

NASD NOTICE TO MEMBERS 95-95

SEC Approves Amendments To The Corporate Financing Rule Relating To Rights Of First Refusal

Suggested Routing

- Senior Management
- Advertising
- Corporate Finance
- Government Securities
- Institutional
- Internal Audit
- Legal & Compliance
- Municipal
- Mutual Fund
- Operations
- Options
- Registration
- Research
- Syndicate
- Systems
- Trading
- Training

Executive Summary

On September 29, 1995, the Securities and Exchange Commission (SEC) approved amendments to the Corporate Financing Rule, Article III, Section 44 of the NASD Rules of Fair Practice relating to rights of first refusal. The amendment continues to permit the use of rights of first refusal, but prohibits an underwriter from receiving a right of first refusal to underwrite or participate in the issuer's future offerings that:

- have a duration of longer than three years;
- have more than one opportunity to waive or terminate the right in consideration of any payment of fee; and
- are paid other than in cash.

The amended rule also requires that a right of first refusal has a compensation value of one percent of the offering proceeds or the dollar amount contractually agreed to for waiver or termination of the right. The amendment prohibits payment of any fee to waive or terminate a right of first refusal that has a value in excess of the greater of one percent of the original offering (or an amount in excess of one percent if additional compensation is available under the compensation guideline of the original offering) or five percent of the underwriting discount or commission paid in connection with future offering. The full text of the amendment, which becomes effective January 1, 1996, follows the discussion below.¹

Background And Discussion Of The Rule Change

The NASD® developed its policy on the valuation of rights of first refusal in the early 1970s. Rights of first refusal are typically negotiated in connection with an issuer's initial

public offering (IPO) and grant the underwriter a right to underwrite or participate in any future public offerings, private placements, or other financings by the issuer for a certain period of years.² The NASD values rights of first refusal as a noncash item of compensation at one percent of the offering proceeds and currently limits the duration of the right to five years. To the extent that an underwriting agreement includes a provision specifying a dollar amount for the waiver or termination of a right of first refusal, the Corporate Financing Rule also requires that the right of first refusal be valued at the dollar amount contractually agreed to for waiver of the right in place of the one percent valuation.³

The NASD believes that members should be permitted to negotiate to waive or terminate a right of first refusal if the issuer wishes to use a different underwriter to subsequently

¹ Securities Exchange Act Release No. 34-36303 (September 29, 1995); 60 F. R. 52232 (October 5, 1995).

² Rights of first refusal are also granted in connection with private venture capital investments and leveraged buy-out transactions. The rights granted in connection with private venture capital investments are to underwrite the issuer's initial equity public offering and, therefore, would not normally be considered compensation received in connection with the issuer's IPO. Rights granted in connection with leveraged buy-out transactions are for future financings of the issuer and may be considered received in connection with the issuer's offering of new equity securities or in connection with the secondary offering of debt securities by private debt-holders of the issuer.

³ Subsection 44(c)(3)(A)(ix) has been amended to make the rule language consistent with Subsection 44(c)(6)(B)(v), and add the words "or terminate" to clarify that the dollar amount contractually agreed to by the issuer and underwriter to waive or terminate the right of first refusal will be considered in lieu of the one percent compensation valuation.

raise additional capital through a public or private offering of its securities, provided that amounts negotiated are limited to an amount that has some relation to the size of the subsequent offering in which the member is not participating. The NASD is concerned that smaller issuers entering into these agreements may not be in a position to evaluate fully the ramifications of agreeing to a right of first refusal with a five-year term. The NASD staff rarely sees a right of first refusal with a term of less than five years, thus there is a concern that the duration of rights may not be freely negotiated by the issuer and the underwriter. The NASD has observed that certain underwriters routinely negotiate to receive rights of first refusal at the time of an IPO and later negotiate to waive or terminate their rights, without any original intent to underwrite any subsequent offering of securities by the issuer.

The NASD is concerned that an issuer may find it difficult to negotiate appropriate underwriting compensation with a new underwriter, where the issuer has determined to sever its relationship with its former underwriter and the former underwriter requires a substantial payment to waive or terminate its right of first refusal. The NASD has determined that underwriters should not be permitted to avoid underwriting compensation limits by negotiating to waive or terminate a right of first refusal with no limitation whatsoever on the amount of compensation they might negotiate to receive.

Three-Year Duration

Currently, Subsection 44(c)(6)(B)(v) of the Corporate Financing Rule prohibits, as unreasonable, any "right of first refusal" regarding future public offerings, private placements or other financings that has a duration of more than five years from the effective date of the offering. The NASD

has determined that a right of first refusal with a duration of five years is overreaching and that three years are more appropriate. The NASD has, therefore, amended Subsection 44(c)(6)(B)(v) to reduce the duration of the right of first refusal from five years to three years.

Number Of Payments For Waiver/Termination

The NASD is also amending the Corporate Financing Rule to address the practice of certain underwriters to routinely negotiate to receive rights of first refusal at the time of an IPO and later negotiate, repeatedly, to waive or terminate their rights, without any original intent to actually underwrite any subsequent offerings of securities by the issuer. The NASD has amended the Corporate Financing Rule to add new subparagraph (v)(2) to Subsection 44(c)(6)(B) to limit a member to one opportunity to waive or terminate a right of first refusal in consideration of any payment or fee. An underwriter that does not wish to terminate its right of first refusal for future offerings may preserve its right by waiving its participation in a particular offering without accepting payment for such waiver.⁴

Limitation On Waiver/Termination Compensation

The NASD believes that members should be permitted to negotiate to waive or terminate a right of first refusal if the issuer wishes to use a different underwriter to subsequently raise additional capital through a public or private offering of its securities. However, the NASD believes that the amounts negotiated for the waiver or termination of the right should be limited to an amount that has some relation to the size of the subsequent offering in which the member is not participating. The NASD has, therefore, adopted an amendment limiting the amount of

such waiver/termination payments by adding a new subparagraph (vi)(1) to Subsection 44(c)(6)(B) to the Corporate Financing Rule to prohibit any payment to waive or terminate a right of first refusal that has a value in excess of the greater of one percent of the original offering (or a higher amount if additional compensation is available under the compensation guideline applicable to the original offering) or five percent of the underwriting discount or commission paid in connection with the future offering (including any overallotment option that may be exercised), regardless of whether the payment or fee is negotiated at the time of or subsequent to the original public offering.⁵

The one percent limitation reflects the NASD's belief that it is appropriate that the former underwriter be permitted to negotiate a fee that is at least equal to the valuation of the right of first refusal in connection with the NASD's review of the original offering if the issuer wishes to sever its relationship with the former underwriter. The five percent alternative limitation reflects the NASD's belief that the former underwriter that assumed the risk of distributing the issuer's IPO should be allowed to participate or equitably benefit in the issuer's subsequent offering of securities, including any overallotment option that may be exercised, regardless of whether the payment or fee is negotiated at the time of or subse-

⁴ The NASD anticipates that the former underwriter will contact the NASD Corporate Financing Department when it is negotiating a waiver or termination of a right of first refusal to obtain information on whether additional compensation is available under the compensation guideline applicable to the original offering.

⁵ The NASD does not include the payment to waive or terminate a right of first refusal as compensation in connection with its review of the subsequent offering of securities. The rule change does not modify this practice.

quent to the original public offering.

Cash Payment Requirement

The NASD has also adopted new subparagraph (vi)(2) of Subsection 44(c)(6)(B) of the Corporate Financing Rule to specify that compensation to members for waiving or terminating a right of first refusal must be in cash. The NASD believes this provision will limit the waiver/termination payment to a percentage of the capital raised in the secondary offering and protect the company's shareholders from dilution from issuing shares to a former underwriter.

Implementation Of Rule

The rule change is applicable to filings that become effective with the SEC on or after January 1, 1996. Thus offerings filed with the NASD Corporate Financing Department that have not become effective with the SEC before January 1, 1996, must comply with the rule change, regardless of whether the Corporate Financing Department has previously issued an opinion that it has no objections to the terms and arrangements.

Questions about this Notice may be directed to the Corporate Financing Department, at (301) 208-2700.

Text Of Amendments

(Note: New text is underlined; deletions are bracketed.)

The Corporate Financing Rule

Underwriting Terms and Arrangements

Article III, Section 44 of the Rules of Fair Practice

(a) and (b) No change.

(c) Underwriting Compensation and Arrangements

(1) and (2) No change.

(3) Items of Compensation

(A) For purposes of determining the amount of underwriting compensation received or to be received by the underwriter and related persons pursuant to paragraph (c)(2) above, the following items and all other items of value received or to be received by the underwriter and related persons in connection with or related to the distribution of the offering, as determined pursuant to paragraph (c)(4) below shall be included:

(i) through (viii) No change.

(ix) any right of first refusal provided to the underwriter and related persons to underwrite or participate in future public offerings, private placements or other financings [by the issuer], which will have a compensation value of one percent (1%) of the offering proceeds or that dollar amount contractually agreed to by the issuer and underwriter to waive or terminate the right of first refusal;

(4) and (5) No change.

(6) Unreasonable Terms and Arrangements

(A) No change.

(B) Without limiting the foregoing, the following terms and arrangements, when proposed in connection with the distribution of a public offering of securities, shall be unfair and unreasonable:

(i) through (iv) No change.

(v) any right of first refusal provided to the underwriter or related persons

[regarding] to underwrite or participate in future public offerings, private placements or other financings which;

(1) has a duration of more than [five (5)] three (3) years from the effective date of the offering; or

(2) has more than one opportunity to waive or terminate the right of first refusal in consideration of any payment or fee;

(vi) any payment or fee to waive or terminate a right of first refusal regarding future public offerings, private placements or other financings provided to the underwriter and related persons which;

(1) has a value in excess of the greater of one percent (1%) of the offering proceeds in the public offering where the right of first refusal was granted (or an amount in excess of one percent if additional compensation is available under the compensation guideline of the original offering) or five percent (5%) of the underwriting discount or commission paid in connection with the future financing (including any overallotment option that may be exercised), regardless of whether the payment or fee is negotiated at the time of or subsequent to the original public offering; or

(2) is not paid in cash.

Subsections (vi) through (xii) are renumbered (vii) through (xiii).

NASD NOTICE TO MEMBERS 95-96

Continuing Education Rosters Now Available To Member Firms

Suggested Routing

- Senior Management
- Advertising
- Corporate Finance
- Government Securities
- Institutional
- Internal Audit
- Legal & Compliance
- Municipal
- Mutual Fund
- Operations
- Options
- Registration
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- Systems
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NASD® member firms may now order rosters of their registered persons who are subject to the Regulatory Element of the new Securities Industry Continuing Education rules, which were effective July 1, 1995. (See *Special Notice to Members 95-13*, March 8, 1995).

Firm rosters will be prepared from a database periodically extracted from the Central Registration Depository (CRD). The rosters will show those whom the CRD recognizes as being covered by the Regulatory Element of Continuing Education Program because their Continuing Education base date is on or after July 1, 1985. The Continuing Education base date is the more recent of a person's initial registration date *or* the date on which a significant disciplinary action (as defined by the rules) was posted to the CRD. The CRD measures an individual's second, fifth, and tenth anniversaries from the Continuing Education base date.

A roster will be available as a printed report or a data file in ASCII text format (see attachment). Rosters will have each employee's name, CRD number, Continuing Education base date, and employment status. Member firms can use the information from the roster to forecast how many of their employees must complete a Regulatory Element computer-based training session at an NASD PROCTOR® Certification Testing Center. The roster information also will help firms budget Regulatory

Element training expenses and learn what the CRD is showing as the Continuing Education base date for each employee.

