

NASD

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

notice to members 88-31

May 4, 1988

IMPORTANT MAIL VOTE

OFFICERS, PARTNERS, PROPRIETORS

TO: All NASD Members

RE: Proposed Amendments to Article V, Section 1 of the NASD Rules of Fair Practice and Section 12(2) of the Proposed Government Securities Rules: Removal of Fine Limitations

LAST VOTING DATE IS JUNE 3, 1988.

EXECUTIVE SUMMARY

NASD members are invited to vote on a proposed amendment to Article V, Section 1 of the NASD Rules of Fair Practice and Section 12(2) of the proposed Government Securities Rules. The amendments would remove the current limitation of \$15,000 that a member or person associated with a member may be fined for each violation of the Rules of Fair Practice or the proposed Government Securities Rules.

The text of the amendments are attached.

BACKGROUND

Article V, Section 1 of the NASD Rules of Fair Practice imposes a limitation on fines that may be assessed in NASD disciplinary proceedings. Currently, a fine of no more than \$15,000 per violation may be assessed against a member or a person associated with a member. The NASD Board of Governors has proposed that the current limitation on fines be removed since it inhibits the NASD's ability to adequately redress violations of the NASD's rules. The Board has noted cases in which the number of alleged violations was small but the underlying misconduct was egregious and/or involved substantial sums. In those instances, the

NASD's ability to respond appropriately to the gravity of the misconduct was limited because of the current limitation. This restriction undermines the usefulness of fines as a deterrent to future misconduct.

The proposed amendment to Article V, Section 1 of the NASD's Rules of Fair Practice was circulated for member comment in Notice to Members 87-20, dated April 1, 1987. For consistency, the Board of Governors also proposes to make similar amendments to Section 12(2) of the proposed Government Securities Rules. These rules, along with other proposed amendments to the NASD By-Laws and Rules of Fair Practice relating to the NASD's recently expanded jurisdiction over government securities, were published for member vote in Notice to Members 88-1, dated January 4, 1988, and filed with the Securities and Exchange Commission for approval. ^{1/}

PROPOSED AMENDMENTS

The proposed amendments to Article V, Section 1 of the NASD Rules of Fair Practice and Section 12(2) of the proposed Government Securities Rules would eliminate the \$15,000 ceiling placed on the amount of the fine that the NASD's District Business Conduct Committees (DBCCs), Market Surveillance Committee (MSC), or Board of Governors may assess for each violation of the Rules of Fair Practice. The amendments would allow a DBCC, the MSC, or the Board to establish the amount of each fine based upon the nature of the violation and other relevant considerations.

SUMMARY OF COMMENTS

The NASD received 35 comments in response to Notice to Members 87-20. Nine generally supported removing the fine limitations and 26 were opposed.

Eight commentators supported the proposal without qualification. Of these, one noted that removing fine limitations would be consistent with the practices of another self-regulatory organization and would provide necessary flexibility to the NASD's DBCCs. One commentator fully supported the proposal but observed that the size of the fine imposed in any individual case should be reasonably related to the degree of misconduct and the net worth of the respondent.

Thirteen commentators opposed the proposal without qualification. Of these, one believed that the proposal would vest too much discretion in DBCCs and feared discrimination against larger institutions; other commentators feared the oppression of smaller firms because of the proposal. Three additional commentators opposed the proposal, but suggested alternative remedies, and 10 opposed the proposal, but favored some increase in the authorized size of the fine which could be imposed for a single violation.

The Board notes recent initiatives that it has taken to promote consistency in imposing remedial sanctions by DBCCs and the MSC pursuant to its oversight role and as an appellate body in the review of disciplinary proceedings. The Board also

^{1/} See SR-NASD-88-12.

notes that applications by the New York Stock Exchange and the American Stock Exchange to remove fine limitations in their respective disciplinary rules have recently been approved by the Securities and Exchange Commission.

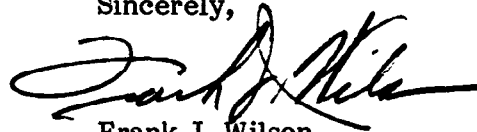
The NASD Board reviewed the comments and concluded that the amendment to Article V, Section 1 of the NASD Rules of Fair Practice should be adopted. For consistency, the Board also proposes to amend the fine limitations under Section 12(2) of the proposed Government Securities Rules and has added a reference to the NASD's Market Surveillance Committee in both proposals.

The Board of Governors believes that it is important for the NASD to be able to implement the proposed changes in order to enhance the NASD's flexibility in imposing sanctions for serious misconduct. Thus, the Board believes that the proposed amendments are 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 June 3, 1988.

Questions concerning this notice may be directed to Norman Sue, Jr., Senior Attorney, NASD Office of General Counsel, at (202) 728-8117.

