NOTICE TO MEMBERS: 81-1
Notices to Members should be retained for future reference.

NASD

NATIONAL ASSOCIATION OF SECURITIES DEALERS, INC.

1735 K STREET NORTHWEST • WASHINGTON D.C. 20006

January 30, 1980

M E M O R A N D U M

TO: All NASD Members and Municipal Securities Bank Dealers

ATTN: All Operations Personnel

RE: Holiday Settlement Schedule

The schedule of trade dates/settlement dates below reflects the observance by the financial community of Lincoln's Birthday, Thursday, February 12, and Washington's Birthday, Monday, February 16. On Thursday, February 12, the NASDAQ System and the exchange markets will be open for trading. However, it will not be a settlement date since many of the nation's banking institutions will be closed in observance of Lincoln's Birthday. All securities markets will be closed on Monday, February 16, in observance of Washington's Birthday.

Trade Date-Settlement Date Schedule
For "Regular-Way" Transactions

Trade Date		Settlement Date		*Regulation T Date	
February	4	February	11	February	13
	5		13		17
	6		17		18
	9		18		19
	10		19		20
	11		20		23
	12		20		24
	13		23		25
	16		Markets Closed		—
	17		24		26

* * * * *

* Pursuant to Section 4(c)(2) of Regulation T of the Federal Reserve Board, a broker-dealer must promptly cancel or otherwise liquidate a customer purchase transaction in a cash account if full payment is not received within seven (7) days of the date of purchase. The date upon which members must take such action for the trade dates indicated is shown in the column entitled "Regulation T Date."

It should be noted that February 12 is considered a business day for receiving customers' payments under Regulation T of the Federal Reserve Board. Transactions made on Thursday, February 12, will be combined with transactions made on the previous business day, February 11, for settlement on February 20. Securities will not be quoted ex-dividend and settlements, marks to the market, reclamations, buy-ins and sell-outs, as provided in the Uniform Practice Code will not be made and/or excercised on February 12.

The foregoing settlement dates should be used by brokers, dealers and municipal securities dealers for purposes of clearing and settling transactions pursuant to the Association's Uniform Practice Code and Municipal Securities Rulemaking Board Rule G-12 on Uniform Practice.

Questions concerning the application of this Notice may be directed to the Uniform Practice Department of the NASD at (212) 938-1177.

Sincerely,

Gordon S. Macklin
President

NOTICE TO MEMBERS 81-2
Notices to Members should be retained for future reference.

NASD

UNIFORM PRACTICE

NATIONAL ASSOCIATION OF SECURITIES DEALERS, INC.
TWO WORLD TRADE CENTER • 98TH FLOOR • NEW YORK • NEW YORK 10048 • (212) 938-1177

M E M O R A N D U M

February 5, 1981

TO: All NASD Members

RE: New York State Stock Transfer Tax - Certifications of Non-Residency

The attached information from the State of New York Department of Taxations and Finance is being distributed for your information.

In substance, the opinion states that since the resident and non-resident rebate for the transfer tax is identical after October 1, 1980, there is no longer a need to obtain Certifications of Non-Residency for investors transacting business after October 1, 1980.

The opinion further states, however, for audit purposes Certifications of Non-Residency should be kept for five years for transactions which claimed a non-resident rebate prior to October 1, 1980.

Should you have any questions, contact Mr. Donald J. Dieckmann, State of New York Department of Taxation and Finance, 1-(518) 457-4265.

Please direct this notice to the appropriate Legal & Compliance, P & S, Sales personnel, etc.

enclosure

NOTICE TO MEMBERS 81-3
Notices to Members should be retained for future reference.

NASD

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

February 9, 1981

SPECIAL NOTICE

PLEASE DIRECT TO ALL SYNDICATE AND COMPLIANCE PERSONNEL

TO: All NASD Members

RE: Adoption of New Rules Concerning Securities Distribution Practices

SUMMARY

On December 12, 1980, the Securities and Exchange Commission (Commission) approved a package of rule proposals submitted by the Association relating to fixed price offerings of securities and the granting of selling concessions, discounts or allowances in connection with such offerings. The rules, which were initially filed with the Commission on May 31, 1978 and amended on September 4, 1980, were developed in the wake of the decision in the case of Papilsky v. Berndt, 1976-77 Fed. Sec. L. Rep. (CCH) ¶95,627 (S.D.N.Y. 1976), and have come to be known as the "Papilsky" rules. The new rules amend Sections 8 and 24 of Article III, of the Association's Rules of Fair Practice and add a new Section 36 thereto. A new Subsection 1(m) is added to Article II of the Rules.

More specifically, the new rules involve an amendment to Section 8, which adds considerable definition to the existing prohibition on a member taking securities in trade at more than their fair market price; an amendment to Section 24 which reaffirms that selling concessions, discounts or other allowances, whether direct or indirect, can only be paid to members actually engaged in the investment banking or securities business and only for services rendered in the distribution; a new Section 36 which prohibits members from the sale of securities from fixed price offerings to related parties, and a

new definition of the term "fixed price offering" contained in subsection 1(m) of Article II. 1/

As discussed in Notice to Members 80-66 dated December 24, 1980, the effective date of these new rules will be March 1, 1981. This date was selected to enable the Association to prepare and disseminate this release to members prior to the rules becoming effective and to enable members to properly educate their personnel in respect to the new requirements and to otherwise properly organize their procedures to ensure compliance. In this connection, this notice contains a brief description of the background of the rules, an explanation of each of the rule changes and the complete text of the rules.

In reviewing these rules and the actions necessary to comply therewith, the membership is urged to be vigilant in assuring compliance with their requirements. Important in this respect is a continued mindfulness of the background of the rules and the potential impact on the fixed price distribution system without them. As stated, they evolved from the Papilsky decision which concluded that Section 24 did not prohibit recapture of underwriting concessions by institutional customers pursuant to a described arrangement, 2/ the net effect of which circumscribed Section 24. The NASD disagreed with this conclusion and said that the described arrangement was prohibited by Section 24. The SEC thereupon expressed concern with the NASD position and raised questions as to whether the Association had the legal authority to implement the rule as it suggested.

The Association's Board, and the industry in general, became extremely concerned about the consequences of an erosion of Section 24 on the fixed price distribution system in view of the demonstrated effectiveness and efficiency of that system as the best in the world. The Association's Board believed Section 24 was important to maintaining that system and that abuses, if not corrected, could seriously undermine the continued justification for the rule, and in turn the fixed price system for raising capital and distributing securities. The approach taken by the Board, therefore, was to identify practices inimical to that system and to do something about it. The objective was to state explicitly and authoritatively that such practices were inconsistent with Section 24 and its related rules. The Papilsky package of rules discussed herein are the result of these efforts. Thus, underlying the Board's efforts throughout was preservation of the fixed priced system. Support for this approach is underscored by the fact that the system has continued to operate effectively over a long period of time and has displayed

1/ Previous releases by the Association on the Papilsky rules which will provide additional background information are: Notices to Members 77-31, 78-5; 78-14 and 80-37. The SEC approval release, Rel. No. 34-17371 (12/12/80) also discusses the background and legal consideration in detail.

2/ Under the arrangement there described, the investment manager of a mutual fund would become an NASD member, sell securities to the mutual fund from distributions of securities in which it participated by virtue such and reduce its management fee by the amount of the concessions received on the securities sold to the mutual fund. The fund would thereby have received an indirect discount on the price of the securities it purchased.

a remarkable capacity for adjustment to changing conditions in the marketplace and among issuers, dealers and investors.

