

NASD

National Association of Securities Dealers, Inc.
1735 K St., N.W. • Washington, D.C. 20006 • (202) 728-8000

notice to members 86-24

April 4, 1986

TO: All NASD Members

RE: Kobrin Securities Inc.
415 Route 18 East
East Brunswick, New Jersey 08816

ATTN: Operations Officer, Cashier, Fail-Control Department

On March 26, 1986, the United States District Court, of New Jersey appointed a SIPC Trustee for the above-captioned firm. Previously, a Trustee in Bankruptcy had been appointed for the firm on July 29, 1985.

Members may use the "immediate close-out" procedures as provided in Section 59(i)(2) of the NASD's Uniform Practice Code to close out open OTC contracts. Also, MSRB Rule G-12(h)(iii) provides that members may use the above procedures to close out transactions in municipal securities.

Questions regarding the firm should be directed to:

SIPC Trustee

Jack Birnberg, Esquire
Jack Birnberg & Associates
2201 Lower Notch Road
Little Falls, New Jersey 07424
Telephone: (201) 256-8280



National Association of Securities Dealers, Inc.
1735 K St., N.W. • Washington, D.C. 20006 • (202) 728-8000

notice to members 86-25

April 7, 1986

TO: All NASD Members and Level 2 and Level 3 Subscribers

RE: NASDAQ National Market System Grows to 2,307 Securities With 37 Voluntary Additions on April 15, 1986

On Tuesday, April 15, 1986, 37 issues are scheduled to join the NASDAQ National Market System, bringing the total number of issues in NASDAQ/NMS to 2,307. These 37 issues, which will begin trading under real-time trade reporting, are entering NASDAQ/NMS pursuant to the Securities and Exchange Commission's criteria for voluntary designation.

The 37 issues scheduled to join NASDAQ/NMS on Tuesday, April 15, 1986, are:

Symbol*	Company	Location
ABNYP	American Saving Bank (F.S.B.) (Pfd)	New York, NY
ATEKF	Amertek, Inc.	Waterloo, Canada
ARDN	Arden Group, Inc.	Los Angeles, CA
ADIE	Autodie Corporation	Grand Rapids, MI
BOGO	Bogert Oil Company	Oklahoma City, OK
CHES	Chesapeake Industries, Inc.	Newport Beach, CA
CDSG	Cook Data Services, Inc.	Dallas, TX
DTIB	Distribuco, Inc.	Santa Ana, CA
ENDO	Endotronics, Inc.	Coon Rapids, MN

* NASDAQ symbols are proprietary to the National Association of Securities Dealers, Inc.

Symbol*	Company	Location
FEXCN	First Executive Corporation (Pfd) (Ser. D)	Los Angeles, CA
FEXCP	First Executive Corporation (Pfd) (Ser. E)	Los Angeles, CA
FEXCM	First Executive Corporation (Pfd) (Ser. G)	Los Angeles, CA
FEXCW	First Executive Corporation (Wts)	Los Angeles, CA
FCDA	First Federal Savings & Loan Association of Coeur D'Alene	Coeur D'Alene, ID
FARK	First Federal Savings of Arkansas (F.A.)	Little Rock, AR
HWKN	Hawkins Chemical, Inc.	Minneapolis, MN
HEKN	Heekin Can, Inc.	Cincinnati, OH
HDGH	Hodgson Houses, Inc.	New York, NY
ITCC	Industrial Training Corporation	Rockville, MD
JHSL	John Hanson Savings & Loan, Inc.	Beltsville, MD**
LNSB	Lincoln Savings Bank	Carnegie, PA
MCOR	Marine Corporation	Springfield, IL
MHOM	Medical Homecare, Inc.	Atlanta, GA
NBSIF	National Business Systems, Inc.	Mississauga, Canada
NEST	Nestor, Inc.	New York, NY
NOVX	Nova Pharmaceutical Corporation	Baltimore, MD
NOVXW	Nova Pharmaceutical Corporation (Wts)	Baltimore, MD
OSIX	Optical Specialties, Inc.	Fremont, CA
ORCL	Oracle Systems Corporation	Belmont, CA
PSSP	Price/Stern/Sloan Publishers, Inc.	Los Angeles, CA
SPIP	SPI Pharmaceuticals, Inc.	Costa Mesa, CA
SETD	Sierra Capital Realty Trust IV	San Francisco, CA
TVLA	Taco Villa, Inc.	Dallas, TX
INTK	U.S. Intec, Inc.	Port Arthur, TX
USBK	United Savings Bank	Vienna, VA
VIPLF	Vulcan Industrial Packaging Limited	Toronto, Canada
WCLB	Warehouse Club, Inc.	Skokie, IL

** This issue is scheduled to commence trading in the NASDAQ System prior to its designation as a NASDAQ/NMS Security on April 15, 1986.

The following issues may be included in NASDAQ/NMS prior to the next regularly scheduled phase-in date:

Pending Additions

Symbol*	Company	Location
ATVC	American Travellers Corporation	Warrington, PA
WPGI	Western Publishing Group, Inc.	Racine, WI

NASDAQ/NMS Interim Additions

Symbol*	Company	Date of Entry
TROW	T. Rowe Price Associates, Inc.	4/02/86
EMCS	EMC Corporation	4/04/86

The following changes to the list of NASDAQ/NMS securities occurred since March 21, 1986:

NASDAQ/NMS Symbol* and/or Name Changes

New/Old Symbol*	New/Old Security	Date of Change
LFED/ LFED	First Liberty Financial Corporation/ Liberty Federal Savings & Loan Association	4/01/86
MDCH/ MDCH	MedChem Products, Inc./Med-Chem Products, Inc.	4/02/86

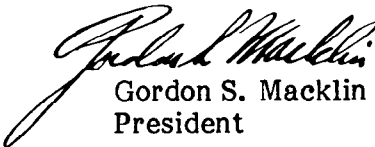
NASDAQ/NMS Deletions

Symbol*	Security	Date
AVDO	Audio/Video Affiliates, Inc.	3/21/86
HMAZ	Home Federal Savings & Loan of Arizona	3/21/86
MAGN	Magnetics International, Inc.	3/25/86
HERE	Heritage Entertainment, Inc.	3/26/86
ENDV	Endevco, Inc.	3/27/86
IVBF	IVB Financial Corporation	3/31/86
MTVN	MTV Networks, Inc.	3/31/86
SUBC	Suburban Bancorp	3/31/86
UBSF	United Bank, S.S.B.	3/31/86

Symbol*	Security	Location
CITS PROV	Citizens & Southern Corporation Provident Institution for Savings (The)	4/01/86 4/01/86
CNHC	Commonwealth National Financial Corporation	4/02/86
STBN	Southern Bancorporation, Inc.	4/02/86
WSTS	Western States Life Insurance Company	4/03/86

Any questions regarding this notice should be directed to Kit Milholland, Senior Analyst, NASDAQ Operations, at (202) 728-8281. Questions pertaining to trade reporting rules should be directed to Sharon Belanger, Market Surveillance, at (202) 728-8206.

Sincerely,


Gordon S. Macklin
President



National Association of Securities Dealers, Inc.
1735 K St., N.W. • Washington, D.C. 20006 • (202) 728-8000

notice to members 86-26

April 8, 1986

TO: All NASD Members and Other Interested Persons

RE: Request for Comments on Proposed Exemption From Free-Riding Interpretation for Conversion of Savings and Loan Associations

LAST DATE FOR COMMENT: APRIL 28, 1986

The National Association of Securities Dealers, Inc. (NASD), is requesting comments on a proposed amendment that would provide limited exemptions for certain persons purchasing securities in connection with the conversion to stock ownership of mutual savings and loan associations, savings banks and certain other organizations from the provisions of the NASD Board of Governors' Interpretation with respect to Free-Riding and Withholding ^{1/} under Article III, Section 1 of the NASD Rules of Fair Practice.

The proposed amendment is a revision of an earlier proposal which was sent to members and other interested persons for comments late last year. ^{2/} The NASD received a number of comments on the original proposal which have been reviewed and considered by the NASD's National Business Conduct Committee (NBCC) and Board of Governors.

The revised amendment, and the history and background leading to its proposal, are discussed in this notice. The text of the proposed amendment is attached.

BACKGROUND OF THE PROPOSAL

The NASD Free-Riding and Withholding Interpretation (Interpretation) is based upon the basic premise that members have an obligation to make a bona fide public offering of securities that trade at a premium in the aftermarket (hot issue securities). To accomplish this broad purpose, the Interpretation prohibits members

^{1/} NASD Manual, ¶2151.

^{2/} NASD Notice to Members 85-81 (December 2, 1985).

and associated persons of members from participating in the offering of hot issue securities if the offerings are made to certain persons who come within specified classes, unless prescribed conditions are satisfied. The Interpretation also prohibits members and associated persons of members from withholding or purchasing securities that are part of a hot issue.

To assure compliance with the Interpretation, most firms establish procedures to monitor sales of new issues. Since application of the Interpretation depends on whether an offering will be a "hot issue," the Interpretation as a practical matter limits the abilities of members, associated persons of members and other restricted persons to purchase new issues in general.

A growing number of savings and loan associations recently have converted from the mutual form of ownership, issuing securities in the process. Under the rules of the Federal Home Loan Bank Board (FHLBB), savings and loan associations usually offer their depositors, borrowers and community residents the opportunity to subscribe to their securities prior to any underwritten public offering. In some cases, a savings and loan association's entire offering may be sold by the issuing institution without the assistance of an NASD member selling as an underwriter. More commonly, however, the issuing institution will sell a portion of the offering during the subscription period, with the remaining securities being underwritten and distributed by an underwriter.

With the proliferation of savings and loan conversions, numerous questions have arisen concerning the ability of persons subject to the Interpretation to purchase securities directly from a savings and loan association during its subscription period. Similar questions have been raised concerning the responsibilities of members under the Interpretation for securities sold directly by the issuing institutions without the assistance of underwriters. These questions involve several difficult issues, especially when a restricted person is entitled under FHLBB rules to purchase securities in the capacity of a depositor, borrower or member of the community. The complexity of the issues are exacerbated because, in any given savings and loan association conversion, it is not always clear whether an NASD member will become involved in the offering, and the nature and time of any such participation also may vary materially.

In view of the obvious importance of the impact of the existing provisions on purchases in savings and loan conversion offerings, the issues have been the subject of careful review and study by the Board of Governors and the NBCC over a number of months. Because of the complexity of the issues and the variety of possible approaches toward resolution, the Subcommittee on Savings and Loan Conversions (Subcommittee) was appointed to assist the NBCC. In the course of their review and study, the Subcommittee, the NBCC and the Board of Governors have reviewed the rules of the FHLBB, the practices involved in savings and loan conversion offerings and the policies behind the prohibitions and restrictions that are imposed by the existing Interpretation.