Sincerely,



Frank J. Wilson
Executive Vice President
and General Counsel

Attachment

**PROPOSED AMENDMENT TO
ARTICLE V OF THE NASD RULES OF FAIR PRACTICE***

Penalties

Penalties for Violation of the Rules

Sec. 1. Any District Business Conduct Committee, Market Surveillance Committee, or the Board of Governors, in the administration and enforcement of these Rules, and after compliance with the Code of Procedure, may (1) censure any member or person associated with a member and/or (2) impose a fine [not in excess of Fifteen Thousand Dollars (\$15,000.00)] upon any member or person associated with a member and/or (3) suspend the membership of any member or suspend the registration of a person associated with a member, if any, for a definite period, and/or (4) expel any member or revoke the registration of any person associated, with a member, if any, and/or (5) suspend or bar a member of person associated with a member from association with all members, or (6) impose any other fitting penalty deemed appropriate under the circumstances, for each or any violation of any of these Rules by a member or person associated with a member or for any neglect or refusal to comply with any orders, directions or decisions issued by any District Business Conduct Committee, Market Surveillance Committee, or by the Board of Governors in the enforcement of these Rules, including any interpretative ruling made by the Board of Governors, as any such Committee or Board, in its discretion, may deem to be just; provided, however, that no such penalty imposed by any District Business Conduct Committee or Market Surveillance Committee shall take effect until the period for appeal therefrom or review has expired, as provided in [Section 14] Article III, Section 1 of the Code of Procedure; and provided, further, that all parties to any proceeding resulting in a penalty shall be deemed to have assented to or to have acquiesced in the imposition of such penalty unless any party aggrieved thereby shall have made application to the Board of Governors for review pursuant to the Code of Procedure, within fifteen (15) days after the date of such notice.

**PROPOSED AMENDMENT TO SECTION 12(2) OF THE
PROPOSED GOVERNMENT SECURITIES RULES***

Sanctions for Violation of the Rules

Sec. 12. Any District Business Conduct Committee, Market Surveillance Committee, or the Board of Governors, in the administration and enforcement of the Securities Exchange Act of 1934, the rules and regulations thereunder including the rules of the Treasury Department or these Government Securities rules, and after compliance with the Code of Procedure, may:

- (1) censure any member or person associated with a member; and/or
- (2) impose a fine [not in excess of Fifteen Thousand Dollars (\$15,000.00)] upon any member or person associated with a member; and/or

* New language is underlined; deleted language is in brackets.

(3) suspend the membership of any member or suspend the registration of a person associated with a member, if any, for a definite period; and/or

(4) expel any member or revoke the registration of any person associated with a member, if any; and/or

(5) suspend or bar a member or person associated with a member from association with all members; or

(6) impose any other fitting sanction deemed appropriate under the circumstances, for each or any violation of such provisions by a member or person associated with a member or for any neglect or refusal to comply with any orders, directions, or decisions issued by any District Business Conduct Committee or by the Board of Governors in the enforcement of these rules, including any interpretation made by the Board of Governors, as any such Committee or Board, in its discretion, may deem to be just;

provided, however, that no such sanction imposed by any District Business Conduct Committee or Market Surveillance Committee shall take effect until the period for appeal therefrom or review has expired, as provided in Article III, Section 1 of the Code of Procedure; and provided, further, that all parties to any proceeding resulting in a sanction shall be deemed to have assented to or to have acquiesced in the imposition of such sanction unless any party aggrieved thereby shall have made application to the Board of Governors for review pursuant to the Code of Procedure, within fifteen (15) days after the date of such notice.

NASD

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

notice to members 88-32

May 10, 1988

TO: All NASD Members and Other Interested Persons

RE: Amendment to the NASD Board of Governors' Corporate Financing Interpretation Regarding Public Offerings When Proceeds Are Directed to NASD Members

EXECUTIVE SUMMARY

The Securities and Exchange Commission recently approved an amendment to the Interpretation of the Board of Governors--Review of Corporate Financing, under Article III, Section 1 of the NASD Rules of Fair Practice. The amendment, which becomes effective June 1, 1988, requires a qualified independent underwriter to provide a pricing opinion and conduct due diligence when 10 percent or more of the net proceeds of a public offering are directed to NASD members participating in the distribution of the offering.

The text of the amendment is attached.

BACKGROUND AND SUMMARY OF AMENDMENT

The amendment to the Interpretation of the Board of Governors--Review of Corporate Financing was adopted in response to concerns over potential conflicts of interest that arise when a portion of the proceeds of a public offering are directed to members participating in the distribution of the offering. This most commonly occurs in connection with leveraged buy-outs when the underwriter or an affiliate of the underwriter provides a bridge loan to the issuer to finance a buy-out transaction and the member then underwrites a public offering, the proceeds of which are used to repay the loan. In such offerings, the member has a potential conflict of interest in evaluating the issuer objectively when establishing an appropriate offering price and in fulfilling its due-diligence responsibilities since a successful distribution of the issuer's securities directly benefits the member.

Since a qualified independent underwriter requirement has been successfully utilized to eliminate conflicts of interest in public offerings by members of their own or an affiliate's securities, the Board of Governors determined that an amendment to its Corporate Financing Interpretation to require the participation of a qualified independent underwriter was the most effective method of dealing with potential conflicts of interest when proceeds are directed to a member.

The amendment, which was approved by the SEC on April 29, 1988, requires the participation of a qualified independent underwriter in any public offering in which 10 percent or more of the net proceeds of the offering will be directed to NASD members participating in the distribution of the offering, or to affiliated or associated persons of such members, or to the immediate family of such persons. The qualified independent underwriter will be required to provide an opinion that the yield is no lower (in a debt offering) or the price is no higher (in an equity offering) than it would recommend. The qualified independent underwriter will also be required to perform independent due diligence in the preparation of the offering document.