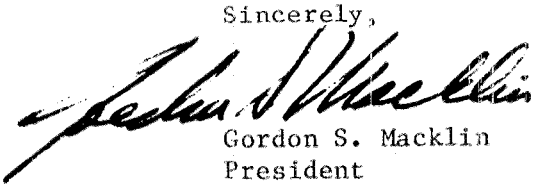
During a period such as our country is experiencing now, the capital raising needs of American business are of vital concern and importance. The Board does not believe "a tinkering" with the system is justified and this belief was foremost in the collective minds of its members during the four and one-half year period between the decision in Papilsky and the Commission's approval of these rules. The rules, which the Association believes materially assist in the preservation and strengthening of the fixed price offering system, should occupy a position of paramount significance to our members and the issuers and investors which they serve. Given this background, and the fact that at the beginning of this long period it appeared possible the frontal assault on Section 24, and in turn, the system, might be successful, the Association's Board urges members to maximize their efforts and those of their personnel to assure compliance. In the Association's view, substantial non-compliance could reopen the whole issue. Compliance with the rules, therefore, will be closely surveilled by the Association. Such surveillance mechanisms are expected to be monitored carefully by the Securities and Exchange Commission in accordance with its statutory mandate to assure that the rules are being enforced in a fair and non-discriminatory manner, on the one hand, and, on the other hand, are being complied with by the membership. In this connection, the SEC stated in its approval release as follows at page 58:

> In performing its customary oversight responsibilities, the Commission will continue to address the operation of the fixed price offering system with a view to determining whether the NASD's rules are being complied with and enforced. If it should appear that the rules are not being observed and cannot be enforced effectively, in the future the Commission can revisit this matter.

Accordingly, members are urged to insure that their registered personnel who are involved in handling or supervising transactions involving the distribution of securities become thoroughly familiar with these rules. Members are also urged to review each of these rule changes carefully and to take appropriate steps to insure that they will be able to comply with all aspects thereof, including the reporting requirements, by their effective date, March 1, 1981.

Questions concerning this notice or the Papilsky rules should be directed to 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

EXPLANATION OF THE RULES

Section 1(m) of Article II of the Rules of Fair Practice

All of the new and amended rules described in this release are intended to apply only to "fixed price offerings" as defined in Subsection (m) of Section 1 of Article II of the Rules of Fair Practice. That definition specifies that included in the term are offerings of securities made at stated public offering prices, all or part of which are publicly offered in the United States, or any territory thereof, except "exempted securities" and "municipal securities" as defined in the Securities Exchange Act of 1934, and offerings of redeemable securities of issuers registered as investment companies pursuant to the Investment Company Act of 1940 which are offered at prices determined by the net asset value of the securities. Wholly foreign offerings are not included within the scope of the definition or within coverage of the Association's rules concerning fixed price offerings.

The exceptions as to "exempted securities" and "municipal securities" exist because the Association has no authority to promulgate rules in respect to transactions in such. The exception concerning investment companies is related to the fact that, pursuant to the Investment Company Act of 1940, they are required to be distributed to the public at the net asset value.

Section 8 of Article III of the Rules of Fair Practice and Interpretation Thereof

New Section 8 of Article III of the Rules of Fair Practice, other than imposing certain new recordkeeping requirements, actually does little more from a substantive standpoint than existing Section 8 but it does provide considerable definition and guidance to the membership which presently does not exist. In addition, the new definition and guidance provided by the rule is substantially supplemented by an Interpretation explaining it. These new provisions will also enable the Association to enforce more effectively the provisions of Section 8 which was difficult in the past because of the broad nature in which various of its provisions were written.

Section 8 applies to swap transactions and is intended to prevent a practice called overtrading. To understand this rule properly, a distinction must be drawn between a "swap" and an "overtrade." A swap, as addressed by these rules, takes place when an underwritten security and another security held in, for instance, an institutional portfolio are exchanged at fair market price. The NASD believes that swaps are important to the distribution of securities and should not be prohibited or discouraged. Therefore, it is not the intent of Section 8, nor has it ever been, to prevent or cast any shadow over the practice of swapping. Swaps allow institutions to reduce their risk in a distribution by diversifying their holdings of securities and permits them to purchase securities being distributed when they don't have enough available cash to pay for them, among other reasons. They are most common in debt offerings or offerings of other securities that trade on the basis of yield.

Overtrading, on the other hand, is improper, and the NASD believes such should be prohibited. Section 8 effectively does that. The new

provisions thereof, including the Interpretation, will make enforcement considerably easier. An overtrade occurs when, as part of a swap, a dealer pays more for securities purchased from an institution than their fair market price. It also occurs if the member acting as agent charges less than a normal commission. In either event, the net effect of what the customer receives is a discount from the public offering price and is therefore prohibited.

Old Section 8, which became new Section 8(a), as amended, retains the requirement that a member shall purchase securities taken in trade at a fair market price and adds the requirement that if a member acts as agent it will charge a "normal commission." All of that which is contained in old Section 8 is otherwise contained in new Section 8(a) though the wording differs in certain respects.

New Subsection (b) defines the terms "taken in trade", "fair market price", and "normal commission." The definition of "taken in trade" includes securities purchased by a member pursuant to an agreement or an understanding that the customer is purchasing securities which are part of a fixed price offering and does not place undue limitations upon the time frame in which the trade may occur. Thus, in surveilling for compliance with Section 8, the Association will not restrict its examination only to swaps which take place on the day in question. Rather, it will examine previous and subsequent transactions, as warranted. In this connection, the question of so-called "spread swaps" has arisen. A "spread swap" is one which is arranged before the effective date of the registration statement. In such a swap, the security to be swapped is valued in relation to another security. If, as of the date of effectiveness of the registration statement, factors have changed so that the relative value of the security to be swapped is less than the previously agreed to terms, an overtrade could occur if the swap is executed at those terms. When such occurs, the agreed upon spread would have to be adjusted so as to bring the transaction into compliance or Section 8 would have been violated.

The term "fair market price" is defined as 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. In comparing the transaction to the definition, the Interpretation accompanying the rule in the section entitled "No Presumption" specifies that 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 term "normal commission" is defined as the commission normally charged by the member to a customer or a similarly situated customer in the ordinary course of business in transactions of similar size and having similar characterisics, but not involving a security taken in trade. Thus, the definition generally tracks the methodology used in determining the fairness of the market price and requires an examination of all the relevant facts and circumstances surrounding a transaction. It should be noted that there is no attempt by this provision to require a standard set or schedule of rates by

members, generally, or by any individual member as to commissions which may be charged. Rather, the term "normal commission" means the commission which the member in question would normally charge the customer involved in the swap transaction, or a similarly situated customer, in a transaction of similar size and having similar characteristics, but not involving a security taken in trade. Commissions charged by other members, or by the member in question as to other customers not similarly situated to the customer in question, is immaterial to a determination of what is or is not a normal commission in a given situation.

New Subsection (c) contains a number of presumptions and standards to guide the membership in determining the appropriateness of a particular transaction under Section 8. In so doing, there has been formulated a safe harbor, a presumption of compliance, and a presumption of non-compliance for particular transactions. Also, there is a range within which the presumptions or safe harbor provisions will not apply, but within which compliance will be determined only by reference to the definition of fair market price.

More specifically, Subsection 8(c)(1) creates a "safe harbor" for transactions in securities other than common stock effected at or below the highest independent bid for the securities at the time of their purchase if bid quotations for such securities were readily available. Subsection 8(c)(2) creates a presumption of compliance with the rule for transactions involving common stock taken in trade if the price is at or below the highest independent bid at the time of the purchase. Subsection 8c(3) establishes a presumption of non-compliance for all transactions effected above the lowest independent offer. When transactions are 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 non-compliance with the rule. Rather, as stated above, the appropriateness of transactions effected in this range is determined by reference to the definition of fair market price contained in Subsection 8b(2).

The presumptions created by Subsection 8(c)(2) and 8(c)(3) are rebuttable in accordance with criteria and standards spelled out in an Interpretation which has various subsections entitled "Safe Harbor and Presumption of Compliance," "Presumption of Non-Compliance" and "No Presumptions." The "safe harbor" created by Subsection 8(c)(1) is not rebuttable.

