organizations planning training classes may block-reserve terminals at a learning center by calling the learning center at least one month in advance of the desired testing date. The same procedure outlined above with respect to late cancellations, no shows and late arrivals for appointment sessions will be in effect for individuals in groups.

Admission to Learning Centers - Since a candidate's enrollment on the Plato system is entered into the computer by the NASD and is available on-line to learning center administrators, it will not be necessary for candidates to present their enrollment confirmation notices at the time they appear at a learning center. However, a candidate will be required to provide two forms of identification, both of which must contain the signature of the candidate and at least one of which must contain either a physical description of the candidate or a picture. This requirement is in effect today in the Association's existing test centers. All candidates will be required to check briefcases, books, papers, study material, etc., with the learning center administrator before being seated at the terminal. Neither the NASD nor Control Data assume responsibility for any articles which are required to be left at the admissions desk in the learning center. Candidates may use pocket electronic calculators while taking an examination provided that such devices have independent power sources and no operable print mechanisms.

Examination Presentation on the System - After a candidate is seated at a terminal the actual examination will be preceded by an introductory lesson designed to familiarize the candidate with the procedures to be followed in answering and reviewing test questions. These procedures are simple and do not require any previous experience with a computer terminal or typing ability. All questions are answered by touching the appropriate location on the terminal screen itself. In addition, there is a simple procedure available to the candidate during the test and at the end of the examination for reviewing any question in the examination.

At the end of the allotted time period or when a candidate voluntarily terminates a testing session, the computer will automatically score the examination and component sub-sections, and display the scores on the terminal. A hard-copy grade notification will be forwarded by the Association to the sponsoring firm and to the state securities commissions designated on the candidate's application on the first business day following the testing session.

Plato Learning Center Locations - The following cities are presently serviced by at least one Control Data learning center. A current list of learning center locations and telephone numbers will be included with each confirmation notice sent to candidates. Candidates located in areas serviced by Control Data learning centers must take the limited representative examinations on the Plato system.

Birmingham, Alabama
Huntsville, Alabama
Anaheim, California
Los Angeles, California
Oakland, California
San Diego, California
San Francisco, California
Sunnyvale, California
Denver, Colorado
Hartford, Connecticut
Stamford, Connecticut
Wilmington, Delaware
District of Columbia
Miami, Florida
Orlando, Florida
Atlanta, Georgia
Chicago, Illinois
Indianapolis, Indiana
Wichita, Kansas
Louisville, Kentucky
New Orleans, Louisiana
Baltimore, Maryland
Rockville, Maryland
Boston, Massachusetts
Detroit, Michigan
Arden Hills, Minnesota
Bloomington, Minnesota
Edina, Minnesota
Minneapolis, Minnesota
St. Paul, Minnesota
Roseville, Minnesota
Jackson, Mississippi

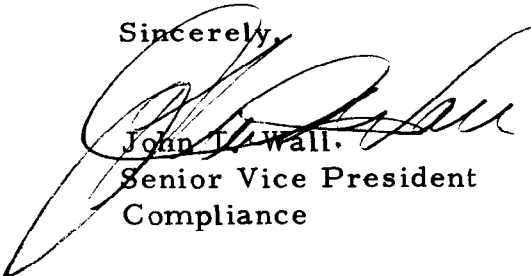
Kansas City, Missouri
St. Louis, Missouri
Omaha, Nebraska
Somerset, New Jersey
Albuquerque, New Mexico
Buffalo, New York
New York, New York
Rochester, New York
Charlotte, North Carolina
Cincinnati, Ohio
Cleveland, Ohio
Columbus, Ohio
Lima, Ohio
Oklahoma City, Oklahoma
Portland, Oregon
Philadelphia, Pennsylvania
Pittsburgh, Pennsylvania
Valley Forge, Pennsylvania
Columbia, South Carolina
Rapid City, South Dakota
Memphis, Tennessee
Nashville, Tennessee
Austin, Texas
Dallas, Texas
Ft. Worth, Texas
Houston, Texas
San Antonio, Texas
Salt Lake City, Utah
Richmond, Virginia
Seattle, Washington
Charleston, West Virginia
Milwaukee, Wisconsin

Non-Plato Testing Locations - On a special request basis the Association will make printed versions of the limited representative examinations available at certain of its traditional test centers which are located in cities not serviced by a Control Data learning center. A request for an examination to be administered at one of these locations should be made at the time the candidate's application papers are submitted.

* * *

Questions regarding this notice should be directed to Frank J. McAuliffe at (202) 833-7394, Carole Hartzog at (202) 833-7392 or David Uthe at (202) 833-7273.

Sincerely,



John T. Wall.
Senior Vice President
Compliance

NASD

NOTICE TO MEMBERS: 80-32
Notices to Members should be retained for future reference.

NATIONAL ASSOCIATION OF SECURITIES DEALERS, INC.

1735 K STREET NORTHWEST • WASHINGTON D. C. 20006

TO: All NASD Members
RE: SEC ADOPTION OF RULE 19c-3
DATE: July 10, 1980

On June 11, 1980, the Securities and Exchange Commission adopted Rule 19c-3. This Rule will amend existing rules of national securities exchanges which limit or condition the ability of members of those exchanges to effect transactions otherwise than on an exchange in securities which are listed or admitted to unlisted trading privileges on those exchanges. The effect of the Rule will be to allow members of exchanges to trade as principal, securities which have listed on exchanges subsequent to April 26, 1979.

Rule 19c-3 will become effective on July 18, 1980. Enclosed for your information as Attachment A is a compilation of lists of securities which have been determined by the various exchanges as being eligible for off-board trading under Rule 19c-3. These lists were submitted to the SEC by the exchanges. Further analysis is being made to determine whether there are any additional securities which are eligible for over-the-counter trading. Changes to the enclosed lists will be communicated to members through the NEWS frame on NASDAQ terminals. Additional information relating to Rule 19c-3 and the requirements and procedures for reporting transactions to the Consolidated Tape will be provided in a subsequent Notice to Members to be issued shortly.

The Association is interested in determining the extent of member interest in trading 19c-3 securities so that meetings can be arranged to assist those firms in understanding the Rule and newly proposed reporting procedures. As the effective date is less than a week away, we are requesting that you return the enclosed questionnaire promptly (Attachment B).

Members choosing to make a market in these issues are required to enter quotations into the Consolidated Quotations Service (CQS) pursuant to SEC Rule 11Ac1-1.

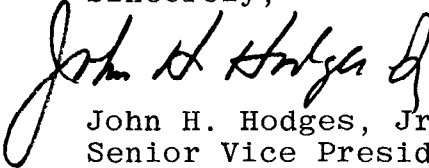
- MORE -

The CQS display on a subscriber's terminal consists of the security symbol, last sale price, net change, market of execution, tick indicator, high/low range, volume and time of last sale. Following this data on the first two lines, the quotations with size of exchanges and over-the-counter market makers are displayed. A typical screen display is shown on Attachment C.

CQS can be added to an existing Level 2 or Level 3 NASDAQ terminal for \$50 per month and \$.01 per quote request, plus applicable charges for the NYSE/AMEX last sale and bid/ask data. Additional information on the applicable fees can be found in Part IV of Schedule D of the NASD By-Laws, or you may call Joan B. Stott, NASDAQ Contract Coordinator, at (202) 833-7285. If you wish to subscribe to CQS, please so indicate on the questionnaire and return it promptly, since it may take several weeks to add the Service if you are a NASDAQ subscriber who is not currently receiving exchange data.

Questions regarding the Notice should be directed to Molly G. Bayley, Vice President, NASDAQ Operations at (202) 833-7213.

Sincerely,



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

NYSE SECURITY LISTINGS ELIGIBLE FOR OFF-BOARD TRADING UNDER
Rule 19c-3 THROUGH JULY 8, 1980

Advanced Micro Devices, Inc.
Allegheny Corporation - Series A Pr.
Anheuser-Busch Companies, Inc.
Appalachian Power Company - \$2.65 Cum. Pr. Stock
Barnett Banks of Florida, Inc.
The Charter Company - Conv. Dept. Pr. Shares
Cincinnati Gas & Electric Company - 10.20% Series Cum. Pr. Stock
Combined International Corporation
Comdisco, Inc.
Commonwealth Edison Company - \$11.70 Cum. Pref. Stock
Connecticut General Insurance Corporation
Consumers Power Company - \$3.85 Cum. Pref. Stock
Crown Zellerbach Company - \$4.625 Cum. Conv. Pr. Stock - Series A
Deluxe Check Printers, Inc.
Detroit Edison Company (The) - 12.80% Series
Di Giorgio Corporation - \$2.25 Cum. Conv. Pr. Stock
Donaldson Company, Inc.
Duke Power Company - 8.84% Cum. Pr. Stock Series N
Duke Power Company - 11% Cum. Pr. Stock, Series O
Filmways Inc. - Class C Cv. Pref.
Flexi-Van Corporation - \$1.61 Cum Pr. Stock
Galveston-Houston Company
Genstar Limited - \$1.68 Series B Conv. Cum. Redeemable 2nd Pr.
Georgia Pacific Corporation - \$2.24 Series B. Adj. Rate Conv. Pr. Stock
Grumman Corporation - \$2.80 Cum Pr. Stock
Hexcel Corporation
Horizon Bancorp.
Houston Oil Royalty Trust
Illinois Power Company - 11.66% Cum. Pr. Stock
Indiana & Michigan Electric Company - \$2.75 Cum. Pr. Stock
Interco Inc. - \$7.75 Cu. Conv. Pr. Stock, Series D
James River Corporation of Virginia
Kerr Glass Manufacturing Company-\$1.70 Class B Cum. Conv. Pr. Stock
Series D

Koger Properties, Inc.
Kyoto Ceramic Co., Ltd.
Lear Petroleum Corporation
Leggett & Platt, Incorporated
Long Island Lighting Company - 9.80% Series S. Pr. Stock
Lowe's Companies, Inc.
MacMillan Bloedel Limited
Management Assistance Inc.
MESA Royalty Trust
Metro-Goldwyn-Mayer Film Co.
Naples Federal Savings & Loan Association
NCNB Corporation
Newell Companies, Inc.
Noble Affiliates, Inc.
Ocean Drilling & Exploration Co.
Ohio Edison Company - \$1.80 Cum. Conv. Pref. Stock
Penncorp Financial, Inc.
Philadelphia Electric Company - 15.25% Pr. Stock
Potomac Electric Power Company - Serial Pr. Stock \$4.23 of 1979
Public Service Company of New Hampshire - 11.24% Cum Pr. S.F.
Public Service Company of New Hampshire - Shares of Sinking Fund
Prefer. Stock - 17% Div. Series Cum.
Public Service Company of Indiana - 9.60% Series Cum. Pr. Stock
Reading & Bates Corporation - \$2.125 Cum. Conv. Pr. - 4th Series
Realty & Mortgage Investors of the Pacific
Recognition Equipment Inc.
Safeguard Business Systems, Inc.
Savin Corporation - Series A \$1.50 Cum. Conv. Pr. Stock
Sealed Air Corporation
Southwest Gas Corporation
Tenneco Inc. - \$11 Cum. Pref. Stock
Ti-Caro, Inc.
Tosco Corporation
Toys "R" Us, Inc.

- 3 -

Transco Companies, Inc. - \$3.875 Cum. Conv. Pr. Stock
United Illuminating Company - 15.88% Pref. Stock 1980 Series
USLIFE Corporation - \$3.33 Series C Cum. Pr. Stock
Utah Power & Light Company - \$2.36 Cum. Pr. Stock Series I
Utah Power & Light Company - \$2.90 Cu. Pr. Stock, Series J
Valero Energy Corporation
Viacom Intl. - \$2.10 Cum. Conv. Pr.
Western Company of North America - \$2.125 Cum. Conv. Pr.