To act as a qualified independent underwriter under the amendment, an NASD member must meet the definition in Section 2(k) of Schedule E to the NASD By-Laws. Under the definition, a member must have been actively engaged in the investment banking or securities business and the underwriting of public offerings for at least five years preceding the offering; must have had net income from operations in at least three of the five years preceding the offering; and must have had a majority of its board of directors (if a corporation), a majority of its general partners (if a partnership), or its proprietor (if a sole proprietorship) actively engaged in the investment banking or securities business for the five-year period prior to the offering. In addition, the member must not be an affiliate of the issuer and must agree to undertake the legal responsibilities and liabilities of an underwriter under Section 11 of the Securities Act of 1933.

The amendment contains certain exemptions when sufficient market or regulatory safeguards exist to protect investors. Therefore, exempt from the amendment are offerings of real estate investment trusts, traditional direct participation programs, offerings of a class of equity securities for which a bona fide independent market, as defined in Section 2(b) of Schedule E, exists, and offerings of a class of debt securities rated in one of the four highest generic rating categories of a nationally recognized statistical rating agency. In addition, offerings otherwise subject to Schedule E to the By-Laws are exempt. Further, offerings that qualify for exemption from SEC registration under Section 3(a)(4) of the Securities Act of 1933 are not subject to the requirements of the amendment. This would include offerings of securities issued by religious or charitable organizations.

To determine net offering proceeds, fees and commissions paid to members for underwriting services, as well as other organization and offering expenses related to the issuance and distribution of the securities, are deducted from gross offering proceeds.

The amendment becomes effective June 1, 1988. Therefore, all offerings declared effective by the SEC or, if SEC exempt, by another reviewing regulatory authority on or after June 1, will be subject to the provisions of the amendment.

* * * *

Questions regarding this notice can be directed to either Richard J. Fortwengler, Assistant Director, or Frank J. Formica, Vice President and 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
and General Counsel

Attachment

**AMENDMENT TO THE INTERPRETATION OF THE
BOARD OF GOVERNORS—REVIEW OF CORPORATE FINANCING
ARTICLE III, SECTION 1 OF THE NASD RULES OF FAIR PRACTICE**

(New language is underlined. Follows section titled "Venture Capital Restrictions" at page 2034 of the NASD Manual.)

Proceeds Directed to a Member

No member shall participate in a public offering of an issuer's securities where more than 10 percent of the net offering proceeds, not including underwriting compensation, are intended to be paid to members participating in the distribution of the offering or associated or affiliated persons of such members, or members of the immediate family of such persons, unless 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 as defined in Section 2(k) of Schedule E to the By-Laws, who shall participate in the preparation of the registration statement and the prospectus, offering circular, or similar document and who shall exercise the usual standards of "due diligence" in respect thereto; provided, however, this paragraph shall not apply to (1) an offering of a class of equity securities for which a bona fide independent market as defined in Section 2(b) of Schedule E to the By-Laws exists as of the date of the filing of the registration statement and as of the effective date thereof; (2) an offering 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; (3) an offering otherwise subject to the provisions of Schedule E to the By-Laws; (4) an offering of securities exempt from registration with the Securities and Exchange Commission under Section 3(a)(4) of the Securities Act of 1933; (5) an offering of a real estate investment trust as defined in Section 856 of the Internal Revenue Code; or (6) an offering of securities subject to Appendix F to Article III, Section 34 of the Rules of Fair Practice unless the net proceeds of such offering are intended to be paid to the above persons for the purpose of repaying loans, advances or other types of financing utilized to acquire an interest in a pre-existing company. For purposes of this paragraph, the term "net offering proceeds" means the gross offering proceeds less all expenses of issuance and distribution and the term "immediate family" has the meaning set forth in Section 2(f) of Schedule E to the By-Laws.

NASD

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

notice to members 88-33

May 12, 1988

TO: All NASD Members and Other Interested Persons

RE: Adoption of Amendments to Schedule E to the NASD By-Laws Effective Immediately

EXECUTIVE SUMMARY

The SEC has approved amendments to Schedule E to the NASD By-Laws governing the public offering of securities issued by a member, the parent of a member, or an affiliate of a member. With the exception of an exemption from Schedule E for investment grade securities, collateralized by financing instruments, the remaining changes to Schedule E involve clarifying amendments.

The text of the amendments is attached.

BACKGROUND

On March 29, 1988, the Securities and Exchange Commission (SEC) approved amendments to Schedule E to the NASD By-Laws (see SEC Release No. 34-25525 (March 29, 1988)) that are intended to clarify the scope and application of the Schedule. Schedule E contains a number of requirements intended to address conflicts of interest experienced by a member that engages in a public offering of its own securities or the securities of the member's parent, or participates in a public offering of securities of an affiliate. The major conflicts of interest addressed relate to the conduct of due diligence with respect to the offering document, the pricing of the securities offered, and the suitability of investors. Most of the amendments merely clarify certain provisions and incorporate interpretations of Schedule E. However, one substantive amendment exempts investment grade financing instrument backed securities from compliance with Schedule E.

EXPLANATION OF AMENDMENTS

Exemption for Financing Instrument-Backed Securities

The NASD amended Subsection 2(a)(3) to exempt from Schedule E distributions by members of securities issued by affiliates of members, regardless of the form of

legal entity of the affiliate, organized solely for the purpose of offering investment grade securities to the public collateralized with a specified portfolio of financing instruments. Although such securities are generally backed by mortgage obligations, public offerings have also occurred of securities backed by loan obligations for automobiles, boats, and credit card receivables.