The new Interpretation of Section 8 discusses in greater detail 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 at a price higher than the highest independent bid and not higher than the lowest independent offer. The Interpretation explains that the presumption of compliance created by Subsection 8(c)(2) for common stock swap transactions executed at or below the highest independent bid may be rebutted by the NASD by showing that the price paid actually exceeded the fair market price as defined. The Interpretation is specific in stating, however, that inasmuch as the member is presumed to have complied with Section 8, the Association will have a heavier burden in demonstrating non-compliance than it would in disproving fair market price in a case in which a presumption did not attach. As to the presumption of non-compliance created by Subsection 8(c)(3) for swaps made at a price higher than the lowest independent offer at the time

of purchase, the Interpretation warns that while it is rebuttable by the member in question that only "in an exceptional or unusual case" will a member be successful in rebutting the presumption. Thus, the exception contained in this subsection should not be considered a means by which circumvention of the rule can be achieved. The member will have a heavy burden to justify compliance when the higher price is paid.

In order to rebut the presumptions of compliance or non-compliance, all factors relevant to the transaction must be taken into consideration. Some such factors are listed in the Interpretation. For example, factors listed therein to be considered in rebutting the presumption of non-compliance include, 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 members 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; the amount by which the price paid exceeds the lowest independent offer, and that the member held a short position in the security purchased and 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.

When the swap transaction is effected at a price above the highest independent bid, but not above the lowest independent offer (i.e., when there is neither a presumption of compliance nor of non-compliance), the Interpretation makes clear that the appropriateness of the swap transaction must be determined by reference to the new definition of fair market price in Subsection 8(b)(2) without the benefit of any presumptions or safe harbor. In such instances, the Interpretation makes clear that the price paid by a member or other dealers for the same securities or securities comparable to those taken in trade, but not in a transaction involving a security taken in trade, will be relevant in determining that the fair market price has been paid In making a comparison of the transactions, all facts and circumstances are to be considered, including the size of the transactions being compared, the time of each transaction, and the difference in price paid. Equally relevant are those factors listed in the Interpretation to be utilized in rebutting the presumptions of compliance or non-compliance, which have been discussed above.

Subsection 8(d) requires that bid and offer quotations are to be obtained in connection with every transaction subject to Section 8. Subsection 8(d)(1) requires that quotations for common stocks which are traded on an exchange or quoted in NASDAQ be obtained from the exchange or NASDAQ. It must be emphasized that the Subsection 8(d)(1) requirement applies only to common stocks. It does not apply to preferred stocks. This provision and Subsection 8(d)(2), therefore, recognized that the trading characteristics of preferred stocks more closely resemble the trading characteristics of debt securities than common stocks. Accordingly, under Subsection 8(d)(2), when debt securities or preferred stocks are taken in trade, and in the case of common stock when exchange or NASDAQ quotations are not available, quotations shall be obtained from two or more independent dealers and if dealer quotations for the securities taken in trade are not readily available, the member would be permitted to determine fair market price by comparing those securities to securities with similar characteristics and of similar quality for which quotations are readily available. The Interpretation further

elaborates on this by specifying that while the quotations in such circumstances need not be for the specific size of the transaction, they must be for an amount of securities corresponding in size generally to the amount of securities taken in trade. It also makes clear that institutional size quotations are to be obtained for institutional size swap transactions. When a member has to obtain quotations for comparable securities, such quotations will be treated as though they were quotations for the securities taken in trade. The use of such quotations in connection with the determination of the applicability of the safe harbor or the presumptions of compliance or non-compliance may be challenged on the basis of actual comparability of the quotations for the securities utilized. Thus, if the quotations are not valid, the safe harbor or the presumptions could be completely negated. In this connection, it is important to note that quotations relating to an odd lot, such as those typically available from a dealer in bonds on a national securities exchange, will not be accepted for a transaction of size normally traded by institutions.

If the member wishes to protect its anonymity in obtaining the required quotations, it is permitted to use an independent agent to obtain them on its behalf. However, according to Subsection (e), where an independent agent is so used, 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 it must request the agent to keep and maintain the information for at least 24 months. Subsection 8(e) also requires the keeping of all records necessary to demonstrate compliance with Section 8 and that such records be maintained for a period of at least 24 months after the transaction.

The Interpretation covering "Adequate Records" amplifies the recordkeeping requirements spelled out in Subsection 8(e) by specifying what would constitute adequate records under that subsection. It states that a member will have kept adequate records if it records the time and date the 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 an independent agent is used to obtain the quotations and the agent does not disclose the identity of the dealers from whom the quotations are obtained, the Interpretation specifies that compliance will be achieved by recordation of the time and date the member received the quotations from the agent, the identity of the agent, and the quotations transmitted by the agent. If the member purchased the securities taken in trade at more than the lowest independent offer, the member must also keep records, in addition to the minimum recordkeeping requirement, of all relevant factors it considered important in concluding that the price paid for the securities was fair market price.

In connection with recordkeeping, it is suggested that members create and keep a new record which could be called a "swap ledger." The "swap ledger" would facilitate the efforts of the Association's examiners in conducting examinations. By so doing, it would ease the burden of examination upon the member because all information concerning swaps would be gathered in one easily accessible place. Otherwise, the examiner would have to make a much more extensive survey of a member's records in order to first identify swap transactions and then determine their validity. A "swap ledger" would

contain, in chronological order, a listing of all swap transactions and all required information relevant thereto; the name of the securities swapped and the issue for which swapped; the name of the account; quotations and their source; if an independent agent is used, his name; and such other information as may be deemed appropriate. A "swap ledger" is not required, as such, by the rule (though all information referenced above must be obtained and maintained), but it is believed the utilization of such would be beneficial to all concerned.

Section 24 of Article III and Interpretation Thereof

Section 24 serves the twofold function of promoting the securities distribution process and assuring that the selling concession, discount or other allowance offered to professional broker/dealers to facilitate the distribution of securities to investors is given, consistent with the representations made to the public in prospectuses, only to persons who are entitled to it. Thus, the section prohibits the surreptitious and unfair discriminatory granting of a discount to select investors who are in a position to take advantage of various recapture devices. The Board wishes to emphasize that the proposals are designed to assure that members who decide to offer securities to the public at a fixed, stated public offering price conduct the offering in a manner consistent with their public representations made in the prospectus. They are not, however, designed to, and do not prohibit so-called multiple price offerings permitted by the Securities Act of 1933 if the registration statement and prospectus are clear as to the price being charged and to whom the differing prices will be available. In this connection, Section 16 of Schedule A of the 1933 Act requires disclosure of the price at which a security is to be offered to the public "or the method by which such price is computed and any variation therefrom at which any portion of such security is proposed to be offered to any persons or classes of persons, other than underwriters, naming them or specifying the class." Thus, if more than one price is to be charged, the specifics of how it must be treated are clear in the '33 Act.

New Subsection 24(a) retains the substance of all of present Section 24. Hence, it contains the prohibition on members granting or receiving selling concessions, discounts or other allowances except as consideration for services rendered in distribution or from the granting of such concessions, discounts, or other allowances to anyone other than a broker or a dealer actually engaged in the investment banking or securities business. Like Section 8, it adds considerable definition which will assist members in complying with the rule and the Association in enforcing it. In this connection, Subsection (a) adds a provision which makes clear that the rule does not prohibit sales of securities to a person, or account managed by a person, to whom the member has provided or will provide bona fide research where the stated public offering price of the securities has been paid by the purchaser.

The new Interpretation, which accompanies the rule, describes in greater detail the meaning of the term "services in distribution" contained in Subsection (a). As described in the Interpretation, a dealer renders services in distribution in connection with the sale of securities from a fixed price offering if the dealer is an underwriter of a portion of the offering, has engaged in selling efforts with respect to the sale of the subject security or

has provided, or has agreed to provide, bona fide research to the person to whom or at whose direction the sale is made.