AMEX SECURITY LISTINGS ELIGIBLE FOR OFF-BOARD TRADING UNDER
RULE 19c-3 THROUGH JULY 8, 1980

Adams Resources & Energy, Inc.
AIC Photo, Inc.
Air Express International
American Technical Inc. - 1.28 cum. pref.
Anderson Jacobson, Inc.
Argo Petroleum Corp.
Basic Resources Corporation
Billy The Kid, Inc.
Bio-Rad Laboratories, Inc. - Class B
Bio-Rad Laboratories, Inc. - Class A
Bowl America, Inc.
Campanelli Industries, Inc.
Champion Products, Inc.
Consolidated Oil & Gas - wts.
Crown Central Petroleum - Class B
Crown Central Petroleum - Pref. A
Data Access Systems, Inc.
Dixico Incorporated
Dorchester Gas Corporation
Dougherty Brothers Company
Elsinore Corporation
Empire of Carolina, Inc.
Fed-Mart Corp. - wts.
Francana Oil & Gas
Gelman Sciences, Inc.
Guarantee Bank
Howell Petroleum Corp.
Kallestad Laboratories, Inc.
Key Pharmaceuticals
Knogo Corporation
Lazare Kaplan International
McDowell Enterprises, Inc.
MCO Resources, Inc.

MOOG, Inc. - Class A
National Gas & Oil Corporation
Orrox Corporation
Page Petroleum Ltd.
Patrick Petroleum - wts.
Penril Corporation
Perry Drug Stores Inc.
Petro Lewis - 1.65 cum. prf.
Quality Inns International, Inc.
Resorts International - wts.
Rial Company
Schwab Safe Co., Inc.
Seiscom Delta, Inc.
Southern California Edison - 8.54 cum. pfd.
Summit Energy
TIE/Communications, Inc.
Towner Petroleum Company
Triton Oil & Gas Corporation
Triton Oil & Gas Corporation - 1.96 conv. pfd.
Trans Technology Corporation
Valley Resources, Inc.
Vicon Industries, Inc.
Walbar, Incorporated
Weatherford International
Worldwide Energy Corporation

PSE SECURITY LISTINGS ELIGIBLE FOR OFF-BOARD TRADING UNDER
RULE 19c-3 THROUGH JULY 8, 1980

American Financial Corporation - Nonvoting Cum. Pfd. Series G
Hardwicke Companies, Inc.

19c-3 SURVEY QUESTIONNAIRE

NAME OF MEMBER: _____

ADDRESS: _____

NAME AND TITLE OF INDIVIDUAL COMPLETING FORM ON BEHALF OF MEMBER:

Name Title

<input type="checkbox"/>	1. We intend to make markets in 19c-3 securities as soon as possible following the effective date of the Rule.
<input type="checkbox"/>	2. We are considering making markets in 19c-3 securities at some time in the future.
<input type="checkbox"/>	3. We are interested in subscribing to CQS.
<input type="checkbox"/>	4. We have no interest in making markets in 19c-3 securities.

PLEASE RETURN THIS FORM TO:

Molly G. Bayley, Vice President
NASDAQ OPERATIONS
National Association of Securities Dealers, Inc.
1735 K Street N.W.
Washington, D.C. 20006

 CQS DISPLAY ON NASDAQ TERMINAL

(1)	<u>B</u> XYZ	XC	LA-63 5/8	+1/8	N O+
(2)	HI-63 7/8	LO-63 1/8		VOL-44100	12.03
(3)	XNYE	63 3/8 63 1/2		20-20	
(4)	ABCD	63 3/8 63 5/8			
(5)	XPHL	63 1/4 63 3/8		5-	
(6)	XPSE	63 1/4 63 1/2		2-3	MOR

EXPLANATIONS:

Line (1) B --Interrogator Has Requested That Quotes Be Ranked According to Best Bid

XYZ --Security Symbol

XC --Cash Dividend

LA --Last Sale Today in Consolidated Market

+ 1/8 --Net Change from Previous Close

N --Last Sale Market of Execution (New York)

O+ --Tick from Prior Trade

Line (2) HI --High Trade Today in Consolidated Market

LO --Low Trade Today in Consolidated Market

VOL --Consolidated Volume

12.03 --Time of Last Trade

Line (3) 63 3/8-
63 1/2 --Bid/Ask Quotation

20-20 --Quotation Is Firm for 20 Units of Trading (i.e., 2,000 shares) on Either Side

Line (4) ABCD --Market Maker Identifier

No Size
Shown --Quotation Is Firm for 1 Unit of Trading (i.e., 100 shares) on Either Side

Line (5) XPHL --Philadelphia Stock Exchange

5- --Bid Quotation Is Firm for 500 Shares, Ask Quotation for 100 Shares

Line (6) XPSE --Pacific Stock Exchange

MOR --Additional Quotations on Succeeding Frames

NASD

NATIONAL ASSOCIATION OF SECURITIES DEALERS, INC.
1735 K STREET NORTHWEST • WASHINGTON D.C. 20006

July 11, 1980

IMPORTANT NOTICE

TO: ALL NASD MEMBERS

FROM: Gordon S. Macklin

RE: 1. EFFECTIVE JULY 18, 1980
NEW TRADE REPORTING PROCEDURES FOR OVER-THE-COUNTER
PRINCIPAL TRANSACTIONS IN ALL LISTED SECURITIES
(INCLUDING 19c-3 TRADED SECURITIES)

2. EFFECTIVE JULY 18, 1980
SEC RULE 19c-3 ALLOWING OVER-THE-COUNTER
MARKET MAKING IN ELIGIBLE LISTED SECURITIES.

Enclosed are new procedures for reporting over-the-counter trades in listed securities to the Consolidated Tape that become effective on July 18, 1980.

Also included is information that members desiring to trade 19c-3 eligible listed securities should review. It is strongly recommended that members who are not thoroughly acquainted with the rules and procedures relating to trading listed securities call their local NASD District Office to arrange for a meeting before starting to trade 19c-3 securities.

A special contact person has been designated to respond to all questions with respect to matters discussed in this Notice. Please direct inquiries to Donald M. Heizer at (202) 833-7169.

* * * * *

NEW TRADE REPORTING PROCEDURES FOR LISTED SECURITIES

On July 18, 1980 an amendment to the procedures for reporting over-the-counter transactions in listed securities to the Consolidated Tape will become effective (Schedule G under Article XVIII of the By-Laws). The amendment requires that principal transactions in all listed securities in the over-the-counter market which are executed at a price which includes a mark-up or mark-down be reported to the Consolidated Tape at a price excluding such mark-up or mark-down. The purpose of the amendment is to attempt to achieve comparability for transactions in listed securities reported on the Consolidated Tape. The text of the amendment is attached as Exhibit A. Also attached as Exhibit B is the order of the Securities and Exchange Commission approving the amendment. Members are advised to read the Commission's order which contains the Commission's analysis of the amendment and its views on member compliance.

Presently all transactions reported on the Consolidated Tape from stock exchanges do not include the commission charged the customer for the transaction. The transaction report appearing on the Consolidated Tape therefore represents the wholesale price for the transaction. Over-the-counter transactions in these same securities are currently reported in two different ways. If the transaction is an agency transaction (or certain principal transactions) where the commission is separately broken out, the transaction is reported on the Consolidated Tape without the commission. The reporting of these transactions without the commission included in the reported price results in transaction reports which are similar to transaction reports from exchanges i.e., the wholesale price of the transaction is reported. However, most principal transactions executed in the over-the-counter market are executed at an aggregate price which includes a mark-up or mark-down. This constitutes the actual price paid or received by the customer, i.e., the retail price. Under the Association's current reporting rules, that retail price is reported to the Consolidated Tape. Thus, the current reporting procedures result in a mix of wholesale and retail transaction prices being reported on the Tape. The Association is concerned with the appearance of these prices on the Tape. Obviously, if some transaction reports reflect wholesale prices and some reflect retail prices, transactions which actually are very similar, or even the same, in price would appear on the Consolidated Tape as being different.

The Association has therefore adopted this amendment to the reporting rules to require that in all over-the-counter principal transactions in Consolidated Tape securities (reported securities) which are executed at a price which includes a mark-up or mark-down, the price reported to the Consolidated Tape should exclude such mark-up or mark-down. The amendment also requires that the reported price be reasonably related to the prevailing market for the security taking into consideration all relevant circumstances including, but not limited to, market conditions with respect to the security, the number of shares involved in the transaction, the published bids and offers with size at the time of the execution (including the reporting firm's own quotation), accessibility to market centers publishing bids and offers with size and costs of execution and expenses involved in clearing transactions. The Association does not believe the amendment will impose a

substantial burden on reporting members since the determination of the prevailing market or the best available wholesale market for a security and the calculation of the mark-up or mark-down are functions which members customarily perform when executing principal transactions. Of course, if no mark-up or mark-down is charged, then the reported price would be the execution price. Members should note that this amendment will not change, in any way, the manner in which transactions are confirmed.

The Association believes that the new reporting procedures will substantially improve the comparability of transactions reported on the Tape. Members should be aware that the Association has put in place a comprehensive surveillance program to assure that members' reports to the Tape are reasonably related to the prevailing market. The most important factors in arriving at the prevailing market are the quotations displayed in the Consolidated Quotations Service (CQS), the size of the transaction and the member's capability of accessing the displayed quotations. Since the quotations displayed in CQS are accompanied by size, the determination of the prevailing market for most transactions should be relatively easy. Large transactions obviously require an element of judgment based on the size of the transaction and the condition of the market for the security.

The Association wishes to emphasize the importance of member compliance with the new amendment. Disclosure to the investing public of appropriate prices on the Consolidated Tape is a major concern to the Association and the Securities and Exchange Commission and will be vigorously enforced. Member compliance with the reporting procedures and its impact on the Consolidated Tape will be monitored very closely by the Association to determine whether any further modifications to the reporting procedures are necessary.

Surveillance Program on Overreaching

In conjunction with the adoption of SEC Rule 19c-3 and the amendment to the trade reporting procedures which are effective on July 18, 1980, the Association has instituted a new surveillance program to deal with possible overreaching in 19c-3 securities. The term overreaching is defined by the SEC as "the possibility that broker-dealer firms may take advantage of their customers by executing retail transactions as principal at prices less favorable to those customers than could have been obtained had those firms acted as agent." The concept is based on the fact that a customer should not be disadvantaged by the capacity in which the executing broker acted, that is, whether the transaction was executed as principal or agent.

The surveillance program has been established to assure that members executing transactions with customers as principal in active, liquid 19c-3 securities will not charge those customers a mark-up or mark-down calculated from the prevailing market which is in excess of the commission that the customer would have paid had the transaction been executed as agent.

Member compliance with the new amendment to the trade reporting procedures described above takes on added importance because of its impact on the Association's overreaching surveillance program. Essentially, the overreaching surveillance program involves computing a firm's mark-up, which is considered the commission equivalent for overreaching purposes, as the

difference between the price paid by the customer and the prevailing market. In most cases, the reported price will be the prevailing market. This commission equivalent will be compared to the commission charged by that member in its agency transactions with similar customers in securities with similar trading characteristics. The comparison of the commission equivalent on a principal transaction with the commission charged in similar agency transactions will be made to determine if a member may have dealt unfairly with its customer. Potential overreaching would exist if the commission equivalents charged customers were greater than the commissions that would have been charged by the member had it acted as agent. A finding of such would constitute violations of Article III, Section 1 of the Association's Rules of Fair Practice.

The Association's surveillance programs with regard to overreaching and mark-ups will involve sampling transactions in active, liquid 19c-3 securities. The Association will supply members with selected transactions for which information will be required to be provided by the member on a questionnaire, a sample copy of which is attached as Exhibit C.

Short Sale Rules

Members are reminded that all transactions in listed securities including those executed over-the-counter are subject to the short sale rules contained in SEC Rule 10a-1 and 10a-2. Basically the short sale rules provide that no short sale of a security which is reported on the Consolidated Tape may be executed by or through a broker/dealer (1) below the price at which the last sale, regular way, was reported on the Consolidated Tape (minus tick); or (2) at the last price reported unless that price is above the next preceding different price reported (zero minus tick). In addition members are required to mark all sell orders in listed securities either "long" or "short."

There are several exemptions to the short sale rule. The one with the most general application is the equalizing exemption in Rule 10a-1(e)(5). This provision permits a registered specialist, registered exchange market maker and any Qualified Third Market Maker which has filed a notice with the Commission on Form X-17A-16(1) to execute a short sale transaction at the last sale reported on the Consolidated Tape irrespective of the preceding last sale reports. Members are directed to Rule 10a-1 with respect to the remaining exemptions.

INFORMATION RELATING TO THE TRADING OF RULE 19c-3 ELIGIBLE SECURITIES

As stated above, the provisions of SEC Rule 19c-3 will become effective on July 18, 1980. A compilation of lists of securities which have been determined by the various exchanges as being eligible for off-board trading under Rule 19c-3 was included in Notice to Members 80-32. Changes to these lists will be communicated to members via the NASDAQ NEWS frame on subscribers' NASDAQ terminals.