Firms may order Continuing Education rosters from their Quality & Service Teams. Rosters will cost \$200. Rosters on a floppy disk in ASCII text format are \$300. Firms will be charged by way of a debit to their CRD account. Rosters will be prepared and charged by BD number, with no discounts for affiliated groups of firms.

To order a Continuing Education roster from the latest CRD extract, please call your NASD Quality & Service Team at:

Quality & Service Team 1
(301) 921-9499

Quality & Service Team 2
(301) 921-9444

Quality & Service Team 3
(301) 921-9445

Quality & Service Team 4
(301) 921-6664

Quality & Service Team 5
(301) 921-6665.

Questions about this Notice may be directed to your Quality & Service Team, or John Linnehan, Director of Continuing Education, at (301) 208-2932.

Continuing Education Roster of Persons Registered on or after July 1, 1985

Broker/Dealer: 1960

Report Dated: 11/1/95

| Representative Name | CRD Number | CE Base Date | Employment Status |
|----------------------|------------|--------------|-------------------|
| Burgess, Smokey | 888888 | 9/13/88 | |
| Clemente, Roberto | 212121 | 1/1/89 | |
| Face, Elroy | 654128 | 2/16/88 | |
| Friend, Bob | 605023 | 7/5/86 | |
| Groat, Dick | 111111 | 6/8/91 | |
| Haddix, Harvey | 801457 | 6/7/93 | |
| Hoak, Don | 121212 | 4/15/92 | |
| Law, Vernon | 741369 | 7/1/85 | |
| Mazerowski, Bill | 999999 | 10/13/90 | |
| Mizell, Wilmer V. B. | 302050 | 8/8/88 | Termed |
| Murtaugh, Danny | 123321 | 2/28/86 | |
| Nelson, Rocky | 785214 | 8/15/90 | |
| Schofield, Dick | 963214 | 12/31/94 | |
| Skinner, Bob | 654896 | 3/3/88 | |
| Smith, Hal | 852147 | 10/27/87 | |
| Stuart, Dick | 777777 | 11/19/93 | |
| Virdon, Bill | 181818 | 5/17/94 | |

Total number of reps: 17

NASD NOTICE TO MEMBERS 95-97

NASD Reminds Members About Treasury's Foreign Assets Control Regulations

Suggested Routing

- Senior Management
- Advertising
- Corporate Finance
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- Legal & Compliance
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Executive Summary

The Department of Treasury (Treasury) asked the NASD[®] to remind its members about regulations issued by the Office of Foreign Assets Control (OFAC). These regulations require broker/dealers to block¹ accounts and other assets of countries identified as threats to national security by the President of the United States and prohibit broker/dealers from engaging in unlicensed trade and financial transactions with such countries. OFAC is authorized to impose significant monetary fines for violations of these regulations.

Background

The U.S. government mandates that all financial institutions located in the United States, overseas branches of these institutions and, in certain instances, overseas subsidiaries of the institutions comply with OFAC regulations governing economic sanctions and embargo programs regarding the accounts and other assets of countries identified as threats to national security by the President of the United States. This always involves accounts and assets of the sanctioned countries' governments, and it may also involve the accounts and assets of individual nationals of the sanctioned countries. Also, these regulations prohibit unlicensed trade and financial transactions with such countries.

Under these regulations, financial institutions must block identified assets and accounts when such property is located in the United States, is held by U.S. individuals or entities, or comes into the possession or control of U.S. individuals or entities. The definition of assets and property is very broad and covers direct, indirect, present, future, and contingent interests. In addition, Treasury identifies certain individuals and entities located worldwide that are acting on

behalf of sanctioned governments, and these must be treated as if they are part of the sanctioned governments.

OFAC may impose criminal or civil penalties for violations of these regulations. Criminal violations may result in corporate fines of up to \$1 million and personal fines of up to \$250,000 and 12 years in jail; civil penalties of up to \$250,000 per violation also may be imposed. To ensure compliance, OFAC enlists the cooperation of various regulatory organizations and recently asked the NASD to remind its members about these regulations.

Foreign Assets Control Regulations

OFAC currently administers sanctions and embargo programs against Libya, Iran, Iraq, the Federal Republic of Yugoslavia (Serbia and Montenegro), Serb-controlled areas of Bosnia and Herzegovina and Bosnian Serb military and civilian leaders, North Korea, and Cuba. In addition, it prohibits certain exports to the UNITA faction in Angola and prohibits transactions with terrorists threatening to disrupt the Middle East peace process.

Broker/dealers cannot deal in securities issued from these target countries and governments and must block or freeze accounts, assets, and obligations of blocked entities and individuals when this property is in their possession or control.

¹ Blocking, which also may be called freezing, is a form of controlling assets under U.S. jurisdiction. While title to blocked property remains with the designated country or national, the exercise of the powers and privileges normally associated with ownership is prohibited without authorization from OFAC. Blocking immediately imposes an across-the-board prohibition against transfers or transactions of any kind with respect to the property.

Responsibilities Of Broker/Dealers

According to OFAC, broker/dealers need to establish internal compliance programs to monitor these regulations. OFAC urges broker/dealers to review their existing customer accounts and the securities in their custody to ensure that any accounts or securities blocked by existing sanctions are being treated properly. Broker/dealers also should review any other securities that may represent obligations of, or ownership interests in, entities owned or controlled by blocked commercial or government entities identified by OFAC.

Blocked Accounts And Securities

Broker/dealers must report blockings within 10 days by fax to OFAC Compliance Division at (202) 622-1657. Firms are prohibited from making debits to blocked customer accounts, although credits are authorized. Blocked securities may not be paid, withdrawn, transferred (even by book transfer), endorsed, guaranteed, or otherwise dealt in.

General Licenses

OFAC has issued general licenses authorizing continued trading on the

national securities exchanges on behalf of blocked Cuban and North Korean customer accounts under conditions preserving the blocking of resulting assets and proceeds. Secondary market trading with respect to certain Yugoslav debt securities issued pursuant to the "New Financing Agreement" of September 20, 1988, also are authorized; however, certain restrictions and reporting requirements apply.

List Of Sanctioned Governments And Individuals

Whenever there is an update to its regulations, an addition or removal of a specifically designated national, or any other pertinent announcement, OFAC makes the information available electronically on the U.S. Council on International Banking's INTERCOM Bulletin Board in New York and the International Banking Operations Association's Bulletin Board in Miami. The information also is immediately uploaded onto Treasury's Electronic Library (TEL) on the FedWorld Bulletin Board network. In addition, the information is available through several other government services provided free of charge to the general public.

NASD members are urged to review their procedures to ensure compliance with OFAC regulations.

Attached for your review is a copy of an OFAC bulletin, "Foreign Assets Control Regulations for the Securities Industry." In addition to providing practical guidelines, it contains a complete list of electronic services for OFAC announcements.

The NASD urges its members to review the attached list of 80 blocked persons who have been designated by the President of the United States for their significant role in international narcotics trafficking centered in Columbia, or have been determined by the Secretary of the Treasury, in consultation with the Attorney General and the Secretary of State, to have materially assisted in or provided financial or technological support for, or goods or services in support of, the narcotics trafficking activities of other blocked persons on the list, or to be owned or controlled by, or to act for or on behalf of, other blocked persons on the list.

Questions concerning this Notice may be directed to OFAC at (202) 622-2490.



FOREIGN ASSETS CONTROL REGULATIONS FOR THE SECURITIES INDUSTRY

Recently, a U.S. bank blocked a funds transfer en route to a U.S. securities account held in the name of an attorney residing in Geneva. Two broker/dealers and two clearing firms had been taking orders and operating securities accounts for him for quite some time and had understood that both he and his family enjoyed excellent reputations. What was the problem? The attorney had been identified as an agent of the Iraqi government and U.S. law required that his assets be blocked beginning in November of 1994. For the U.S. securities firms involved, each transaction handled for the attorney after his designation as a "Specially Designated National of Iraq" could mean civil penalties of up to \$250,000!

Another U.S. bank was caught by surprise when a 6 figure transfer it was expecting never arrived. The funds were interdicted by an alert correspondent bank because the payment instructions referenced "Yugoslavian Loans." The U.S. bank was on the verge of closing a deal to sell Serbian debt instruments on the secondary market. Another big mistake -- the U.S. bank was hit with stiff fines.

You might receive instructions from a long-time customer to wire sales proceeds to an account at the Arab Bank for Investment and Foreign Trade (ARBIFT) in the U.A.E. or to an account at Banque Intercontinentale Arabe (BIA) in Paris, France. All in a day's work, right? Wrong. These funds will most likely be blocked because both ARBIFT and BIA have been found to be acting on behalf of Libya. Your firm may be fined up to \$10,000 for initiating the transfer, even though your own bank blocked it. You'll also have to break the news to your client that his funds may be in limbo indefinitely.

You might also unwittingly open a margin account for a customer who happens to be a Cuban national, in which case the U.S. Government may be the least of your problems! Your firm could be on the hook for any purchases made on margin for this client before you realize that all of his U.S. assets are frozen.

These examples illustrate how costly it can be to run afoul of U.S. laws enforced by the U.S. Treasury Department's Office of Foreign Assets Control (OFAC). OFAC administers sanctions and embargo programs against Libya, Iran, Iraq, the Federal Republic of Yugoslavia (Serbia and Montenegro), Serb-controlled areas of Bosnia and Herzegovina and Bosnian Serb military and civilian leaders, North Korea, and Cuba, and administers prohibitions against exports of arms and petroleum products to the UNITA faction in Angola, and prohibitions against transactions with terrorists threatening to disrupt the Middle East peace process. Securities firms are prohibited from dealing in securities issued from target countries and governments and must "block" or "freeze" accounts, assets, and obligations of an extensive number of blocked entities and individuals located in cities all over the globe.

Criminal violations of the statutes administered by OFAC can result in corporate fines of up to \$1 million and personal fines of up to \$250,000 and 12 years in jail. OFAC also has independent authority to impose civil penalties of up to \$250,000 per count. To assure that illicit transactions are not processed, much of the banking industry has installed sophisticated and highly effective "interdict" software to block questionable funds transfers and other transactions automatically. Some of the filters contain every name on OFAC's master list of "Specially Designated Nationals and Blocked Persons" (SDN list) along with geographical names for embargoed countries and cities. Because of the current level of electronic compliance programs in the financial community, it is more likely now than ever that violations by the securities industry will come to the attention of OFAC. It is critical that securities firms establish internal compliance programs to avert violations and costly enforcement actions.

OFAC Customer Assessment Checklist

It is recommended that you start by taking a look at your existing customer accounts to determine whether you are properly treating those that are blocked by existing sanctions, including:

- personal and commercial accounts held in the name of individuals or organizations appearing on OFAC's SDN list;
- personal accounts with Cuban or North Korean addresses;
- personal accounts held in the name of nationals of Cuba or North Korea, regardless of address (except nationals unblocked by OFAC license);
- commercial accounts with addresses in Cuba, North Korea, Libya, Iraq, Serbia, Montenegro, and cities and towns in areas of Bosnia and Herzegovina controlled by Bosnian Serb forces;
- accounts held in the name of the government of Cuba, North Korea, Libya, Iraq, or the Federal Republic of Yugoslavia (Serbia and Montenegro); and
- accounts owned by individuals acting for or on behalf of any of the account parties listed above or accounts owned by entities which are owned or controlled by any of the account parties listed above.