A broker or dealer who has received a selling concession, discount or other allowance may not grant or otherwise reallow all or part of such to anyone other than a broker or dealer acting in compliance with Subsection (a). The improper grant or reallowance of a selling concession, discount or other allowance might occur directly or indirectly through devices such as those described under the portion of the Interpretation entitled "Indirect Discounts" or through transactions in violation of Section 8. In this connection, it should be noted that Subsection (c) requires that a member who grants another a concession, discount or other allowance has an affirmative obligation to obtain from that person an agreement that the person will comply with Section 24 and its related rules, Sections 8 and 36 and Section 25. Thus, a member not only has an obligation under the rule not to give concessions, discounts or other allowances, except for services rendered in distribution or to other than broker/dealers engaged in the investment banking and securities business, it must also represent in writing that it will not do so. Previous releases have stated there are no restrictions on the form such agreement may take. For example, the written agreement may be obtained in blanket form covering all instances when a member grants a selling concession, discount or other allowance to the other party to the agreement, or it may be incorporated in the agreement among underwriters or selling dealers' agreements pertaining to particular offerings, or they may be executed in connection with each offering. The important thing is that an agreement be obtained from all persons to whom selling concessions, discounts or other allowances have been granted. The obligations to obtain written agreement are believed to be necessary to facilitate compliance with and enforcement of Section 24.

Notwithstanding that agreement, a member who grants a selling concession, discount or other allowance to another person is not responsible for determining whether the other person may be violating Section 24 by granting or reallowing the selling concession, discount or other allowance to another person, unless the member knew or had reasonable cause to know of the violation. Thus, once the transaction is entered into and the agreement obtained, the selling dealer has no further obligation in connection with that transaction unless it has knowledge, or had reasonable cause to know, of a violation or potential violation.

Subsections (b) through (e) are all new. The Interpretation also explains in greater detail various aspects of the provisions of these subsections. Subsection (b) defines the term "bona fide research" to mean written advice as to the value of securities, the advisability of investing in, purchasing or selling such securities, information as to the availability of securities or a market therefor, or analyses and reports concerning issuers, industries, securities, economic factors and trends, portfolio strategy and performance of accounts. The definition specifically excludes 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. The Interpretation states on this latter point that while the provisions are intended to permit money managers to secure bona fide research from persons from whom securities are purchased, it is not intended to enable a money manager who is also a member of the Association to

view its money management services as bona fide research. Thus, the exclusions.

The Interpretation further elaborates on the meaning of the bona fide research exclusion contained in Subsection (a). The Interpretation makes clear that 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 irrespective of whether an express or implied agreement exists 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 the term bona fide research contained in Subsection (b) is substantially the same as the definition of the term in Subsection 28(e)(3) of the Securities Exchange Act of 1934, as amended, and as interpreted by the Securities and Exchange Commission in connection with the payment of brokerage commissions for research. 3/ The Interpretation refers members to existing SEC Interpretations of that rule for guidance and specifically notes 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 types of products and services which are readily and customarily available and offered to the general public on a commercial basis and therefore not considered bona fide research for purposes of Section 24. As described above, the Interpretation also clarifies the permissibility of the receipt by money managers of bona fide research from persons from whom securities are purchased. As expressed in an earlier release, Notice to Members 80-37, the Association intends to follow completely the initiatives of the Securities and Exchange Commission in its administration and implementation of Section 28(e) as to the payment of brokerage commissions for research. In this connection, the Association will endeavor to bring to the attention of the membership all Commission initiatives or releases relating to Section 28(e) as they occur.

The Interpretation also makes clear that the bona fide research must be "provided by" the member who receives or retains the selling concession, discount or other allowance. The Commission has stated that the "safe harbor" established by Section 28(e) only extends to research that is "provided by" the broker to whom brokerage commissions are paid. 4/ The Commission has conceded, however, that Section 28(e), under appropriate circumstances, might be applicable to situations where a broker/dealer provides a money manager with research provided by third parties. The parameters of such are not yet clear, but it is clear that a broker/dealer can purchase research elsewhere and supply it to an institution and be paid therefor. In this connection, in its approval release, the Commission stated as follows at footnote 54 on page 25:

3/ For background concerning this provision, see the Commission's Release approving these rules, Rel. No. 34-17371 (December 12, 1976) at p. 24-25.

4/ In connection with the determination of whether the exclusion for bona fide research under Section 24 is available in any given instance, members are referred to interpretations, rulings and orders of the Commission applicable to Section 28(e).

> The Commission believes that a broker-dealer may be deemed to have provided third party research when it has incurred a direct legal obligation to a third party producer to pay for the research (regardless of whether the research is then sent directly to the broker's fiduciary customer by the third party or instead is sent to the broker who then sends it to its customer). The Commission does not believe, however, that Section 28(e) would apply where the broker was merely used as an alternative means of paying obligations incurred by the fiduciary in its direct dealings with the third party. See staff response to Fund Monitoring Services, Inc. [1979 Dec.] Fed. Sec. L. Rep. (CCH) ¶81,913 (Sept. 22, 1978). In that regard, a broker-dealer may be deemed to have provided third-party research that it is legally obligated to pay for even if its fiduciary customer participates in the selection of the research services or products to be provided to it by the broker-dealer.

Thus, the research would not necessarily have to be produced in-house as long as it is provided by the member to the customer. The Interpretation is clear, however, that whether research is or is not 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, rulings and orders of the Commission and staff with respect to similar questions under Section 28(e).

The Interpretation provides that members or their affiliates which supply another person with services or products that are readily and customarily available and offered to the general public on a commercial basis, or which, except for bona fide research, are provided by the member or its affiliate to the person for cash or agreed upon consideration and also retains or receives the selling concessions, discounts or allowances from purchases by that person of securities from a fixed price offering, are improperly granting selling concessions, discounts or allowances in violation of Section 24 unless the member has arranged and reasonably expects to be fully compensated for the services or products from sources other than the fees derived from the sale of the fixed price offering. Under the Interpretation, persons will be deemed to be providing services or products for cash or other agreed upon consideration if the service or product or equivalent thereof is provided to any person for cash or agreed upon consideration. Further, agreed upon consideration will be found where there is either an express or implied agreement between the provider and recipient of the service or product calling for the provider to be compensated with an agreed upon or mutually understood source and general amount of consideration. Where such service or product is provided, a member will be required to demonstrate that it was fully compensated for the service or product with consideration other than concessions retained on the sale of securities from fixed price offerings or that it reasonably expects to receive full consideration independent of such fees, by identifying the arrangement for the consideration and the collection process for obtaining it.

In order to demonstrate that the amount received is full consideration, records must be kept which identify the recipient of the

services or products, the amount of cash or other consideration paid or to be paid by such person or its affiliate. The member will not be required to demonstrate that the agreed upon price for the product or service represented fair market price unless the price appears on its face to be unreasonably low. Similarly, for purposes of Section 24, the member is not required to charge the same amount to each person to whom the service or product is provided if price differentials are based on factors other than the customer's willingness to, or practice of, purchasing securities from the member at a fixed price offering.

As noted above, Subsection (c) contains a requirement that a member granting a selling concession, discount or other allowance shall obtain a written agreement from each person receiving such that he will comply with the provisions of Section 24. It also requires that if a member grants selling concessions, discounts or other allowances to a non-member broker or dealer in a foreign country, he shall obtain a written agreement to comply as though it were a member with the provisions of Sections 8 and 36 and Section 25 to the extent that that section applies to a non-member broker/dealer in a foreign country.

New Subsections (d) and (e) relate to records to be kept in connection with designated orders. Subsection (d) requires a member who receives an order designating another broker/dealer to file a report with the Association at the end of each calendar quarter which states the name of the person making the designation; the identity of the broker/dealers designated; the identity and amount of securities for which each broker/dealer was designated; the date of the commencement and termination of the offering and other information the Association may deem pertinent. Questions have been raised as to whether the Association would accept a report on a per issue basis rather than quarterly. The quarterly reporting requirement was placed in the rule because it was believed to be less burdensome on members than requiring a filing on a per issue basis. At this juncture, it is also believed that such will enable the Association to better facilitate receiving and recording the data. Nevertheless, the Association plans to monitor this requirement with a view of determining whether a different approach may or may not be an improvement.

New Subsection (e) requires that the member designated by its customer for the sale of securities to prepare and retain records for a period of 24 months which list the name of the 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; and the date of the commencement of the offering and such other information as the Association may deem pertinent. Subsections (d) and (e) will aid the Association in surveilling for compliance with the rule. Thus, these records will be closely reviewed as part of our surveillance program.