When an offering of financing instrument-backed securities rated investment grade is not issued by a member's affiliate, such offering is currently exempt from NASD review pursuant to an exemption incorporated in the Interpretation of the Board of Governors--Review of Corporate Financing, under Article III, Section 1 of the NASD Rules of Fair Practice (Corporate Financing Interpretation). This exemption reflects the NASD's view that competitive market forces that ordinarily affect investment grade debt can be relied upon to ensure the fairness and reasonableness of underwriting compensation. In reviewing whether offerings of financing instrument-backed securities issued by a member's affiliate should be subject to Schedule E, the NASD determined that the conflicts of interest experienced by the affiliate member that are addressed by Schedule E, related to the pricing of the offering, the member's due diligence obligation, and the suitability of investors, are absent in distributions of financing instrument-backed securities that have received an investment grade rating. Such rating reflects the confidence of the rating agency regarding the ability of the issuing entity to pay dividends and to redeem the obligation. In addition, the investment grade rating of securities usually results in their sales to investors that are of an institutional or financially sophisticated nature.

Other Amendments

Section 1 -- General

The NASD amended Section 1 to clarify that Schedule E applies to offerings by a parent of a member, as defined in Subsection 2(h)* of Schedule E, regardless of whether the member participates in the offering. Further, this provision has been amended to clarify that Schedule E applies to both debt and equity public offerings of securities.

Section 2 -- Definitions

Affiliate. Section 2(a) defines when an issuer is considered to be an affiliate of a member firm. The NASD is concerned that members and their counsel may look to the presumptions contained in Subsection 2(a) as the sole bases upon which affiliation may be found. Therefore, the NASD amended the introductory language of Subsection 2(a)(2) to clarify that the term "affiliate" is presumed to include, but is not limited to, those situations described in the enumerated presumptions.

Beneficial Ownership. For purposes of determining affiliation, Subsection 2(a)(2) bases a presumption of affiliation on the beneficial ownership of 10 percent or more of the outstanding voting securities of one entity by the other entity. The NASD amended Schedule E to include in new Subsection 2(b) a definition of the term "beneficial ownership" that provides that beneficial ownership is based on the "right to the economic benefits of a security."

* All references to subsections of Section 2 are to the amended subsection designations.

Immediate Family. The NASD amended the term "immediate family" in Subsection 2(g) to include the son-in-law or daughter-in-law and any other person who is supported, directly or indirectly to a material extent by an employee of, or person associated with, a member, to incorporate language similar to that contained in the Interpretation of the Board of Governors--Free-Riding and Withholding, under Article III, Section 1 of the NASD Rules of Fair Practice (Free-Riding and Withholding Interpretation).

Public Offering. The NASD amended the definition of "public offering" in current Subsection 2(k) to reflect exemptions from Schedule E for offerings pursuant to Section 4(6) of the Securities Act of 1933, Rule 504 (unless considered a public offering in the states where offered), Rule 505, and Rule 506 of Regulation D adopted by the SEC.

Section 3 -- Experience, Pricing, and Due Diligence

The NASD amended this section by deleting Subsection 3(d) and amended Subsection 3(a) in coordination therewith. Subsection 3(d) is now unnecessary as Subsection 3(c) was previously modified to require the participation of only one qualified independent underwriter and to permit the affiliated member to participate to an unlimited extent in the offering.

Section 4 -- Escrow of Proceeds

Subsection 4(b) requires disclosure in the offering document of the date when a member expects to complete its offering of a security and the terms under which the proceeds will be released from escrow. The NASD amended Section 4 to redesignate Subsection (b) as Subsection (a) and to add new Subsection (b) to clarify disclosure requirements with respect to all offerings subject to Schedule E. The new provision requires disclosure in the offering document that the offering is of a member's securities or those of an affiliate, that 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. Finally, the title of Section 4 has been changed to "Disclosure."

Section 5 -- Net Capital Computation

The NASD amended this section to include as new Subsection (a) the provision previously in Subsection 4(a) that requires a member issuing its own securities to place the offering proceeds in an escrow account. The current language of Section 5 is being retained in new Subsection 5(b). Finally, the NASD has changed the title of Section 5 to "Escrow Proceeds; Net Capital Computation."

Section 9 -- Offerings Resulting in Affiliation or Public Ownership of a Member

Section 9 currently provides a basis for applying Schedule E to an offering by an issuer that is not an affiliate of a member at the time of filing the offering, but as a result of the offering will be a member's affiliate. In addition, Section 9 requires compliance with Schedule E when the offering would result in the public ownership of a member. The NASD amended Section 9 to provide that Schedule E applies to those situations where the issuer proposes to utilize the proceeds from an offering to become a member or to form a broker-dealer subsidiary to become a member and where a member would become an affiliate of the issuer as the result of a transaction with the issuer or its affiliate that occurs simultaneously or subsequent to the public offering. This amendment codifies the NASD's current interpretation of Section 9.

In addition, the NASD amended Section 9 to clarify that an offering within that section is subject to Schedule E "to the same extent as if the transaction had occurred prior to the filing of the offering." Thus, if a transaction occurs simultaneously with an offering that results in the issuer becoming a parent of a member, the offering would be subject to Schedule E as if the offering were by a parent of a member. In comparison, if the issuer proposes to utilize the proceeds of the offering to become a member of the NASD, the offering would be subject to Schedule E as if by a member firm.