Although no blocking provisions apply with regard to Iranian accounts, firms may no longer act on buy or sell orders originating from the Government of Iran, or individuals or entities located in Iran. At the request of the account holder, a firm may close out an Iranian account and effect a one-time lump sum transfer of all remaining account funds and other assets to the account holder.

OFAC Securities Assessment Checklist

Next, you should review the securities in your custody to determine whether you are properly treating any that are blocked, including:

- securities registered or inscribed in the name of a Cuban or North Korean national (regardless of whether the registered or inscribed owner appears to have assigned, transferred or otherwise disposed of the security);
- sovereign debt securities representing obligations of the governments of Cuba, North Korea, Libya, Iraq, the Federal Republic of Yugoslavia (Serbia and Montenegro), or the former Socialist Federal Republic of Yugoslavia (except as licensed by OFAC for trading);
- debt or equity securities representing obligations of, or ownership interests in, companies appearing on OFAC's SDN list;
- debt or equity securities representing obligations of, or ownership interests in, companies located in Cuba, North Korea, Libya, Iraq, the Federal Republic of Yugoslavia (Serbia and Montenegro), or areas of Bosnia and Herzegovina controlled by Bosnian Serb forces; or
- bankers acceptances that indicate on their face that they relate to trade transactions involving North Korea, Cuba, Libya, Iran (post June 5, 1995 shipments), Iraq, the Federal Republic of Yugoslavia (Serbia & Montenegro), areas of Bosnia and Herzegovina controlled by Bosnian Serb forces, or the U.N. Protected Areas in Croatia, or exports of arms, petroleum, and petroleum products to the territory of Angola (other than through certain designated ports).

You should also scrutinize any other securities which you have reason to believe represent obligations of, or ownership interests in, entities owned or controlled by blocked commercial or governmental entities referenced above.

OFAC Banking Checklist

Before they are relayed to your bank, outgoing wire transfer instructions should be reviewed to insure that:

- neither intermediary banks nor banks of beneficiaries appear on OFAC's SDN list;
- the funds are not destined for Cuba, North Korea, Libya, Iraq, the Federal Republic of Yugoslavia (Serbia and Montenegro) or areas of Bosnia and Herzegovina controlled by Bosnian Serb forces; and
- the beneficiary is not otherwise blocked (to determine whether a beneficiary is blocked, apply the same criteria as those found in the OFAC Customer Assessment Checklist).

Blocked Accounts and Securities

Blockings must be reported within 10 days by fax to OFAC Compliance Division at 202/622-1657. Debits to blocked customer accounts are prohibited, although credits are authorized. Cash balances in customer accounts must earn interest at commercially reasonable rates. Blocked securities may not be paid, withdrawn, transferred (even by book transfer), endorsed, guaranteed, or otherwise dealt in.

General Licenses

General licenses have been issued authorizing continued trading on the national securities exchanges on behalf of blocked Cuban and North Korean customer accounts under conditions preserving the blocking of resulting assets and proceeds. Secondary market trading with respect to certain Yugoslav debt securities issued pursuant to the "New Financing Agreement" of September 20, 1988 (the "NFA") has also been authorized by General License. Certain restrictions and reporting requirements apply -- contact OFAC if further information is needed with respect to trading under a general license.

Ongoing OFAC Compliance

The information on the OFAC assessment checklists will assist you when you evaluate new clients and unfamiliar investment securities. In addition, it may be helpful to designate a "Compliance Officer" responsible for monitoring compliance with OFAC programs and overseeing blocked accounts and securities. Internal auditing departments can assist in the development of "corporate compliance memoranda" and verification that procedures, once established, are being followed. An effective internal communication network is critical for regulatory compliance. Firms might consider including regulatory notices and explanations in staff newsletters. Compliance training programs will help prevent violations. Other useful measures would include reviewing regulations in staff meetings, incorporating compliance requirements into operating procedures, and joining with other firms to sponsor compliance seminars.

The economic sanctions programs of the U.S. Government are powerful foreign policy tools. Their success requires the active participation and support of every U.S. citizen. Protect your firm from losses and civil penalty exposure -- don't open your doors to OFAC targets; stay abreast of U.S. sanctions law. When in doubt about a specific account or transaction, or in need of additional information, contact OFAC's Compliance Hotline for financial institutions at 1-800-540-OFAC (6322).

Additional Information

Whenever there is an update to any OFAC regulation, an addition or removal of an SDN, or any other announcement from OFAC, the information is quickly made available electronically via many different sources.

- The *Federal Bulletin Board* of the U.S. Government Printing Office, which is linked to the *Federal Register* and *Code of Federal Regulations*, carries all OFAC brochures in ASCII, WordPerfect, and Adobe/Acrobat "*.PDF" format, as well as the entire *Code of Federal Regulations* containing OFAC regulations, all *Federal Register* notices that OFAC puts out, and all of OFAC's current press releases. For information on the *Federal Bulletin Board* call 202/512-1530 or dial 202/512-1387 to connect [Telnet access via Internet = federal.bbs.gpo.gov 3001].
- Information is also immediately uploaded onto the U.S. Treasury Department's free Electronic Library (*TEL*) on the *FedWorld* bulletin board network. *FedWorld*, a service of the National Technical Information Service, can be reached by dialing 703/321-3339 [or over Internet using one of the following protocols: Telnet Access Via Internet = fedworld.gov (192.239.93.3); FTP Site Access Via Internet = ftp.fedworld.gov (192.239.92.205); World Wide Web (Home Page) = http://www.fedworld.gov]. Its help desk number is 703/487-4608 and business office is 703/487-4648. Once access to *FedWorld* has been gained, option "[C]," the Business, Trade, and Labor Mall, should be chosen. Then, "[E]" should be chosen for *TEL*. OFAC's files are all prefixed with the call letters "T11" Files are available for downloading in camera-ready Adobe/Acrobat "*.PDF" format (for Mac or Windows 3.1) as well as in a self-extracting ASCII "*.EXE" format.
- Simultaneous uploads are made to the U.S. Department of Commerce *Economic Bulletin Board*. For information on the Commerce *EBB*, call 202/482-1986 or dial into 202/482-3870 with a 2400 bps modem or 202/482-2584 with a 9600 baud modem [Telnet access via Internet = ebb.stat-usa.gov]. OFAC material can be found in file area #17. Commerce also operates a monthly CD-Rom service (the *National Trade Data Bank*) with OFAC data in ASCII format (call 202/482-1986 for information), a fee-based fax-on-demand service, called *STAT-USA/FAX* (call 202/482-0005 from a fax machine's handset), and a World Wide Web server, called *STAT-USA/Internet*, with access at "http://www.stat-use.gov" and voice support at 202/482-1986. OFAC's program brochures and SDN information is available in downloadable Adobe/Acrobat "*.PDF" format on the Commerce server.

- Information is disseminated to banks on the U.S. Council on International Banking's *INTERCOM* Bulletin Board in New York and the IBOA Bulletin Board (International Banking Operations Association) in Miami. The Office of the Comptroller of the Currency operates a special 24 hour a day "fax-on-demand" service for National banks and examiners. The computer-based system, called *OCC Information Line*, provides documents from any touchtone phone by calling 202/479-0141 and following voice prompts. OCC's Communications Division may be reached at 202/874-4960. (Note that OFAC's SDN list on the OCC system is split into two separate documents [A-K] and [L-Z]). Major announcements are also distributed to U.S. financial institutions through Fedwire bulletins and CHIPS system

broadcasts, as well as, from time to time, in printed format through the various Federal bank supervisory agencies.

- The U.S. Maritime Administration operates a free electronic bulletin board, called *Marlinspike*, which can be accessed via modem at 202/366-8505 with voice help at 202/366-9991 (OFAC's brochures and SDN information can be scanned on-line or downloaded for further use).
- The U.S. Customs Service maintains a free *Customs Electronic Bulletin Board* geared especially toward Customs House Brokers (OFAC's information is available as a date-specific self-extracting DOS file through modem access at 703/440-6155 and voice support at 703/440-6236).

DEPARTMENT OF THE TREASURY**Office of Foreign Assets Control****List of Specially Designated Narcotics Traffickers**

AGENCY: Office of Foreign Assets Control, Treasury.

ACTION: Notice of blocking.

SUMMARY: The Treasury Department is issuing a list of 80 blocked persons who have been designated by the President for their significant role in international narcotics trafficking centered in Colombia, or have been determined by the Secretary of the Treasury, in consultation with the Attorney General and the Secretary of State, either to have materially assisted in or provided financial or technological support for, or goods or services in support of, the narcotics trafficking activities of other blocked persons on the list, or to be owned or controlled by, or to act for or on behalf of, other blocked persons on the list.

EFFECTIVE DATE: October 23, 1995.

FOR FURTHER INFORMATION CONTACT: Office of Foreign Assets Control, Department of the Treasury, 1500 Pennsylvania Ave. NW., Washington, DC 20220; Tel.: (202) 622-2420.

SUPPLEMENTARY INFORMATION:**Electronic Availability**

This document is available as an electronic file on *The Federal Bulletin Board* the day of publication in the *Federal Register*. By modem, dial 202/512-1387 and type "/GO FAC," or call 202/512-1530 for disks or paper copies. This file is available for downloading in WordPerfect, ASCII, and Adobe Acrobat™ readable (*.PDF) formats. The document is also accessible for downloading in ASCII format without charge from Treasury's Electronic Library ("TEL") in the "Business, Trade and Labor Mall" of the FedWorld bulletin board. By modem dial 703/321-3339, and select self-expanding file "T11FR00.EXE" in TEL. For Internet access, use one of the following protocols: Telnet = fedworld.gov (192.239.93.3); World Wide Web (Home Page) = http://www.fedworld.gov; FTP = ftp.fedworld.gov (192.239.92.205).

Background

On October 21, 1995, President Clinton signed Executive Order 12978, "Blocking Assets and Prohibiting Transactions with Significant Narcotics Traffickers" (the "Order").

The Order blocks all property subject to U.S. jurisdiction in which there is any interest of four principal figures in

the Cali drug cartel who are listed in the annex to the Order. In addition, the Order blocks the property and interests in property of foreign persons determined by the Secretary of the Treasury, in consultation with the Attorney General and the Secretary of State, (a) to play a significant role in international narcotics trafficking centered in Colombia, or (b) to materially assist in or provide financial or technological support for, or goods or services in support of, persons designated in or pursuant to the Order. In addition, the Order blocks all property and interests in property subject to U.S. jurisdiction of persons determined by the Secretary of the Treasury, in consultation with the Attorney General and the Secretary of State, to be owned or controlled by, or to act for or on behalf of, persons designated in or pursuant to the Order (collectively "Specially Designated Narcotics Traffickers" or "SDNTs").

The Order further prohibits any transaction or dealing by a United States person or within the United States in property or interests in property of SDNTs, and any transaction that evades or avoids, has the purpose of evading or avoiding, or attempts to violate, the prohibitions contained in the Order.

Designations of foreign persons blocked pursuant to the Order are effective upon the date of determination by the Director of the Office of Foreign Assets Control, acting under authority delegated by the Secretary of the Treasury. Public notice of blocking is effective upon the date of filing with the *Federal Register*, or upon prior actual notice.

Specially Designated Narcotics Traffickers**PRINCIPAL INDIVIDUALS:**

HERRERA BUITRAGO, HELMER (A.K.A. "PACHO"; A.K.A. "H7"); DOB: 24 August 1951; alt. DOB: 5 July 1951; Passport: J287011 (Colombia); Cedula No. 16247821 (Colombia); Cali, Colombia.