At the time the original amendment was approved for comment, the NBCC and the Board of Governors believed that exemptive relief was necessary and appropriate. They continue to believe that relief is warranted, but feel that the amendment proposed earlier would fall short of providing, as a practical matter, any meaningful relief because of the complex conditions of the proposal. The revised proposed amendment, therefore, is intended to expand the area where relief is granted and remove the problems of application and enforcement of the exemptions by simplifying the requirements.

EXISTING RESTRICTIONS

The existing Interpretation does not recognize any special or unique aspects of savings and loan conversion offerings to set them apart from conventional public offerings. Accordingly, members and associated persons participating in such offerings have the same responsibilities, and persons purchasing the securities are subject to the same limitations and restrictions, as in the case of any other offering of a hot issue security.

The basic restrictions of the Interpretation, insofar as applicable to savings and loan association conversion offerings, are found in several inter-related provisions covering three broad areas:

- (1) Restrictions upon sales by members and associated persons of members;
- (2) Responsibilities of members and associated persons of members for sales by issuers made on a non-underwritten basis; and
- (3) Restrictions upon purchases by members and associated persons of members.

The first area is subdivided into several categories of purchasers. The Interpretation prohibits a member or associated person of a member from selling a hot issue security to any person associated with a member or any other broker-dealer, to members of the immediate family of such persons with limited exceptions, or to accounts such as certain private investment corporations or partnerships in which an associated person of a member has a beneficial interest. The Interpretation also prohibits sales by a member or associated person of a member to another category of persons who, although not associated persons of members, are covered because of their status as senior officers and employees of banks, insurance companies and certain other financial institutions, members of the immediate family of such persons and accounts in which such persons have a beneficial interest.

The prohibition upon member sales to these non-associated persons is not absolute, however, and sales are permissible if the purchaser has an investment history, the amount purchased is insubstantial and the aggregate amount sold by a member to all restricted persons is insubstantial and not disproportionate compared to the member's sales to the public. In addition, sales by members to another category of purchaser, comprising foreign and domestic banks, broker-dealers, investment advisory firms and other types of purchasers that commonly act as conduits for undisclosed principals, are prohibited unless assurances or representations are received that the ultimate purchasers will not be within one of the other two prohibited and restricted classes.^{3/} All of the foregoing restrictions currently apply to sales by members participating in savings and loan conversion offerings when the purchasers come within any of these categories.

The second area of coverage makes members responsible for assuring compliance with these same prohibitions and restrictions when sales are made

^{3/} Interpretation, ¶1-8, NASD Manual, pp. 2040-2042.

directly by the issuer on a non-underwritten basis.^{4/} In savings and loan conversion offerings, a portion of the securities is typically sold by the issuing institution. The Interpretation now applies to make it a violation for a member to participate in a savings and loan conversion offering where non-underwritten sales are made by the issuing institution to persons within any of the restricted categories if the sales fail to comply with the applicable standards. The restrictions on members participating in such offerings presently apply irrespective of whether persons purchasing the shares are depositors, borrowers, lenders or members of the community if the purchasers are covered by the Interpretation's prohibitions and restrictions.

Under the third area of coverage, the Interpretation currently makes it a separate, specific violation for a member or associated person of a member to purchase any hot issue security from another member or from the issuer selling non-underwritten securities.^{5/} This companion provision to the basic restrictions likewise makes no distinction as to whether in a savings and loan association conversion offering the purchaser is a depositor, borrower, lender or member of the community. Thus, the Interpretation currently prohibits any person associated with any member from purchasing any hot issue security, regardless of whether the security is purchased directly from the issuer and regardless of whether any NASD member is involved in the offering in any way.

PROPOSED AMENDMENT

To simplify the amendment, the Board of Governors and the NBCC have determined to change the approach of the original proposal. The revised amendment would grant exemptions under certain circumstances for sales to restricted persons made by the issuer. Unlike the earlier proposal, the revised amendment would not provide an exemption for sales made by NASD members. The exemptions under the revised amendment are based on the class of purchaser and distinguish between two basic situations that members participating in conversion offerings face: (1) issuer sales to other members and associated persons of members as well as to certain related persons and (2) issuer sales to all other persons now covered by the Interpretation.

Definitions

Subsection (a)(1) of the amendment would define "conversion offering" as an offering of securities made as part of a plan by which a savings and loan association or other organization converts from a mutual form to a stock form of ownership. The definition would cover, in addition to savings and loan association conversions, the conversion of other types of organizations such as mutual savings banks and insurance companies. The definition is substantially the same as originally proposed.

The amendment would also define in Subsection (a)(2) "eligible purchaser" to mean a person eligible to purchase securities under the rules of the FHLBB or any other governmental agency or instrumentality having authority to regulate conversion offerings. Savings and loan association conversion offerings typically describe

^{4/} Interpretation, "Issuer Directed Securities," NASD Manual, p. 2043.

^{5/} Interpretation, "Violations by Recipient," NASD Manual, p. 2044.

the classes of persons eligible to purchase shares directly from the issuer in transactions that are not handled by an underwriter. Such persons are usually permitted to purchase prior to any underwritten public offering. Under FHLBB rules, the persons permitted to purchase shares during this phase of a conversion are depositors, borrowers, officers, employees and residents, at least of the community serviced by the converting institution.

The amendment as originally proposed would have made the exemption inapplicable to community residents even though they are treated substantially the same as depositors and other eligible purchasers under FHLBB rules. The Board of Governors and the NBCC, however, have reconsidered the definition and believe that proper deference should be given to the FHLBB's determination as to the means of effecting the public policies that the FHLBB is charged by law with implementing. The Board and the NBCC also believe that, in light of the new structure of the amendment being proposed, a narrow definition of "eligible purchaser" is not necessary to preserve the policies underlying the NASD's Interpretation. Accordingly, the new definition would cover anyone eligible to purchase under the rules of the FHLBB or other similar agency.

Sales to Members, Associated Persons of Members and Certain Related Persons

The amendment would provide under Subsection (b) that the Interpretation shall not apply in a conversion offering to any of the securities sold directly by the issuing institution on a non-underwritten basis, subject to certain conditions. This is the basic exemptive provision established by the amendment. The conditions to be met before an exemption is available depend on whether the purchaser falls within one of the following classes: (1) members, persons associated with members and certain related persons, and (2) all other persons covered by the Interpretation.

The existing Interpretation makes it a violation for a member or associated person of a member to participate in a conversion offering when issuer sales are made to members or associated persons of members and certain related persons. The Board of Governors and the NBCC are aware that the purpose of the prohibition is to prevent such persons who may have inside knowledge of the actual demand for an offering from exploiting public investors by taking advantage of their superior information. As originally proposed, the amendment would have provided no exemption from the existing Interpretation for this situation. A number of commentators on the original proposal objected to the lack of an exemption for purchases made by such persons directly from the issuing institution, where they are eligible to purchase under FHLBB rules because they are depositors or have some other connection to the issuer unrelated to their occupations in the securities industry. It was pointed out that such persons, even if associated with a member that later acts as underwriter, may have little information concerning actual demand at the time they subscribe. Some commentators also expressed the view that a suitable holding period following completion of an offering should be adequate to assure that such persons acquire for investment, thereby eliminating any temptation to misuse whatever inside information they may have about demand.

The Board of Governors and the NBCC believe that several conditions, including a minimum holding period, should be met before any exemption can be made available for issuer sales to members and associated persons of members. The amendment establishes three conditions for an exemption for members and associated persons participating in conversion offerings in which the issuing institution makes sales to persons who are members or persons associated with members.

(1) The purchaser must, under Subsection (b)(1)(A), be an eligible purchaser as defined.

(2) The securities purchased must, under Subsection (b)(1)(B), be restricted from sale, transfer or hypothecation for at least five-and-one-half months following the conclusion of the offering. The original proposal would have prohibited this class of persons from purchasing from the issuer, but would have allowed purchases by certain of these persons from a member underwriter subject to a 90-day holding period. The Board and the NBCC believe the holding period of the original proposal may not be adequate to assure against misuse of information concerning demand since there may be some situations where a member or associated person who purchases from the issuer has such information. The Board and the NBCC believe the longer period of 150 days required under the revised amendment should provide public investors with protection against misuse of inside knowledge as intended by the Interpretation.

(3) The purchaser, under Subsection (b)(1)(C), would be required to report, in writing, to the member where associated the fact of purchase within one day following payment. The Board and the NBCC believe that this condition is necessary to meaningful observance of the two other conditions. This is substantially the same requirement as the original proposal which permitted this class of persons to purchase from the underwriter in a savings and loan conversion. ^{6/}

The original proposal also contained a number of other conditions that the Board and the NBCC have determined are unnecessary to achieve the Interpretation's purposes and that make the exemption unduly complicated from the standpoint of compliance and enforcement. The exemption established by the revised amendment is intended to apply only to issuer sales to members and associated persons of members. It would not cover direct sales by members to other members or associated persons of members, and these sales are required to comply in all respects with the restrictions of the existing Interpretation. This is a change from the original proposal that would have exempted direct sales by members and associated persons subject to seven detailed conditions. A number of commentators on the original proposal argued that the nature and number of these conditions on direct sales by members raised questions concerning compliance and enforcement of the exemption and suggested that steps be taken to eliminate or lessen them.

The Board of Governors and the NBCC have determined that there should be no exemption for sales by members and associated persons of members. The Board and the NBCC believe that application of the existing provisions should present no hardship to members and associated persons who, although unable to purchase from a member underwriter, would be permitted to exercise subscriptions and acquire the securities directly from the issuing institution subject to compliance with the proposed conditions which, in the view of the Board and the NBCC, are not onerous or unreasonable. The Board and the NBCC also do not believe that problems of compliance by member underwriters in connection with their own sales should give rise to any special reasons to warrant relief from the existing requirements that member underwriters must now comply with in all offerings.

^{6/} Such notification is presently required under Article III, Section 40 of the NASD Rules of Fair Practice covering private securities transactions by persons associated with members.

Sales to Other Restricted Persons

The amendment under Subsection (b)(2) would establish a separate exemption to cover issuer sales to persons who are not members or associated persons of members but who are presently covered by other provisions of the Interpretation. As noted above, these persons consist of several broad categories, including senior officers and employees of certain financial institutions, members of their immediate families, accounts in which they may have beneficial interests, as well as certain banks and other organizations that may act as conduits for other persons prohibited or restricted under the Interpretation from purchasing a hot issue security. The amendment would condition the exemption on the fact that any person within this class must be an eligible purchaser under FHLBB rules as defined by Subsection (a)(2) of the amendment. If the exemptive condition is met, the effect is to eliminate with respect to this class of purchaser the existing prohibitions and restrictions, such as the requirement of an investment history, and to remove impediments that now prevent a number of these persons from becoming equity owners of savings and loan associations as specifically allowed by the FHLBB rules.