Section 13 — Sales to Employees — No Limitations

Section 13, which provides an exemption from the NASD's Free-Riding and Withholding Interpretation for sales to employees of a member, is 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 has been amended to reduce from six to five months, following the effective date of the offering, the lock-up period on securities acquired by a person associated with a member when an independent market does not exist for such securities.


Section 14 — Filing Requirements

The NASD adopted new Subsection 14(c) 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.

* * * * *

Questions regarding this notice can be directed to either Suzanne E. Rothwell, NASD Associate General Counsel, at (202) 728-8247, or the NASD Corporate Financing Department at (202) 728-8258.

Sincerely,



Frank J. Wilson
Executive Vice President
and General Counsel

Attachment

AMENDMENTS TO SCHEDULE E TO THE NASD BY-LAWS*

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, the parent of the member, or an affiliate of the member and no member or parent 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 is presumed to 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

(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.

* New language is underlined; deleted language is in brackets.

(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) a corporation, trust, partnership or other entity issuing financing instrument-backed securities 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 an employee of, or person associated with a member.

[(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)](l) **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;

* 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 attached to a "qualified independent underwriter" performing the functions called for by the provisions of Section 3 hereof.

(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.

[(1)](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 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 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 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 become a member or form a broker-dealer subsidiary to become 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.

NASD

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

notice to members 88-34

May 12, 1988

TO: All NASD Members and Other Interested Persons

RE: Adoption of New Section 67 of the NASD Uniform Practice Code Regarding Delayed Closings Effective June 12, 1988.

EXECUTIVE SUMMARY

The Securities and Exchange Commission recently approved the NASD's adoption of new Section 67 to the NASD's Uniform Practice Code. This section requires the syndicate manager of a public offering underwritten on a "firm commitment" basis to immediately notify the NASD's Uniform Practice Department of any delay in the anticipated closing date.

The text of the new rule is attached.

BACKGROUND

The NASD Uniform Practice Code (Code) applies to over-the-counter transactions between NASD member firms. Within the scope of the Code are transactions in securities that are the subject of an initial or secondary public offering in the period between the effective date of the offering and the date of the closing of the offering. Securities sold pursuant to an offering underwritten on a "firm commitment" basis by a member can be traded in the secondary market on a "regular way" basis from the inception of the secondary market because "firm commitment" offerings generally close five days following the effective date. Thus, such secondary-market transactions are generally within the scope of a regular-way contract, which requires payment for the delivery of securities on the fifth business day following the date of the transactions since the securities are considered issued upon closing of the offering on the fifth business day following the effective date. ^{1/}

^{1/} Section 4(b) of the Uniform Practice Code, NASD Manual (CCH), ¶ 3504.

Situations have occurred in which the closing of an offering underwritten on a "firm commitment" basis has been delayed past the anticipated closing date cited in the prospectus and, in a few cases, the closing was eventually cancelled. When the NASD Uniform Practice Department was not notified of a delay in closing until after the anticipated closing date, the securities generally traded on a "regular way" basis from the the effective date of the offering.

Whenever the Uniform Practice Department is advised of a delay in the closing of an offering underwritten on a "firm commitment" basis, it issues an advisory notice to members to change previously executed "regular way" trades to "when, as, and if issued."^{2/} Such changes impose an extensive bookkeeping burden on members.

The NASD determined that the NASD Uniform Practice Department should be assisted in its efforts to ensure orderly trading by requiring notification of any delay in the anticipated closing of a public offering underwritten on a firm-commitment basis.

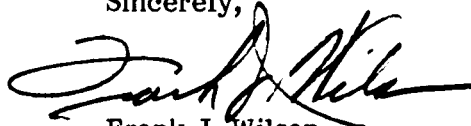
EXPLANATION

On March 14, 1988, the Securities and Exchange Commission^{3/} approved the NASD's adoption of new Section 67 to the Uniform Practice Code to require the syndicate manager of a public offering underwritten on a firm-commitment basis to immediately notify--no later than the scheduled closing date--the NASD's Uniform Practice Department of any anticipated delay in the closing of the offering beyond the closing date in the offering document or beyond the delayed date previously reported to the NASD in compliance with this provision. Thus, if the syndicate manager has previously reported to the Uniform Practice Department that the closing was to be delayed, the syndicate manager is obligated to provide reports on any additional delays of the closing date. The Uniform Practice Department can then ensure that all transactions in the market trade on a "when, as, and if issued" basis, rather than on a "regular way" basis if the closing is significantly delayed or, if no closing is to occur, the transactions can be cancelled.

The new rule is effective June 12, 1988.

Questions concerning this notice can be directed to the NASD Uniform Practice Department, at (212) 858-4341.

Sincerely,



Frank J. Wilson
Executive Vice President
and General Counsel

Attachment

^{2/} Section 4(e) of the Uniform Practice Code, NASD Manual (CCH), ¶ 3504.

^{3/} Release No. 25459 (March 14, 1988).

NASD UNIFORM PRACTICE CODE*

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Settlement of Underwritten Public Offerings

Section 67

The syndicate manager of a public offering underwritten on a "firm commitment" basis shall, immediately, but in no event later than the scheduled closing date, notify the Uniform Practice Department of the NASD of any anticipated delay in the closing of such offering beyond the closing date in the offering document or any subsequent delays in the closing date previously reported pursuant to this section.