RODRIGUEZ OREJUELA, GILBERTO; (A.K.A. "THE CHESS PLAYER"; A.K.A. "LUCAS"); DOB: 31 January 1939; Passports: T321642 (Colombia); 77588 (Argentina); 10545599 (Venezuela); Cedula No. 6068015 (Colombia); Cali, Colombia.

RODRIGUEZ OREJUELA, MIGUEL ANGEL, (A.K.A. "EL SEÑOR"; A.K.A. "PATRICIA"; A.K.A. "PATRICIO"; A.K.A. "PATTY"; A.K.A. "PAT"; A.K.A. "MANUEL"; A.K.A. "MANOLO"; A.K.A. "MIKE"; A.K.A. "MAURO"; A.K.A. "DOCTOR M.R.O."); DOB: 23 November 1943; alt. DOB: 15 August 1943; Cedula No. 6095803 (Colombia); Casa No. 19, Avenida Lago, Ciudad Jardin, Cali, Colombia.

SANTACRUZ LONDOÑO, JOSÉ, (A.K.A. "CHEPE"; A.K.A. "DON CHEPE"; A.K.A. "EL GORDO CHEPE"; A.K.A. "07"); DOB: 1 October 1943; Passport: AB149814 (Colombia); Cedula No. 14432230 (Colombia); Cali, Colombia.

ENTITIES:

AUREAL INMOBILIARIA LTDA., Avenida 7 No. 112-38 of. 104, Bogota, Colombia.

CARS & CARS LTDA., (A.K.A. COMERCIALIZADORA INTEGRAL LTDA.; A.K.A. PROYECTO CARS & CARS; A.K.A. CENTRO COMERCIAL DEL AUTOMOVIL), Avenida Roosevelt entre carreras 38 y 38A esquinas, Cali, Colombia.

DISTRIBUIDORA DE DROGAS CONDOR LTDA., (A.K.A. CONDOR), Calle 10 No. 32A-64, Bogota, Colombia; Calle 68 52-05, Bogota, Colombia.

DISTRIBUIDORA DE DROGAS LA REBAJA S.A., (A.K.A. DROGAS LA REBAJA; A.K.A. DISTRIBUIDORA DE DROGAS LA REBAJA PRINCIPAL S.A.), Calle 10 No. 4-47 Piso 19, Cali, Colombia; Calle 18 121-130, Cali, Colombia; Calle 14 6-66, Cali, Colombia; Carrera 7 13-132 piso 4, Cali, Colombia; Carrera 7A 14-25 piso 2, Cali, Colombia; Carrera 10 11-71, Cali, Colombia; Carrera 99 No. 46 A-10 Bdg 6 y 8, Bogota, Colombia.

DISTRIBUIDORA MIGIL LTDA., (A.K.A. MIGIL; A.K.A. DISTRIBUIDORA MIGIL CALI S.A.; F.K.A. DISTRIBUIDORA MIGIL BOGOTA LTDA.), Calle 5C 41-30, Cali, Colombia; Carrera 26 5B-65, Cali, Colombia; Carrera 30-5-12, Cali, Colombia.

DROGAS LA REBAJA BARRANQUILLA S.A., Avenida Pedro Heredia, Barranquilla, Colombia; Local Cerete, Barranquilla, Colombia; Local de Riohacha, Barranquilla, Colombia.

DROGAS LA REBAJA BUCARAMANGA S.A., Local No. 1, Bucaramanga, Colombia; Local No. 1, Cucuta, Colombia; Local No. 2, Cucuta, Colombia; Local No. 6, Cucuta, Colombia; Local No. 7, Cucuta, Colombia; Local No. 9, Cucuta, Colombia; Local 201, Valledupar, Colombia.

DROGAS LA REBAJA CALI S.A., Barrio Siloe, Cali, Colombia; Calle 13 #6-85, Cali, Colombia; Calle 3 #4-02 B/Ventura, Cali, Colombia; Local Comunerios No. 20, Cali, Colombia; Local del Poblado No. 17, Cali, Colombia; Santander de Quilichao, Cali, Colombia.

DROGAS LA REBAJA NEIVA S.A., Neiva, Colombia.

DROGAS LA REBAJA PASTO S.A., Calle 18 #26-40, Pasto, Colombia; Local No. 6, Pasto, Colombia; Local No. 13, Puerto Asis, Colombia.

- DROGAS LA REBAJA PEREIRA S.A.**, Local Cajamarca, Pereira, Colombia; Local Dos Quebradas, Pereira, Colombia; Local Santa Rosa de Cabal, Pereira, Colombia; Local la Virginia, Pereira, Colombia.
- GANADERA LTDA.**, (A.K.A. GANADERIA), Carrera 4 12-41 piso 15, Edificio Seguros Bolivar, Cali, Colombia.
- GRUPO SANTA LTDA.**, Calle 18 106-98 of. 201/202, Cali, Colombia; Carrera 4 12-41 piso 14 y 15, Edificio Seguros Bolivar, Cali, Colombia; Carrera 84 17-29, Cali, Colombia.
- HACIENDA LA NOVILLERA**, (A.K.A. NOVILLERA; A.K.A. NOVILLERA GANADERA), Carrera 4 12-41 piso 15, Edificio Seguros Bolivar, Cali, Colombia; Paso de la Bolsa, Jamundi, Valle del Cauca, Colombia.
- HACIENDA SANDRANA**, (A.K.A. SANDRANA; A.K.A. SANDRANA GANADERA), Carrera 4 12-41 piso 15, Edificio Seguros Bolivar, Cali, Colombia; San Pedro, Valle del Cauca, Colombia.
- INMOBILIARIA AURORA LTDA.**, Avenida Canasgordas con Avenida Guali Casa 35, Cali, Colombia; Carrera 4 12-41 piso 15, Edificio Seguros Bolivar, Cali, Colombia; Carrera 24F Oeste 3-70, Cali, Colombia; Carrera 38A No. 5E-31, Edificio Conquistadores, Cali, Colombia.
- INMOBILIARIA SAMARIA LTDA.**, Calle 13 3-32 piso 13, Cali, Colombia; Calle 13A 64-50 F201, Cali, Colombia; Calle 18, No. 106-98 of. 201/202, Cali, Colombia; Carrera 4 12-41 piso 15, Edificio Seguros Bolivar, Cali, Colombia.
- INTERCREDITOS S.A.**, (A.K.A. INTERCREDITOS BOGOTA), Bogota, Colombia; (A.K.A. INTERCREDITOS CALI), Avenida Roosevelt No. 38-32, piso 2, Cali, Colombia.
- INVERSIONES ARA LTDA.**, Avenida 4N 6N-67 of. 601, Cali, Colombia; Avenida 6AN 18-69 1-128, Cali, Colombia; Avenida 6AN 23DN-16 of. 402, Cali, Colombia; Club El Remanso, Jamundi, Colombia.
- INVERSIONES EL PASO LTDA.**, (F.K.A. INVERSIONES NEGOAGRICOLA S.A.), Carrera 4 No. 12-41 of. 1403, Cali, Colombia.
- INVERSIONES INTEGRAL Y CIA.**, Calle 16B No. 114-80 Casa 2, Cali, Colombia; Carrera 2 Oeste 5-46 apt./of. 503, Cali, Colombia.
- INVERSIONES MIGUEL RODRIGUEZ E HIJO**, Avenida 4N 6N-67 of. 601, Cali, Colombia; Avenida 6N 23DN-16 of. 202, 301, 302, 401, 402, Cali, Colombia.
- INVERSIONES SANTA LTDA.**, (F.K.A. INVERSIONES Y CONSTRUCCIONES SANTA LIMITADA), Calle 5 66B-49 piso 3, Cali, Colombia; Calle 5 Oeste 3A-26 apt./of. 103, 301, 404, 502, 503, Cali, Colombia; Calle 7 Oeste 25-48, Cali, Colombia; Calle 9 No. 46-69 of. 302, Cali, Colombia; Calle 13 3-32 piso 14, Cali, Colombia; Carrera 2 Oeste 5-46 of. 502, Cali, Colombia; Carrera 4 12-41 piso 14, Edificio Seguros Bolivar, Cali, Colombia; Carrera 4 12-41 piso 15, Edificio Seguros Bolivar, Cali, Colombia.
- LABORATORIOS BLAIMAR DE COLOMBIA S.A.**, (A.K.A. BLAIMAR), Calle 12B 27 39, Bogota, Colombia.
- LABORATORIOS KRESSFOR DE COLOMBIA S.A.**, (A.K.A. KRESSFOR), Calle 16 28A 51, Bogota, Colombia; Calle 16 28A 57, Bogota, Colombia; Calle 17 28A-43, Bogota, Colombia; Calle 17A 28 43, Bogota, Colombia.
- PREVIA S.A.**, (A.K.A. PREVENCION Y ANALISIS DE RIESGOS), Carrera 3 No. 10-20 of. 202, Cali, Colombia; Carrera 3 No. 12-40 of. 504, Cali, Colombia.
- SAMARIA ARRENDAMIENTO**, Cali, Colombia.
- SAMARIA CAÑAS**, Cali, Colombia.
- SAMARIA INTERESES**, Cali, Colombia.
- SAMARIA LTDA.**, Cali, Colombia.
- SAMARIA TIERRAS**, Cali, Colombia.
- SANDRANA CAÑAS**, Cali, Colombia.
- SOCIEDAD CONSTRUCTORA LA CASCADA S.A.**, (A.K.A. CONSTRUCTORA CASCADA), Calle 1A 62A-120, Cali, Colombia; Calle 1A 62A-120 B2 108, Cali, Colombia; Calle 1A 62A-120 2305, Cali, Colombia; Calle 1A 62A-120 2418, Cali, Colombia; Calle 1A 62A-120 4114, Cali, Colombia; Calle 1A 62A-120 6245, Cali, Colombia; Calle 13 3-32 piso 12 y piso 14, Cali, Colombia; Carrera 4 12-41 of. 1401, Cali, Colombia; Carrera 4 No. 12-41 of. 1403, Cali, Colombia; Carrera 64 1C-63, Cali, Colombia; Carrera 64 1B-83, Cali, Colombia.
- OTHER INDIVIDUALS:**
- ARBELAEZ PARDO, AMPARO**, DOB: 9 November 1950; alt. DOB: 9 August 1950; Passports: AC568973 (Colombia), PE001850 (Colombia); Cedula No. 31218903 or 31151067 (Colombia); Casa No. 19, Avenida Lago, Ciudad Jardin, Cali, Colombia; c/o INVERSIONES ARA LTDA., Cali, Colombia; c/o LABORATORIOS KRESSFOR DE COLOMBIA S.A., Bogota, Colombia.
- ARLONE FACELLI, ROBERTO**, Cedula No. 16632415 (Colombia); c/o DISTRIBUIDORA DE DROGAS CONDOR S.A., Bogota, Colombia.
- BORRERO Q., HECTOR FABIO**, c/o INMOBILIARIA SAMARIA LTDA., Cali, Colombia; c/o INVERSIONES SANTA LTDA., Cali, Colombia; c/o SOCIEDAD CONSTRUCTORA LA CASCADA S.A., Cali, Colombia.
- CALDERON RODRIGUEZ, SOLANGE**, c/o INMOBILIARIA AURORA LTDA., Cali, Colombia; c/o INVERSIONES SANTA LTDA., Cali, Colombia; c/o SOCIEDAD CONSTRUCTORA LA CASCADA S.A., Cali, Colombia.
- CARDONA OCHOA, CARLOS JULIO**, Cedula No. 7524996 (Colombia); c/o AUREAL INMOBILIARIA LTDA., Bogota, Colombia; c/o GRUPO SANTA LTDA., Cali, Colombia.
- CASTRO DE SANTACRUZ, AMPARO**, DOB: 13 January 1948; alt. DOBs: 13 January 1946, 14 April 1959, 14 April 1957; SSN 150-50-6323; Passports: PE027370 (Colombia), AA429676 (Colombia); Cedula No. 38983611 (Colombia); c/o INMOBILIARIA SAMARIA LTDA., Cali, Colombia; c/o INVERSIONES EL PASO LTDA., Cali, Colombia; c/o INVERSIONES SANTA LTDA., Cali, Colombia; c/o SAMARIA LTDA., Cali, Colombia.
- CAVIEDES CRUZ, LEONARDO**, DOB: 23 November 1952; Passports: AB151486 (Colombia), AC444270 (Colombia), OC444290 (Colombia); Cedula No. 16593470 (Colombia); c/o INVERSIONES SANTA LTDA., Cali, Colombia.
- DAZA QUIROA, HUGO CARLOS**, Cedula No. 19236485 (Colombia); c/o DISTRIBUIDORA DE DROGAS CONDOR LTDA., Bogota, Colombia; c/o LABORATORIOS KRESSFOR DE COLOMBIA S.A., Bogota, Colombia.
- DONNEYS GONZALEZ, FEDERICO**, c/o DISTRIBUIDORA DE DROGAS CONDOR LTDA., Bogota, Colombia.
- ESTRADA URIBE, OCTAVIO**, c/o GRUPO SANTA LTDA., Cali, Colombia; c/o SOCIEDAD CONSTRUCTORA LA CASCADA S.A., Cali, Colombia.
- GIL OSORIO, ALFONSO**, DOB: 17 December 1946; alt. DOB: 17 December 1940; Passports: 14949229 (Colombia), 14949279 (Colombia), 14949289 (Colombia), AC342060 (Colombia); Cedula No. 14942279 or 14949279 (Colombia); c/o DISTRIBUIDORA DE DROGAS CONDOR LTDA., Bogota, Colombia; c/o DISTRIBUIDORA DE DROGAS LA REBAJA S.A., Bogota, Colombia; c/o DISTRIBUIDORA MIGIL LTDA., Cali, Colombia; c/o LABORATORIOS BLAIMAR DE COLOMBIA S.A., Bogota, Colombia; c/o LABORATORIOS KRESSFOR DE COLOMBIA S.A., Bogota, Colombia.
- GOMEZ V., MANUEL ANTONIO**, Cedula No. 7921814 (Colombia); c/o GANADERA LTDA., Cali, Colombia.
- GUTIERRES C., ALVARO (A.K.A. GUTIERREZ C., ALVARO)**, DOB: 9 May 1942; Cedula No. 14966562 (Colombia); c/o DISTRIBUIDORA DE DROGAS CONDOR LTDA., Bogota, Colombia;
- GUTIERREZ CANCEINO, FERNANDO ANTONIO**, DOB: 4 December 1941; Cedula No. 6089071 (Colombia); c/o DISTRIBUIDORA DE DROGAS LA REBAJA S.A., Bogota, Colombia; c/o LABORATORIOS BLAIMAR DE COLOMBIA S.A., Bogota, Colombia; c/o LABORATORIOS KRESSFOR DE COLOMBIA S.A., Bogota, Colombia.
- GUTIERREZ LOZANO, ANA MARIA**, DOB: 1972; Cedula No. 39783954 or 39783975 (Colombia); c/o LABORATORIOS KRESSFOR DE COLOMBIA S.A., Bogota, Colombia.
- GUTIERREZ LOZANO, JUAN PABLO**, DOB: 11 April 1972; Passport: AC480604 (Colombia); Cedula No. 79570028 (Colombia); c/o LABORATORIOS KRESSFOR DE COLOMBIA S.A., Bogota, Colombia.
- HOLGUIN SARRIA, ALVARO**, Cedula No. 14950269 or 18950260 (Colombia); c/o DISTRIBUIDORA DE DROGAS CONDOR LTDA., Bogota, Colombia; c/o DISTRIBUIDORA MIGIL LTDA., Cali, Colombia.
- IDARRAGA ORTIZ, JAIME**, Cedula No. 8237011 (Colombia); c/o DISTRIBUIDORA DE DROGAS CONDOR LTDA., Bogota, Colombia; c/o DISTRIBUIDORA DE DROGAS LA REBAJA S.A., Bogota, Colombia; c/o DISTRIBUIDORA MIGIL LTDA., Cali, Colombia; c/o LABORATORIOS BLAIMAR DE COLOMBIA S.A., Bogota, Colombia.
- IZQUIERDO OREJUELA, PATRICIA**, Cedula No. 41594424 (Colombia); c/o LABORATORIOS KRESSFOR DE COLOMBIA S.A., Bogota, Colombia.