Market Making in Rule 19c-3 Securities

Members choosing to make markets in 19c-3 eligible securities will be automatically subject to the requirements of Rule 11Acl-1, "Dissemination of Quotations for Reported Securities," which became effective on August 1, 1978. Under the provisions of Rule 11Acl-1, members who meet the definition of a third market maker are required to register as Third Market Makers and to enter their quotations and sizes into the Consolidated Quotations Service. Rule 11Acl-1 defines a Third Market Maker to be any broker or dealer who holds himself out as being willing to buy or sell a reported security for his own account on a regular and continuous basis otherwise than on a national securities exchange in amounts of less than block size. Members who register on CQS as Third Market Makers will have their quotations and sizes displayed on CQS along with the quotations and sizes of the exchanges.

Registering as a Market Maker and Updating
Quotations on the Consolidated Quotations Service

Members desiring to make markets in 19c-3 securities must be subscribers to CQS. CQS may be added to an existing Level 2 or Level 3 NASDAQ terminal for \$50 per month and \$.01 per quote request, plus applicable charges for NYSE/AMEX last sale and bid/ask data. The charges for subscribing solely to CQS, without NASDAQ service, are \$230 per month for the first terminal and \$155 per month for each additional terminal plus \$.01 per quote request and the applicable NYSE/AMEX charges. CQS subscribers with level 2 capability can convert to level 3 service without delay and no additional charges. Additional information on fees for CQS service can be found in Part IV of Schedule D of the NASD By-Laws. CQS service can be added to an existing NASDAQ terminal without delay providing the member is currently receiving exchange data over other quotation devices.

However, if the firm is not a NASDAQ subscriber or is not currently receiving exchange data, it could take several weeks to become a CQS subscriber. Firms that are interested in subscribing to CQS or adding CQS to their existing NASDAQ terminals should contact Joan B. Stott, NASDAQ and CQS Contract Coordinator, at (202) 833-7285.

Registration as a CQS market maker is accomplished at the time CQS with level 3 capability is initiated. Registrations in specific securities in which the firm intends to make markets are handled the same as in NASDAQ, i.e. by using the "XR" call through the Level 3 terminal or by telephoning the NASDAQ Department in New York City at (212) 938-1055.

CQS operates on the same hours as NASDAQ Service, i.e., between 9:00 a.m. and 6:30 p.m. Eastern Time, and subscribers follow the same procedures for obtaining quotations that are used for NASDAQ-OTC securities. NEWS codes apply to CQS as well as NASDAQ.

CQS quotation updating procedures are the same as in NASDAQ with the exception that CQS market makers may also enter and update size. A detailed description of the procedures for entering and updating size on CQS is contained in Exhibit D.

Mechanics for Reporting Third Market
Transactions to the Consolidated Tape

Members must report their third market transactions within 90 seconds of execution either by reporting through their NASDAQ terminal to the Third Market Transaction Reporting System (TMTR) or by calling NASDAQ-New York at (212) 938-1055. The requirements governing the reporting of transactions and the exceptions from real-time reporting are contained in Schedule G under Article XVIII of the By-Laws. The TMTR System is an automated data collection and reporting system which provides for the current and continuous reporting to the Consolidated Tape of last sale prices reflecting trades in reported securities which are executed in the over-the-counter market. The charge paid by a member for each trade reported by telephone or through the NASDAQ terminal is \$.10.

Firms choosing to report third market transactions through their NASDAQ terminals must be authorized to do so and should call NASDAQ-New York at (212) 938-1055. Procedures for entering regular trade reports through a NASDAQ terminal are contained in Exhibit E. A detailed guide to trade reporting including procedures for correcting errors and entering cancellations will be forwarded to each member that becomes authorized for transaction reporting through their NASDAQ terminals.

EXHIBIT A

Text of Amendment to Section 1(a)(2) and
Section 1(b)(2) of Schedule G under Article XVIII of the By-Laws

(New language indicated by underlining, deleted language indicated by striking.)

Section 1(a)(2) Designated Reporting Members shall transmit last sale reports for eligible securities for all purchases and sales in such securities except transactions for less than a round-lot at the execution price recorded on the trade ticket exclusive of after excluding any commissions, mark-up, mark-down or other charges. For principal transactions which are executed at a price which includes a mark-up, mark-down or service charge, the price reported shall exclude the mark-up, mark-down or service charge. Such reported price shall be reasonably related to the prevailing market, taking into consideration all relevant circumstances including, but not limited to, market conditions with respect to the security, the number of shares involved in the transaction, the published bids and offers with size at the time of the execution (including the reporting firm's own quotation), accessibility to market centers publishing bids and offers with size, the cost of execution and the expenses involved in clearing the transaction.

Section 1(b)(2) Non-Designated Reporting Members (Same as Section 1(a)(2)).

NASD

NATIONAL ASSOCIATION OF SECURITIES DEALERS, INC.

1735 K STREET NORTHWEST • WASHINGTON D.C. 20006

July 17, 1980

MEMORANDUM

TO: All NASD Members
Attention: Legal and Compliance Personnel

RE: Uniform Code of Arbitration

INTRODUCTION

The Association has recently received approval from the Securities and Exchange Commission of a thorough revision to its Code of Arbitration Procedure. The approved amendments, designed to make the Association's arbitration procedures uniform with those of other self-regulatory organizations, were developed as part of a program in which the Association has participated since 1977 and will be implemented, effective July 21, 1980.

These amendments result from recommendations drafted by the Securities Industry Conference on Arbitration, an advisory body comprised of representatives from the participating self-regulatory organizations, the Securities Industry Association and three public representatives. In 1978, the Conference produced a proposed procedure for the handling of small claims (disputes not exceeding \$2,500) in a simplified fashion. That procedure was adopted by each of the participating self-regulatory organizations, has been in use by the Association for two years and appears as Section 13 in the Association's new Code of Arbitration Procedure. The Conference next undertook the task of formulating an arbitration code which would make the procedures of the participant organizations uniform. The Conference published a Uniform Code of Arbitration in 1979 which has been adopted in full by each participating self-regulatory organization, at least as to those arbitration proceedings involving a public customer. The Association has extended the application of the Uniform Code provisions to intra-industry disputes as well.

SUMMARY OF MAJOR CHANGES TO EXISTING CODE

As the Association's existing Code was used as a model for the Uniform Code, many of the provisions in the new Code remain the same. A major change to the scope of Association arbitration appears in the expansion of the breadth of disputes subject to arbitration to include those involving the business (excluding only insurance business) of a member, rather than only those which are securities-

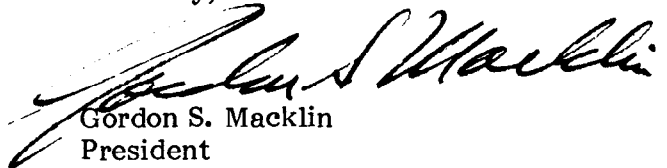
related (Section 1(a)). The Association has retained the right to decline jurisdiction where the subject matter is deemed inappropriate for Association arbitration (Section 1(b)).

In addition, all parties will have the right to challenge arbitrators selected by the Director of Arbitration and each party will have one peremptory challenge (Section 22). Arbitrators will have an express obligation to convey any potential conflicts of interest to the parties through the staff for their consideration (Section 23) and, as before, will be required to take an oath affirming their objectivity prior to participating in a case (Section 38). Disputes involving customers will continue to require a panel composed of a majority of arbitrators from outside the securities industry, but the number of arbitrators will increase from three to five only when the amount in dispute exceeds \$100,000, versus \$20,000 in the existing Code (Section 19).

Some of the changes are geared toward further streamlining procedures to reduce the burdens placed on the parties. For instance, parties are no longer required to seek approval by an arbitration panel of privately-arranged settlements (Section 17) or of joint agreements to withdraw a dispute from arbitration (Section 16). Fees will be deposited initially by the claimant only. Respondents will not be required to make a fee deposit, although the arbitrators may decide ultimately that fees should be assessed against a respondent (Section 43). Respondents will have 20 business days to submit an answer to the claim versus the present 15 (Section 25). Parties will be accorded at least eight business days' notice, versus the current five, of the time and location of the hearing and of the names and business affiliations of the selected arbitrators. Finally, the time limitation for the submission of disputes to arbitration, extended to six years from five years, will commence running as of the date of the event or transaction in dispute and will permit the rejection of late claims at the outset rather than compelling participation by a respondent to the hearing stage of a proceeding.

Questions regarding this notice should be directed to Rick Ryder or Tom Wynn in the Arbitration Department, telephone (212) 938-1177.

Sincerely,



Gordon S. Macklin
President

Attachment

NASD

CODE OF ARBITRATION PROCEDURE

(Code Amended Effective July 21, 1980)

Part I. ADMINISTRATIVE PROVISIONS

MATTERS ELIGIBLE FOR SUBMISSION

Sec. 1. This Code of Arbitration Procedure is prescribed and adopted pursuant to Article IV, Section 2(b) of the By-Laws of the National Association of Securities Dealers, Inc., (the Association) for the arbitration of any dispute, claim or controversy arising out of or in connection with the business of any member of the Association, with the exception of disputes involving the insurance business of any member which is also an insurance company:

- (1) between or among members;
- (2) between or among members and public customers, or others;
- (3) between or among members, registered clearing agencies with which the Association has entered into an agreement to utilize the Association's arbitration facilities and procedures, and participants, pledgees or other persons using the facilities of a registered clearing agency, as these terms are defined under the rules of such a registered clearing agency.

NATIONAL ARBITRATION COMMITTEE

Sec. 2. The Board of Governors of the Association, following the annual election of members to the Board, shall appoint a National Arbitration Committee of such size and composition, including representation from the public at large, as it shall deem appropriate and in the public interest. The Chairman of the Committee shall be named by the Chairman of the Board. The said Committee shall establish and maintain a pool of arbitrators composed of persons from within and without the securities industry.

The Committee shall have the authority to establish appropriate rules, regulations and procedures to govern the conduct of all arbitration matters before the Association. All rules, regulations and procedures and amendments thereto promulgated by the Committee must be by a majority vote of all the members of the said Committee. It shall also have such other power and authority as is necessary to effectuate the purposes of this Code.

The Committee shall meet at least once each year and at such other times as are deemed necessary by the Committee.

DIRECTOR OF ARBITRATION

Sec. 3. The Board of Governors of the Association shall appoint a Director of Arbitration who shall be charged with the performance of all administrative duties and functions in connection with matters submitted for arbitration pursuant to this Code. He shall be directly responsible to the National Arbitration Committee and shall report to it at periodic intervals established by the Committee and at such other times as called upon by the Committee to do so.

COMPOSITION AND APPOINTMENT OF PANELS

Sec. 4. The Director of Arbitration shall compose and appoint panels of arbitrators from the existing pool of arbitrators of the Association to conduct the arbitration of any matter which shall be eligible for submission under this Code. The Director of Arbitration may request that the Executive Committee of the National Arbitration Committee undertake the composition and appointment of a panel or undertake consultation with the Executive Committee regarding the composition and appointment of a panel in any circumstances where he determines such action to be appropriate.

● ● ● Resolution of the Board of Governors _____

RESOLVED that all persons serving on panels of arbitrators pursuant to Section 4 of the Association's Code of Arbitration Procedure shall be paid an honorarium of \$50 for each hearing session in which they participate while in the performance of said duties.

(Resolution adopted effective June 14, 1977.)

NON-WAIVER OF ASSOCIATION OBJECTS AND PURPOSES

Sec. 5. The submission of any matter to arbitration under this Code shall in no way limit or preclude any right, action or determination by the Association which it would otherwise be authorized to adopt, administer or enforce.

LEGAL PROCEEDINGS

Sec. 6. No party shall, during the arbitration of any matter, prosecute or commence any suit, action or proceeding against any other party touching upon any of the matters referred to arbitration pursuant to this Code.

AMENDMENT, MODIFICATION OR CANCELLATION OF CODE

Sec. 7. This Code may, upon a majority vote of the Board of Governors, be altered, amended, modified or canceled.