* New language is underlined.



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

notice to members 88-35

May 12, 1988

TO: All NASD Members and Level 2 and Level 3 Subscribers
RE: NASDAQ National Market System Totals 2,945 Securities With Seven Additions on May 17, 1988

On Tuesday, May 17, 1988, the following seven issues are scheduled to join the NASDAQ National Market System, bringing the total number of issues in NASDAQ/NMS to 2,945:

Symbol*	Company	Location
BOFR	Bank of Redlands	Redlands, CA
CINS	Circle Income Shares, Inc.	Indianapolis, IN
CODL	Code-Alarm, Inc.	Madison Heights, MI
MOLE	FlowMole Corporation	Kent, WA
MSCM	MOSCOM Corporation	East Rochester, NY
NSTS	Northwestern States Portland Cement Company	Mason City, IA
RBNC	Republic Bancorp Inc.	Owosso, MI

NASDAQ/NMS Pending Additions

The following issues have filed for inclusion in NASDAQ/NMS upon effectiveness of their registration statements with the SEC or other appropriate regulatory authority. Their inclusion may commence prior to the next regularly scheduled phase-in date.

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

Symbol*	Company	Location
BMRG	BMR Financial Group, Inc.	Atlanta, GA
CLDR	Cliffs Drilling Company	Houston, TX
LFS A	First Federal Savings and Loan Association of Lenawee	Adrian, WI
KNCI	Kinetic Concepts, Inc.	San Antonio, TX
MSHK	Medstone International Inc.	Costa Mesa, CA
RELY	Relational Technology, Inc.	Alameda, CA
RESP	Respironics, Inc.	Monroeville, PA
RCHFA	Richfood Holdings, Inc. (C1 A)	Richmond, VA

NASDAQ/NMS Interim Additions

The registration statements of the following issues were declared effective by the SEC or other appropriate regulatory authority. These issues commenced trading in NASDAQ/NMS since April 22, 1988.

Symbol*	Security	Date of Entry
IHKSV	Imperial Holly Corporation (WI)	4/27/88
MCTBV	Metro Mobile CTS, Inc. (C1 B) (WI)	5/05/88

NASDAQ/NMS Symbol* and/or Name Changes

The following changes to the list of NASDAQ/NMS securities occurred since April 22, 1988.

New/Old Symbol*	New/Old Security	Date of Change
FCON/FFCT	First Constitution Financial Corporation/FFB Corp.	5/02/88
FGHC/FGSV	First Georgia Holding, Inc./ First Georgia Savings Bank, FSB	5/02/88
CGIC/CGIC	Continental General Corporation/ Continental General Insurance Company	5/02/88
CSFCB/CSFCA	Citizens Savings Financial Corp. (C1 B)/Citizens Savings Financial Corp. (C1 A)	5/03/88

New/Old Symbol*	New/Old Security	Date of Change
PION/PION	Pioneer Financial Corporation/ Pioneer Federal Savings & Loan Association	5/03/88
EXPO/EXPO	Insteel Industries, Inc./ Exposaic Industries, Inc.	5/05/88
MCTAV/MMCT	Metro Mobile CTS, Inc. (CI A) (WI)/Metro Mobile CTS, Inc.	5/05/88
TERX/NWEN	Terex Corp./Northwest Engineering Company	5/06/88
CTBX/TBCX	Centerbank/Banking Center (The)	5/09/88
IHEIF/IPIPF	Interhome Energy, Inc./ Interprovincial Pipeline, Ltd.	5/09/88
WAVR/WAVR	Waverly, Inc./Waverly Press, Inc.	5/09/88
BBTF/BNCH	BB&T Financial Corp./Branch Corp.	5/10/88

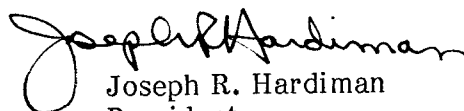
NASDAQ/NMS Deletions

Symbol*	Security	Date
UMBIL	Universal Medical Buildings, L.P. (Pfd Uts)	4/25/88
UMBIZ	Universal Medical Buildings, L.P. (SBI)	4/25/88
WASC	Western Auto Supply Company	4/26/88
AECE	AEC, Inc.	4/27/88
ASBSQ	Asbestec Industries, Inc.	4/27/88
PASN	Parisian, Inc.	4/27/88
AEROE	Aero Services International, Inc.	4/28/88
AERPE	Aero Services International, Inc. (Pfd)	4/28/88
COUR	Coeur D'Alene Mines Corporation	4/29/88
JMPC	J.M. Peters Corporation	4/29/88
CFSB	Columbia Federal Savings Bank	5/02/88
OVER	Overland Express, Inc.	5/02/88

Symbol*	Security	Date
STAN	Stanline, Inc.	5/03/88
CRNI	Crown Auto, Inc.	5/04/88
IKNG	International King's Table, Inc.	5/04/88
MDCH	MedChem Products, Inc.	5/04/88
FFAT	First Federal Savings and Loan of Austin	5/05/88
AGLT	Atlanta Gas Light Company	5/06/88

Questions regarding this notice can be directed to Kit Milholland, Senior Analyst, NASDAQ Operations, at (202) 728-8281. Questions pertaining to trade reporting rules can be directed to Leon Bastien, Assistant Director, NASD Market Surveillance, at (202) 728-8192.