- LOZANO DE GOMEZ, ZILIA**, Cedula No. 41577886 (Colombia); c/o LABORATORIOS KRESSFOR DE COLOMBIA S.A., Bogota, Colombia.
- LOZANO CANCINO DE GUTIERREZ, MARIA GLADYS, (A.K.A. LOZANO DE GUTIERREZ, GLADYS)**, DOB: 19 October 1948; Cedula No. 41444092 (Colombia); c/o LABORATORIOS KRESSFOR DE COLOMBIA S.A., Bogota, Colombia.
- MAZUERO ERAZO, HUGO**, DOB: 17 July 1936; alt. DOB: 1945; Cedula No. 2445590 (Colombia); c/o GRUPO SANTA LTDA., Cali, Colombia; c/o INVERSIONES SANTA LTDA., Cali, Colombia; c/o SOCIEDAD CONSTRUCTORA LA CASCADA S.A., Cali, Colombia.
- MOLLON RUEDA, EDUARDO**, DOB: 5 February 1953; Cedula No. 19149691 or 19194691 (Colombia); c/o DISTRIBUIDORA DE DROGAS CONDOR LTDA., Bogota, Colombia.
- MONDRAGON DE RODRIGUEZ, MARIELA**, DOB: 12 April 1935; Passport: 4436059 (Colombia); Cedula No. 29072613 (Colombia); c/o LABORATORIOS KRESSFOR DE COLOMBIA S.A., Bogota, Colombia.
- MUNOZ RODRIGUEZ, JUAN CARLOS**, DOB: 25 September 1964; Passport: 16703148 (Colombia); Cedula No. 16703148 (Colombia); c/o DISTRIBUIDORA DE DROGAS CONDOR LTDA., Bogota, Colombia; c/o DISTRIBUIDORA DE DROGAS LA REBAJA, S.A., Bogota, Colombia; c/o DISTRIBUIDORA MIGIL LTDA., Cali, Colombia; c/o LABORATORIOS BLAIMAR DE COLOMBIA S.A., Bogota, Colombia; c/o LABORATORIOS KRESSFOR DE COLOMBIA S.A., Bogota, Colombia.
- MUÑOZ RODRIGUEZ, SORAYA**, DOB: 26 July 1967; Passport: AC569012 (Colombia); Cedula 31976822 (Colombia); c/o DISTRIBUIDORA DE DROGAS CONDOR LTDA., Bogota, Colombia; c/o DISTRIBUIDORA DE DROGAS LA REBAJA S.A., Bogota, Colombia; c/o DISTRIBUIDORA MIGIL LTDA., Cali, Colombia; c/o LABORATORIOS BLAIMAR DE COLOMBIA S.A., Bogota, Colombia; c/o LABORATORIOS KRESSFOR DE COLOMBIA S.A., Bogota, Colombia.
- PINZON, MARCO ANTONIO**, Cedula No. 17801803 (Colombia); c/o DISTRIBUIDORA DE DROGAS CONDOR LTDA., Bogota, Colombia.
- RAMIREZ LIBREROS, GLADYS MIRIAM**, DOB: 20 November 1945; Passport: 38974109 (Colombia); Cedula No. 38974109 (Colombia); c/o DISTRIBUIDORA DE DROGAS LA REBAJA S.A., Bogota, Colombia.
- RIZO, DIEGO**, Cedula No. 144483334 (Colombia); c/o DISTRIBUIDORA MIGIL LTDA., Cali, Colombia.
- RODRIGUEZ ABADIA, WILLIAM**, DOB: 31 July 1965; Cedula No. 16716259 (Colombia); c/o DISTRIBUIDORA DE DROGAS CONDOR LTDA., Bogota, Colombia; c/o DISTRIBUIDORA DE DROGAS LA REBAJA S.A., Bogota, Colombia; c/o DISTRIBUIDORA MIGIL LTDA., Cali, Colombia; c/o LABORATORIOS BLAIMAR DE COLOMBIA S.A., Bogota, Colombia; c/o LABORATORIOS KRESSFOR DE COLOMBIA, S.A., Bogota, Colombia.
- RODRIGUEZ ARBELAEZ, CAROLINA**, DOB: 17 May 1979; c/o INVERSIONES ARA LTDA., Cali, Colombia.
- RODRIGUEZ ARBELAEZ, MARIA FERNANDA**, DOB: 28 November 1973; alternate DOB: 28 August 1973; Passport: AC568974 (Colombia); Cedula No. 7382804819 (Colombia); c/o DISTRIBUIDORA DE DROGAS LA REBAJA S.A., Bogota, Colombia.
- RODRIGUEZ MONDRAGON, HUMBERTO**, DOB: 21 June 1963; Passport: AD387757 (Colombia); Cedula No. 16688683 (Colombia); c/o DISTRIBUIDORA DE DROGAS CONDOR LTDA., Bogota, Colombia; c/o DISTRIBUIDORA DE DROGAS LA REBAJA S.A., Bogota, Colombia; c/o DISTRIBUIDORA MIGIL LTDA., Cali, Colombia; c/o LABORATORIOS BLAIMAR DE COLOMBIA S.A., Bogota, Colombia; c/o LABORATORIOS KRESSFOR DE COLOMBIA, S.A., Bogota, Colombia.
- RODRIGUEZ MONDRAGON, JAIME**, Cedula No. 16637592 (Colombia); c/o DISTRIBUIDORA DE DROGAS CONDOR LTDA., Bogota, Colombia; c/o DISTRIBUIDORA DE DROGAS LA REBAJA S.A., Bogota, Colombia; c/o DISTRIBUIDORA MIGIL LTDA., Cali, Colombia; c/o LABORATORIOS BLAIMAR DE COLOMBIA S.A., Bogota, Colombia; c/o LABORATORIOS KRESSFOR DE COLOMBIA S.A., Bogota, Colombia.
- RODRIGUEZ MONDRAGON, MARIA ALEXANDRA, (A.K.A. RODRIGUEZ MONDRAGON, ALEXANDRA)**, DOB: 30 May 1969; alt. DOB: 5 May 1969; Passport: AD359106 (Colombia); Cedula No. 66810048 (Colombia); c/o DISTRIBUIDORA DE DROGAS CONDOR LTDA., Bogota, Colombia; c/o DISTRIBUIDORA DE DROGAS LA REBAJA S.A., Bogota, Colombia; c/o LABORATORIOS BLAIMAR DE COLOMBIA S.A., Bogota, Colombia.
- RODRIGUEZ OREJUELA DE GIL, AMPARO**, DOB: 13 March 1949; Passport: AC342062 (Colombia); Cedula No. 3121877003 (Colombia); c/o DISTRIBUIDORA DE DROGAS CONDOR LTDA., Bogota, Colombia; c/o DISTRIBUIDORA MIGIL LTDA., Cali, Colombia; c/o LABORATORIOS BLAIMAR DE COLOMBIA S.A., Bogota, Colombia; c/o LABORATORIOS KRESSFOR DE COLOMBIA S.A., Bogota, Colombia.
- RODRIGUEZ OREJUELA DE MUÑOZ, HAYDEE, (A.K.A. RODRIGUEZ OREJUELA DE ROJAS, HAYDEE)**, DOB: 22 September 1940; Cedula No. 38953333 (Colombia); c/o DISTRIBUIDORA DE DROGAS CONDOR LTDA., Bogota, Colombia; c/o DISTRIBUIDORA MIGIL LTDA., Cali, Colombia.
- RODRIGUEZ RAMIREZ, CLAUDIA PILAR**, DOB: 30 June 1963; alt. DOB: 30 August 1963; alt. DOB: 1966; Passports: 007281 (Colombia), P0555266 (Colombia); Cedula No. 51741013 (Colombia); c/o DISTRIBUIDORA DE DROGAS CONDOR LTDA., Bogota, Colombia; c/o DISTRIBUIDORA DE DROGAS LA REBAJA S.A., Bogota, Colombia; c/o DISTRIBUIDORA MIGIL LTDA., Cali, Colombia; c/o LABORATORIOS KRESSFOR DE COLOMBIA S.A., Bogota, Colombia.
- SANTACRUZ CASTRO, ANA MILENA**, DOB: 31 March 1965; Passports: 31929808 (Colombia), AB151189 (Colombia); Cedula No. 31929808 (Colombia); c/o AUREAL INMOBILIARIA LTDA., Bogota, Colombia; c/o INMOBILIARIA SAMARIA LTDA., Cali, Colombia; c/o INVERSIONES EL PASO LTDA., Cali, Colombia; c/o INVERSIONES SANTA LTDA., Cali, Colombia; c/o SAMARIA LTDA., Cali, Colombia; c/o SOCIEDAD CONSTRUCTORA LA CASCADA S.A., Cali, Colombia.
- SANTACRUZ CASTRO, SANDRA**, DOB: 28 September 1973; SSN 090-80-3433; Passports: 043827307 (United States), D1690693 (United States), 100330728 (United States), J24728201 (Country unknown); c/o INMOBILIARIA SAMARIA LTDA., Cali, Colombia.
- TORRES CORTES, JOSELIN**, Cedula No. 19482747 (Colombia); c/o AUREAL INMOBILIARIA LTDA., Bogota, Colombia.
- VILLALOBOS, LUIS E.**, Cedula No. 14875020 (Colombia); c/o DISTRIBUIDORA DE DROGAS CONDOR LTDA., Bogota, Colombia.
- ZABALETA SANDOVAL, NESTOR**, DOB: 1927; Cedula No. 20305353 (Colombia); Passports: 1690693 (United States), 100330728 (United States), J24728201 (Country unknown); c/o LABORATORIOS KRESSFOR DE COLOMBIA S.A., Bogota, Colombia; c/o INMOBILIARIA SAMARIA LTDA., Cali, Colombia.