Part II. INDUSTRY AND CLEARING CONTROVERSIES

REQUIRED SUBMISSION

Sec. 8. (a) Any dispute, claim or controversy eligible for submission under Part I of this Code between or among members and/or associated persons, and/or

certain others, arising in connection with the business of such member(s) or in connection with the activities of such associated person(s), shall be arbitrated under this Code, at the instance of:

- (1) a member against another member;
- (2) a member against a person associated with a member or a person associated with a member against a member; and,
- (3) a person associated with a member against a person associated with a member.

(b) Any dispute, claim or controversy involving an act or failure to act by a clearing member, a registered clearing agency, or participants, pledgees or other persons using the facilities of a registered clearing agency, under the rules of any registered clearing agency with which the Association has entered into an agreement to utilize the Association's arbitration facilities and procedures shall be arbitrated in accordance with such agreement and the rules of such registered clearing agency.

COMPOSITION OF PANELS

Sec. 9. Except as otherwise provided in Section 10 of the Code, in all arbitration matters between or among members and/or persons associated with members, a panel shall consist of no fewer than three nor more than five arbitrators, all of whom shall be from the securities industry.

SIMPLIFIED INDUSTRY ARBITRATION

Sec. 10. (a) Any dispute, claim or controversy arising between or among members or associated persons submitted to arbitration under this Code involving a dollar amount not exceeding \$5,000, exclusive of attendant costs, shall be resolved by an arbitration panel constituted pursuant to the provisions of subsection (1) hereof solely upon the pleadings and documentary evidence filed by the parties, unless one of the parties to the proceeding files with the Office of the Director of Arbitration within ten (10) business days following the filing of the last pleading a request for a hearing of the matter.

(1) In any proceeding pursuant to this section, an arbitration panel shall consist of no fewer than one (1) but no more than three (3) arbitrators, all of whom shall be from within the securities industry.

(2) Notwithstanding the provisions of this section, any member of an arbitration panel constituted pursuant to this section shall be authorized to request the submission of further documentary evidence in a proceeding and any such panel may by majority vote call and conduct a hearing if such is deemed to be necessary.

(b) All awards rendered in proceedings pursuant to subsection (a) hereof shall be made within thirty (30) business days from the date the arbitrators review all of the written statements, documents and other evidentiary material filed by the parties and declare the matter closed.

APPLICABILITY OF UNIFORM CODE

Sec. 11. Except as otherwise provided in this Part, the rules and procedures applicable to arbitrations concerning industry and clearing controversies shall be those set forth hereinafter under Part III.

Part III. UNIFORM CODE OF ARBITRATION

REQUIRED SUBMISSION

Sec. 12. (a) Any dispute, claim or controversy eligible for submission under Part I of this Code between a customer and a member and/or associated person arising in connection with the business of such member or in connection with the activities of such associated person shall be arbitrated under this Code, as provided by any duly executed and enforceable written agreement* or upon the demand of the customer.

(b) Under this Code, the Director of Arbitration, upon approval of the Executive Committee of the National Arbitration Committee or the National Arbitration Committee, shall have the right to decline the use of its arbitration facilities in any dispute, claim or controversy, where, having due regard for the purposes of the Association and the intent of this Code such dispute, claim or controversy is not a proper subject matter for arbitration.

SIMPLIFIED ARBITRATION

Sec. 13. (a) Any dispute, claim or controversy, arising between a public customer(s) and an associated person or a member subject to arbitration under this Code involving a dollar amount not exceeding \$2,500.00, exclusive of attendant costs and interest, shall, upon demand of the customer(s) or by written consent of the parties, be arbitrated as hereinafter provided.

(b) The Claimant shall file with the Director of Arbitration one (1) executed Submission Agreement and one (1) copy of the Statement of Claim of the controversy in dispute, together with documents in support of the claim. The

* This subsection is not intended to conflict with the decision of the United States Supreme Court in Wilko v. Swan, 346 U.S. 427 (1953), which specifies that a customer of a broker-dealer does not waive the protections of the securities acts by an agreement to arbitrate future controversies. Thus, the Association will, in applicable cases, require a member to seek an order under the United States Arbitration Act to determine whether a particular dispute is properly arbitrable in view of Wilko v. Swan.

Statement of Claim shall specify the relevant facts, the remedies sought and whether or not a hearing is demanded.

(c) The Claimant shall pay the sum of \$15.00 upon filing of the Submission Agreement. The final disposition of this sum shall be determined by the arbitrator.

(d) The Director of Arbitration shall endeavor to serve promptly by mail or otherwise on the Respondent(s) one (1) copy of the Submission Agreement and one (1) copy of the Statement of Claim. The Respondent(s) shall within twenty (20) calendar days from receipt of service file with the Director of Arbitration one (1) executed Submission Agreement and one (1) copy of the Respondent's(s)' Answer, together with supporting documents. The Answer shall designate all available defenses to the Claim and may set forth any related Counterclaim and/or related Third Party Claim the Respondent(s) may have against the Claimant or any other person. If the Respondent(s) has interposed a Third Party Claim, the Director of Arbitration shall endeavor to serve promptly by mail or otherwise a copy of same together with a copy of the Submission Agreement on such third party who shall respond in the manner herein provided for response to the Claim. If the Respondent(s) files a related Counterclaim exceeding \$2,500.00, the arbitrator may refer the Claim, Counterclaim and/or Third Party Claim, if any, to a panel of three (3) or five (5) arbitrators in accordance with Section 19 of this Code or, he may dismiss the Counterclaim and/or Third Party Claim without prejudice to the Counterclaimant(s) and/or Third Party Claimant(s) pursuing the Counterclaim and/or Third Party Claim in a separate proceeding. The costs to the Claimant under either proceeding shall in no event exceed \$15.00.

(e) The Director of Arbitration shall endeavor to serve promptly by mail or otherwise on the Claimant a copy of the Answer, Counterclaim, Third Party Claim or other responsive pleading, if any. The Claimant, if a Counterclaim is asserted against him, shall within ten (10) calendar days either (i) file a Reply to any Counterclaim with the Director of Arbitration who shall serve a copy of the Reply on the Respondent(s) or, (ii) if the amount of the Counterclaim exceeds the Claim, shall have the right to file a statement withdrawing the Claim. If the Claimant withdraws the Claim, the proceedings shall be discontinued without prejudice to the rights of the parties.

(f) The dispute, claim or controversy shall be submitted to a single arbitrator knowledgeable in the securities industry selected by the Director of Arbitration. Unless the public customer demands or consents to a hearing, or the arbitrator calls a hearing, the arbitrator shall decide the dispute, claim or controversy solely upon the pleadings and evidence filed by the parties. If a hearing is necessary, such hearing shall be held as soon as practicable at a locale selected by the Director of Arbitration.

(g) The Director of Arbitration may grant extensions of time to file any pleading upon a showing of good cause.

(h) The arbitrator shall be authorized to require the submission of further documentary evidence as he, in his sole discretion, deems advisable.

(i) Upon the request of the arbitrator, the Director of Arbitration shall appoint two (2) additional arbitrators to the panel which shall decide the matter in controversy.

(j) In any case where there is more than one (1) arbitrator, the majority shall be public arbitrators.

(k) In his discretion, the arbitrator may, at the request of any party, permit such party to submit additional documentation relating to the pleadings.

(l) Except as otherwise provided herein, the general arbitration rules of the Association shall be applicable to proceedings instituted under this Section.

● ● ● Interpretation of the Board of Governors _____

Related Counterclaim

As used in this Section 13, the term "related Counterclaim" shall mean any Counterclaim related to a customer's accounts with a member.

HEARING REQUIREMENTS — WAIVER OF HEARING

Sec. 14. (a) Any dispute, claim or controversy except as provided in Section 10 (Simplified Industry Arbitration) or Section 13 (Simplified Arbitration), shall require a hearing unless all parties waive such hearing in writing and request that the matter be resolved solely upon the pleadings and documentary evidence.

(b) Notwithstanding a written waiver of a hearing by the parties, a majority of the arbitrators may call for and conduct a hearing. In addition, any arbitrator may request the submission of further evidence.

TIME LIMITATION UPON SUBMISSION

Sec. 15. No dispute, claim or controversy shall be eligible for submission to arbitration under this Code in any instance where six (6) years shall have elapsed from the occurrence or event giving rise to the act or the dispute, claim or controversy. This section shall not extend applicable statutes of limitations.

DISMISSAL OF PROCEEDINGS

Sec. 16. At any time during the course of an arbitration, the arbitrators may, either upon their own initiative or at the request of a party, dismiss the proceeding and refer the parties to the remedies provided by applicable law. The arbitrators shall at the joint request of all the parties dismiss the proceedings.

SETTLEMENTS

Sec. 17. All settlements upon any matter shall be at the election of the parties.

TOLLING OF TIME LIMITATION(S) FOR THE INSTITUTION OF LEGAL PROCEEDINGS

Sec. 18. Where permitted by applicable law, the time limitation(s) which would otherwise run or accrue for the institution of legal proceedings shall be tolled when all the parties shall have filed duly executed Submission Agreements upon the dispute, claim or controversy submitted to arbitration. The tolling shall continue for such period as the Association shall retain jurisdiction upon the matter submitted.

DESIGNATION OF NUMBER OF ARBITRATORS

Sec. 19. (a) Except as otherwise provided in this Code, in all arbitration matters involving public customers, and where the matter in controversy does not exceed the amount of \$100,000, or where the matter in controversy does not involve or disclose a money claim, the Director of Arbitration shall appoint an arbitration panel which shall consist of no fewer than three (3) nor more than five (5) arbitrators, at least a majority of whom shall not be from the securities industry, unless the public customer requests a panel consisting of at least a majority from the securities industry.

(b) In all arbitration matters involving public customers where the amount in controversy is \$100,000 or more, the Director of Arbitration shall appoint an arbitration panel which shall consist of five (5) arbitrators, at least a majority of whom shall not be from the securities industry, unless the public customer requests a panel consisting of at least a majority from the securities industry.

COMPOSITION OF PANELS

Sec 20. The individuals who shall serve on a particular arbitration panel shall be determined by the Director of Arbitration. The Director of Arbitration may name the chairman of the panel.

NOTICE OF SELECTION OF ARBITRATORS

Sec. 21. The Director of Arbitration shall inform the parties of the names and business affiliations of the arbitrators at least eight (8) business days prior to the date fixed for the initial hearing session.

PEREMPTORY CHALLENGE

Sec. 22. In an arbitration proceeding being heard by a panel consisting of more than one (1) arbitrator, each party shall have the right to one (1) peremptory challenge. A party wishing to exercise a peremptory challenge must do so by notifying the Director of Arbitration in writing within five (5) business days of notification of the identity of the persons named to the panel.

DISCLOSURES REQUIRED OF ARBITRATORS

Sec. 23. Each arbitrator shall be required to disclose to the Director of Arbitration any circumstances which might preclude such arbitrator from rendering an

objective and impartial determination. Prior to the commencement of the first hearing session, the Director of Arbitration may disqualify an arbitrator who discloses such information. The Director of Arbitration shall also inform the parties of any information disclosed pursuant to this section if the arbitrator who disclosed the information is not disqualified.

DISQUALIFICATION OR OTHER DISABILITY OF ARBITRATORS

Sec. 24. In the event that any arbitrator, after the commencement of the first session but prior to the rendition of the award, should become disqualified, resign, die, refuse or be unable to perform or to discharge his duties, the Director of Arbitration, upon such proof as he deems satisfactory, shall, where permitted by applicable law, either (a) appoint a new member to the panel to replace such arbitrator, obtaining the consent of the parties, or (b) with the consent or waiver of the parties, direct that the arbitration proceed without the substitution of a new arbitrator.

INITIATION OF PROCEEDINGS

Sec. 25. Except as otherwise provided herein, an arbitration proceeding under this Code shall be instituted as follows:

Statement of Claim

(a) The Claimant shall file with the Director of Arbitration three (3) executed copies of the Submission Agreement and three (3) copies of the Statement of Claim of the controversy in dispute, together with the documents in support of the claim. The Statement of Claim should specify the relevant facts and the remedies sought. The Director of Arbitration shall endeavor to serve promptly by mail or otherwise on the Respondent(s) one (1) copy of the Submission Agreement and one (1) copy of the Statement of Claim.