Sincerely,


Joseph R. Hardiman
President



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

notice to members 88-36

May 19, 1988

TO: All NASD Members and Municipal Securities Bank Dealers
 ATTN: All Operations Personnel
 RE: Memorial Day Trade Date-Settlement Date Schedule

Securities markets and the NASDAQ System will be closed on Monday, May 30, 1988, in observance of Memorial Day. "Regular way" transactions made on the business days noted below will be subject to the following schedule:

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

<u>Trade Date</u>		<u>Settlement Date</u>		<u>Regulation T Date*</u>	
May	20	May	27	June	1
	23		31		2
	24	June	1		3
	25		2		6
	26		3		7
	27		6		8
	30	MARKETS CLOSED			—
	31	June	7		9

* Pursuant to Sections 220.8(b)(1) and (4) of Regulation T of the Federal Reserve Board, a broker-dealer must promptly cancel or otherwise liquidate a customer purchase transaction in a cash account if full payment is not received within seven (7) business days of the date of purchase or, pursuant to Section 220.8(d)(1), make application to extend the time period specified. The date by which members must take such action is shown in the column entitled "Regulation T Date."

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

Questions regarding the application of these settlement dates to a particular situation can be directed to the NASD Uniform Practice Department at (212) 858-4341.

* * * * *

NASD

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

notice to members 88-37

May 26, 1988

TO: All NASD Members

RE: Omni Mutual, Inc.
Two Wall Street
New York, New York 10005

ATTN: Operations Officer, Cashier, Fail-Control Department

On May 25, 1988, the United States District Court for the Southern District of New York appointed a SIPC Trustee for the above member.

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.

Questions regarding the firm should be directed to:

SIPC Trustee

Sam Scott Miller, Esquire
Orrick Herrington & Sutcliffe
599 Lexington Avenue
New York, New York 10022
Telephone: (212) 326-8800



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

notice to members 88-38

May 31, 1988

TO: All NASD Members and Other Interested Persons

RE: SEC Approves New Category of Limited Representative Registration--
Corporate Securities Examination (Series 62); Study Outline Available

EXECUTIVE SUMMARY

On June 1, 1988, the NASD will institute the Limited Representative--Corporate Securities, a new category of registration. This new registration category will qualify persons associated with NASD members to solicit, purchase, or sell corporate securities, as defined in the amendment to Schedule C Part III, Section 29(e) to the NASD By-Laws.

A study outline for the new Series 62--Corporate Securities Limited Representative Qualification Examination is now available. The Series 62 examination will, under certain conditions, fulfill the prerequisite examination requirements for candidates seeking General Securities Principal registration. The new examination will be administered in the PLATO network.

The text of the amendment to Schedule C, Part III, to the By-Laws as well as the conforming change to Schedule C, Part II, is attached.

BACKGROUND

When the NASD adopted the Series 7--General Securities Registered Representative Examination in 1974, the NASD Board of Governors recognized that the broad product coverage in test was not suitable for many representatives whose

firms specialized in limited products. The Board therefore elected to retain the predecessor Series 1--Registered Representative Examination to qualify representatives who "limited" their securities activities to either investment company products and variable annuities, or to direct participation programs. The Series 1 examination was used until August 1980, when the Series 6--Investment Company Products/Variable Contracts Representative Examination and the Series 22--Direct Participation Programs Representative Examination were implemented. In addition, in 1978, the Municipal Securities Rulemaking Board introduced the Series 52--Municipal Securities Representative Examination which created, from an NASD perspective, another category of limited representative registration.

These three limited examinations offered members and their representatives some, but not total, flexibility in qualifying for registration. For example, representatives who were already registered in one or more limited areas would be re-tested in those same areas when they sought General Securities Representative status through the Series 7 examination. Also, limited representatives who only wanted to add equity products to their qualifications would still have to study the full spectrum of municipal securities, investment company/variable products, and options products for the General Securities test. Compounding this problem, the options material in the Series 7 examination was significantly revised in June 1986 to include debt, foreign currency, and index options as well as the traditional coverage of equity options.

Therefore, the NASD Qualifications Committee decided to add two more limited representative registration categories:

1. Series 62--Corporate Securities Limited Representative Examination.
2. Series 42--Options Limited Representative Examination (planned for the near future).

A member or representative would then have total flexibility in qualifying in one or more product areas. Additionally, representatives qualifying in all five limited representative categories would be designated "General Securities Representatives," thereby offering an alternative to the Series 7 examination. The NASD has established procedures with other self-regulatory organizations to ensure comparability of subject matter coverage between the Series 7 examination and the five limited examinations.

Members have indicated a need for qualification tests that reflect the various product areas in the industry, and it is expected that the Corporate Securities Limited Registration category will apply to many firms. Expected users of the program include:

- Existing limited representatives, especially those associated with insurance companies, who want to expand their product offerings to include securities that currently require Series 7--General Securities Representative qualification.
- Representatives of smaller firms who are not involved in all the product areas included in the Series 7--General Securities Representative program.

- Representatives who prefer to attain general securities qualification in successive steps rather than in the all-or-nothing manner required by the Series 7--General Securities Representative program.

- Equity and corporate debt traders.
- Corporate finance personnel.
- Certain research personnel required to be registered under NASD rules.