Dated: October 23, 1995

R. Richard Newcomb,

Director, Office of Foreign Assets Control.

Approved: October 23, 1995

John P. Simpson

Deputy Assistant Secretary (Regulatory, Tariff & Trade Enforcement).

[FR Doc. 95-26555 Filed 10-23-95; 11:21 am]

BILLING CODE 4810-25-F

NASD NOTICE TO MEMBERS 95-98

Christmas Day And New Year's Day: Trade Date-Settlement Date Schedule

Suggested Routing

- Senior Management
- Advertising
- Corporate Finance
- Government Securities
- Institutional
- Internal Audit
- Legal & Compliance
- Municipal
- Mutual Fund
- Operations
- Options
- Registration
- Research
- Syndicate
- Systems
- Trading
- Training

The Nasdaq Stock MarketSM and the securities exchanges will be closed on Monday, December 25, 1995, in observance of Christmas Day, and Monday, January 1, 1996, in observance of New Year's Day. "Regular way" transactions made on the business days noted below will be subject to the following schedule:

| Trade Date | Settlement Date | Reg. T Date* |
|--------------|-----------------|--------------|
| Dec. 19 | Dec. 22 | Dec. 27 |
| 20 | 26 | 28 |
| 21 | 27 | 29 |
| 22 | 28 | Jan. 2, 1996 |
| 25 | Markets Closed | — |
| 26 | 29 | 3 |
| 27 | Jan. 2, 1996 | 4 |
| 28 | 3 | 5 |
| 29 | 4 | 8 |
| Jan. 1, 1996 | Markets Closed | — |
| 2 | 5 | 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 five 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 titled "Reg. T Date."

Brokers, dealers, and municipal securities dealers should use these settlement dates to clear and settle 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 may be directed to the NASD Uniform Practice Department at (203) 375-9609.

NASD NOTICE TO MEMBERS 95-99

Nasdaq National
Market Additions,
Changes, And Deletions
As Of October 20, 1995

Suggested Routing

- Senior Management
- Advertising
- Corporate Finance
- Government Securities
- Institutional
- Internal Audit
- Legal & Compliance
- Municipal
- Mutual Fund
- Operations
- Options
- Registration
- Research
- Syndicate
- Systems
- Trading
- Training

As of October 20, 1995, the following 82 issues joined the Nasdaq National Market®, bringing the total number of issues to 3,913:

| Symbol | Company | Entry Date | SOES Execution Level |
|--------|--|------------|----------------------|
| ANMWV | Advanced NMR Systems, Inc. (Wts 8/30/00 WI) | 9/21/95 | 200 |
| BVAS | Bio-Vascular, Inc. | 9/21/95 | 500 |
| CRLBF | Core Laboratories, N.V. | 9/21/95 | 200 |
| TALK | Tel-Save Holdings, Inc. | 9/21/95 | 500 |
| GSCN | General Scanning Inc. | 9/22/95 | 200 |
| MLWL | Mail-Well, Inc. | 9/22/95 | 1000 |
| SPOT | PanAmSat Corporation | 9/22/95 | 500 |
| UDCI | United Dental Care, Inc. | 9/22/95 | 500 |
| ACMM | Accom, Inc. | 9/27/95 | 200 |
| CKFR | Checkfree Corporation | 9/28/95 | 1000 |
| MIZR | Mizar, Inc. | 9/28/95 | 500 |
| AHIS | AHI Healthcare Systems, Inc. | 9/29/95 | 200 |
| CMSX | Computer Management Sciences, Inc. | 9/29/95 | 200 |
| DEPO | DepoTech Corporation | 9/29/95 | 200 |
| EBAY | Eastbay, Inc. | 9/29/95 | 1000 |
| MPDI | Microwave Power Devices, Inc. | 9/29/95 | 200 |
| SIMWF | Simware, Inc. | 9/29/95 | 200 |
| ZCON | Zycon Corporation | 9/29/95 | 200 |
| DFIN | Damen Financial Corporation | 10/2/95 | 500 |
| ERIE | Erie Indemnity Company (Cl A) | 10/2/95 | 200 |
| SFIN | Statewide Financial Corp. | 10/2/95 | 500 |
| TLIC | Transport Holdings Inc. (Cl A) | 10/2/95 | 200 |
| DDII | Data Documents Incorporated | 10/3/95 | 200 |
| BGLS | Manhattan Bagel Company, Inc. | 10/3/95 | 500 |
| FIFS | First Investors Financial Services Group | 10/4/95 | 500 |
| HFFB | Harrodsburg First Financial Bancorp, Inc. | 10/4/95 | 200 |
| DCBK | Desert Community Bank | 10/5/95 | 200 |
| HDSX | HDS Network Systems, Inc. | 10/5/95 | 200 |
| HDSXW | HDS Network Systems, Inc. (Wts 3/25/00) | 10/5/95 | 200 |
| KFBI | Klamath First Bancorp, Inc. | 10/5/95 | 200 |
| ERIRY | LM Ericsson Telefonaktiebolaget (Rts) | 10/5/95 | 200 |
| TPNZ | Tappan Zee Financial, Inc. | 10/5/95 | 200 |
| ESST | ESS Technology, Inc. | 10/6/95 | 200 |
| GADZ | Gadzooks, Inc. | 10/6/95 | 500 |
| LCRY | LeCroy Corporation | 10/6/95 | 200 |
| MYGN | Myriad Genetics, Inc. | 10/6/95 | 200 |
| NURTF | Nur Advanced Technologies, Limited | 10/6/95 | 200 |
| TSTI | TST/Impreso, Inc. | 10/6/95 | 200 |
| TIPIF | The Instant Publisher, Inc. | 10/6/95 | 200 |
| VRTY | Verity, Inc. | 10/6/95 | 200 |
| VTEK | Vodavi Technology, Inc. | 10/6/95 | 200 |
| WLDA | World Airways, Inc. | 10/6/95 | 500 |
| LIHRY | Lihir Gold, Limited | 10/9/95 | 1000 |
| USDL | U.S. Diagnostic Labs Inc. (Cl A) | 10/9/95 | 500 |

| Symbol | Company | Entry Date | SOES Execution Level |
|--------|---|------------|----------------------|
| USDLW | U.S. Diagnostic Labs Inc. (Wts Cl A 10/14/99) | 10/9/95 | 500 |
| USDLZ | U.S. Diagnostic Labs Inc. (Wts Cl B 10/14/99) | 10/9/95 | 500 |
| SFAM | SpeedFam International, Inc. | 10/10/95 | 1000 |
| SYMT | Symetrics Industries, Inc. | 10/10/95 | 200 |
| WLTR | Walter Industries, Inc. | 10/10/95 | 200 |
| APAC | APAC TeleServices, Inc. | 10/11/95 | 500 |
| ELNT | Elantec Semiconductor, Inc. | 10/11/95 | 1000 |
| GMSTF | Gemstar International Group, Ltd. | 10/11/95 | 500 |
| NSYS | Nortech Systems Incorporated | 10/11/95 | 200 |
| SCSC | ScanSource, Inc. | 10/11/95 | 200 |
| OAKF | Oak Hill Financial, Inc. | 10/12/95 | 200 |
| PFAPV | Pro-Fac Cooperative, Inc. (Cl A Pfd WD) | 10/12/95 | 200 |
| SNUS | SONUS Pharmaceuticals, Inc. | 10/12/95 | 200 |
| GTBX | GT Bicycles, Inc. | 10/13/95 | 200 |
| RSTOW | Rose's Stores, Inc. (Wts 4/28/02) | 10/13/95 | 200 |
| POOL | SCP Pool Corporation | 10/13/95 | 1000 |
| XETA | Xeta Corporation | 10/13/95 | 200 |
| AMCN | American Coin Merchandising, Inc. | 10/16/95 | 1000 |
| FDYMF | First Dynasty Mines Limited | 10/16/95 | 200 |
| FBHC | Fort Bend Holding Corp. | 10/16/95 | 200 |
| SMCS | Star Multi Care Services, Inc. | 10/16/95 | 200 |
| IMAC | Int'l Metals Acquisition Corp. | 10/17/95 | 1000 |
| IMACW | Int'l Metals Acquisition Corp. (Wts) | 10/17/95 | 1000 |
| LGWX | Logic Works, Inc. | 10/17/95 | 200 |
| MVCO | Meadow Valley Corporation | 10/17/95 | 200 |
| MVCOW | Meadow Valley Corporation (Wts 10/17/00) | 10/17/95 | 200 |
| ADEX | ADE Corporation | 10/18/95 | 500 |
| ARVI | ARV Assisted Living, Inc. | 10/18/95 | 200 |
| AFCB | Affiliated Community Bancorp, Inc. | 10/19/95 | 1000 |
| ANGN | Angeion Corporation | 10/19/95 | 500 |
| ANGNW | Angeion Corporation (Wts 3/12/96) | 10/19/95 | 500 |
| GLIA | Gliatech Inc. | 10/19/95 | 200 |
| SVECF | ScanVec Company (1990), Limited | 10/19/95 | 200 |
| TGAL | Tegal Corporation Ltd. | 10/19/95 | 200 |
| WIRL | Wireless One, Inc. | 10/19/95 | 200 |
| ESIX | Enterprise Systems, Inc. | 10/20/95 | 200 |
| RSYS | RadiSys Corporation | 10/20/95 | 1000 |
| RMRPO | Resource Mortgage Capital, Inc. (Pfd Ser B) | 10/20/95 | 1000 |