In sum, the amendment would permit members and associated persons of members to participate in conversion offerings when purchases from the issuing savings and loan association are made by persons now covered by the Interpretation who are not members or associated persons of members, with the sole condition being that such persons are eligible to purchase under the FHLBB rules. The proposed exemption for this class of persons differs in two major respects from the original proposal:

(1) The broadened definition of "eligible purchaser" under Subsection (a)(2) would eliminate the original proposal's denial of exemptive relief for persons within the class who are permitted to buy by virtue of their status as members of the community.

(2) The original proposal would have imposed a condition that issuer sales to such persons must be without any direct or indirect participation by a member or person associated with a member. Some commentators expressed concern that the condition could have the effect of making the exemption unavailable as a practical matter since members are often involved in one way or another during most of the conversion period, although their actual underwriting sales may occur only as the last step in the process. The Board and the NBCC agree and have determined to eliminate this condition.

The Board of Governors and the NBCC believe that by balancing the purposes of the savings and loan regulatory scheme with the aims of the NASD's Interpretation, no overriding purpose is served by continuing the present prohibitions and restrictions or by replacing them with a difficult or impossible condition to administer. Among other things, the Board and the NBCC have considered the fact that the possibility that a member may be "buying business" from officers and employees of financial institutions is a valid policy concern underlying the existing provisions of the Interpretation. They believe, however, that the danger is not present to the same extent as in other types of offerings, given the fact that sales by the converting institution often occur before any actual underwriting commences, and member underwriters generally do not know the identity of the purchasers from the issuer.

Purchases by Members and Associated Persons of Members

The amendment would provide in Subsection (c) that the Interpretation's existing provision, which makes it a separate violation for a member or person associated with a member to purchase a hot issue, shall not apply to purchases by such persons from the issuer if the three conditions of Subsections (b)(1)(A)-(C) are satisfied. The Board and the NBCC have concluded that the existing prohibition is unnecessary for the reasons previously discussed in connection with the proposed exemption for sales to members and associated persons of members.

Substantiality and Disproportionateness

As noted, the existing Interpretation establishes an overall limitation by prohibiting members from participating in a conversion offering unless the aggregate amount sold by the member and the issuer to all restricted persons is insubstantial and not disproportionate compared to sales to the public. The wording of the amendment should eliminate areas of uncertainty that may be expected to arise in complying with and enforcing the overall limitations of the Interpretation. Thus, the exemptions under Subsections (b)(1) and (2) apply to "a sale" of securities by the issuer. The intent of the exemptions is to exclude all securities in conversion offerings sold by the issuer from consideration in complying with and enforcing the overall restrictions of the Interpretation. For example, a member's direct sales to restricted persons covered by the Interpretation are not intended to be combined with exempted issuer sales in applying the insubstantiality and disproportionate requirements.

* * * * *

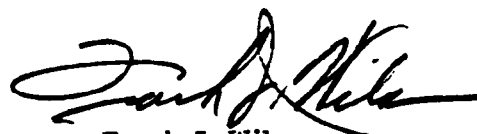
All members and other interested persons are invited to submit comments on the proposed rule. Comments should be received no later than April 28, 1986, and should be directed to:

Mr. James M. Cangiano, Secretary
National Association of Securities Dealers, Inc.
1735 K Street, N.W.
Washington, D.C. 20006

Comments received by this date will be considered by the NBCC and the NASD Board of Governors. Any rule change approved by the Board must be filed with and approved by the Securities and Exchange Commission before becoming effective.

Questions concerning this notice may be directed to either Dennis C. Hensley, Vice President and Deputy General Counsel, or John F. Mylod, Assistant General Counsel, at (202) 728-8294.

Sincerely,



Frank J. Wilson
Executive Vice President
and General Counsel

Attachment

TEXT OF PROPOSED AMENDMENT

Amend the Board of Governors' Interpretation with respect to Free-Riding and Withholding under Article III, Section 1 of the NASD Rules of Fair Practice by adding at the end thereof the following language:

SALES BY ISSUERS IN CONVERSION OFFERINGS

Definitions

(a) For purposes of this Subsection, the following terms shall have the meanings stated:

(1) "Conversion offering" shall mean any offering of securities made as part of a plan by which a savings and loan association or other organization converts from a mutual to a stock form of ownership.

(2) "Eligible purchaser" shall mean a person who is eligible to purchase securities pursuant to the rules of the Federal Home Loan Bank Board or other governmental agency or instrumentality having authority to regulate conversion offerings.

Conditions for Exemption

(b) This Interpretation shall not apply to a sale of securities by the issuer on a non-underwritten basis to any person who would otherwise be prohibited or restricted from purchasing a hot issue security if all of the conditions of this Subsection (b) are satisfied.

(1) Sales to Members, Associated Persons of Members and Certain Related Persons

If the purchaser is a member, person associated with a member, member of the immediate family of any such person to whose support such person contributes, directly or indirectly, or an account in which a member or person associated with a member has a beneficial interest:

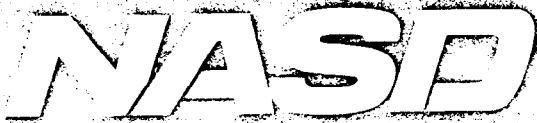
(A) the purchaser shall be an eligible purchaser;

(B) the securities purchased shall be restricted from sale, transfer or hypothecation for a period of 150 days following the conclusion of the offering; and

(C) the fact of purchase shall be reported in writing to the member where the person is associated within one day of payment.

(2) Sales to Other Restricted Persons

If the purchaser is not a person specified in Subsection (b)(1) above, the purchaser shall be an eligible purchaser.



National Association of Securities Dealers, Inc.
1735 K St., N.W. • Washington, D.C. 20006 • (202) 728-8000

notice to members 86-27

April 16, 1986

TO: All NASD Members and Other Interested Persons
ATTN: Corporate Financing Department
RE: Amendments to Corporate Financing Filing Requirements Effective Immediately

The National Association of Securities Dealers, Inc. (NASD), has adopted amendments to the Filing Requirements Section of the Interpretation of the Board of Governors — Review of Corporate Financing, Article III, Section 1 of the NASD Rules of Fair Practice (Corporate Financing Interpretation) which are effective immediately. The new text of the Filing Requirements Section is attached to this notice.

The amendments modify the number and types of documents required to be filed with the NASD Corporate Financing Department and differentiate those offerings exempt from compliance with the Corporate Financing Interpretation from those that are exempt from filing. The one substantive change is a new exemption for mortgage pass-through securities rated investment grade. In addition, the current exemption for debt and equity offerings of corporate issuers that have non-convertible debt or preferred securities rated investment grade has been amended to require that the debt securities have a term of at least four years to qualify for the exemption.

The Corporate Financing Interpretation requires that most public offerings of debt and equity securities that involve member participation be filed with the Corporate Financing Department of the NASD for a review of the underwriting terms and arrangements of the offering. These requirements are contained in the Filing Requirements Section of the Corporate Financing Interpretation which begins at page 2024 and ends at page 2026 of the NASD Manual. The Filing Requirements Section contains information with respect to when documents are required to be filed for review, the number and types of documents required to be filed for review and which offerings are exempt from filing. In addition, the section includes a listing of offerings that are subject to review.

Time of Filing

The NASD has amended the Filing Requirements Section in its entirety by combining the separate headings for interstate, intrastate and Regulation A offerings into one section that references both registration statements and other types of offering documents. To eliminate problems with respect to late filings of offerings with the Corporate Financing Department, the amendments clarify that offerings must be filed with the NASD concurrent with the filing of any of the enumerated documents with the appropriate regulatory authority. Further, the amendments clarify that an offering subject to review by a regulatory authority other than the Securities and Exchange Commission or a state must be filed concurrent with the filing of such offering "with any other regulatory authority," e.g., the Federal Savings and Loan Insurance Corporation or the Federal Home Loan Bank Board.

Documents Filed

With respect to the number and types of documents to be filed, the amendments require: (1) five copies of the registration statement or any other offering document; (2) five copies of each pre-effective and post-effective amendment to the registration statement or any other offering document, with one copy marked to show the changes; (3) three copies of any underwriting agreement or related documents; (4) three copies of any modified underwriting agreement or related documents, with one copy marked to show the changes; and (5) three copies of the final registration statement or other offering document; a list of the members of the underwriting syndicate, if not indicated therein; and one copy of the final underwriting documents and any other documents submitted to the NASD for review.

Exemptions from Filing

The Filing Requirements Section also has been amended to differentiate between offerings exempt from compliance with the Corporate Financing Interpretation or Appendix F to Article III, Section 34 of the NASD Rules of Fair Practice (Appendix F) and those offerings merely exempt from filing. The new provision lists those public offerings exempt from the filing requirements and provides that such offerings are required to be made in compliance with the provisions of the Corporate Financing Interpretation or Appendix F. In addition, the new provision clarifies that exempted offerings remain subject to the filing requirements of Schedule E to the NASD By-Laws — the NASD's self-underwriting rule.

The new provision includes as item (1) the current exemption from filing for debt and equity offerings of corporate issuers that have "senior" non-convertible debt or preferred securities rated investment grade. This exemption has been amended to delete the unnecessary word "senior" and to include a requirement that the investment-grade rated debt securities have a term of at least four years to qualify for the exemption. The NASD believes that in order for an investment-grade rating to give rise to an exemption, it should be based on the issuer's ability to pay principal and interest amounts over a sufficient period. In addition, the new provision includes as item (2) an exemption previously approved for offerings registered with the SEC on Registration Statement Form S-3 and made pursuant to SEC Rule 415. ^{1/} Item (3) of the new provision includes a previously approved exemption from

^{1/} Notice to Members 83-12 (March 8, 1983).

filing for redemption standby arrangements registered with the SEC on Registration Statement Form S-3. ^{2/}

Finally, item (4) of the new provision contains a new exemption from filing for mortgage pass-through securities that are rated investment grade by a nationally recognized statistical rating organization. A "mortgage pass-through security" is an equity interest in a pool of securities backed by mortgages or other financing instruments. The equity interest is issued by a partnership or trust. Financing instruments of this type have been created for home mortgages and automobile loans. Because the investment vehicle provides for flow-through tax treatment of ownership, mortgage pass-through securities are reviewed pursuant to Appendix F, which applies to direct participation programs. Although an equity interest, mortgage pass-through securities have been rated similar to debt instruments and are generally sold to institutional investors. Thus, offerings of mortgage pass-through securities do not contain regulatory issues with respect to suitability, due diligence or underwriting compensation which normally arise in the context of a direct participation program offering. Therefore, the NASD concluded that a direct participation program interest in a pool of financing debt instruments rated investment grade should be exempt from filing with the NASD.