SUMMARY OF ADOPTED AMENDMENTS TO SCHEDULE C

Under the adopted amendments to Schedule C to the NASD By-Laws, a Series 62--Corporate Securities Limited Representative can transact a member's business in common and preferred stocks, corporate bonds, stock rights, warrants, foreign securities, ADRs, shares of closed-end investment companies and money market funds, privately issued mortgage-backed securities, other asset-backed securities, and REITs. Registration in this category alone will not allow a representative to transact a member's business in municipal securities, direct participation programs, redeemable securities of companies registered under the Investment Company Act of 1940, variable contracts, or options. A representative seeking to transact business in these latter products must register in one or more of the NASD's other limited representative categories, or as a General Securities Registered Representative.

The amendments do not affect a member's ability to require its associated persons to qualify as Series 7--General Securities Representatives as a matter of policy. The Series 62--Corporate Securities Limited Representative Examination, either alone or in conjunction with other limited representative examinations, is intended to provide members greater flexibility in qualifying their personnel, while maintaining the necessary investor protection afforded by the NASD's qualification program. The Series 62 exam, like the other limited examinations, will be administered on a daily basis using the NASD's automated testing system in the PLATO network.

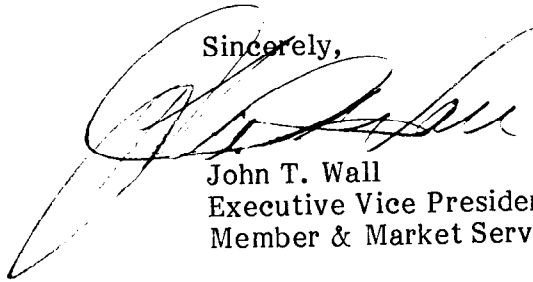
Additionally, the Series 62 exam and registration as a Corporate Securities Limited Registered Representative may be used to fulfill the prerequisite representative qualifications requirement for becoming a General Securities Principal and taking the Series 24--General Securities Principal Examination. A candidate who qualifies as a Corporate Securities Limited Representative as a basis for becoming a General Securities Principal may only supervise a member's corporate securities business, unless the candidate also qualifies in the other limited product areas covered by the Series 24 exam; namely, investment company products/variable contracts and direct participation programs.

* * * * *

The attached amendments to Schedule C to the NASD By-Laws have been approved by the NASD Board of Governors and the Securities and Exchange Commission. The Series 62--Corporate Securities Limited Representative Qualification Examination will be available beginning June 1, 1988. A study outline for the Series 62 examination can be obtained by sending a request with a check for \$4, payable to the NASD, to: NASD, Attn: Book Order Department, P.O. Box 9403, Gaithersburg, Maryland 20898-9403.

Questions concerning this notice can be directed to David Uthe, NASD Senior Qualifications Analyst, at (301) 738-6695.

Sincerely,

A handwritten signature in black ink, appearing to read "John T. Wall", is written over the word "Sincerely,".

John T. Wall
Executive Vice President
Member & Market Services

Attachments

**AMENDMENT TO SCHEDULE C, PART III
TO THE NASD BY-LAWS**

III

REGISTRATION OF REPRESENTATIVES

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. .
. .

(2) Categories of Representative Registration

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. .
. .

[The following section is new.]

(e) Limited Representative--Corporate Securities

(i) Each person associated with a member who is included within the definition of a representative in Part III, Section (1) hereof may register with the Corporation as a Limited Representative--Corporate Securities if:

(a.) Such person's activities in the investment banking or securities business involve the solicitation, purchase, and/or sale of a "security," as that term is defined in Section 3(a)(10) of the Securities Exchange Act of 1934 (the "Act"), and do not include such activities with respect to the following securities unless such person is separately qualified and registered in the category or categories of registration related to these securities:

- (1.) Municipal securities as defined in Section 3(a)(29) of the Act;
- (2.) Option securities as defined in Article III, Section 33(d) of the NASD Rules of Fair Practice;
- (3.) Redeemable securities of companies registered pursuant to the Investment Company Act of 1940, except for money market funds;
- (4.) Variable contracts of insurance companies registered pursuant to the Securities Act of 1933; and/or,
- (5.) Direct Participation Programs as defined in Part II, Section 2(d)(ii) thereof.

- (b.) Such person passes an appropriate qualification examination for Limited Representative--Corporate Securities.
- (ii) A person qualified solely as a Limited Representative--Corporate Securities shall not be qualified to function in any area not prescribed by Part III, Section 2(e)(i) hereof.

CONFORMING CHANGE TO SCHEDULE C, PART II
TO THE NASD BY-LAWS*

II

REGISTRATION OF PRINCIPALS

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(2) Categories of Principal Registration

(a) General Securities Principal

(i) [Change to last sentence of this paragraph]

Each person seeking to register and qualify as a General Securities Principal must, prior to or concurrent with such registration, become registered pursuant to Part III hereof, either as a General Representative or as a Limited Representative--Corporate Securities.

(ii) A Limited Representative--Corporate Securities seeking registration as General Securities Principal who will have supervisory responsibility over the conduct of business in investment company and variable contracts products and/or direct participation programs as defined herein must, prior to or concurrent with registration as a General Securities principal, become registered pursuant to Part III hereof as a Limited Representative--Investment Company/Variable Contracts Products and/or a Limited Representative--Direct Participation Programs.

[Existing Sections (ii) through (v) are renumbered to reflect the above.]

* New language is underlined.