Answer -- Defenses, Counterclaims and/or Cross-Claims

(b) (1) The Respondent(s) shall within twenty (20) business days from receipt of service file with the Director of Arbitration one (1) executed Submission Agreement and one (1) copy of the Respondent's(s') Answer. The Answer shall designate all available defenses to the Statement of Claim and may set forth any related Counterclaim the Respondent(s) may have against the Claimant and Third-Party Claim against any other party or person upon any existing dispute, claim or controversy subject to arbitration under this Code.

(2) If the Respondent(s) has interposed a Third-Party Claim, the Director of Arbitration shall endeavor to serve promptly by mail or otherwise a copy of same together with a copy of the Submission Agreement on such third party who shall respond in the manner provided for response to the Claim.

(3) The Director of Arbitration shall endeavor to serve promptly by mail or otherwise on the Claimant a copy of the Answer, Counterclaim, Third Party Claim or other responsive pleading, if any. The Claimant may within ten (10) business days file a Reply to the Counterclaim with the Director of Arbitration who will serve a copy of the Reply on the Respondent(s).

(4) The time period to file any pleading, whether such be denominated as a Claim, Answer, Counterclaim, Reply or Third Party pleading, may be extended for such further period as may be granted by the Director of Arbitration.

Joining and Consolidation

(c) (1) With respect to any dispute, claim or controversy submitted to arbitration, any party or person eligible to submit a claim under this Code shall have the right to proceed in the same arbitration against any other party or person upon any claim directly related to such dispute.

(2) For purposes of this subsection, the Director of Arbitration shall be authorized to determine preliminarily whether a claim is directly related to the matter in dispute and to join any other party to the dispute and to consolidate the matter for hearing and award purposes.

(3) All final determinations with respect to joining and consolidation under this subsection shall be made by the arbitration panel.

DESIGNATION OF TIME AND PLACE OF HEARINGS

Sec. 26. Unless the applicable law directs otherwise, the time and place of the initial hearing shall be determined by the Director of Arbitration and each hearing thereafter by the arbitrators. Notice of the time and place for the initial hearing shall be given at least eight (8) business days prior to the date fixed for the hearing by personal service, registered or certified mail to each of the parties unless the parties shall, by their mutual consent, waive the notice provisions under this section. Notice for each hearing thereafter shall be given as the arbitrators may determine. Attendance at a hearing waives notice thereof.

REPRESENTATION BY COUNSEL

Sec. 27. All parties shall have the right to representation by counsel at any stage of the proceedings.

ATTENDANCE AT HEARINGS

Sec. 28. The attendance or presence of all persons at hearings including witnesses shall be determined by the arbitrators. However, all parties to the arbitration and their counsel shall be entitled to attend all hearings.

FAILURE TO APPEAR

Sec. 29. If any of the parties, after due notice, fails to appear at a hearing or any adjourned hearing session, the arbitrators may, in their discretion, proceed with the arbitration of the controversy. In such cases, all awards shall be rendered as if each party had entered an appearance in the matter submitted.

ADJOURNMENTS

Sec. 30. The arbitrators may, in their discretion, adjourn any hearing(s) either upon their own initiative or upon the request of any party to the arbitration.

ACKNOWLEDGMENT OF PLEADINGS

Sec. 31. The arbitrators shall acknowledge to all parties present that they have read the pleadings filed by the parties.

SUBPOENA PROCESS

Sec. 32. (a) The arbitrators and any counsel of record to the proceeding shall have the power of the subpoena process as provided by applicable law. However, the parties shall produce witnesses and present proofs to the fullest extent possible without resort to the issuance of the subpoena process.

(b) Prior to the first hearing session, the parties shall cooperate in the voluntary exchange of such documents and information as will serve to expedite the arbitration. If the parties agree, they may also submit additional documents to the Director of Arbitration for forwarding to the arbitrators.

POWER TO DIRECT APPEARANCES

Sec. 33. The arbitrators shall be empowered without resort to the subpoena process to direct the appearance of any person employed or associated with any member of the Association and/or the production of any records in the possession or control of such persons or members. Unless the arbitrators direct otherwise, the party requesting the appearance of a person or the production of documents under this section shall bear all reasonable costs of such appearance and/or production.

EVIDENCE

Sec. 34. The arbitrators shall determine the materiality and relevance of any evidence proffered and shall not be bound by rules governing the admissibility of evidence.

INTERPRETATION OF CODE

Sec. 35. The arbitrators shall be empowered to interpret and determine the applicability of all provisions under this Code which interpretation shall be final and binding upon the parties.

DETERMINATION OF ARBITRATORS

Sec. 36. All rulings and determinations of the panel shall be by a majority of the arbitrators.

RECORD OF PROCEEDINGS

Sec. 37. Unless requested by the arbitrators or a party or parties to a dispute, no record of an arbitration proceeding is required to be kept. If a record is kept, it shall be a verbatim record. If a party or parties to a dispute elect to have the record transcribed, the cost of such transcription shall be borne by the party or parties making the request.

OATHS OF THE ARBITRATORS AND WITNESSES

Sec. 38. Prior to the commencement of the first session, an oath or affirmation shall be administered to the arbitrators. All testimony shall be under oath or affirmation.

AMENDMENTS

Sec. 39. No amendment to the pleadings shall be permitted after receipt of a responsive pleading except upon the consent of the arbitrators and upon such terms and conditions as they may direct.

REOPENING OF HEARINGS

Sec. 40. Where permitted by applicable law, the hearings may be reopened by the arbitrators on their own motion or in the discretion of the arbitrators upon application of a party at any time before the award is rendered.

AWARDS

Sec. 41. (a) All awards shall be in writing and signed by a majority of the arbitrators or in such manner as is required by applicable law. Such awards may be entered as a judgment in any court of competent jurisdiction.

(b) Unless the applicable law directs otherwise, all awards rendered pursuant to this Code shall be deemed final and not subject to review or appeal.

(c) The Director of Arbitration shall endeavor to serve a copy of the award: (i) by registered or certified mail upon all parties, or their counsel, at the address of record or, (ii) by personally serving the award upon the parties; or, (iii) by filing or delivering the award in such manner as may be authorized by law.

(d) The arbitrator(s) shall endeavor to render an award within thirty (30) business days from the date the record is closed.

MISCELLANEOUS

Sec. 42. This Code shall be deemed a part of and incorporated by reference in every duly executed Submission Agreement which shall be binding on all parties.

SCHEDULE OF FEES

Sec. 43. (a) At the time of filing a Submission Agreement, a Claimant shall deposit with the Association the amount indicated below unless such deposit is specifically waived by the Director of Arbitration.

<u>Amount in Dispute</u> (Exclusive of interest and expenses)	<u>Deposit</u>
\$2,500 or less	\$ 50 (\$15 for Simplified Arbitration, Section 13)
Above \$2,500 but less than \$5,000	\$100
\$5,000 or more but less than \$10,000	\$200
\$10,000 or more but less than \$20,000	\$250
\$20,000 or more but less than \$100,000	\$350
\$100,000 and over	\$550

Where the amount in dispute is less than \$10,000, no additional deposits shall be required despite the number of sessions. Where the amount in dispute is \$10,000 or more and multiple sessions are required, the arbitrators may require any of the parties to make additional deposits for each additional session. In no event shall the aggregate amount deposited per session exceed the amount of the initial deposit.

(b) The arbitrators, in their award, may determine the amount chargeable to the parties as forum fees (fees) and shall determine by whom such fees shall be borne. Where the amount in dispute is less than \$10,000, total fees to the parties shall not exceed the amount deposited. Where the amount in dispute is \$10,000 or more but less than \$20,000, the maximum fee shall be \$250 per session. Where the amount in dispute is \$20,000 or more but less than \$100,000, the maximum fee shall be \$350 per session. Where the amount in dispute is \$100,000 or more, the maximum fee shall be \$550 per session. In no event shall the fees assessed by the arbitrators exceed \$550 per session. Amounts deposited by a party shall be applied against fees, if any. If the fees are not assessed against a party who made a deposit, the deposit will be refunded.

(c) If the dispute, claim or controversy does not involve or disclose a money claim, the amount to be deposited by the Claimant shall be \$100 or such amount as the Director of Arbitration or the panel of arbitrators may require, but shall not exceed \$550.

(d) Any matter submitted and thereafter settled or withdrawn prior to the commencement of the first session shall entitle the parties to a refund of all but \$25 of the amount deposited with the Association.

(e) Any matter submitted and thereafter settled or withdrawn subsequent to the commencement of the first session may be subject to such refund of assessed deposits, if any, as the panel of arbitrators presiding may determine.

● ● ● Resolution of the Board of Governors _____

FAILURE TO ACT UNDER PROVISIONS OF
CODE OF ARBITRATION PROCEDURE

It may be deemed conduct inconsistent with just and equitable principles of trade and a violation of Article III, Section 1 of the Rules of Fair Practice for a member or a person associated with a member to fail to submit a dispute for arbitration under the Code of Arbitration Procedure as required by that Code, or to fail to appear or to produce any document in his possession or control as directed pursuant to provisions of the Code of Arbitration Procedure, or to fail to honor an award of arbitrators properly rendered pursuant to the Code of Arbitration Procedure where a timely motion has not been made to vacate or modify such award pursuant to applicable law.

(Resolution adopted effective May 1, 1973)

NASD

NOTICE TO MEMBERS: 80-35
Notices to Members should be
retained for future reference.

NATIONAL ASSOCIATION OF SECURITIES DEALERS, INC.

1735 K STREET NORTHWEST • WASHINGTON D. C. 20006

July 17, 1980

IMPORTANT NOTICE MISSING SECURITIES

TO: All NASD Members and Municipal Securities Bank Dealers

Recently, El Camino Bank, 203 East Lincoln Avenue, Anaheim, California 92083, reported to the Association that the following securities were missing:

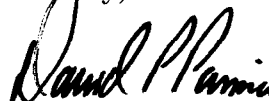
El Camino Bank, Common Stock

<u>Certificate Nos.</u>	<u>Denomination</u>	<u>Possible Date On Certificate</u>
2754-2781	Unknown	May 16, 1980
2783-2806	Unknown	May 16, 1980
2808-2821	Unknown	May 16, 1980
2823-2828	Unknown	May 16, 1980
2830	Unknown	May 16, 1980
2831	Unknown	May 16, 1980
2833-2841	Unknown	May 16, 1980
2843-2858	Unknown	May 16, 1980
2936	Unknown	May 16, 1980

If anyone comes into possession of any of the above cited certificates or receives information in regard to this matter, kindly call collect Rosalie Mallat, Vice President/Corporate Secretary, El Camino Bank, at (714) 778-6220.

Please distribute this Notice to appropriate staff personnel in your organization. This Notice may be duplicated in quantities to satisfy your needs.

Sincerely,



David P. Parina
Secretary

NASD

NOTICE TO MEMBERS: 80-36
Notices to Members should be
retained for future reference.

NATIONAL ASSOCIATION OF SECURITIES DEALERS, INC.

1735 K STREET NORTHWEST • WASHINGTON D.C. 20006

July 25, 1980

M E M O R A N D U M

TO: All NASD Members

ATTN: Registered Options Principals

RE: Options Position Limit and Registered Options Principal Requirements

Several recent inquiries have been received from members concerning the applicability of the Association's rules regarding position limits on option contracts and the qualification of a Registered Options Principal (ROP). With respect to position limits (Section 3 of Appendix E to Section 33 of the Rules of Fair Practice), certain firms have asked whether conventional, OTC option contracts written on non-convertible debt securities would be counted toward the 1,000 contract limit currently enforced by the Association. The NASD staff has responded in each instance that such contracts are specifically exempt from the position limit rule.

The basis for this determination is contained in Section 1 of Appendix E (General), particularly subsection 1(a) thereof, wherein it is stated that ". . . Sections 3 through 12 of this Appendix E shall apply only to transactions in options on common stock, and Sections 13 through 24 of this Appendix E shall apply to transactions in options on any security, including common stock." Therefore, the position limit rule embodied in Section 3 of Appendix E would not be applied to non-convertible debt options.

The Association wishes to caution members, however, that it takes a different view of option contracts written on, for example, warrants or convertible debt. Although they are not per se common stock options, the subsequent exercise or conversion of the underlying security (i.e., the warrant or convertible debt) following an exercise of the option contracts, could result in the holder thereof obtaining shares of common stock of the issuer. Although involving in

effect a two-step process, the end result would be the same as if the holders had purchased and exercised common stock options rather than options on warrants or convertible debt.