Nasdaq National Market Symbol And/Or Name Changes

The following changes to the list of Nasdaq National Market securities occurred since September 21, 1995:

| New/Old Symbol | New/Old Security | Date of Change |
|----------------|---|----------------|
| CYGN/CYGN | Cygnus, Inc./Cygnus Therapeutic Systems, Inc. | 9/21/95 |
| GTTIF/MTCEF | GrandeTel Technologies, Inc./MTC Electronic Technologies Co., Ltd. | 9/21/95 |
| MEDS/CYTI | Medstone International Inc./Cytocare, Inc. | 9/25/95 |
| DOSEW/DOSEW | Choice Drug Systems, Inc. (Wts 3/31/96)/ Choice Drug Systems, Inc. (Wts 9/30/95) | 9/26/95 |

| New/Old Symbol | New/Old Security | Date of Change |
|----------------|---|----------------|
| CINRF/CINDF | Cinar Films, Inc./Cinar Films, Inc. | 9/27/95 |
| PURW/HOLD | Pure World, Inc./American Holdings, Inc. | 9/28/95 |
| VWRX/VWRX | VWR Scientific Products Corporation/VWR Corporation | 9/28/95 |
| FDEF/FDEF | First Defiance Financial Corp./First Federal Savings and Loan | 10/2/95 |
| TWSTY/TWSTY | TeleWest plc/TeleWest Communications plc | 10/2/95 |
| KAYE/OLHC | Kaye Group Inc./Old Lyme Holding Corporation | 10/3/95 |
| LIHRY/LIHVY | Lihir Gold, Ltd./Lihir Gold, Ltd. (WI) | 10/10/95 |
| UNFR/UNFR | Uniforce Services, Inc./Uniforce Temporary Personnel, Inc. | 10/10/95 |
| NRLD/OSTC | Norland Medical Systems, Inc./Ostech, Inc. | 10/11/95 |
| NEXT/STSN | NextHealth, Inc./Sierra Tucson Companies, Inc. | 10/12/95 |
| HOLI/AMPC | Hollinger International, Inc. (CI A)/ American Publishing Company (CI A) | 10/16/95 |
| HRZB/HRZB | Horizon Financial Corp./Horizon Bank | 10/16/95 |
| ANMRW/ANMWV | Advanced NMR Systems, Inc. (Wts 8/30/00)/ Advanced NMR Systems, Inc. (Wts 8/30/00 W/I) | 10/18/95 |
| HDSXW/HDSXW | HDS Network Systems, Inc. (Wts 3/25/00)/ HDS Network Systems, Inc. (Wts 3/25/98) | 10/20/95 |

Nasdaq National Market Deletions

| Symbol | Security | Date |
|--------|---|----------|
| RNDM | Random Access, Inc. | 9/21/95 |
| NGCO | National Gypsum Company | 9/22/95 |
| NGCOW | National Gypsum Company (Wts 7/1/00) | 9/22/95 |
| SDNBR | SDNB Financial Corp. (Rts 7/21/95) | 9/22/95 |
| GUCOW | The Grand Union Co. (Wts Ser 1 6/15/00) | 9/22/95 |
| GUCOZ | The Grand Union Co. (Wts Ser 2 6/15/00) | 9/22/95 |
| CREB | Champion Parts, Inc. | 9/27/95 |
| AUFN | AutoFinance Group, Inc. | 9/28/95 |
| NVIC | N-Viro International Corporation | 9/28/95 |
| PTCM | Pacific Telecom, Inc. | 9/28/95 |
| ACSE | ACS Enterprises, Inc. | 9/29/95 |
| PLSE | Pulse Engineering, Inc. | 9/29/95 |
| IGLI | IG Laboratories, Inc. | 10/2/95 |
| IFLM | Interfilm, Inc. | 10/2/95 |
| VIGN | Viagene, Inc. | 10/2/95 |
| ADVC | Advance Circuits, Inc. | 10/3/95 |
| CROM | Chromcraft Revington, Inc. | 10/3/95 |
| CLIN | CliniCom Incorporated | 10/3/95 |
| IFGI | Insignia Financial Group, Inc. | 10/3/95 |
| MEDR | Medrad, Inc. | 10/3/95 |
| MILW | Milwaukee Insurance Group, Inc. | 10/3/95 |
| TYGR | Tigera Group, Inc. | 10/3/95 |
| LINB | LIN Broadcasting Corp. | 10/4/95 |
| HTPI | Home Theater Products International, Inc. | 10/5/95 |
| PTENW | Patterson Energy, Inc. (Wts) | 10/5/95 |
| UNSA | United Financial Corp. of S.C., Inc. | 10/6/95 |
| TOWVW | Stratosphere Corporation (Wts 2/22/99) | 10/11/95 |
| HISSZ | Healthcare Imaging Services, Inc. (Wts B) | 10/12/95 |

| Symbol | Security | Date |
|---------------|---------------------------------------|-------------|
| BUMM | B.U.M. International, Inc. | 10/13/95 |
| SDYN | Stadyn, Inc. | 10/13/95 |
| SDYNZ | Stadyn, Inc. (Ser II Wts 11/1/96) | 10/13/95 |
| CHPM | Chipcom Corporation | 10/16/95 |
| FSTMQ | Forstmann & Company, Inc. | 10/16/95 |
| PCLI | Physicians Clinical Laboratory, Inc. | 10/16/95 |
| SUPR | Super Rite Corp. | 10/16/95 |
| AMBJ | American City Business Journals, Inc. | 10/19/95 |
| BWSQE | BioMedical Waste Systems, Inc. | 10/19/95 |
| LEXB | Lexington Savings Bank | 10/19/95 |
| MSCB | Main Street Community Bancorp, Inc. | 10/19/95 |

Questions regarding this Notice should be directed to Mark A. Esposito, Nasdaq Market Services Director, Issuer Services, at (202) 496-2536. Questions pertaining to trade-reporting rules should be directed to Bernard Thompson, Assistant Director, NASD Market Surveillance, at (301) 590-6436.

NASD NOTICE TO MEMBERS 95-100

As of October 27, 1995, the following bonds were added to the Fixed Income Pricing System (FIPSSM):

| Symbol | Name | Coupon | Maturity |
|----------|------------------------------|--------|----------|
| BG.GA | Brown Group | 7.375 | 1/15/98 |
| PRWL.GB | Price Cellular Wireless | 12.250 | 10/1/03 |
| UAL.GH | United Air | 10.110 | 2/19/06 |
| UAL.GI | United Air | 10.850 | 7/5/14 |
| UAL.GJ | United Air | 10.850 | 2/19/15 |
| UAL.GK | United Air | 9.760 | 5/13/06 |
| UAL.GL | United Air | 9.760 | 5/27/06 |
| UAL.GM | United Air | 10.360 | 11/27/12 |
| UAL.GN | United Air | 10.670 | 5/1/04 |
| UAL.GO | United Air | 11.210 | 5/1/14 |
| CAWS.GA | CAI Wireless Systems | 12.250 | 9/15/02 |
| PTPK.GA | Portola Packaging | 10.750 | 10/1/05 |
| NMK.GA | Niagara Mohawk Power | 5.875 | 11/1/96 |
| NMK.GB | Niagara Mohawk Power | 6.250 | 8/1/97 |
| NMK.GC | Niagara Mohawk Power | 6.500 | 8/1/98 |
| NMK.GD | Niagara Mohawk Power | 9.250 | 10/1/01 |
| NMK.GE | Niagara Mohawk Power | 9.500 | 6/1/00 |
| NMK.GF | Niagara Mohawk Power | 9.750 | 11/1/05 |
| NMK.GG | Niagara Mohawk Power | 9.500 | 3/1/21 |
| NMK.GH | Niagara Mohawk Power | 8.750 | 4/1/22 |
| NMK.GI | Niagara Mohawk Power | 8.000 | 6/1/04 |
| NMK.GJ | Niagara Mohawk Power | 8.500 | 7/1/23 |
| NMK.GK | Niagara Mohawk Power | 7.375 | 8/1/03 |
| NMK.GL | Niagara Mohawk Power | 6.875 | 4/1/03 |
| NMK.GM | Niagara Mohawk Power | 6.625 | 7/1/05 |
| NMK.GN | Niagara Mohawk Power | 7.875 | 4/1/24 |
| NMK.GO | Niagara Mohawk Power | 5.875 | 9/1/02 |
| NMK.GP | Niagara Mohawk Power | 6.875 | 3/1/01 |
| NMK.GQ | Niagara Mohawk Power | 7.750 | 5/15/06 |
| GUCO.GA* | Grand Union | 12.000 | 9/1/04 |
| NME.GD* | National Medical Enterprises | 10.125 | 9/1/04 |
| FD.GB | Federated Dept. Stores | 8.125 | 10/15/02 |
| MCLL.GA | Metrocall | 10.375 | 10/1/07 |
| SCIN.GA | SC Int'l Services | 13.000 | 10/1/05 |
| TLCB.GA | TLC Beatrice Int'l Hldgs. | 11.500 | 10/1/05 |
| RICE.GA | American Rice | 13.000 | 7/31/02 |
| GSTE.GA | GS Technologies Oper. | 12.250 | 10/1/05 |
| CMCS.GE | ComCast | 9.125 | 10/15/06 |
| CVDF.GA | CVD Financial | 0.000 | 7/31/08 |
| CMCS.GF | ComCast | 9.375 | 5/15/05 |
| THC.GC | Tenet Health Care Corp. | 8.625 | 12/1/03 |
| RHS.GA | Regency Health Svcs. | 9.875 | 10/15/02 |
| REIH.GA | Resorts Int'l Hotel Fin. | 11.375 | 12/15/04 |
| RIGS.GB | Riggs Nat'l | 8.500 | 2/1/06 |
| ORX.GG | ORYX Energy | 8.000 | 10/15/03 |
| ORX.GG | ORYX Energy | 8.125 | 10/15/05 |
| GSNP.GA | Garden St. Newspapers | 12.000 | 7/1/04 |
| ACUM.GA | A+ Communications | 11.875 | 11/1/05 |
| IHS.GB | Integrated Health Svcs. | 9.625 | 5/31/02 |
| PHP.GC | Petroleum Heat & Power | 9.375 | 2/1/06 |

Fixed Income Pricing
System Additions,
Changes, And Deletions
As Of October 27, 1995