Corporate Financing Interpretation Exemptions

The amendments also contain a list of offerings that are not only exempt from the Filing Requirements Section but also are exempt from compliance with the Corporate Financing Interpretation. Included as item (1) is an exemption for private placements under Sections 4(1), 4(2) and 4(6) of the Securities Act of 1933 and pursuant to SEC Rules 505, 506 and 504 (where the security is not public in the states where offered). Further, changes to clarify language have been made to the current exemptions in items (2), (3) and (4) for "exempt securities" under Section 3(a)(12) of the Securities Exchange Act of 1934, open-end investment companies and variable contracts. Exemptions for municipal securities, cash tender offers, competitively bid utilities offerings, which were contained in Notice to Members 81-17 (April 15, 1981), are also included as items (5) through (7).

Offerings Required to be Filed

Finally, the amendments expand the enumerated list of offerings that are required to be filed for review. These include intrastate offerings that are considered public offerings in the state where offered, public offerings pursuant to SEC Rule 504, and securities offered by a bank, savings and loan association, church or other charitable institution, or a common carrier, even though such offerings may be exempt from registration with the Securities and Exchange Commission.

* * * * *

The amendments to the Filing Requirements Section are effective immediately. It is suggested that members closely examine these amendments. In

^{2/} Notice to Members 81-17 (April 15, 1981).

particular, members should note the new requirements relating to the number and types of offering and underwriting documents required to be filed for review with the NASD Corporate Financing Department.

Any questions concerning this notice may be directed to Suzanne E. Rothwell, Associate Director, NASD Corporate Financing Department, at (202) 728-8258.

Sincerely,

A handwritten signature in black ink, appearing to read "Frank J. Wilson", written in a cursive style.

Frank J. Wilson
Executive Vice President
Legal and Compliance

Attachment

... INTERPRETATION OF THE BOARD OF GOVERNORS

REVIEW OF CORPORATE FINANCING

Article III, Section 1 of the NASD Rules of Fair Practice

Filing Requirements*

All documents and other information required hereby to be filed with the Association, or any communications or inquiries pertaining thereto, shall be submitted to the Director, Corporate Financing Department at the Executive Office of the Association, 1735 K Street, N.W., Washington, D.C., 20006.

(Filing Fees Required—Schedule A to the By-Laws.)

The following documents relating to all proposed public offerings of securities shall be filed for review concurrent with the filing of any of such documents: (i) with the Securities and Exchange Commission; (ii) with the state securities commission (by whatever name known); (iii) with any other regulatory authority; or (iv) if not filed with any regulatory authority, at least fifteen (15) business days prior to the anticipated offering date:

(1) Five (5) copies of the registration statement, offering circular, offering memorandum, notification of filing, notice of intention, application for conversion and/or any other document used to offer securities to the public;

(2) Three (3) copies of any underwriting agreement, agreement among underwriters, selected dealers agreement, agency agreement, purchase agreement, letter of intent, consulting agreement, warrant agreement, escrow agreement, and any other document which describes the underwriting or other arrangements in connection with or related to the distribution, and the terms and conditions relating thereto; and any other information or documents which may be material to or part of the said arrangements, terms and conditions and which may have a bearing on the Committee's review;

(3) Five (5) copies of each pre- and post-effective amendment to the registration statement or other offering document, one copy marked to show changes; and three (3) copies of any other amended document, one copy marked to show changes; and

(4) Three (3) copies of the final registration statement or other offering document and a list of the members of the underwriting syndicate, if not indicated therein; one (1) copy of the final underwriting documents and any other document submitted to the Association for review.

Documents related to the following public offerings need not be filed with the Association for review, unless subject to the provisions of Schedule E to the

* The Filing Requirements Section, effective immediately, is completely revised and replaces all material at pp. 2024 to 2026 of the NASD Manual.

By-Laws, provided, however, it shall be deemed a violation of Article III, Section 1 of the Rules of Fair Practice, or Appendix F to Article III, Section 34 of the Rules of Fair Practice if a direct participation program, for a member to participate in any way in such public offerings if the underwriting or other arrangements in connection with the offering are not in compliance with this Interpretation or Appendix F, as applicable:

(1) securities offered by a corporate, foreign government or foreign government agency issuer which has non-convertible debt with a term of issue of at least four years, or non-convertible preferred securities, rated by a nationally recognized statistical rating organization in one of its four highest generic rating categories;

(2) securities registered with the Securities and Exchange Commission on registration statement Form S-3 and offered pursuant to Rule 415 adopted under the Securities Act of 1933, as amended;

(3) securities offered pursuant to a redemption standby "firm commitment" underwriting arrangement registered with the Securities and Exchange Commission on Form S-3; and

(4) direct participation program interests in a pool of financing instruments which are rated by a nationally recognized statistical rating organization in one of its four highest generic rating categories.

The following offerings are exempt from this Interpretation and documents relating to such offerings need not be filed for review:

(1) securities exempt from registration with the Securities and Exchange Commission pursuant to the provisions of Sections 4(1), 4(2) and 4(6) of the Securities Act of 1933, as amended, and pursuant to Rule 504 (unless considered a public offering in the states where offered), Rule 505 and Rule 506 adopted under the Securities Act of 1933, as amended;

(2) securities which are defined as "exempt securities" in Section 3(a)(12) of the Securities Exchange Act of 1934, as amended;

(3) securities of investment companies registered under the Investment Company Act of 1940, as amended, except securities of a management company defined as "closed-end company" in Section 5(a)(2) of that Act;

(4) variable contracts as defined in Article III, Section 29(b)(1) of the Rules of Fair Practice;

(5) offerings of municipal securities as defined in Section 3(a)(29) of the Securities Exchange Act of 1934, as amended;

(6) tender offers made pursuant to Regulation 14D adopted under the Securities Exchange Act of 1934, as amended; and

(7) securities issued pursuant to a competitively bid underwriting arrangement meeting the requirements of the Public Utility Holding Company Act of 1935, as amended.

Documents relating to all other public offerings including, but not limited to, the following must be filed with the Association for review:

(1) direct participation programs as defined in Article III, Section 34(d)(2) of the Rules of Fair Practice;

(2) securities offered pursuant to Regulation B adopted under the Securities Act of 1933, as amended;

(3) mortgage and real estate investment trusts;

(4) rights offerings;

(5) securities exempt from registration with the Securities and Exchange Commission pursuant to Section 3(a)(11) of the Securities Act of 1933, as amended, which is considered a public offering in the state where offered;

(6) securities exempt from registration with the Securities and Exchange Commission pursuant to Rule 504 adopted under the Securities Act of 1933, as amended, which is considered a public offering in the states where offered;

(7) securities offered by a bank, savings and loan association, church or other charitable institution, or common carrier even though such offering may be exempt from registration with the Securities and Exchange Commission;

(8) securities offered pursuant to Regulation A adopted under the Securities Act of 1933, as amended; and

(9) any offerings of a similar nature.

Comm

NASD

National Association of Securities Dealers, Inc.
1735 K St., N.W. • Washington, D.C. 20006 • (202) 728-8000

notice to members 86-28

April 22, 1986

TO: All NASD Members and Other Interested Persons

RE: Request for Comments on Proposed Amendments to Schedule E of the
NASD By-Laws

LAST DATE FOR COMMENT: MAY 22, 1986

The National Association of Securities Dealers, Inc. (NASD), has approved proposed amendments to Schedule E to the NASD By-Laws that are intended to clarify the scope and application of the schedule. Schedule E contains various requirements applicable to the public offering of a member's securities or those of an affiliate. The majority of the proposals do not contain substantive changes, but merely clarify certain provisions and incorporate interpretations of the schedule. However, one proposal to exempt mortgage-backed securities from compliance with Schedule E represents a substantive change.

The purpose of this notice is to solicit public comments on the proposed amendments. The text of the proposed amendments is attached.

EXPLANATION OF THE PROPOSED AMENDMENTS

Exemption for Mortgage-Backed Securities

The NASD is proposing to amend Section 2(a)(3) of Schedule E to provide an exemption for offerings of financing instrument-backed debt securities rated investment grade. The proposed amendment is intended to exempt from NASD review distributions of securities by affiliates of members organized solely for the purpose of offering debt to the public that is collateralized with a specified portfolio of debt instruments, generally referred to as mortgage-backed securities or collateralized mortgage obligations.

Currently, offerings of mortgage-backed securities rated investment grade are exempt from NASD review pursuant to an exemption incorporated in the Interpretation of the NASD Board of Governors--Review of Corporate Financing (the Corporate Financing Interpretation). The exemption reflects the NASD's view that the competitive market forces that ordinarily affect investment grade debt can be

relied upon to assure its fair pricing and the fairness and reasonableness of underwriting compensation. Consistent with this view, the NASD is proposing an exemption from compliance with Schedule E for mortgage-backed securities. It would appear that members' conflicts of interest addressed by Schedule E, related to the pricing of the offering, the members' due diligence obligations and the suitability of investors, are absent in distributions of mortgage-backed securities that have received such a rating. An investment grade rating reflects the confidence of the rating agency regarding the ability of the corporation to pay dividends and to redeem the obligations when required to do so. In addition, the investment grade rating of the securities routinely results in their sale to investors that are of an institutional or a financially sophisticated nature.

Other Amendments

Section 2 — The NASD is proposing to modify the definition of "affiliate" in Subsection 2(a)(2) to clarify that the term shall include "but is not limited to" situations where an affiliate relationship is presumed to exist. In addition, the term "beneficial ownership," which is used in Subsection 2(a) to determine whether an affiliate relationship exists, is proposed in new Subsection 2(b) to be defined as the right to the economic benefits of a security, rather than the right to vote a security. Further, the definition of "immediate family" in Subsection 2(f) is proposed to be modified to be consistent with the Free-Riding and Withholding Interpretation. The amendments would also update the definition of a "public offering" in Subsection 2(j) to reflect that Schedule E does not apply to offerings pursuant to Section 4(6) of the Securities Act of 1933 and Rule 504 (unless considered a public offering in the states where offered), Rule 505 and Rule 506 of SEC Regulation D.

Section 3 — The NASD is proposing to amend this section to clarify in Subsections 3(a) and (c) that compliance with the section is required only when a member is participating in a distribution of its own or an affiliate's securities. Further, Subsection 3(d) is proposed to be deleted as unnecessary since Subsection 3(c) was previously modified to require only the participation of one qualified independent underwriter and permits the affiliated member to participate to an unlimited extent in the offering.