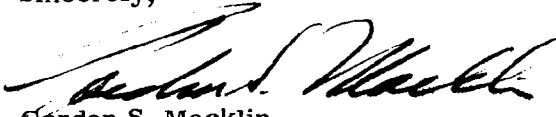
Members should be mindful therefore of their obligation to adhere to the position limit rule when dealing in any option contract which upon immediate exercise or through the occurrence of a subsequent event could result in the acquisition of an issuer's common stock. In this connection, it may also be helpful for members to review the Association's definition of the term "option contract" (Section 2(e) of Appendix E) which provides, in part, that an option granted covering more than 100 shares of stock of an issuer shall be deemed to constitute as many option contracts as that other number of shares divided by 100. Thus a single option covering debt convertible into 1,000 shares of common stock shall be deemed, for purposes of the Association's position limit rule, to be ten option contracts.

The second area prompting inquiries from members involves the ROP qualification requirement, specifically whether a firm which deals in options only for its own account and those of its employees must have a Registered Options Principal. By way of background on this issue, the Association's options rules had originally contained a provision which mandated all members trading options with or on behalf of public customers or for their own accounts to have a Registered Options Principal. That rule was modified in February of this year to limit the ROP requirement only to those firms which conduct a public options business. No definition was provided at that time of what constituted a public options business as it was believed that the term was self-explanatory. However, certain members have since inquired as to whether they would need a ROP if they limited their options activity to handling accounts of their employees. The Association has taken the position that a ROP would be required under such circumstances. Since employee accounts would have to be approved for options trading in a manner similar to accounts of public customers and since transactions in the accounts would have to be monitored for compliance with existing options regulations (e.g., position and exercise limits), the Association is of the opinion that such functions should be performed by a ROP qualified individual. Therefore, only members which trade options strictly for their own account are exempt from the requirement to have a Registered Options Principal.

* * *

The above information has been provided to alert members to their obligations under certain of the Association's options rules. Any questions regarding this material, or other aspects of the Association's regulatory programs in the options area, should be directed to S. William Broka, Assistant Director, Department of Regulatory Policy and Procedures, at (202) 833-7247.

Sincerely,


Gordon S. Macklin
President

NOTICE TO MEMBERS: 80-37
Notices to Members should be
retained for future reference.

NASD

NATIONAL ASSOCIATION OF SECURITIES DEALERS, INC.
1735 K STREET NORTHWEST • WASHINGTON D.C. 20006

July 31, 1980

IMPORTANT MAIL VOTE

Officers * Partners * Proprietors

TO: All NASD Members

RE: Mail Vote on Amendments to Proposed Rules on File with the Securities and Exchange Commission Concerning Securities Distribution Practices, Consisting of Changes in and Interpretations of the Rules of Fair Practice, as follows:

- 1) Amendment to Section 8 of Article III of the Rules of Fair Practice and Interpretation thereof; and
- 2) Amendment to Section 24 of Article III of the Rules of Fair Practice and Interpretation thereof.

Last Voting Date is August 30, 1980.

Enclosed are proposed amendments to proposed Rules of Fair Practice and Interpretations now on file with the Securities and Exchange Commission (the "Commission") relating to fixed price offerings of securities and the granting of selling concessions, discounts or allowances in connection with such offerings. These amendments are designed to respond to comments of the Commission that the rules, as initially proposed and filed with it, be revised

in certain respects to cure what the Commission perceived as obstacles to their approval under the requirements of the Securities Exchange Act of 1934. These amendments have been prepared in a manner which draws upon, and presumably comports, with the views and recommendations of the Commission regarding the proposed rules. The Board strongly recommends a favorable vote of the membership on these amendments in view of their importance to the industry as a whole.

In response to the solicitation of a formal vote contained in Notice to Members 78-14, dated April 7, 1978, the membership approved the proposals now on file by a vote of 1088 to 150. Those rule proposals were thereafter filed with the Securities and Exchange Commission on May 31, 1978 and are contained in File No. SR-NASD-78-3.

On May 15, 1979 the Commission requested comments on the proposed rules and scheduled public hearings thereon commencing September 11, 1979 and ending on November 20, 1979. During the course of those hearings, over 1,000 pages of testimony was obtained from witnesses appearing on behalf of the Association, the Securities Industry Association, major underwriting firms, regional broker-dealers, research houses, and institutions which purchase securities from fixed price offerings. The witnesses who appeared strongly supported the fixed price offering system and the proposed rules in connection therewith, but several witnesses were opposed to the effect the proposals would have on the manner in which some providers of research would be able to be compensated. The arguments made by the research segment of the industry, and others, were found by the Commission to have merit and have resulted, upon its request, in our reappraisal and amendment of this portion of the rules.

In addition to the concern expressed as to research, the Commission itself expressed concern that the proposed revision to Section 8 could enable a member to take a security in trade at a price higher than the fair market price while technically complying with the rule. These concerns were expressed in an open meeting held by the Commission on July 3, 1980 and in a letter of the same date outlining them in greater detail which was approved at that time for transmittal to the Association. While a majority of the Commission made clear that it favored approval of the rule proposals submitted, such was conditioned on the Association making changes to alleviate its expressed concerns.

These concerns are:

1. that the formulation in Section 8 of a "safe harbor" for transactions effected at a price that was not higher than the lowest independent offer could permit the grant of a discount in certain circumstances while preventing the Association from taking action in such instances; and

2. that the proposed amendments to Section 24 were too rigid in their treatment of research.

Following receipt of the Commission's letter, the Board's Ad Hoc Committee on Section 24 convened to review the Commission's concerns and suggestions regarding the proposed rules and to formulate revisions where appropriate for Board consideration. The recommendations of the Committee

were presented to and considered by the Board whereupon it adopted the proposed amendments to Sections 8 and 24 and their accompanying Interpretations as described herein for submission to the membership for a vote.

Section 8 of Article III and Interpretation Thereof 1/

Proposed Section 8 presently requires that, where securities are taken in trade, the member either purchase the securities at a fair market price at the time of purchase or act as agent in their sale. Section 8, which applies to swap transactions, is intended to prevent a practice called "overtrading" whereby a price higher than the fair market price is paid for the securities taken in trade. A transaction constituting an overtrade effectively provides a discount to a customer and is therefore prohibited. The key term in the rule is "fair market price" which is presently defined in the proposals as a price which is not higher than the lowest independent offer for the securities at the time of purchase, if offer quotations for the securities are readily available. If such quotations are not readily available, the fair market price may be determined by comparing the security taken in trade with other securities having similar characteristics and of similar quality and for which offer quotations are readily available. The term thus defined was intended to lend some objectivity to the meaning of fair market price, facilitating effective enforcement of Section 8.

Recognizing the Commission's concerns that Proposed Section 8 would establish the lowest independent offer as the point below which a swap transaction could not, under any circumstances, be deemed to violate the rule, the Board has revised Section 8 by deleting that provision and substituting therefor certain new provisions. Thus, Revised Section 8(c)(1) creates a "safe harbor" for transactions in securities other than common stocks, effected at or below the highest independent bid; Revised Section 8(c)(2) creates a presumption of compliance with Section 8 for transactions involving common stock taken in trade if the price is at or below the highest independent bid, and Revised Section 8(c)(3), as does proposed Section 8(b)(2), establishes a presumption of noncompliance for all transactions effected above the highest independent offer. For all transactions effected at a price above the highest independent bid, but not above the lowest independent offer, there is no safe harbor and there is no presumption of compliance or of noncompliance with Section 8. Rather, the appropriateness of transactions effected in this range is to be determined by reference to the new definition of fair market price contained in Revised Section 8(b)(2). That Revised Section defines "fair market price" as a price not higher than the price at which securities would be purchased from the customer or from a similarly situated customer in the ordinary course of business by a dealer in such securities in transactions of similar size and having similar characteristics, but not involving a security taken in trade. In comparing

1/ References to "Proposed" Sections 8 or 24 (or the proposals) and the Interpretations thereof mean the proposed rules approved by the membership and now pending before the Securities and Exchange Commission. References to "Revised" Sections 8 or 24 and Interpretations thereof mean the rules as proposed to be revised as detailed in this release.

the transaction to the definition, all relevant facts and circumstances will be considered, including but not limited to, the size and time of the transaction, the amount of the difference in price, the member's pattern of trading in the security or comparable securities, the member's position in the security taken in trade and its general availability.

The Revised Interpretation discusses in greater depth the nature of the "safe harbor" and the presumptions and describes the factors pertinent to a determination of the fair market price where the transaction occurs between the highest independent bid and the lowest independent offer. Additional factors are also included which may serve to rebut the presumption of an overtrade where the transaction is effected at a price above the lowest independent offer. The Board believes that the proposed revisions will not interfere with the process of swapping securities and it will continue to provide an objective standard to aid in the determination of whether an overtrade would occur with respect to a particular transaction.

As is the case with Proposed Section 8, pursuant to Revised Section 8, at the time a member takes a security in trade it must obtain quotations for that security if quotations are readily available. Revised Section 8 makes it clear, however, that if quotations for the security to be taken in trade are not readily available, the member is obligated to exercise its best efforts to obtain quotations with respect to securities having similar characteristics and of similar quality as those to be taken in trade.

The Revised Interpretation to Section 8 also makes clear that for securities other than common stocks traded on a national securities exchange or for which quotations are entered in an automated quotation system the quotations obtained must be for an amount of securities corresponding in size generally to the amount of securities taken in trade. What is intended is for a member who is engaged in an "institutional-size" swap transaction to obtain an "institutional-size" quotation.

Section 24 of Article III and Interpretation Thereof

Proposed Section 24 provides that, in connection with fixed price offerings, members are prohibited from granting or receiving selling concessions, discounts or other allowances except as consideration for services rendered in distribution and are prohibited from granting such concessions, discounts or allowances to persons other than brokers or dealers actually engaged in the investment banking or securities business. The proposed Interpretation of the Board of Governors generally states that in connection with fixed price offerings, a member can not grant direct or indirect discounts to customers. If a member furnished a customer, who purchased securities from fixed price offerings, with services or products that were commercially available or furnished to anyone for agreed upon consideration, the member would be deemed to have granted such customer an indirect discount unless the member received full consideration for the services and products from sources other than selling concessions, discounts or allowances. Thus, the Proposed Section 24 prohibits members from satisfying certain soft dollar research obligations with selling concession dollars.

The proposed Interpretation also provides that a member would be required to furnish services in distribution and that providing customers with research was not, in itself, a service in distribution.

As stated above, at hearings held by the Securities and Exchange Commission, several witnesses argued that research is valuable to, and an integral part of, the securities distribution system and that providing research should be viewed as a service in distribution. Moreover, while generally recognizing that in order to protect the integrity of the fixed price offering system both direct and indirect discounts should be prohibited, those witnesses argued that Proposed Section 24 goes too far by prohibiting a member from being compensated for certain research services and products with selling concession dollars.

The Commission, in its July 3 letter, as noted above, expressed concern that the proposed amendments are too rigid in their treatment of research. In this connection, it urged the Association to reconsider, among other things, those aspects of Proposed Section 24 that (1) would prohibit members from using selling concession dollars to satisfy certain soft dollar obligations arising from providing customers with bona fide research and (2) would require a member to render some service in distribution in addition to providing research.

Upon reconsideration, the Association's Board believes that Section 24 should be revised to recognize that, for purposes of Section 24, bona fide research should be accorded different treatment than all other services and products. This is based on the view that furnishing bona fide research is a valuable and legitimate service in distribution. The Board also accepts the views of certain witnesses at the Hearings that Congress, in enacting Section 28(e) of the Securities Exchange Act of 1934, recognized the importance of bona fide research to the securities markets thereby justifying placing research in a class by itself.

In light of this reevaluation, Revised Section 24 provides that a member does not violate Section 24 by providing research to a person who purchases securities from the member from fixed price offerings and who pays the stated public offering price for the securities purchased. The Revised Interpretation makes it clear that a violation of Section 24 will not occur if a member furnishes bona fide research to a customer and pursuant to an express agreement or otherwise the customer pays for that research with selling concessions arising out of purchases from fixed price offerings. In addition, the Interpretation of Revised Section 24 expressly states that providing, or agreeing to provide, bona fide research to customers is a service in distribution.