Section 36 of Article III and Interpretation Thereof

The new rule prohibits a member, in connection with securities which are part of a fixed price offering, from selling such securities to, or placing such securities with, any related person of a member. A related person is defined generally as a person in an ownership relationship with a member. Specifically, Subsection (c) states that a person owns another person

or account for purposes of Section 36 if the person directly or indirectly has the right to participate to the extent of more than 25% in the profits of the other person or owns beneficially more than 25% of the outstanding voting securities of the person. Exempt from application of the Section, however, are sales of securities to related persons who are either members of the Association (who would also be bound by the prohibition in Section 36) or non-member foreign brokers or dealers who agree, in writing, to make a bona fide public offering and otherwise comply with Sections 8, 24, 25 and 36 of Article III of the Rules of Fair Practice. The Section also does not apply to sales to, or placements in, investment or trading accounts of a member or a related person of a member after the termination of the fixed price offering if the member made a bona fide public offering of the securities. A member will be presumed not to have made a bona fide public offering if the securities being offered immediately trade in a secondary market at or above the public offering price.

The Interpretation makes clear that a member, acting or planning to act as sponsor of a unit investment trust, which accumulates securities in an account of the member or a related person shall not be deemed in violation of Section 36, if at the time of the accumulation he intends to deposit the securities in a unit investment trust at the public offering price and intends to make a bona fide public offering of the participation units of that trust. The Interpretation cautions, however, that members engaged in such activity are still subject to the provisions of the Association's Free-Riding Interpretation.

The Interpretation also provides that for purposes of Section 36, the fact that securities from a fixed price offering trade below the public offering price upon termination of the offering shall not create a presumption that a bona fide public offering of the securities was made. Such a determination would be required to be determined on the basis of all relevant facts and circumstances.

Section 36 has as its purpose preventing institutions from creating NASD subsidiaries and purchasing through those subsidiaries in fixed price offerings. Thus, it would prevent institutions from directing concessions to themselves. To state it differently, even if the member dealer retained the selling concessions, by virtue of the ownership relationship the parent would indirectly have received the benefit of the concessions and could actually receive it through dividend distribution. The Association believes this would be inconsistent with the overall thrust of the Papilsky rules which is to prohibit discounts from the public offering price, with its resulting discrimination among customers, except to persons rendering services in distribution and engaged in the investment banking and securities business.

FIXED PRICE OFFERING RULES
AND PREDECESSOR PROVISIONS

NEW SECTION (m) TO ARTICLE II, SECTION 1
OF THE RULES OF FAIR PRACTICE

"Fixed Price Offering"

(m) The term "fixed price offering" means the offering of securities at a stated public offering price or prices, all or part of which securities are publicly offered in the United States or any territory thereof, whether or not registered under the Securities Act of 1933, except that the term does not include offerings of "exempted securities" or "municipal securities" as those terms are defined in Sections 3(a)(12) and 3(a)(29), respectively, of the Securities Exchange Act of 1934 or offerings of redeemable securities of investment companies registered pursuant to the Investment Company Act of 1940 which are offered at prices determined by the net asset value of the securities.

FORMER ARTICLE III, SECTION 8
OF THE RULES OF FAIR PRACTICE

Securities Taken in Trade

Sec. 8. A member, when a member of a selling syndicate or a selling group, shall purchase securities taken in trade at a fair market price at the time of purchase, or shall act as agent in the sale of such securities.

NEW ARTICLE III, SECTION 8
OF THE RULES OF FAIR PRACTICE

Securities Taken in Trade

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 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.

(d) A member, 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 (d) obtain directly or with the assistance of an independent agent 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.

(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

Subsection 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. Subsection 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

Subsection 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 Subsection 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.

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 availablility 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 higher than the highest independent bid and not higher than 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 (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 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.

FORMER ARTICLE III, SECTION 24
OF THE RULES OF FAIR PRACTICE

Selling Concessions

Sec. 24 Selling concessions, discounts, or other allowances, as such, shall be allowed only as consideration for services rendered in distribution and in no event shall be allowed to anyone other than a broker or dealer actually engaged in the investment banking or securities business, provided, however, that nothing in this rule shall prevent any member from selling any security owned by him to any person at any net price which may be fixed by him unless prevented therefrom by agreement.

NEW ARTICLE III, SECTION 24
OF THE RULES OF FAIR PRACTICE

Selling Concessions

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 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 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 issuers, 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.

(c) A member who grants a selling concession, discount or other allowance to another person shall obtain a written agreement from that person that he will 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 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.

(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.

(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.

* * * *

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 an underwriter of a portion of that offering, 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.

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.

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.

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. 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.

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 or other consideration is full consideration, records of account should be kept which identify the recipient of the services or products, the amount of cash or other consideration paid or to be paid by such person or its affiliate.

Unless the amount of cash 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.

NEW SECTION 36 OF ARTICLE III

Section 36

(a) Except as otherwise provided in Subsection (d) of this Section, no member engaged in a fixed price offering of securities shall sell the securities to, or place the securities with, any person or account which is a related person of the member unless such related person is itself subject to this Section or is a non-member foreign broker or dealer who has entered into the agreements required by Subsection 24(c) of this Article.

(b) For purposes of this Section 36, a "related person" of a member includes any person or account which directly or indirectly owns, is owned by or is under common ownership with the member.

(c) A person owns another person or account for purposes of this Section if the person directly or indirectly:

(1) has the right to participate to the extent of more than 25 percent in the profits of the other person; or

(2) owns beneficially more than 25 percent of the outstanding voting securities of the person.

(d) The prohibition contained in Subsection (a) does not apply to the sale of securities to, or the placement of securities in, a trading or investment account of a member or a related person of a member after termination of the fixed price offering if the member or the related person of the member has made a bona fide public offering of the securities. A member or a related person of a member is presumed not to have made a bona fide public offering for the purpose of this subsection if the securities being offered immediately trade in the secondary market at a price or prices which are at or above the public offering price.

* * * *

INTERPRETATION OF THE BOARD OF GOVERNORS
TRANSACTIONS WITH RELATED PERSONS

A member who is acting, or plans to act, as sponsor of a unit investment trust will not violate Section 36 if it accumulates securities with respect to which the member has acted as a syndicate member, selling group member or reallowance dealer in an account of the member or related person of the member if, at the time of accumulation, the member in good faith intends to deposit the securities into the unit investment trust at the public offering price and intends to make a bona fide public offering of the participation units of that trust. Members engaged in such activity, however, will continue to be subject to the Board of Governors' Interpretation of Article III, Section 1 of the Rules of Fair Practice concerning Free-Riding and Withholding.

While Subsection (d) of Section 36 provides that a person is presumed not to have made a bona fide public offering if, immediately following the termination of the fixed price offering, the securities trade at or above the public offering price, there is no presumption that a person has made a bona fide public offering if, at such time, the securities trade below the public offering price. Whether a person has made a bona fide public offering will be determined on the basis of all relevant facts and circumstances.

NOTICE TO MEMBERS NO. 81-4
Notices to Members should be
Retained for future reference.

NASD

NATIONAL ASSOCIATION OF SECURITIES DEALERS, INC.

1735 K STREET NORTHWEST • WASHINGTON D.C. 20006

February 9, 1981

MEMORANDUM

TO: All NASD Members

ATTN: Compliance Officers and Registered Options Principals

RE: SEC Approval of Rule Change Proposals

On January 15, 1981, the Securities and Exchange Commission approved a rule change proposed by the Association and submitted to the Commission on December 15, 1980 (File No. SR-NASD-80-26).

The rule change increases from 1,000 to 2,000 contracts the aggregate position that can be maintained in put and call options on the same side of the market on the same underlying security. The change also increases from 1,000 to 2,000 the number of contracts of a given class of options that may be exercised within a period of five consecutive business days.

These changes in position and exercise limits conform the Association's rules to those of other self-regulatory organizations, which recently effected identical changes.

Questions regarding this matter should be directed to John J. Cox, Assistant Director, Department of Regulatory Policy and Procedures, at (202) 833-7320.