Section 4 — The NASD is proposing an amendment to Section 4 to incorporate the NASD's existing disclosure policy with respect to offerings subject to the schedule. The new provision in Subsection 4(b) would require disclosure in the offering document that the offering is of a member's securities or those of an affiliate, the offering is being made pursuant to Schedule E, the name of the qualified independent underwriter, if any, and that such underwriter has assumed the responsibility of pricing and due diligence. Since such disclosure has been made in Schedule E offerings in the past, the NASD determined to specifically include this requirement in the schedule.

Section 9 — The amendments would also clarify the language in Section 9, which deals with affiliations resulting from an offering, to include situations where the issuer proposes to utilize offering proceeds to register as a member and where a member would become an affiliate of the issuer as a result of a transaction with the issuer or its affiliate that occurs simultaneous or subsequent to the public offering. In addition, Section 9 is proposed to be amended to clarify that offerings within Section 9 shall be subject to Schedule E "to the same extent as if the transaction had occurred prior to the filing of the offering."

Section 13 — Section 13, which provides an exception to the Free-Riding and Withholding Interpretation for sales to employees of a member, is proposed to be amended to clarify that employees of a member are only permitted to purchase securities of the member or those of the member's parent. In addition, Section 13 is proposed to be amended to reduce the lock-up period by one-month, from six months to five months, to permit purchasers to take advantage of a short-term tax loss if the price of the securities should decrease.

Section 14 — The filing requirements section of the schedule is proposed to be modified to clarify that members are required to file public offerings subject to Schedule E with the NASD for review, notwithstanding the fact that such offerings may not be required to be filed pursuant to an exemption from filing under the Corporate Financing Interpretation.

Finally, several miscellaneous amendments are proposed to the schedule. These include a clarification of Section 1 that the schedule applies to both debt and equity offerings and to offerings of securities by an affiliate of a member; modification of Section 5 to combine the escrow requirements now contained in Section 4 with the net capital requirements of the schedule; and modification of the designations of Sections 4 and 5 to more accurately reflect the revised subjects of those sections.

REQUEST FOR COMMENTS

The NASD is requesting comments on the proposed amendments prior to final consideration by the NASD Board of Governors. All comments received during the comment period will be reviewed by the Corporate Financing Committee, and changes to the amendments will be recommended as deemed appropriate. The Board of Governors will then reconsider the amendments. If the Board approves the amendments or an amended version, it must be filed with and approved by the Securities and Exchange Commission before it becomes effective.

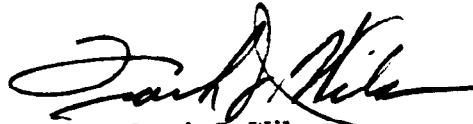
All comments should be in writing and should be addressed to:

Mr. James M. Cangiano, Secretary
National Association of Securities Dealers, Inc.
1735 K Street, N.W.
Washington, D.C. 20006

All comments must be received by May 22, 1986, to be assured of consideration. All comments received will be made available for public inspection.

Any questions regarding this notice should be directed to either Suzanne E. Rothwell, Associate Director, or Larry M. Worrell, Coordinating Analyst, NASD Corporate Financing Department, at (202) 728-8258.

Sincerely,



Frank J. Wilson
Executive Vice President
Legal and Compliance

Attachment

SCHEDULE E

DISTRIBUTION OF SECURITIES OF MEMBERS AND AFFILIATES*

Section 1 — General

No member or person associated with a member shall participate in the distribution of a public offering of debt or equity securities [issued or] to be issued by the member or an affiliate of the member and no member or affiliate of a member shall issue securities except in accordance with this Schedule.

Section 2 — Definitions

For purposes of this Schedule, the following words shall have the stated meanings:

(a) Affiliate —

- (1) a company which controls, is controlled by or is under common control with a member;
- (2) The term affiliate shall include, but is not limited to, the following [F] for purposes of subsection 2(a)(1) [hereof,]:
 - (i) a company will be presumed to control a member if the company beneficially owns 10 percent or more of the outstanding voting securities of a member which is a corporation, or beneficially owns a partnership interest in 10 percent or more of the distributable profits or losses of a member which is a partnership;
 - (ii) a member will be presumed to control a company if the member and persons associated with the member beneficially own 10 percent or more of the outstanding voting securities of a company which is a corporation, or beneficially own a partnership interest in 10 percent or more of the distributable profits or losses of a company which is a partnership;
 - (iii) a company will be presumed to be under common control with a member if:
 - (1) the same natural person or company controls both the member and company by beneficially owning 10 percent or more of the outstanding voting securities of a member or company which is a corporation, or by beneficially owning a partnership interest in 10 percent or more of the distributable profits or losses of a member or company which is a partnership; or

* Deleted language is in brackets; new language is underlined.

- (2) a person having the power to direct or cause the direction of the management or policies of the member or the company also has the power to direct or cause the direction of the management or policies of the other entity in question.
- (3) The provisions of paragraphs (1) and (2) hereof notwithstanding, none of the following shall be presumed to be an affiliate of a member for purposes of this Schedule E:
 - (i) an investment company registered with the Securities and Exchange Commission pursuant to the Investment Company Act of 1940, as amended;
 - (ii) a "separate account" as defined in Section 2(a)(37) of the Investment Company Act of 1940, as amended;
 - (iii) a "real estate investment trust" as defined in Section 856 of the Internal Revenue Code;
 - (iv) a "direct participation program" as defined in Article III, Section 34 of the Rules of Fair Practice; and
 - (v) financing instrument-backed debt securities of a corporation which are rated by a nationally recognized statistical rating organization in one of its four highest generic rating categories.

(b) Beneficial ownership -- the right to the economic benefits of a security.

- [(b)](c) Bona fide independent market--a market in a security which:
- (1) is registered pursuant to the provisions of Sections 12(b) or 12(g) of the Securities Exchange Act of 1934 or issued by a company subject to Section 15(d) of such Act, unless exempt from those provisions;
 - (2) has an aggregate trading volume for the 12 months immediately preceding the filing of the registration statement of at least 100,000 shares;
 - (3) has outstanding for the entire twelve-month period immediately preceding the filing of the registration statement, a minimum of 250,000 publicly held shares [of the class of securities being offered]; and
 - (4) in the case of over-the-counter securities, has had at least three bona fide independent market makers for a period of at least 30 days immediately preceding the filing of the registration statement and the effective date of the offering.

- [(c)](d) Bona fide independent market maker--a market maker which:
- (1) continually maintains net capital as determined by Rule 15c3-1 of the General Rules and Regulations under the Securities Exchange Act of 1934 of \$50,000 or \$5,000 for each security in which it makes a market, whichever is less;

- (2) regularly publishes bona fide competitive bid and offer quotations in a recognized interdealer quotation system;
 - (3) furnishes bona fide competitive bid and offer quotations to other brokers and dealers on request; and
 - (4) stands ready, willing and able to effect transactions in reasonable amounts, and at his quoted prices, with other brokers and dealers.
- [(d)](e) Company -- a corporation, a partnership, an association, a joint stock company, a trust, a fund, or any organized group of persons whether incorporated or not; or any receiver, trustee in bankruptcy or similar official or any liquidating agent for any of the foregoing, in his capacity as such.
- [(e)](f) Effective date -- the date on which an issue of securities first becomes legally eligible for distribution to the public.
- [(f)](g) Immediate family -- parents, mother-in-law, father-in-law, husband or wife, brother or sister, brother-in-law or sister-in-law, son-in-law or daughter-in-law, and children, or any [relative] other person [to whom financial support is contributed directly or indirectly by an employee of, or person associated with, a member] who is supported, directly or indirectly, to a material extent by any person specified in subsection 2(a) or 2(e).
- [(g)](h) Parent -- any entity affiliated with a member from which member the entity derives 50 percent or more of its gross revenues or in which it employs 50 percent or more of its assets.
- [(h)](i) Person -- any natural person, partnership, corporation, association, or other legal entity.
- [(i)](j) Public director -- a person elected from the general public to the board of directors of a member or its parent which has made a public distribution of an issue of its own securities. Such person shall not beneficially own five percent or more of the outstanding voting securities of the member or its parent and shall not be engaged in the investment banking or securities business or be an officer or employee of the member or its parent, or be a member of the immediate family of an employee occupying a managerial position with a member or its parent.
- [(j)](k) Public offering -- any primary or secondary distribution of securities made pursuant to a registration statement or offering circular including exchange offer[ing]s, rights offerings, offerings made pursuant to a merger or acquisition, straight debt offerings and all other securities distributions of any kind whatsoever, except any offering made pursuant to an exemption under Sections 4(1), [or] 4(2), or 4(6) of the Securities Act of 1933, as amended, or pursuant to Rule 504 (unless considered a public offering in the states where offered), Rule 505 or Rule 506 adopted under the Securities Act of 1933, as amended.

- [(k)](1)** Qualified independent underwriter* — a member which:
- (1) is actively engaged in the investment banking or securities business and which has been so engaged, in its present form or through predecessor broker/dealer entities, for at least five years immediately preceding the filing of the registration statement;
 - (2) in at least three of the five years immediately preceding the filing of the registration statement has had net income from operations of the broker/dealer entity or from the pro forma combined operations of predecessor broker/dealer entities, exclusive of extraordinary items, as computed in accordance with generally accepted accounting principles;
 - (3) as of the date of the filing of the registration statement and as of the effective date of the offering:
 - a. if a corporation, a majority of its board of directors or, if a partnership, a majority of its general partners, are persons who have been actively engaged in the investment banking or securities business for the five-year period immediately preceding the filing of the registration statement;
 - b. if a sole proprietorship, the proprietor has been actively engaged in the investment banking or securities business for the five-year period immediately preceding the filing of the registration statement;
 - (4) has actively engaged in the underwriting of public offerings of securities for at least the five-year period immediately preceding the filing of the registration statement;
 - (5) is not an affiliate of the entity issuing securities pursuant to Section 3 of this Schedule; and
 - (6) has agreed in acting as a qualified independent underwriter to undertake the legal responsibilities and liabilities of an underwriter under the Securities Act of 1933, specifically including those inherent in Section 11 thereof.
- [(l)](m)** Registration statement — a registration statement as defined by Section 2(8) of the Securities Act of 1933; notification on Form 1A filed with the Securities and Exchange Commission pursuant to the provisions of Rule 255 of the General Rules and

* In the opinion of the National Association of Securities Dealers, Inc., and the Securities and Exchange Commission, the full responsibilities and liabilities of an underwriter under the Securities Act of 1933 attach to a "qualified independent underwriter" performing the functions called for by the provisions of Section 3 hereof.