A new Section 24(b) has been added which defines the term bona fide research to mean advice, rendered either directly or by written material, as to the value of securities, the advisability of investing in, purchasing, or selling securities, and the availability of securities and customers therefor, or analyses and reports concerning issues, industries, securities, economic factors and trends, portfolio strategy and performance of accounts. Excluded

from the definition of bona fide research are investment management or investment discretionary services and products or services that are readily and customarily available and offered to the general public on a commercial basis.

As is evident from Revised Section 24 and as is made clear by the Revised Interpretation, the meaning of bona fide research is drawn directly from Section 28(e) of the Securities Exchange Act of 1934, as amended, and as interpreted and explained by the Commission and its staff in releases on the subject. Accordingly, services and products that are customarily available and offered to the general public on a commercial basis, such as newspapers, magazines and periodicals, directories, computer facilities and software and other items referred to in the Revised Interpretation do not constitute bona fide research.

In order for bona fide research to constitute a service in distribution and in order for a member to be compensated in selling concession dollars for bona fide research and not violate Section 24, the bona fide research must be provided by the member. This does not mean that the research must be produced in-house as long as it is provided by the member to the customer. Reference is made in the Revised Interpretation to an interpretative release of the Commission which addresses when, for purposes of Section 28(e), research is provided by a broker, and the Revised Interpretation states that the Association will rely on existing and future interpretations by the Commission with respect to similar questions under Section 28(e).

There are other, nonsubstantive changes embodied in Revised Section 24. Revised Section 24(c) (Proposed Section 24(b)) has been revised slightly to delete the requirement that a member granting a selling concession, discount or other allowance obtain a written agreement from the recipient that the recipient will make a bona fide public offering. That requirement was somewhat inconsistent with a situation, for example, where a member's only sale in an offering was to one customer who designated the member. Proposed Section 36, however, will continue to provide that members are prohibited from retaining securities acquired from fixed price offerings at a price below the public offering price unless that person makes a bona fide offering of the securities.

Revised Section 24(c) retains the requirement that a member granting a selling concession, discount or other allowance to another person obtain a written agreement from that person that he will comply with the provisions of Section 24. As stated in earlier releases, this written agreement may be obtained in blanket form, covering all instances when a member grants a selling concession, discount or other allowances to the other party to the agreement or they may be incorporated in the agreement among underwriters or selling dealers' agreements pertaining to particular offerings.

These additional obligations to obtain agreements are believed to be necessary to facilitate compliance with and enforcement of Section 24. A person receiving a selling concession, discount or other allowance is in the best position to evaluate compliance with Section 24, particularly those aspects which require that services in distribution be rendered and those

which prohibit reallowances of all or part of the concession, discount or allowance by soft dollar credits and other indirect means. Requiring the agreements specified in subsection (b) will affirmatively remind underwriters and dealers of their obligations in this regard.

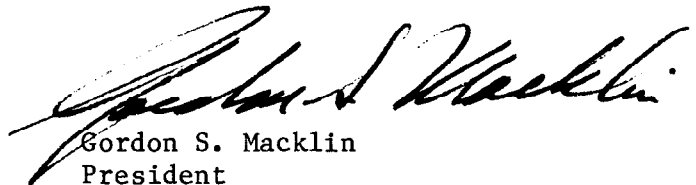
Revised Section 24(c) also retains the requirement that a member granting a selling concession, discount or other allowance to a nonmember foreign broker or dealer obtain a written agreement from that broker or dealer to comply with Sections 8 and 36 of Article III. It has been revised, however, to clarify that such a nonmember broker or dealer must agree to comply with Section 25 as it pertains to foreign nonmembers and with Sections 8 and 36 as though it were a member.

* * * *

The Board wishes to reemphasize the importance with which it views the proposals which were previously approved by the membership and are now proposed to be amended. The Board requests that members give careful attention to these important amendments and vote their approval.

Please mark your ballot according to your conviction and return it in the enclosed stamped envelope to "The Corporation Trust Company." Ballots must be postmarked no later than August 30, 1980. If you have any questions with respect to this matter, please contact Frank J. Wilson, Senior Vice President Regulatory Policy and General Counsel at (202) 833-4830 or Robert E. Aber, Assistant General Counsel, at (202) 833-7259.

Sincerely,



Gordon S. Macklin
President

PROPOSED AMENDMENT TO ARTICLE III,
SECTION 8 OF THE RULES OF FAIR PRACTICE

Article III, Section 8 of the Rules of Fair Practice, as contained in Notice to Members 78-14, April 7, 1978, and approved by the membership, and as stated in a filing on May 31, 1978 with the Securities and Exchange Commission, File No. SR-NASD-78-3, is proposed to be amended by adding the language indicated by underlining and by deleting the language indicated by striking out.

Section 8

(a) A member engaged in a fixed price offering, who purchases or arranges the purchase of securities taken in trade, shall purchase the securities at a fair market price at the time of purchase or shall act as agent in the sale of such securities and charge a normal commission therefor.

(b) When used in this section -

(1) the term "taken in trade" means the purchase by a member as principal, or as agent for the account of another, of a security from a customer pursuant to an agreement or understanding that the customer purchase securities from the member which are part of a fixed price offering.

[~~2~~] the term "fair market price" means -

a- a price which is not higher than the lowest independent offer for the securities at the time of purchase; if offer quotations for the securities are readily available; If such quotations are not readily available; the fair market price may be determined by comparing the security taken in trade with other securities having similar characteristics and of similar quality and for which offer quotations are readily available; or

b- in an exceptional or unusual case; a price higher than the lowest independent offer when all factors relevant to the transaction are taken into consideration; including, among other things; whether a customer of a member has given an indication of interest to purchase the securities taken in trade at a higher price; the member's pattern of trading in the securities or comparable securities at the time of the transaction; the member's position in and the availability of; the securities taken in trade; the size of the transaction; and the amount by which the price paid exceeds the lowest independent offer. In all such cases the burden for demonstrating justification that the higher price was the fair market price shall be on the member.]

(2) the term "fair market price" means a price not higher than the price at which the securities would be purchased from the customer or from a similarly situated customer in the ordinary course of business by a dealer in such securities in transactions of similar size and having similar characteristics but not involving a security taken in trade.

(3) the term "normal commission" means an amount of commission which the member would normally charge to that customer or a similarly situated customer in the ordinary course of business in transactions of similar size and having similar characteristics but not involving a security taken in trade.

(c) For purposes of this Section a member shall be

(1) deemed, with respect to securities other than common stocks, to have taken such securities in trade at a fair market price when the price paid is not higher than the highest independent bid for the securities at the time of purchase, if such bid quotations for the securities are readily available.

(2) presumed, with respect to common stocks, to have taken such common stocks in trade at a fair market price when the price paid is not higher than the highest independent bid for the securities at the time of purchase, if such bid quotations for the securities are readily available.

(3) presumed to have taken a security in trade at a price higher than a fair market price when the price paid is higher than the lowest independent offer for the securities at the time of purchase, if such offer quotations for the securities are readily available.

~~(c)~~(d) A member, [in determining fair market price pursuant] in connection with every transaction subject to this Section, shall with respect to

(1) common stocks, which are traded on a national securities exchange or for which quotations are entered in an automated quotation system, obtain the necessary bid and offer quotations from the national securities exchange or from the automated quotation system; and

(2) other securities and common stocks not included in subparagraph (1) of this subsection ~~(c)~~ (d) obtain directly or with the assistance of an independent agent [necessary] bid and offer quotations from two or more independent dealers relating to the securities to be taken in trade or, if such quotations are not readily available, exercise its best efforts to obtain such quotations with respect to securities having similar characteristics and of similar quality as those to be taken in trade.

~~(d)~~(e) A member who purchases a security taken in trade shall keep or cause to be kept adequate records to demonstrate compliance with this Section and shall preserve the records for at least 24 months after the transaction. If an independent agent is used for the purpose of obtaining quotations, the member must request the agent to identify the dealers from

whom the quotations were obtained and the time and date they were obtained or request the agent to keep and maintain for at least 24 months a record containing such information.

* * * *

INTERPRETATION OF THE BOARD OF GOVERNORS

Safe Harbor and Presumption of Compliance

Section 8(c)(1) provides that, with respect to a security, other than a common stock, a member will be deemed to have paid the fair market price for a security taken in trade if the price paid is no higher than the highest independent bid for the securities at the time of purchase, if bid quotations are readily available. Section 8(c)(2) provides, with respect to common stock, that a member will be presumed to have paid no more than the fair market price for shares of common stock taken in trade if the price paid for the shares of common stock taken in trade is no higher than the highest independent bid for such shares at the time of purchase, if bid quotations are readily available. The presumption of compliance contained in subsection (c)(2) may be rebutted by the Association upon a showing that the price paid, in fact, exceeded the fair market price as that term is defined in subsection (b)(2). Inasmuch as a member is presumed to have complied with Section 8 when taking common stock in trade at a price no higher than the highest independent bid, the Association will have a heavier burden of demonstrating non-compliance in such circumstances than it has in the circumstance described below where there is neither a presumption of compliance nor one of non-compliance. Nonetheless, the factors described below in the sections "No Presumptions" and the "Presumption of Noncompliance," will be relevant in determining whether the Association has rebutted the presumption. Particular attention will be directed to the size of the transaction and the relative liquidity of the position.

Presumption of Noncompliance

Section 8(c)(3) establishes a presumption of noncompliance with Section 8 if securities for which offer quotations are readily available are taken in trade at prices higher than the lowest independent offer. While the presumption in Section 8(c)(3) is not conclusive, it may be rebutted by the member only in an exceptional or unusual case. To rebut the presumption of noncompliance, all factors relevant to the transaction must be taken into consideration, including, among other things, whether a customer of a member has given an indication of interest to purchase the securities taken in trade at a higher price; the member's pattern of trading in the securities or comparable securities at the time of the transaction; the member's position in, and the availability of, the securities taken in trade; the size of the transaction; and the amount by which the price paid exceeds the lowest independent offer.

[Fair Market Price

A member who, in reliance on subparagraph (b)(2)b of Section 8 of this Article, pays a price for securities taken in trade which is higher than the lowest independent offer will have a heavy burden to demonstrate that the price paid was the fair market price. Subpragraph (b)(2)b lists factors which might be considered relevant to justify paying a price higher than the lowest offer.

The several factors described in the preceding paragraph will be relevant to determining whether the presumption of noncompliance has been rebutted. The existence of only one such factor, however, will not necessarily be sufficient to meet the heavy burden placed on a member, though in a given case it may be sufficient. In any event, all facts and circumstances must be considered. For example, a member may be able to satisfy the burden of demonstrating that fair market price was paid by showing that the price paid did not exceed the price, less an amount equal to a normal commission on an agency transaction, at which a customer had given the member an indication of interest to purchase the securities, or that the member held a short position in the security purchased, that it desired to cover that short position, that the availability of the security was scarce and that the amount of securities taken in trade could not have been acquired at a lower price.

No Presumptions

In instances when a member takes a security in trade at a price between (but not including) the highest independent bid and the lowest independent offer, or when bid and offer quotations are not readily available, there shall be no safe harbor and there shall be neither a presumption of compliance nor one of noncompliance with Section 8. In such circumstances, whether the price paid is the fair market price will be determined by reference to the definition of fair market price in subsection (b)(2).

Subsection (b)(2) states generally that fair market price is the price a dealer would pay for the amount of securities taken in trade if purchased from the customer in the ordinary course of business but not involving a security taken in trade. Accordingly, the price paid by a member or other dealers for the same security or a comparable security as that taken in trade but not in a transaction involving a security taken in trade will be relevant in determining compliance with Section 8. In comparing such transactions, all facts and circumstances will be considered, including such things as the size of the transactions being compared, the time of each transaction and the difference in price paid. In determining whether fair market price has been paid, other relevant factors, including those set forth above with respect to rebutting the presumption of noncompliance, will also be considered.

Quotations

Subsections 8 (d) and (e) obligate members taking securities in trade to obtain and maintain records of bid and offer quotations. If the securities taken in trade are common stocks that are traded on a national

securities exchange or for which quotations are entered in an automated quotation system, the quotations must be obtained from any such exchange or automated quotation system at the time of purchase.

Quotations for all other securities must be obtained from at least two independent dealers at the time of purchase. While the quotations from two dealers in such circumstances need not be for the specific size of the transaction, they must be for a size corresponding generally to the amount of the securities to be taken in trade. Quotations relating only to an odd lot, such as those typically available from a dealer in bonds on a national securities exchange, will not be acceptable for a transaction of a size normally traded by institutions.