Sincerely,

Gordon S. Macklin
President

NOTICE TO MEMBERS: 81-5
Notices to Members should be retained for future reference.

NASD

NATIONAL ASSOCIATION OF SECURITIES DEALERS, INC.

1735 K STREET NORTHWEST • WASHINGTON D.C. 20006

February 17, 1981

TO: All NASD Members

RE: Implementation of Procedures for Access to the NASDAQ System by Non-NASDAQ Market Makers

The Association's Board of Governors is pleased to announce the adoption of a new Part XIII of Schedule D of the Association's By-Laws which establishes a program that will permit members who do not subscribe to NASDAQ Level 3 service to display quotations in NASDAQ through the facilities of NASDAQ market makers. This program was developed to place NASDAQ market making capability within the reach of any NASD member who makes a market in a NASDAQ security, but does not find it economical to contract for a Level 3 terminal. The Board believes this service to members will bring additional depth and liquidity to the market for NASDAQ securities.

Under the provisions of the program, any member of the Association which does not now subscribe to Level 3 NASDAQ service but desires to display a quotation for a security included in NASDAQ may become an "access market maker" and display quotations in the NASDAQ System through a NASDAQ market maker who is referred to in the program as the "entering subscriber". All transactions in connection with the quotation will be executed with the entering subscriber, and the identity of the access market maker will be disclosed by the entering subscriber upon request. Both the entering subscriber and the access market maker will be subject to the rules and requirements of Schedule D and be responsible for compliance with them.

A special symbol disclosing that an access arrangement exists will accompany the entering subscriber's quotation on the NASDAQ screen. The display of an access arrangement will appear on Level 2 and 3 terminals as follows:

EXAMPLE:

ABCD	20 1/2	20 3/4	ACSS

Access market makers and entering subscribers are limited to one access arrangement in each security. Further, an entering subscriber cannot enter quotations for its own account in a security in which it has an access arrangement. Access market makers and entering subscribers may, however, have other access arrangements in other securities, but each arrangement must be separately filed with the Association.

An entering subscriber will not be able to register in additional securities for which an access agreement exists by use of the "XR" call. Rather, the access market maker must inform the Association in writing of additional securities in which it desires to enter quotations through an entering subscriber. The procedures for updating and withdrawing an access quotation by the entering subscriber are identical to those now used by a market maker to update his quotation or withdraw from a security in which he is registered. The procedures for volume reporting by the entering subscriber are identical to those presently used to report volume.

The access market maker and the entering subscriber are required to enter into a written agreement outlining their arrangement and to submit the agreement to the Association as an exhibit to their application for registration in the program. An application for registration, which may be photocopied, is attached to this Notice as Exhibit A. The fee to be paid to the Association by the access market maker for this service is $70 per month for the first security and $52.50 per month for each additional security. By comparison, Level 3 Service costs $150 per month and $.01 per quotation request, as well as a minimum of $180 per month for equipment charges.

The attention of present NASDAQ subscribers is directed to paragraph 6(b) of their Level 3 service agreement. This provision prohibits the dissemination of information to persons other than the subscriber. As such, informal "access arrangements" outside the access program outlined in this Notice are not permitted and may lead to discontinuance of NASDAQ Service.

Attached as Exhibit B is a new Part XIII of Schedule D of the Association's By-Laws which contains the requirements for participation in the program. The Board plans to monitor this new service closely and evaluate it following its first year of operation.

Questions concerning this Notice should be directed to Gary W. Guinn, Assistant Director, NASDAQ Operations, at (202) 833-7269.

Sincerely,

Gordon S. Macklin
President

EXHIBIT A

APPLICATION FOR REGISTRATION AS A NASDAQ ACCESS MARKET MAKER

The Application and attached exhibits should be mailed to:

National Association of Securities Dealers, Inc.
Access Market Maker Registration
NASDAQ Department
1735 K Street, N.W.
Washington, D.C. 20006

1. Definitions

a. An "access market maker" is a member of the Association who does not subscribe to Level 3 NASDAQ service, but is or intends to be a market maker in a security for which quotations are displayed on the NASDAQ System.

b. An "entering subscriber" is a registered NASDAQ market maker who has entered into an access arrangement agreement with an access market maker to enter quotations in the NASDAQ System on behalf of such access market maker. An executed copy of the agreement between the access market maker and entering subscriber must be attached as an exhibit to this application.

2. Market Maker Identifier of Entering Subscriber: _____.

3. Normal close of trading: _____ Eastern Time.

4. Desired security registration.

	NASDAQ Symbol	Full and Exact Name of Security
a.		
b.		
c.		
d.		

Registration in additional securities governed by this arrangement must be made by written notice to the NASD by the access market maker at the above address.

5. Fees

Access market makers shall pay to the NASD the fee specified in Schedule D.

6. Termination

a. Applicants represent that at all times they will comply with the Association's By-Laws and Rules of Fair Practice and the

federal securities laws and regulations. Failure to comply with such requirements may result in denial or termination of the access arrangement.

b. Authorization for an access arrangement may be terminated by the NASD upon termination of the access market maker program by the NASD or the Securities and Exchange Commission.

c. Authorization for any security will be terminated when quotations in that security are withdrawn by the entering subscriber.

7. Other Arrangements

This application covers securities governed by the attached arrangement only. A separate application is required for arrangements with other members.

For Access Market Maker:	For Entering Subscriber:
Signature_____	Signature_____
Name_____	Name_____
Title_____	Title_____
Name of Firm	Name of Firm
_____	_____
Address_____	Address_____
_____	_____
Phone No.(___)_____	Phone No.(___)_____

Attachment: Access Arrangement Agreement between Access Market Maker and Entering Subscriber

EXHIBIT B

Text of New Part XIII of Schedule D

XIII

PROCEDURES FOR ACCESS TO THE NASDAQ

SYSTEM BY NON-NASDAQ MARKET MAKERS

These procedures permit a registered NASDAQ market maker, upon approval by the Corporation, to enter quotations into the NASDAQ System on behalf of another market maker who does not subscribe to Level 3 NASDAQ service.

A. Definitions

1. An "access market maker" is a member of the Association who does not subscribe to Level 3 NASDAQ service, but is or intends to be a market maker in a security for which quotations are displayed on the NASDAQ System.

2. An "entering subscriber" is a registered NASDAQ market maker who has entered into an arrangement with an access market maker to enter quotations in the NASDAQ System on behalf of such access market maker.

B. The entering subscriber may enter quotations in the NASDAQ System on behalf of an access market maker only upon submission and approval by the Association of the following:

1. A fully executed copy of the access arrangement agreement which shall contain all agreements and conditions concerning the access arrangement.

2. An application for registration as an access market maker for each security.

C. Access market makers and entering subscribers shall be limited to one access arrangement in each security.

D. Quotations displayed by the entering subscriber on behalf of the access market maker shall be accompanied by the entering subscriber's market maker identifier and a special symbol designating that an access arrangement exists. The identity of the access market maker must be made available by the entering subscriber upon request.

E. All transactions resulting from the display of quotations in the NASDAQ System by the entering subscriber shall be executed by the entering subscriber and he shall be responsible for the

transaction. Both the entering subscriber and the access market maker shall be subject to and be responsible for compliance with the provisions of Schedule D.

F. Access market makers shall pay to the Corporation an access fee of $70 per month for the first security and $52.50 per month for each additional security which is subject to an approved access arrangement.

NOTICE TO MEMBERS: 81-6
Notices to Members should be retained for future reference.

NASD

NATIONAL ASSOCIATION OF SECURITIES DEALERS, INC.

1735 K STREET NORTHWEST • WASHINGTON D.C. 20006

February 17, 1981

TO: ALL NASD MEMBERS

RE: EFFECTIVE FEBRUARY 27, 1981:
NEW TRADE REPORTING PROCEDURES
FOR OVER-THE-COUNTER TRANSACTIONS
IN LISTED SECURITIES

Enclosed are new procedures for reporting over-the-counter transactions in listed securities to the Consolidated Tape that will become effective on February 27, 1981. These procedures are contained in new Sections 1 and 2 of Schedule G of the Association's By-Laws.