Regulations under the Securities Act of 1933; or any other document, by whatever name known, initiating a registration or similar process for an issue of securities which is required to be filed by the laws or regulations of any federal or state agency.

[(m)](n) Settlement -- the distribution of the net proceeds from an offering to the issuer or selling stockholders.

**Section 3 -- Participation in Distribution
of Securities of Member or Affiliate**

- (a) No member shall underwrite, participate as a member of the underwriting syndicate or selling group, or otherwise assist in the distribution of a public offering of an issue of debt or equity securities [issued or] to be issued by the member or an affiliate of the member which is participating in the distribution of its own or its affiliate's securities, unless the member is in compliance with subsection 3(b) and [either] subsection 3(c) [or 3(d)] below [, depending on the nature of the member's participation].
- (b) In the case of a member which is a corporation, the majority of the board of directors, or in the case of a member which is a partnership, a majority of the general partners or, in the case of a member which is a sole proprietorship, the proprietor as of the date of the filing of the registration statement and as of the effective date of the offering shall have been actively engaged in the investment banking or securities business for the five year period immediately preceding the filing of the registration statement.
- (c) If a member proposes to underwrite, participate as a member of the underwriting syndicate or selling group, or otherwise assist in the distribution of a public offering of [debt or equity] its own or an affiliate's securities subject to this Section without limitation as to the amount of securities to be distributed by the member, one or more of the following three criteria shall be met:
 - (1) the price at which an equity issue or the yield at which a debt issue is to be distributed to the public is established at a price no higher or yield no lower than that recommended by a qualified independent underwriter which shall also participate in the preparation of the registration statement and the prospectus, offering circular, or similar document and which shall exercise the usual standards of "due diligence" in respect thereto; provided, however, that an offering of securities by a member which has not been actively engaged in the investment banking or securities business, in its present form or as a predecessor broker/dealer, for at least the five years immediately preceding the filing of the registration statement shall be managed by a qualified independent underwriter; or
 - (2) the offering is of a class of equity securities for which a bona fide independent market exists as of the date of the filing of

the registration statement and as of the effective date thereof; or

- (3) the offering is of a class of securities rated Baa or better by Moody's rating service or Bbb or better by Standard & Poor's rating service or rated in a comparable category by another rating service acceptable to the [Association] Corporation.

- [(d) A member may participate as a member of the underwriting syndicate or selling group in the distribution of a public offering of debt or equity securities subject to this Section without regard to the requirements of subsection (c) if the member restricts its participation to an amount not exceeding ten percent of the total dollar amount of the offering and the offering is underwritten on a firm commitment basis and managed by a qualified independent underwriter.]

Section 4 — [Escrow of Proceeds] Disclosure

- [(a) All proceeds from an offering by a member of its securities shall be placed in a duly established escrow account and shall not be released therefrom or used by a member in any manner until the member has complied with Section 5 hereof.]

- [(b)](a) Any member offering its securities pursuant to this Schedule shall disclose in the registration statement, offering circular or similar document a date by which the offering is reasonably expected to be completed and the terms upon which the proceeds will be released from the escrow account described in subsection 5(a) [hereof.];

- (b) All offerings included within the scope of this Schedule shall disclose in the underwriting section of the registration statement, offering circular or similar document that the offering is being made pursuant to the provisions of this Schedule, that the offering is being made by a member of its own securities or those of an affiliate, the name of the member acting as qualified independent underwriter, if any, and that such member is assuming the responsibilities of acting as a qualified independent underwriter in pricing the offering and conducting due diligence.

Section 5 — Escrow of Proceeds; Net Capital Computation

- (a) All proceeds from an offering by a member of its securities shall be placed in a duly established escrow account and shall not be released therefrom or used by a member in any manner until the member has complied with subsection 5(b) hereof.

- (b) Any member offering its securities pursuant to this Schedule shall immediately notify the Corporation when the offering has been terminated and settlement effected and it shall file with the Corporation a computation of its net capital computed pursuant to the provisions of Rule 15c3-1 of the General Rules and Regulations under the

Securities Exchange Act of 1934 (the net capital rule) as of the settlement date. If at such time its net capital ratio as so computed is more than 10:1 or, net capital fails to equal 120 percent of the minimum dollar amount required by Rule 15c3-1 or, in the event the provisions of Rule 15c3-1(f) are utilized in making such computation, the net capital is less than seven percent of aggregate debit items as computed in accordance with Rule 15c3-3a, all monies received from sales of securities of the offering must be returned in full to the purchasers thereof and the offering withdrawn, unless the member has obtained from the Securities and Exchange Commission a specific exemption from the net capital rule. Proceeds from the sales of securities in the offering may be taken into consideration in computing net capital ratio for purposes of this section.

Section 6 — Audit Committee[s]

Any member or parent of a member which makes a public offering of an issue of its securities shall be required to establish within twelve months of the effective date of said offering an audit committee composed of members of the board of directors (except that it shall not include the chief accounting or chief financial officer of the member or its parent) and the functions of the audit committee shall include the following:

- (a) to review the scope of the audit;
- (b) to review with the independent auditors the corporate accounting practices and policies and recommend to whom reports should be submitted within the company;
- (c) to review with the independent auditors their final report;
- (d) to review with internal and independent auditors overall accounting and financial controls; and
- (e) to be available to the independent auditors during the year for consultation purposes.

Section 7 — Public Director

Any member or parent of a member which makes a public offering of an issue of its securities shall cause to be elected to its board of directors within twelve months of the effective date of said offering a public director who shall serve as a member of the audit committee.

Section 8 — Periodic Reports

Any member who makes a distribution to the public of an issue of its securities pursuant to this Schedule, shall send to each of its shareholders or, in the case of debt offerings, to each of its investors:

- (1) quarterly, a summary statement of its operations; and
- (2) annually, independently audited and certified financial statements.

Section 9 — Offerings Resulting in Affiliation or Public Ownership of Member

If an issuer proposes to direct all or part of the proceeds from a public offering to a member or exchange securities by means of a public offering for an interest in a member, and the member is, or as a result of the proposed transaction would be, an affiliate of the issuer, or if an issuer proposes to engage in any offering which results in the public ownership of a member, or if an issuer proposes to utilize the proceeds from a public offering to register a member, or if a member proposes simultaneously or subsequent to a public offering to enter into a transaction with the issuer or an affiliate of the issuer and as a result of the transaction would be an affiliate of the issuer, the offering shall be subject to the provisions of this Schedule [E] to the same extent as if the [offering were of securities issued by the member] transaction had occurred prior to the filing of the offering.

Section 10 — Registration Statements for Intrastate Offerings

Any member offering its securities pursuant to an exemption under Section 3(a)(11) of the Securities Act of 1933 shall disclose in the registration statement at a minimum that information suggested by the Securities and Exchange Commission in Securities Act Release No. 5222 (January 3, 1972).

Section 11 — Suitability

Every member underwriting an issue of its securities, or securities of an affiliate, pursuant to the provisions of Section 3 hereof, who recommends to a customer the purchase of a security of such an issue shall have reasonable grounds to believe that the recommendation is suitable for such customer on the basis of information furnished by such customer concerning the customer's investment objectives, financial situation, and needs, and any other information known by such member. In connection with all such determinations, the member must maintain in its files the basis for its determination.

Section 12 — Discretionary Accounts

Notwithstanding the provisions of Article III, Section 15 of the Corporation's Rules of Fair Practice, or any other provisions of law, a transaction in securities issued by a member or an affiliate of a member shall not be executed by any member in a discretionary account without the prior specific written approval of the customer.

Section 13 — Sales to Employees — No Limitations

Notwithstanding the provisions of the Board of Governors' Interpretation With Respect To "Free-Riding And Withholding," a member may sell securities issued by a member, [or an affiliate] a parent of a member, or by an issuer treated as a member or parent of a member under [which is subject to] Section 9 hereof to the member's employees; potential employees resulting from intended mergers, acquisitions, or other business combination of members resulting in one public successor corporation, or persons associated with it; and the immediate family of such employees or associated persons without limitation as to amount and regardless of whether such persons have an investment history with the member as required by that Interpretation; provided, however, that in the case of an offering of equity securities for which a bona fide independent market does not exist, such securities

shall not be sold, transferred, assigned, pledged or hypothecated for a period of [six] five months following the effective date of the offering.

**Section 14 — Filing Requirements;
Coordination with Corporate Financing Interpretation**

- (a) Notwithstanding the provisions of the "Interpretation of the Board of Governors - Review Of Corporate Financing" relating to factors to be taken into consideration in determining underwriter's compensation, the value of securities of a new corporate member succeeding to a previously established partnership or sole proprietorship member acquired by such member or person associated therewith, or created as a result of such reorganization, shall not be taken into consideration in determining such compensation.
- (b) All offerings of securities included within the scope of this Schedule shall be subject to the provisions of the "Interpretation of the Board of Governors — Review Of Corporate Financing" and documents and filing fees relating to such offerings shall be filed with the Corporation pursuant to the provisions of that Interpretation. The responsibility for filing the required documents and fees shall be that of the member issuing securities, or, in the case of an issue of an affiliate, the managing underwriter or, if there is none, the member affiliated with the issuer.
- (c) All offerings included within the scope of this Schedule are required to be filed with the Corporation, with the appropriate documents and filing fee referred to under subsection 14(b), notwithstanding the fact that the offering may otherwise be expressly exempted from filing under the provisions of the "Interpretation of the Board of Governors-Review of Corporate Financing."

Section 15 — Predominance of Schedule E

If the provisions of this Schedule E are inconsistent with any other provisions of the Corporation's By-Laws, Rules of Fair Practice or Uniform Practice Code, or of any interpretation thereof or resolution of the Board of Governors, the provisions of this Schedule shall prevail.

Section 16 — Requests for Exemption from Schedule E

The Corporate Financing Committee of the Board of Governors, upon written request, may in exceptional and unusual circumstances, taking into consideration all relevant factors, exempt a member unconditionally or on specified terms from any or all of the provisions of Schedule E which it deems appropriate. Unless waived by the party requesting an exemption, a hearing shall be held upon a request before the Corporate Financing Committee, or a Subcommittee thereof designated for that purpose.

Section 17 — Violation of Schedule E

A violation of the provisions of this Schedule shall constitute conduct inconsistent with high standards of commercial honor and just and equitable principles of trade and a violation of Article III, Section 1 of the Corporation's Rules of Fair Practice and possibly other sections, especially Sections 2 and 18, as the circumstances of the case may dictate.