If bid and offer quotations required by subsection (d) are not readily available and a member is able to obtain such quotations for comparable securities, such quotations will be treated as though they are quotations for the securities taken in trade in determining whether the "safe harbor" in subsection (c)(1) and the presumptions in subsections (c)(2) and (c)(3) are applicable. In such circumstances, however, the member's determination of what constitutes comparable securities may be challenged.

Adequate Records

If the member purchases securities taken in trade at a price which is no higher than the lowest independent offer as determined according to this Section, it will have kept adequate records if it records the time and date quotations were received, the identity of the security to which the quotations pertain, the identity of the dealer from whom, or the exchange or quotation system from which, the quotations were obtained, and the quotations furnished. If a member uses the services of an independent agent to obtain the quotations and the agent does not disclose the identity of the dealers from whom quotations were obtained, the member will have kept adequate records if it otherwise complies with subsection ~~[(d)]~~ (e) of Section 8 hereof and it records the time and date it received the quotations from the agent, the identity of the agent, and the quotations transmitted by the agent.

If a member ~~[in reliance on subparagraph (b)(2) by this Sections;~~ takes a security in trade and pays more than the lowest independent offer, it will have kept adequate records if, in addition to the foregoing records, it keeps records of all relevant factors it considered important in concluding that the price paid for the securities was fair market price.

PROPOSED AMENDMENT TO ARTICLE III,
SECTION 24 OF THE RULES OF FAIR PRACTICE

Article III, Section 24 of the Rules of Fair Practice, as contained in Notice to Members 78-14, April 7, 1978, and approved by the membership, and as stated in a filing on May 31, 1978 with the Securities and Exchange Commission, File No. SR-NASD-78-3, is proposed to be amended by adding the language indicated by underlining and by deleting the language indicated by striking out.

Section 24

In connection with the sale of securities which are part of a fixed price offering

(a) a member may not grant or receive selling concessions, discounts, or other allowances except as consideration for services rendered in distribution and may not grant such concessions, discounts or other allowances to anyone other than a broker or dealer actually engaged in the investment banking or securities business; provided, however, that nothing in this ~~rule~~ Section shall prevent any member from (1) selling any such securities to any person, or account managed by any person, to whom it has provided or will provide bona fide research, if the stated public offering price for such securities is paid by the purchaser; or (2) selling any such security securities owned by him to any person at any net price which may be fixed by him unless prevented therefrom by agreement.

(b) The term "bona fide research," when used in this Section, means advice, rendered either directly or through publications or writings, as to the value of securities, the advisability of investing in, purchasing, or selling securities, and the availability of securities or purchasers or sellers of securities, or analyses and reports concerning issues, industries, securities, economic factors and trends, portfolio strategy, and performance of accounts; provided, however, that (1) investment management or investment discretionary services, and (2) products or services that are readily and customarily available and offered to the general public on a commercial basis are not bona fide research.

~~(b)~~ (c) A member who grants a selling concessions, discounts or other allowances to another person shall obtain a written agreement from that person that he will [make a bona fide public offering of such securities and will otherwise] comply with the provisions of this Section, and a member who grants such selling concession, discount or other allowance to a nonmember broker or dealer in a foreign country shall also obtain from such broker or dealer a written agreement to comply, as though such broker or dealer were a member, with the provisions of Sections 8 [;25] and 36 of this Article and to comply with Section 25 of this Article as that Section applies to a nonmember broker/dealer in a foreign country.

~~(c)~~ (d) A member who receives an order from any person designating another broker or dealer to receive credit for the sale shall, within 30 days

after the end of each calendar quarter, file reports with the Association containing the following information with respect to each fixed price offering which terminated during that calendar quarter: the name of the person making the designation; the identity of the brokers or dealers designated; the identity and amount of securities for which each broker or dealer was designated; the date of the commencement and termination of the offering and such other information as the Association shall deem pertinent.

~~(d)~~(e) A member who is designated by its customer for the sale of securities shall keep, and maintain for a period of 24 months, records in such form and manner to show the following information: name of customer making the designation; the identity and amount of securities for which the member was designated; the identity of the manager or managers of the offering, if any; the date of the commencement of the offering and such other information as the Association shall deem pertinent.

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INTERPRETATION OF THE BOARD OF GOVERNORS

Services in Distribution

The proper application of Section 24 requires that, in connection with fixed price offerings, selling concessions, discounts or other allowances be paid only to brokers or dealers actually engaged in the investment banking or securities business and only as consideration for services rendered in distribution.

A dealer has rendered services in distribution in connection with the sale of securities from a fixed price offering if the dealer is [either] an underwriter of a portion of that offering, [or] has engaged in some selling effort with respect to the sale or has provided or agreed to provide bona fide research to the person to whom or at whose direction the sale is made. [While furnishing a customer with research or other services might aid a dealer in selling particular securities or securities generally to that customer; the furnishing of such research will not by itself constitute sufficient selling effort to satisfy the provisions of Section 24. Rather, some direct selling contact on a particular offering will be necessary. Even though the furnishing of research to a customer may aid a dealer in the sale of securities; the furnishing of such research under certain circumstances; as described below; could result in the dealer granting that customer a selling concession; discount or other allowance in violation of Section 24.]

A broker or dealer who has received or retained a selling concession, discount or other allowance may not grant or otherwise reallow all or part of that concession, discount or allowance to anyone other than a broker or dealer engaged in the investment banking or securities business and only as consideration for services rendered in distribution. The improper grant or reallowance of a selling concession, discount or other allowance might occur directly or indirectly through such devices as transactions in

violation of Section 8 of this Article, or other indirect means such as those described below.

A member granting a selling concession, discount or other allowance to another person is not responsible for determining whether such other person may be violating Section 24 by granting or reallowing that selling concession, discount or other allowance to another person, unless the member knew, or had reasonable cause to know, of the violation.

[Selling Concessions, Discounts or Allowances
General

A member who, itself or through its affiliate, (i) supplies another person with services or products which are commercially available or are provided by the member or its affiliate to such person or to others for cash or for some other agreed upon consideration, including brokerage commissions, and (ii) also retains or receives selling concessions, discounts or other allowances from purchases by that person or its affiliate of securities from a fixed price offering, is improperly granting a selling concession, discount or other allowance to that person unless the member or its affiliate has been, or has arranged and reasonably expects to be, fully compensated for such services or products from sources other than the selling concession, discount or allowance retained or received on the sale.

Commercially Available

As used in this interpretation, a product or service is "commercially available" if it is generally available on a commercial basis. It would include such things as office space, secretarial services, quotation equipment, news periodicals, certain research products or services, airline tickets, and other items which could be purchased directly or indirectly by the recipient from a third party.

The term includes products or services which a person receives from another for redistribution if the same service or product, or a service or product which is substantially an identical service or product, is offered to others on a commercial basis. Thus, a service or product may be commercially available even though the person engaged in redistributing it does not itself make the service or product commercially available.

This interpretation is not intended to prohibit members from providing products or services which are commercially available but which are not of a substantial value. No question arises under Section 24 if a member furnishes such things as incidental business gifts, food, entertainment, or other items not having a substantial value.

Bona Fide Research Exclusion

While Section 24 provides that a member may grant or receive selling concessions, discounts and other allowances only as consideration for services rendered in distribution and may grant such concessions, discounts or other allowances only to brokers or dealers actually engaged in the investment

banking or securities business, that Section also states that a member is not prohibited by Section 24 from selling securities at the stated public offering price to persons to whom it provides bona fide research. Accordingly, nothing in Section 24 prohibits a member from providing bona fide research to a customer who also purchases securities from fixed price offerings from the member whether or not there is an express or implied agreement between the member providing the research and the recipient that the member will be compensated for the research in cash, brokerage commissions, selling concessions or some other form of consideration.

The definition of bona fide research is substantially the same as the definition of the term research in Subsection 28(e)(3) of the Securities Exchange Act of 1934, as amended and as interpreted by the Securities and Exchange Commission. Members should refer to interpretations concerning the definition of research under Section 28(e) for guidance. For example, in Securities Exchange Act Release No. 12251 (March 24, 1976), the Commission indicated that items such as "newspapers, magazines and periodicals, directories, computer facilities and software, government publications, electronic calculators, quotation equipment, office equipment, airline tickets, office furniture and business supplies" are the type of products and services which are readily and customarily available and offered to the general public on a commercial basis. Accordingly, such services and products and other similar services and products are not bona fide research for purposes of Section 24.

Moreover, while the provisions in the Section concerning bona fide research are intended to permit money managers to receive bona fide research from persons from whom securities are purchased, it is not intended to enable a money manager, who is also a member, to view its money management services as bona fide research. Accordingly, the performance of money management or investment discretionary services themselves are expressly excluded from the definition of bona fide research.

Another factor relating to bona fide research is that the research must be "provided by" the member who receives or retains the selling concession, discount or other allowance. Under Section 28(e) of the Securities Exchange Act of 1934, the Commission has stated that the "safe harbor" provided by Section 28(e) only extends to research that is "provided by" the broker to whom brokerage commissions are paid. In determining whether the exclusion for bona fide research under Section 24 is available in any given instance, members should refer to the interpretations of the Commission and its staff of the similar requirement applicable to Section 28(e). In that regard, the Commission, in Securities Exchange Act Release No. 12251, stated that:

Section 28(e) might, under appropriate circumstances, be applicable to situations where a broker provides a money manager with research produced by third parties. . . .

Whether research is provided by the member will depend on all the facts and circumstances surrounding the relationship of the member and the recipient of the research, relying upon interpretations by the Commission and staff with respect to similar questions under Section 28(e).

Indirect Discounts

A member who, itself or through its affiliate, supplies another person with services or products which are readily and customarily available and offered to the general public on a commercial basis or which, in the case of services or products other than bona fide research, are provided by the member or its affiliate to such person or others for cash or for some other agreed upon consideration, and also retains or receives selling concessions, discounts or other allowances from purchases by that person or its affiliate of securities from a fixed price offering is improperly granting a selling concession, discount or other allowance to that person unless the member or its affiliate has been, or has arranged and reasonably expects to be, fully compensated for such services or products from sources other than the selling concession, discount or allowance retained or received on the sale.

Cash or Other Agreed Upon Consideration

A person will be deemed to be providing services or products for cash or other agreed upon consideration if the service or product, or a substantially identical service or product, is provided to any person for cash or for some other agreed upon consideration. A service or product will be deemed to be provided for an agreed upon consideration if there is an express or implied agreement between the person providing the service or product and the recipient thereof calling for the provider of the service or product to be compensated therefor with an agreed upon or mutually understood source and general amount of consideration. For example, if a person provides another with a service or product and the recipient thereof agrees or represents, expressly or impliedly, that it will compensate the provider of the service or product with a specified amount of consideration, such as brokerage commissions or a range of brokerage commissions depending on the commission rate charged; or with a general minimum amount of brokerage commissions or a range of brokerage commissions depending on the commission rate charged; or with a general minimum amount of brokerage commissions or other consideration, that service or product will be deemed to be offered for an agreed upon consideration. Thus, Under such circumstances a member or its affiliate providing such service or product would be required to demonstrate that it was fully compensated for the service or product with consideration other than selling concessions, discounts or other allowances received or retained on the sale of securities from fixed price offerings.

Full Consideration

A member may show that it or its affiliate received or reasonably expects to receive full consideration, independent of selling concessions, discounts or other allowances, for providing certain services and products, by identifying the arrangement for the consideration (including its source and amount) and, if appropriate, the collection process for obtaining it.

In order to demonstrate that the cash, ~~brokerage commissions~~ or other consideration is ~~serves~~ as full consideration, records of account should be kept which identify the recipient of the services or products, the amount of cash, ~~brokerage commissions~~ or other consideration paid or to be paid by such person or its affiliate.

Unless the amount of cash, ~~brokerage commissions~~ or other consideration agreed upon appears on its face to be unreasonably low, it will not be necessary for the member or its affiliate to demonstrate that the agreed upon price represented fair market price. Likewise, as long as price differentials are based on factors other than the customer's willingness to, or practice of, purchasing securities from the member out of fixed price offerings, it is not necessary, for purposes of Section 24, that the member or its affiliate charge the same amount to each person to whom they provide the same or similar services or products.