The substance of Schedule G has not been materially altered, except as noted below, although all the reporting provisions of the Schedule have been rewritten to provide greater clarity and simplicity. The provisions have been rephrased and rearranged and examples have been added to make the reporting requirements clearer. New Section 1 contains definitions of the terms used in the Schedule. Section 2 ("Transaction Reporting") contains the procedures for reporting. Paragraph (a) details the timing and mechanics of reporting transactions, paragraph (b) specifies which party reports the transaction; paragraph (c) lists the information to be included in each report; and paragraph (d) describes the method of determining the price and volume to be reported in various types of transactions, with examples provided for illustration. The latter paragraph incorporates the procedure for reporting principal transactions in listed securities exclusive of mark-up or mark-down, which became effective July 18, 1980 (see Notice to Members 80-33). A summary chart of the reporting requirements has been appended to Schedule G.

Two substantive changes have been made in the reporting requirements of Schedule G. The first change, found in paragraph (a)(2) of Section 2, amends the present exception from the 90-second reporting requirement for Non-Designated Reporting Members which do not execute transactions in eligible securities that exceed 500 shares or $5,000 in any one trading day. That exception was established by the Board in recognition of the fact that some members execute only occasional reportable transactions. The Association has determined that the exemption criteria should be increased to 1,000 shares and $25,000 on a single trading day. Paragraph (3), however, continues to require that these transactions be reported weekly to the NASDAQ Department in New York City.

The second substantive change found in paragraph (d) of Section 2, deals with "riskless" transactions in which a member, other than a market maker, having received an order to buy, purchases the security from another party to satisfy the buy order or, having received an order to sell, sells the security to another party to satisfy the sell order. Under SEC Rule 10b-10, such transactions must be confirmed with the mark-up or mark-down separately disclosed, if the member is not a market-maker in the security. The Association has concluded that such riskless transactions should be treated for reporting purposes in the same manner as agency transactions. Thus, if the executing member is required to report the transaction under the reporting rules, it would be reported as a single trasnaction at a price which does not include the mark-up or mark-down.

Members are urged to familiarize all personnel involved in over-the-counter trading in eligible securities with the amended reporting provisions of Schedule G discussed in this Notice. Reference should also be made to Notices to Members 80-32 and 80-44, concerning the adoption and effect of SEC Rule 19c-3.

Members are reminded that, in connection with the definition of Designated Reporting Members, the Association has determined that all members registered as CQS market makers are Designated Reporting Members in those securities in which they are market makers. Notice to Members 80-44 also concerns transactions with exchange specialists.

Questions with regard to this Notice should be directed to Donald Heizer or Ralph Peregoy at (202) 833-7169.

Sincerely,

Gordon S. Macklin
President

TEXT OF AMENDMENT TO
SCHEDULE G
UNDER ARTICLE XVIII OF THE BY-LAWS

SCHEDULE G

This Schedule has been adopted pursuant to Article XVIII of the Corporation's By-Laws and shall apply to all over-the-counter transactions in listed securities that are required to be reported to the Consolidated Tape ("eligible securities"), as provided in the Plan filed by the Association pursuant to Rule 11Aa3-1 under the Securities Exchange Act of 1934 ("Plan").

Section 1 -- Definitions

(a) Terms used in this Schedule shall have the meaning as defined in the By-Laws and Rules of Fair Practice, Rule 11Aa3-1 and the Plan, unless otherwise defined in this Schedule.

(b) "Consolidated Tape" means the consolidated transaction reporting system for the dissemination of last sale reports in eligible securities required to be reported pursuant to the Plan.

(c) "Designated Reporting Member" means a member of the Association which executes over-the-counter transactions in eligible securities, maintains transaction reporting capability through the NASDAQ System, and has requested to be a Designated Reporting Member. The Association may also designate any member that effects a substantial number of over-the-counter transactions in eligible securities. A list of Designated Reporting Members is attached to this Schedule.

(d) "Eligible securities" means all common stocks, preferred stocks, long-term warrants, and rights entitling the holder to acquire an eligible security, listed or admitted to unlisted trading privileges on the American Stock Exchange or the New York Stock Exchange, and securities listed on regional stock exchanges, which substantially meet the original listing requirements of the New York Stock Exchange or the American Stock Exchange. A list of eligible securities listed on regional stock exchanges is attached to this Schedule.

(e) "Non-Designated Reporting Member" means all members of the Association which are not Designated Reporting Members.

Section 2 -- Transaction Reporting

(a) When and How Transaction Reported

(1) Designated Reporting Members shall transmit through the NASDAQ Transaction Reporting System, within 90 seconds after execution, last sale reports of transactions in eligible securities

executed during the trading hours of the Consolidated Tape. Transactions not reported within 90 seconds after execution shall be designated as late.

(2) Non-Designated Reporting Members shall transmit through the NASDAQ Transactions Reporting System, or if such System is unavailable, via Telex, TWX or telephone to the NASDAQ Department in New York City, within 90 seconds after execution, last sale reports of transactions in eligible securities executed during the trading hours of the Consolidated Tape unless all of the following criteria are met:

(A) The aggregate number of shares of eligible securities which the member executed and is required to report does not exceed 1,000 shares in any one trading day; and

(B) The total dollar amount of shares of eligible securities which the member executed and is required to report does not exceed $25,000 in any one trading day; and

(C) The member's transactions in eligible securities have not exceeded the limits of (A) or (B) above on five or more of the previous ten trading days.

Transactions not reported within 90 seconds after execution shall be designated as late. If the member has reason to believe its transactions in a given day will exceed the above limits, it shall report all transactions in eligible securities within 90 seconds after execution; in addition, if the member exceeds the above limits at any time during the trading day, it shall immediately report and designate as late any unreported transactions in eligible securities executed earlier that day.

(3) Non-Designated Reporting Members shall report weekly to the NASDAQ Department in New York City, on Form T, last sale reports of transactions in eligible securities which are not required by paragraph (2) to be reported within 90 seconds after execution.

(4) All Members shall report weekly to the NASDAQ Department in New York City, on Form T, last sale reports of transactions in eligible securities executed outside the trading hours of the Consolidated Tape.

(5) All trade tickets for transactions in eligible securities shall be time-stamped at the time of execution.

(b) Which Party Reports Transaction

(1) Transactions executed on an exchange are reported by the exchange and shall not be reported by members.

(2) In transactions between two Designated Reported Members, only the member representing the sell side shall report.

(3) In transactions between a Designated Reporting Member and a Non-Designated Reporting Member, only the Designated Reporting Member shall report.

(4) In transactions between two Non-Designated Reporting Members, only the member representing the sell side shall report.

(c) Information To Be Reported

Each last sale report shall contain the following information:

(1) Stock symbol of the eligible security;

(2) Number of shares (odd lots shall not be reported);

(3) Price of the transaction as required by paragraph (d) below.

(d) Procedures for Reporting Price and Volume

Members which are required to report pursuant to paragraph (b) above shall transmit last sale reports for all purchases and sales in eligible securities in the following manner:

(1) For agency transactions, report the number of shares and the price excluding the commission charged.

Example: SELL as agent 100 shares at 40
plus a commission of $12.50;
REPORT 100 shares at 40.

(2) For dual agency transactions, report the number of shares only once, and report the price excluding the commission charged.

Example: SELL as agent 100 shares at 40
plus a commission of $12.50;
BUY as agent 100 shares at 40 less
a commission of $12.50;
REPORT 100 shares at 40.

(3) For principal transactions, except as provided below, report each purchase and sale transaction separately and report the number of shares and the price. 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.

Example: BUY as principal 100 shares from another member at 40 (no mark-down included).
REPORT 100 shares at 40.

Example: BUY as principal 100 shares from a customer at 39 3/4, which includes a 1/8 mark-down from prevailing market of 39 7/8;
REPORT 100 shares at 39 7/8.

Example: SELL as principal 100 shares to a customer at 40 1/8, which includes a 1/8 mark-up from the prevailing market of 40;
REPORT 100 shares at 40.