National Association of Securities Dealers, Inc.
1735 K St., N.W. • Washington, D.C. 20006 • (202) 728-8000

notice to members 86-29

April 23, 1986

IMPORTANT MAIL VOTE OFFICERS, PARTNERS AND PROPRIETORS

TO: All NASD Members and Other Interested Persons

RE: Proposed Amendment to Article III, Section 21 of the NASD Rules of Fair Practice Relating to Short Sales

LAST VOTING DATE IS MAY 23, 1986

Members of the National Association of Securities Dealers, Inc. (NASD), are invited to vote on a proposed amendment to Article III, Section 21 of the NASD Rules of Fair Practice. The proposed amendment has been approved by the NASD Board of Governors and now requires the membership's approval.

The proposed amendment to Article III, Section 21 of the NASD Rules of Fair Practice would require customer order tickets to be marked "long" or "short." Under the proposal, an order may be marked "long" only if (1) the customer's account is "long" the security; or (2) the member is informed that the customer owns the security and will deliver it as soon as possible without undue inconvenience or expense. The text of the proposed amendment is attached as Exhibit 1.

The proposed amendment to Article III, Section 21 was published for comment on December 24, 1985 (Notice to Members 85-87). If approved by the membership, the proposed amendment will be filed with the Securities and Exchange Commission.

Also published for comment in Notice to Members 85-87 were proposed amendments to the Interpretation of the Board of Governors on Prompt Receipt and Delivery of Securities (Interpretation) that imposed specific requirements for members accepting "short" customer sell orders. Under the proposed amendments, a member would be prohibited from accepting a "short" sale order from a customer unless the member makes an affirmative determination that it will receive delivery of the security from the customer or that it can borrow the security on behalf of the

customer for delivery by settlement date. These amendments were approved by the NASD Board of Governors and will be submitted to the Securities and Exchange Commission for approval. Pursuant to Article VII of the NASD By-Laws, amendments to an Interpretation of the Board of Governors do not require a membership vote. The text of the amendments to the Interpretation is attached as Exhibit 2 for informational purposes only.

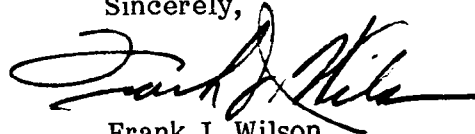
* * * * *

The Board of Governors believes that the amendment to Article III, Section 21 of the NASD Rules of Fair Practice is necessary and appropriate and recommends that members vote their approval.

Please mark the attached ballot according to your convictions and return it in the enclosed stamped envelope to "The Corporation Trust Company." Ballots must be postmarked no later than May 23, 1986.

Questions concerning this notice may be directed to Mary S. Head, NASD Office of the General Counsel, at (202) 728-8284.

Sincerely,

A handwritten signature in black ink, appearing to read "Frank J. Wilson", written over a horizontal line.

Frank J. Wilson
Executive Vice President
and General Counsel

Attachments

**PROPOSED AMENDMENT TO ARTICLE III,
SECTION 21 OF THE NASD RULES OF FAIR PRACTICE**

Add a new subsection (b) and renumber the existing subsections:

Information on orders

(b) A person associated with a member shall indicate on the memorandum for each customer order for the sale of any security whether the order is "long" or "short." An order shall be marked "long" only if (1) the customer's account is "long" the security involved or (2) the member is informed that the customer owns the security and will deliver it as soon as possible without undue inconvenience or expense.

**PROPOSED AMENDMENTS TO THE INTERPRETATION OF THE
BOARD OF GOVERNORS ON PROMPT RECEIPT AND DELIVERY OF SECURITIES**

(Note: New language is underscored; language to be deleted is bracketed.)

It shall be deemed a violation of Article III, Section 1 of the Rules of Fair Practice of the Association for a member to violate the provisions of the following interpretation thereof:

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

(b) Sales:

(1) Long Sales

No member or persons associated with a member shall accept [execute] a long sale [sell] order for any customer in any security unless:

(a) The member has possession of the security;

(b) The customer is long in his account with the member;

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

(d) The security is on deposit in good deliverable form with a member of the Association, a member of a national securities exchange, a broker-dealer registered with the Securities and Exchange Commission, or any organization

subject to state or federal banking regulations and that instructions have been forwarded to that depository to deliver the securities against payment.

(2) "Short" Sales

No member or person associated with a member shall accept a "short" sale order for any customer in any security unless the member makes an affirmative determination that it will receive delivery of the security from the customer or that it can borrow the security on behalf of the customer for delivery by settlement date.

(3) In the case of a public offering of securities, paragraph 1 hereof shall not apply during the period from the commencement of the public offering until seven (7) business days following the date of settlement between the underwriter and the issuer of the securities; provided, however, that the member believes in good faith that the customer has purchased the securities.

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

NASD

National Association of Securities Dealers, Inc.
1735 K St., N.W. • Washington, D.C. 20006 • (202) 728-8000

notice to members 86-30

April 24, 1986

TO: All NASD Members and Other Interested Persons

RE: Quarterly Checklist of Notices to Members

The following is a list of NASD Notices to Members issued during the first quarter of 1986. Requests for copies of any notice should be accompanied by a self-addressed mailing label and directed to: NASD Administrative Services, 1735 K Street, N.W., Washington, D.C. 20006.

Notice Number	Date	Topic
86-1	January 2, 1986	Amendments to Venture Capital Restrictions Effective
86-2	January 13, 1986	Quarterly Checklist of Notices to Members
86-3	January 15, 1986	NASDAQ National Market System Grows to 2,218 Securities With 16 Voluntary Additions on January 21, 1986
86-4	January 20, 1986	New NASD Rule of Fair Practice Relating to Monthly Reporting of Aggregate "Short" Positions
86-5	January 21, 1986	Presidents' Day: Trade Date - Settlement Date Schedule
86-6	January 29, 1986	NASDAQ National Market System Grows to 2,237 Securities With 19 Voluntary Additions on February 4, 1986, and 4 Mandatory Inclusions on February 11, 1986
86-7	January 29, 1986	SIPC Trustee Appointed Bartel Securities, Inc. 1 Oxford Valley, Suite 702 Langhorne, Pennsylvania 19047

Notice Number	Date	Topic
86-8	February 3, 1986	SIPC Trustee Appointed Brittenuum & Associates, Inc. Lafayette Building 525 Louisiana Little Rock, Arkansas 72201
86-9	February 7, 1986	Amendments to Article III of the NASD Rules of Fair Practice
86-10	February 12, 1986	NASDAQ National Market System Grows to 2,246 Securities With 22 Voluntary Addi- tions on February 18, 1986
86-11	February 13, 1986	New Application Fee For Statutorily Dis- qualified Individuals
86-12	February 20, 1986	Effectiveness of Amendment to NASD's Uniform Practice Code Concerning Cus- tomer Account Transfers
86-13	February 21, 1986	Request for Comments on Proposed Amendment to Schedule D of the NASD By- Laws to Authorize Trading Halts in NASDAQ Securities and Listed Securities Traded Over-the-Counter
86-14	February 24, 1986	NASDAQ National Market System Grows to 2,259 Securities With 14 Voluntary Addi- tions on March 4, 1986
86-15	February 28, 1986	Monthly Reports of Aggregate "Short" Positions
86-16	March 4, 1986	Amendments to SEC Rule 10b-10
86-17	March 5, 1986	Availability of New Outline for the Series 7 General Securities Representative Exami- nation; Updating of Margin Questions on Option Principal Examinations
86-18	March 10, 1986	NASDAQ National Market System Grows to 2,277 Securities With 20 Voluntary Addi- tions on March 18, 1986
86-19	March 11, 1986	Treasury Department Amends the Currency Transaction Report
86-20	March 11, 1986	Request for Comment on Proposed Rule Requiring Supervisory Procedures on Limit Orders
86-21	March 12, 1986	Holiday Settlement Schedule

Notice Number	Date	Topic
86-22	March 24, 1986	NASDAQ National Market System Grows to 2,280 Securities With 11 Voluntary Additions on April 1, 1986
86-23	March 27, 1986	Request for Comments on Proposed Amendments to the NASD By-Laws and Code of Procedure to Accommodate Extended Hearings

NASD

National Association of Securities Dealers, Inc.
1735 K St., N.W. • Washington, D.C. 20006 • (202) 728-8000

notice to members 86-31

April 25, 1986

TO: All NASD Members and Other Interested Persons

RE: Request for Comments on a Proposed Amendment to Article III, Section 19(f) of the NASD Rules of Fair Practice

LAST DATE FOR COMMENT: MAY 25, 1986

The Board of Governors of the National Association of Securities Dealers, Inc. (NASD), is seeking comments on a proposed amendment to Article III, Section 19(f) of the NASD Rules of Fair Practice, which would, under certain circumstances, allow performance-type fees. Section 19(f) generally prohibits members or persons associated with members from sharing in the profits or losses in customer accounts other than in direct proportion to the amount invested. The proposed amendment was recommended to the Board of Governors by the National Business Conduct Committee (NBCC) pursuant to a study of the issue by a subcommittee of the NBCC dealing with investment advisory-related issues.

BACKGROUND

This matter was considered by the Board of Governors in view of the recent promulgation by the Securities and Exchange Commission (SEC) of Rule 205-3 under the Investment Advisers Act of 1940 (Advisers Act). The NASD staff has, in the past, occasionally taken no-action positions with respect to certain performance-type fees in circumstances where a customer has entered into an agreement with a member or persons associated with a member and the facts indicate that the investment is relatively large; the number of investors is limited; there is evidence of the investors' sophistication; and that the agreement could be reasonably considered to be entered into by virtue of arm's-length negotiation.

The recent adoption of SEC Rule 205-3 under the Advisers Act marks the codification of the SEC staff's position since 1975, that under certain factual circumstances, the prohibitions of Section 205(1) of the Advisers Act against performance-type fees may not be necessary or appropriate in the public interest. Rule 205-3 applies similar, although more specific, standards to those utilized by the NASD with respect to Section 19(f) no-action requests.

PROPOSED AMENDMENT

The proposed amendment to Section 19(f) generally parallels the SEC rule and would allow sharing in the profits or losses in customer accounts when the following conditions are met:

- The person seeking such compensation obtains written authorization from the member carrying the account;
- The customer's net worth is not less than \$1 million, or the minimum amount invested in the account is not less than \$500,000;
- The customer understands the method of compensation and its risks, and the arrangement has been set forth in a written agreement between the customer and the member;
- The arrangement represents an arm's-length agreement between the parties;
- The formula takes into account profits and losses over a period of at least one year; and
- The member has disclosed all material aspects of the compensation agreement and any conflicts of interest that may result from the compensation formula.

The text of the proposed amendment is attached.

Members are cautioned that while the proposed amendment, to some degree, parallels SEC Rule 205-3, the adoption of this rule would not in any way alter the registration obligations which may exist for a member or person associated with a member under the Advisers Act.

