

11 Wall Street  
New York, NY 10005  
212 858 2060

James E. Burk  
Vice President and Secretary

December 28, 1987

NYSE

New York  
Stock Exchange, Inc.

Richard G. Ketchum, Esq.  
Director  
Division of Market Regulation  
Securities and Exchange Commission  
450 Fifth Street, N. W.  
Washington, D C 20549

Dear Mr. Ketchum:

The Securities Industry Conference on Arbitration (SICA) has responded to your letter of September 10, 1987 recommending changes in the arbitration system. The Exchange concurs in the response and this letter supplements the response on behalf of this Exchange.

The Exchange was one of the founding members of the Securities Industry Conference on Arbitration and is a long-time sponsor of arbitration of investor-broker disputes. We are always interested in improving the arbitration system and believe the Commission's suggestions will help insure that arbitration not only is fair but that it is also perceived to be fair by both investors and member organizations. The Exchange has already acted to implement some of your recommendations and is close to implementing others.

Perhaps the most critical issue raised in your letter is the perception that public arbitrators are not truly public. While all arbitrators appointed to cases by the Exchange are screened for conflicts and qualify as neutral arbitrators under state and federal law, the Exchange agrees that individuals with industry affiliations should not be classified as public arbitrators. Accordingly, the Exchange has adopted the attached guidelines for the classification of public arbitrators. We believe that these new guidelines will greatly enhance the perception of Exchange arbitration.

The Exchange has long relied on written materials and on service with more experienced arbitrators as its primary method for training new arbitrators. The Exchange realizes that as the universe of arbitrators increases a more formal training program is desirable. The Exchange has been developing such a program and held its first formal training session for arbitrators in November 1987. We are continuing to work closely with SICA in developing an expanded and more detailed arbitrator manual and a more comprehensive training program.

During 1987 the Exchange has been gathering detailed biographical information on our arbitrators. This information is invaluable in assigning arbitrators to cases and is being requested more and more frequently by parties. By early 1988 the Exchange will be routinely providing this more detailed information to parties, thus enabling them to make more informed use of their peremptory challenges.

The Exchange has also recently returned to its system of having a stenographic reporter present at all of its arbitration hearings. While the Exchange incurs a substantial additional expense by retaining these reporters, we do believe that a record is important and that a stenographic record is most suitable for our purposes.

These measures are only the first steps the Exchange is taking in responding to your suggestions. The Exchange is committed to maintaining the highest standards for its arbitration service, and we were pleased to note the Commission's favorable observations about securities industry arbitration. We look forward to working with both the Commission and SICA to insure that Exchange arbitration continues to offer investors a quick, fair and inexpensive forum for the resolution of their disputes.

Very truly yours,

James E. Burk

Enclosure

NEW YORK STOCK EXCHANGE, INC.

GUIDELINES FOR  
CLASSIFICATION OF ARBITRATORS

In order to insure continued investor confidence in the arbitration process, the New York Stock Exchange has adopted the following policies with regard to the classification of securities industry and public arbitrators and to the exercise of challenges for cause:

1. Individuals with close securities industry ties such as attorneys, accountants or other professionals who routinely represent industry firms or individuals, will either be reclassified as industry arbitrators or not be used.
2. Individuals who have spent a substantial part of their business careers in the securities industry shall always be classified as industry arbitrators.
3. Individuals who have spent a relatively minor portion of their career in the securities industry shall not be classified as public arbitrators until at least five (5) years have elapsed from the date of their last industry affiliation. All such past affiliations shall be disclosed and challenges for cause based upon such past affiliations shall be sustained.
4. Close family relationships with broker/dealers shall be disclosed and challenges for cause based on such relationships shall be honored.
5. Attorneys, accountants and other professionals whose firms have close securities industry ties will still be classified as public arbitrators provided the attorney or other professional does not routinely represent industry firms or individuals. Challenges for cause based on such industry ties will be honored.
6. All arbitrators shall read and become familiar with the Code of Ethics for Arbitrators developed by the American Bar Association and the American Arbitration Association.
7. Any close question on arbitrator classification or on challenges for cause shall be decided in favor of public customers.
8. Spouses of securities industry personnel may not serve as arbitrators.