Exception:

A "riskless" principal transaction in which a member that is not a market maker in the security, after having received from a customer an order to buy, purchases the security as principal from another member or customer to satisfy the order to buy or, after having received from a customer an order to sell, sells the security as principal to another member or customer to satisfy the order to sell, shall be reported as one transaction in the same manner as an agency transaction, excluding the mark-up or mark-down. A riskless principal transaction in which a member purchases or sells the security on an exchange to satisfy a customer's order will be reported by the exchange and the member shall not report.

Example: BUY as principal 100 shares from another member at 40 to fill an existing order;
SELL as principal 100 shares to a customer at 40 plus mark-up of $12.50;
REPORT 100 shares at 40.

Example: BUY as principal 100 shares on an exchange at 40 to fill an existing order;
SELL as principal 100 shares to a customer at 40 plus a mark-up of $12.50.
DO NOT REPORT (will be reported by exchange)

(e) Transactions Not Required To Be Reported

The following types of transactions shall not be reported for inclusion on the Consolidated Tape:

(1) transactions executed on an exchange;

(2) odd-lot transactions;

(3) transactions which are part of a primary distribution by an issuer or of a registered secondary distribution (other than "shelf distributions") or of an unregistered secondary distribution effected off the floor of an exchange;

(4) transactions made in reliance on Section 4(2) of the Securities Act of 1933;

(5) transactions where the buyer and seller have agreed to trade at a price substantially unrelated to the current market for the security, e.g., to enable the seller to make a gift;

(6) the acquisition of securities by a member as principal in anticipation of making an immediate exchange distribution or exchange offering on an exchange;

(7) purchases of securities off the floor of an exchange pursuant to a tender offer; and

(8) purchases or sales of securities effected upon the exercise of an option pursuant to the terms thereof or the exercise of any other right to acquire securities at a pre-established consideration unrelated to the current market.

(Existing Sections 2, 3 and 4 of Schedule G are to be renumbered Sections 3, 4, and 5, but otherwise remain unchanged.)

SUMMARY OF PROVISIONS GOVERNING MEMBERS' REQUIREMENT TO REPORT TRANSACTIONS IN ELIGIBLE SECURITIES

Chart I - General Reporting Requirements Under Section 2(b)

Member	Transaction	Member Reports When Contra-Party Is			
		Designated Reporting Member	Non-Designated Reporting Member	Exchange	Customer
Designated Reporting Member	buys from:	No	Yes	No	Yes
	sells to:	Yes	Yes	No	Yes
Non-Designated Reporting Member	buys from:	No	No	No	Yes
	sells to:	No	Yes	No	Yes

Chart II - Reporting Requirements for "Riskless" Transactions as Defined in Section 2(d)(3)(ii)

Member	Transaction	Member Reports When Contra-Party Is			
		Designated Reporting Member	Non-Designated Reporting Member	Exchange	Customer
Designated Reporting Member	buys from customer and sells to:	Yes	Yes	No	Yes
	sells to customer and buys from:	No	Yes	No	Yes
Non-Designated Reporting Member	buys from customer and sells to:	No	Yes	No	Yes
	sells to customer and buys from:	No	No	No	Yes

NOTICE TO MEMBERS 81-7
Notice to Members should be retained for future reference.

NASD

NATIONAL ASSOCIATION OF SECURITIES DEALERS, INC.

1735 K STREET NORTHWEST • WASHINGTON D.C. 20006

IMPLEMENTATION OF THE CRD REVISED FORMS U4 AND U5

TO: All NASD Members

ATTN: Compliance and Registration Personnel

DATE: February 20, 1981

Effective April 1, 1981, revised Form U4 and U5 will be used to register individuals with the NASD through the Central Registration Depository (CRD). This notice details the major revisions to these forms and further describes the method of filing the revised documents with the CRD. At the outset, the CRD system will be utilized to effect NASD registration. However, as a state joins, firms licensed to do business in that state will be notified of the procedures to be followed to effect state licensing through the CRD. Until then, no change need be made in your state licensing procedures.

The enclosed booklet gives a full description of the CRD and details the operation of the system as well as its short and long term benefits in reducing the paperwork burden in the securities industry.

Revised Forms U4 and U5

Every effort has been made to insure that the revised forms are easy to complete and file yet meet the requirements of the states and self-regulatory organizations accepting the forms. A summary of the major revisions is detailed below:

- All current addenda presently required by self-regulatory organizations and state jurisdictions have been eliminated and the essential items on these documents have been incorporated in other sections. Further, questions 31 through 54 on the current Form U4 have been reformatted and are reflected in questions 27 A-I through 29 A-C on the revised form.

- NASD Form ER-1 and Form U63 have been eliminated since qualification examination requests will now be accomplished by checking the examination request box located at question 8 on the revised Form U4.

- Two changes have been approved in Form U5. A new question 2 has been added to require entry of the registrant's NASAA/NASD CRD number. A new question 8 has been added to require insertion of the firm's branch office identification number. Until the NASD supplies this data to each member, these two questions can be left blank.

Form U4/Form U5 Filings with the CRD

Filing of a Form U4/U5 with the CRD will ultimately eliminate the current practice of duplicative hard copy form filings with each state and self-regulatory organization for which registration and/or licensing is required. To accomplish this, certain CRD administrative rules as detailed below must be followed. Any exception to these standards will result in a filing deficiency:

- CRD ACCEPTS ONLY REVISED FORM U4/FORM U5

  The NASAA/NASD CRD System will only accept the revised Form U4 and U5 filings effective April 1, 1981. All amendments to such forms should also occur on the revised Form U4 and Form U5. To amend these forms, an applicant need only complete the page which reflects the change of information and circle the item number amended and sign as required by instruction. Effective April 1, 1981, the first time an amendment is filed on behalf of an individual registered with the NASD on or before April 1, 1981, a complete revised Form U4 filing should be submitted. All amendments sent after the initial filing should only include the affected page. (CRD Booklet - Page 5)

- PHOTOGRAPHS - SIGNATURES

  All Form U4 documents filed with the CRD must include a physical description as well as a passport size photograph of the applicant. Each page of the application must be signed by the applicant and an appropriate signatory as detailed in the form instructions. Each application filing must be notarized. (CRD Booklet - Page 5)

- CRD FINGERPRINT RECORD CARDS

  Fingerprint cards filed with the CRD will eliminate separate filings with participating states. In this regard, each Form U4 filing processed through the CRD must include a completed fingerprint record card. This fingerprint record card must contain the identification code of the NASD. When all state jurisdictions which presently require state fingerprint filings have joined the CRD system, this one fingerprint record card will suffice for these state jurisdictions as well as the Federal requirement mandated by SEC Rule 17f-2. (CRD Booklet - Page 5)

- CRD POST OFFICE BOX

  A post office box has been retained to expedite CRD filings. All mail for CRD processing must be sent to the NASAA/NASD Central Registration Depository, P.O. Box 37441, Washington, D. C. 20013.

Each revised Form U4 contains a pre-addressed mailing label. This label may be removed from the Form U4 and affixed to the envelope containing the qualification examination request or registration material to be forwarded to the CRD. Therefore, commencing April 1, 1981, all forms relating to requests for qualification examinations administered by the NASD, NASD registration or termination of registration, or amendments to any of the foregoing must be filed through the CRD post office box. (CRD Booklet - Page 5)

- CRD PAYMENTS

All checks forwarded to the CRD in payment of applicable fees must be drawn on the account of the applicant's employer. The CRD system will not accept applicant personal checks or money orders. (CRD Booklet - Page 7)

Copies of the revised Form U4, Form U5 and a fingerprint record card have been enclosed for your information and review. Additional forms and cards are available through the NASD's Office Services Administrator, located in Washington, D. C. or through your local NASD District office. Requests for additional forms will be expedited if you enclose a self-addressed mailing label.

All questions regarding the CRD, this notice or the enclosed booklet should be directed to Ms. Marie Montagnino at (202) 833-7179.

Sincerely,

John T. Wall
Senior Vice President

enclosures