* * * * *

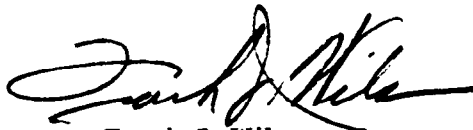
The NASD encourages all members and other interested persons to comment on this proposed amendment. Comments should be directed to:

Mr. James M. Cangiano
Secretary
National Association of Securities Dealers, Inc.
1735 K Street, N.W.
Washington, D.C. 20006

Comments must be received no later than May 25, 1986. Comments received by the indicated date will be considered by the NBCC and the NASD Board of Governors. If the proposed amendment is approved by the Board, it will then be submitted to the membership for a vote. If approved by the membership, the amendment must be filed with and approved by the Securities and Exchange Commission before becoming effective.

Questions concerning this notice may be directed to either Dennis C. Hensley, Vice President and Deputy General Counsel, or T. Grant Callery, Assistant General Counsel, NASD Office of the General Counsel, at (202) 728-8285.

Sincerely,

A handwritten signature in black ink, appearing to read "Frank J. Wilson". The signature is fluid and cursive, with a large initial "F" and "W".

Frank J. Wilson
Executive Vice President
Legal and Compliance

Attachment

PROPOSED AMENDMENT TO ARTICLE III, SECTION 19(f)

NASD RULES OF FAIR PRACTICE

Note: New language underscored.

Sharing in accounts; extent permissible

(f) (1) (A) Except as provided in Subsection (f)(2), no member or person associated with a member shall share directly or indirectly in the profits or losses in any account of a customer carried by the member or any other member; provided, however, that a member or person associated with a member may share in the profits or losses in such an account if (i) such member or person associated with a member obtains prior written authorization from the member carrying the account; and (ii) the member or person associated with a member shares in the profits or losses in the account only in direct proportion to the financial contributions made to such account by either the member or person associated with a member.

(B) Exempt from the direct proportionate share limitation of Subsection (f)(1)(A)(ii) are accounts of the immediate family of such member or person associated with a member. For purposes of this section, the term "immediate family" shall include parents, mother-in-law or father-in-law, husband or wife, children or any relative to whose support the member or person associated with a member otherwise contributes directly or indirectly.

(2) Notwithstanding the prohibition of Subsection (f)(1), a member or person associated with a member may share in the profits or losses in an account or otherwise receive compensation based on such profits or losses if all of the following conditions are satisfied:

(A) The member or person associated with a member seeking such compensation obtains prior written authorization from the member carrying the account;

(B) The customer has at the time the account is opened either a net worth of not less than \$1,000,000, or the minimum amount invested in the account is not less than \$500,000;

(C) The customer is able to understand the proposed method of compensation and its risks;

(D) The compensation arrangement is set forth in a written agreement executed by the customer and the member;

(E) The agreement represents an arm's-length arrangement between the parties;

(F) The compensation formula takes into account both gains and losses realized or accrued in the account over a period of at least one year; and

(G) The member has disclosed to the customer all material information relating to the arrangement including the method of compensation and any potential conflicts of interest which may result from the compensation formula.



National Association of Securities Dealers, Inc.
1735 K St., N.W. • Washington, D.C. 20006 • (202) 728-8000

notice to members 86-32

April 28, 1986

TO: All NASD Members and Level 2 and Level 3 Subscribers

RE: NASDAQ National Market System Grows to 2,342 Securities With 36 Voluntary Additions on May 6, 1986, and 5 Mandatory Inclusions on May 13, 1986

On Tuesday, May 6, 1986, 36 issues are scheduled to join the NASDAQ National Market System, bringing the total number of issues in NASDAQ/NMS to 2,337. These 36 issues, which will begin trading under real-time trade reporting, are entering NASDAQ/NMS pursuant to the Securities and Exchange Commission's criteria for voluntary designation.

The 36 issues scheduled to join NASDAQ/NMS on Tuesday, May 6, 1986, are:

Symbol*	Company	Location
AIDC	AID Corporation	Des Moines, IA
ACVAV	Alberto-Culver Company (WI)	Melrose Park, IL
AFMBZ	American First Federally Guaranteed Mortgage Fund 2 Limited Partnership	Omaha, NE
AFTXZ	American First Tax Exempt Mortgage Fund Limited Partnership	Omaha, NE
AMSH	American Shared Hospital Services	San Francisco, CA
ARIB	Aspen Ribbons, Inc.	Lafayette, CO
BOMS	Bancorp of Mississippi, Inc.	Tupelo, MS
BKNT	Banker's Note, Inc. (The)	Marietta, GA
BAYA	Bayamon Federal Savings & Loan Association of Puerto Rico	Bayamon, Puerto Rico
BUTI	BeutiControl Cosmetics, Inc.	Carrollton, TX
BFCP	Broadway Financial Corporation	Paterson, NJ

* NASDAQ symbols are proprietary to the National Association of Securities Dealers, Inc.

Symbol*	Company	Location
CBCX	Cambridge BioScience Corporation	Hopkinton, MA
CNTRS	Centennial Real Estate Investment Trust	Davenport, IA
CSTR	Costar Corporation	Cambridge, MA
EMSC	Entertainment Marketing, Incorporated	Houston, TX
EXAR	Exar Corporation	Sunnyvale, CA
ILLM	Illinois Marine Bancorp, Inc.	Elmhurst, IL
IMRGA	Imreg, Inc. (Cl A)	New Orleans, LA
INCRF	Inca Resources, Inc.	Vancouver, BC
ISKO	Isco, Inc.	Lincoln, NE
LCIC	Leisure Concepts, Inc.	New York, NY
NOAX	Northeast Ohio Axle, Inc.	Lawrenceville, NJ
PFIN	P & F Industries, Inc.	Farmingdale, NY
PFINW	P & F Industries, Inc. (Wts)	Farmingdale, NY
PCRO	Philip Crosby Associates, Inc.	Winter Park, FL
POCI	Ports of Call, Inc.	Denver, CO
RCSB	Rochester Community Savings Bank (The)	Rochester, NY
SKFB	S & K Famous Brands, Inc.	Richmond, VA
SAVR	Savers Inc.	Little Rock, AR
SMMT	Summit Savings Association	Bellevue, WA
SYNR	Synercom Technology, Inc.	Sugar Land, TX
TMAI	Thermo Analytical, Inc.	Waltham, MA
TRAD	Traditional Industries, Inc.	Westlake Village, CA
TRSP	Tri-Star Pictures, Inc.	New York, NY
TRSPW	Tri-Star Pictures, Inc. (Wts)	New York, NY
UICI	United Insurance Companies, Inc.	Irving, TX

The following issues may be included in NASDAQ/NMS prior to the next regularly scheduled phase-in date:

Pending Additions

Symbol*	Company	Location
ARBR	Arbor Drugs, Inc.	Troy, MI
GTOS	Gantos, Inc.	Grand Rapids, MI
HAVTA	Haverty Furniture Companies, Inc. (Cl A)	Atlanta, GA
HENGV	Henley Group, Inc. (The) (WI)	New York, NY
LINN	Lincoln Foodservice Products, Inc.	Fort Wayne, IN

Symbol*	Company	Location
MMBLF	MacMillan Bloedel Limited	Vancouver, BC
NACSV	North American Communications Corporation (WI)	Hector, MN
RETI	Riedel Environmental Technologies, Inc.	Portland, OR
WEBS	Webster Clothes, Inc.	Baltimore, MD

Additionally, the following five securities will enter NASDAQ/NMS under the mandatory Tier 1 criteria on May 13, 1986:

Symbol*	Company	Location
JPAC	ADMAC, Inc.	Kent, WA
CAVR CLST	Carver Corporation Color Systems Technology, Inc.	Lynwood, WA Marina Del Rey, CA
HAMM	Hammer Technologies, Inc.	Larkspur, CA
SUNW	Sun Microsystems, Inc.	Mountain View, CA

NASDAQ/NMS Interim Additions

Symbol*	Company	Date of Entry
NSBK	North Side Savings Bank	4/08/86
RYFL	Family Steak Houses of Florida, Inc.	4/14/86
WPGI	Western Publishing Group, Inc.	4/22/86

The following changes to the list of NASDAQ/NMS securities occurred since April 4, 1986:

NASDAQ/NMS Symbol* and/or Name Changes

New/Old Symbol*	New/Old Security	Date of Change
FLFC/ LFED	First Liberty Financial Corporation First Liberty Financial Corporation	4/14/86
LNBC/ LUBC	Liberty National Bancorp, Inc./ Liberty United Bancorp, Inc.	4/17/86
UACIA/ UACI	United Artists Communications, Inc. (CI A)/United Artists Communications, Inc.	4/17/86

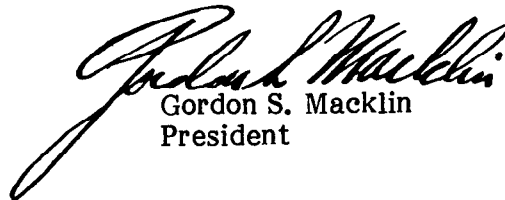
New/Old Symbol*	New/Old Security	Date of Change
PHCC/ PHCC	Preferred Health Care, Ltd./Preferred Health Care Corporation	4/18/86
RCINZ/ RCINZ	Rogers Communications, Inc. (CI B)/ Rogers Cablesystems, Inc. (CI B)	4/24/86
CTEX/ CWTE	C-TEC Corporation/Commonwealth Telephone Enterprises, Inc.	4/25/86
CARN/ AVAC	Carrington Laboratories, Inc./ Avacare, Inc.	4/28/86
PMBK/ MHFS	PrimeBank, Federal Savings Bank/ Mutual Home Federal Savings Bank	4/28/86

NASDAQ/NMS Deletions

Symbol*	Security	Date
CTTX FFSL	Computrac, Inc. First Federal Savings & Loan Association of Virginia	4/10/86 4/10/86
RJFN	R.J. Financial Corporation	4/14/86
MYLN	Mylan Laboratories, Inc.	4/15/86
RIVL	Rival Manufacturing Company	4/17/86
CITI VSTA	Citizens Cable Communications, Inc. Victoria Station, Incorporated	4/22/86 4/22/86
MPLX	Mediplex Group, Inc	4/23/86
FMWC	First Midwest Corporation	4/24/86

Any questions regarding this notice should be directed to Kit Milholland, Senior Analyst, NASDAQ Operations, at (202) 728-8281. Questions pertaining to trade reporting rules should be directed to Sharon Belanger, NASD Market Surveillance, at (202) 728-8206.

Sincerely,


Gordon S. Macklin
President