Suggested Routing

- Senior Management
- Advertising
- Corporate Finance
- Government Securities
- Institutional
- Internal Audit
- Legal & Compliance
- Municipal
- Mutual Fund
- Operations
- Options
- Registration
- Research
- Syndicate
- Systems
- Trading
- Training

As of October 27, 1995, the following bonds were deleted from FIPS:

| Symbol | Name | Symbol | Name | Symbol | Name |
|--------|------------|--------|------------|---------|--|
| AMR.GR | AMR Corp. | CMS.HB | CMS Energy | CMS.ID | CMS Energy |
| AMR.GS | AMR Corp. | CMS.HC | CMS Energy | CMS.IE | CMS Energy |
| AMR.GT | AMR Corp. | CMS.HD | CMS Energy | CMS.IF | CMS Energy |
| CMS.GC | CMS Energy | CMS.HE | CMS Energy | CMS.IG | CMS Energy |
| CMS.GD | CMS Energy | CMS.HF | CMS Energy | ISAS.GA | Imperial Sav. Assn. |
| CMS.GE | CMS Energy | CMS.HG | CMS Energy | MXS.GH | Maxus |
| CMS.GF | CMS Energy | CMS.HH | CMS Energy | MXS.GI | Maxus |
| CMS.GG | CMS Energy | CMS.HI | CMS Energy | MXS.GJ | Maxus |
| CMS.GH | CMS Energy | CMS.HJ | CMS Energy | MXS.GK | Maxus |
| CMS.GI | CMS Energy | CMS.HK | CMS Energy | MXS.GL | Maxus |
| CMS.GJ | CMS Energy | CMS.HL | CMS Energy | MXS.GM | Maxus |
| CMS.GK | CMS Energy | CMS.HM | CMS Energy | MXS.GN | Maxus |
| CMS.GL | CMS Energy | CMS.HN | CMS Energy | MXS.GO | Maxus |
| CMS.GM | CMS Energy | CMS.HO | CMS Energy | GAUN.GA | Grand Union |
| CMS.GN | CMS Energy | CMS.HP | CMS Energy | GAUN.GB | Grand Union |
| CMS.GO | CMS Energy | CMS.HQ | CMS Energy | GAUN.GC | Grand Union |
| CMS.GP | CMS Energy | CMS.HR | CMS Energy | HTI.GA | Health Trust |
| CMS.GQ | CMS Energy | CMS.HS | CMS Energy | HTI.GB | Health Trust |
| CMS.GR | CMS Energy | CMS.HT | CMS Energy | HTI.GC | Health Trust |
| CMS.GS | CMS Energy | CMS.HU | CMS Energy | BRNB.GA | Burnham Broadcasting Company, L.P. |
| CMS.GT | CMS Energy | CMS.HV | CMS Energy | NME.GA | National Medical Enterprises |
| CMS.GU | CMS Energy | CMS.HW | CMS Energy | NME.GB | National Medical Enterprises |
| CMS.GV | CMS Energy | CMS.HX | CMS Energy | | |
| CMS.GW | CMS Energy | CMS.HY | CMS Energy | | |
| CMS.GX | CMS Energy | CMS.HZ | CMS Energy | | |
| CMS.GY | CMS Energy | CMS.IA | CMS Energy | | |
| CMS.GZ | CMS Energy | CMS.IB | CMS Energy | | |
| CMS.HA | CMS Energy | CMS.IC | CMS Energy | | |

As of October 27, 1995, changes were made to the symbols and names of the following FIPS bonds:

| New Symbol | New Name | Old Symbol | Old Name |
|------------|-------------------------|------------|------------------------------|
| THC.GA | Tenet Health Care Corp. | NME.GC | National Medical Enterprises |
| THC.GB* | Tenet Health Care Corp. | NME.GD* | National Medical Enterprises |

* a mandatory FIPS bond

All bonds listed above are subject to trade-reporting requirements. Questions pertaining to trade-reporting rules should be directed to James C. Dolan, NASD Market Surveillance, at (301) 590-6460.

DISCIPLINARY ACTIONS

Disciplinary Actions Reported For November

The NASD[®] has taken disciplinary actions against the following firms and individuals for violations of the NASD Rules of Fair Practice; securities laws, rules, and regulations; and the rules of the Municipal Securities Rulemaking Board. Unless otherwise indicated, suspensions will begin with the opening of business on Monday, November 20, 1995. The information relating to matters contained in this Notice is current as of the fifth of this month. Information received subsequent to the fifth is not reflected in this edition.

Firms Fined, Individuals Sanctioned

Coleman & Company Securities, Inc. (New York, New York), Leo H. Boruchoff (Registered Principal, Riverdale, New York), and Robert DiMuro (Registered Principal, Rockaway, New Jersey) submitted a Letter of Acceptance, Waiver and Consent pursuant to which they were fined \$40,000, jointly and severally. Boruchoff was also suspended from association with any NASD member in any capacity for three business days and DiMuro was required to requalify by examination as a financial and operations principal. Without admitting or denying the allegations, the respondents consented to the described sanctions and to the entry of findings that the firm, acting through Boruchoff and DiMuro, in Regulation D offerings, did not transmit customer monies to an unaffiliated bank to hold in escrow for the investors, nor did it act as agent or trustee for a separate bank account. The findings stated that the firm, acting through Boruchoff and DiMuro, disbursed customer funds before the occurrence of the contingency as stated in the subscription agreements and invested customer funds in an investment in contravention of Securities and Exchange Commission (SEC) Rule 15c2-4. The NASD also found that the firm, acting through

Boruchoff and DiMuro, failed to refund promptly investor funds when the represented dollar amount had not been subscribed for or the number of securities were not sold at the price and within the time specified as disclosed in the respective subscription agreements. In addition, the NASD found that the firm, acting through Boruchoff, failed to establish, maintain, and enforce written supervisory procedures.

H. J. Meyers & Co., Inc. f.k.a. Thomas James Associates, Inc. (Rochester, New York), Jon M. Covington (Registered Representative, Chicago, Illinois), John W. Deisch (Registered Representative, Jersey City, New Jersey), Kraig Kuchukian (Registered Representative, Vernon Hills, Illinois), and Stephen N. Cella (Registered Principal, Chicago, Illinois) submitted Offers of Settlement pursuant to which the firm was fined \$25,000 and required to comply with undertakings. Covington and Kuchukian were each fined \$5,000 and suspended from association with any NASD member in any capacity for five business days and Deisch was fined \$25,000 and barred from association with any NASD member in any capacity. Cella was fined \$15,000, suspended from association with any NASD member in any capacity for 10 business days, and suspended for an additional 180 days immediately thereafter from associating with any NASD member in any principal capacity.

Without admitting or denying the allegations, the respondents consented to the described sanctions and to the entry of findings that Covington, Deisch, Kuchukian, and Cella executed unauthorized transactions in the accounts of public customers. The NASD also found that Deisch failed to respond to NASD requests for information. In addition, the findings stated the firm, acting through

Cella, failed to establish, maintain, or enforce written supervisory procedures or to otherwise supervise Covington, Deisch, and Kuchukian. The NASD determined that the firm, acting through Cella, failed to update Uniform Applications for Securities Industry Registration (Form U-4s) and failed to file accurate Uniform Termination Notices for Securities Industry Registration (Form U-5s) by failing to reflect on the forms consumer-initiated complaints.

South Richmond Securities, Inc. (New York, New York), Herman R. Garcia, Jr. (Registered Principal, Staten Island, New York), and Barbara Hosman (Registered Principal, Deer Park, New York) submitted Offers of Settlement pursuant to which they were fined \$1.05 million, jointly and severally. In addition, the firm's registration was revoked and Garcia and Hosman were barred from association with any NASD member in any capacity. Without admitting or denying the allegations, the respondents consented to the described sanctions and to the entry of findings that the firm, acting through Garcia, dominated and controlled the market for securities in which it was a market maker, and charged its customer markups ranging from five to 36.36 percent over the prevailing market price. The NASD found that the firm and Garcia knew, had reason to know, or acted in reckless disregard of the fact that the prices the firm charged its customers for the securities were not fair and were not reasonably related to the prevailing market price and failed to disclose to customers that the prices at which the firm sold the securities were not fair and were not reasonably related to the prevailing market price. In addition, the findings stated that the firm, Hosman, and Garcia failed to implement, maintain, and enforce an effective supervisory system that would have enabled the firm to achieve compliance with the feder-

al securities laws and the NASD Rules and Policies for markups.

Firm And Individual Fined

J. Alexander Securities, Inc. (Los Angeles, California) and James Alexander (Registered Principal, Los Angeles, California) submitted a Letter of Acceptance, Waiver and Consent pursuant to which they were fined \$14,641.50, jointly and severally. In addition, Alexander was required to requalify by examination as a general securities principal. Without admitting or denying the allegations, the respondents consented to the described sanctions and to the entry of findings that the firm, acting through Alexander, caused the issuance of written notifications to customers that falsely disclosed that the firm was acting as agent for said customers when in fact, the firm was acting as principal for its own account.

Firm Fined

Lehman Brothers, Inc. (New York, New York) submitted a Letter of Acceptance, Waiver and Consent pursuant to which the firm was fined \$15,000. Without admitting or denying the allegations, the firm consented to the described sanction and to the entry of findings that it failed to honor the quotations it caused to be disseminated through the Nasdaq[®] system.

Firm Sanctioned

Raymond James & Associates, Inc. (St. Petersburg, Florida) was ordered to pay \$44,745.66 in restitution to a public customer. The National Business Conduct Committee (NBCC) imposed the sanction following appeal of an Atlanta District Business Conduct Committee

(DBCC) decision. The sanction was based on findings that the firm effected sales of various limited partnerships in the secondary market on a principal basis with a public customer at prices that were not fair taking into consideration all relevant circumstances. In addition, the firm was acting as an integrated dealer and charged markups ranging from 15.8 to 52.8 percent above the prevailing market prices.

This action has been appealed to the SEC, and the sanction is not in effect pending consideration of the appeal.

Individuals Barred Or Suspended

Dale A. Adcox (Registered Representative, Aiken, South Carolina) submitted a Letter of Acceptance, Waiver and Consent pursuant to which he was fined \$12,071.12, ordered to pay \$2,414.22 in restitution to his member firm, and barred from association with any NASD member in any capacity. Without admitting or denying the allegations, Adcox consented to the described sanctions and to the entry of findings that he deposited checks totaling \$2,414.22 made payable to public customers into his bank account that were to be used for mutual fund investments and insurance premium payments. The NASD determined that Adcox failed to forward the funds for either purpose or return the funds to the customers.

Richard Allen Anders (Registered Representative, Austin, Texas), Anthony James Miranti (Registered Principal, San Diego, California), Jimmy William Villalobos (Registered Principal, La Mesa, California), and Kenneth Lee Moreland (Registered Representative, Austin, Texas). Anders was fined \$330,000 and barred from association with any NASD member in any capacity. Miranti and Villalobos

were each fined \$20,000 and suspended from association with any NASD member as general securities principals until they requalify as general securities principals, but in no event will the suspensions be less than 20 business days. Moreland was fined \$1,000, suspended from association with any NASD member for five business days or until he requalifies as general securities representative, and ordered to disgorge \$7,467.50 to a public customer.

Anders engaged in an unregistered distribution of securities in its initial public offering and immediate after-market and employed manipulative and deceptive devices in the trading of securities. Anders also engaged in unlawful sales practices in connection with the purchase or sale of the stock by public customers. In addition, Anders failed to notify his member firm of a private securities transaction involving his purchase of 4,000 shares of stock from a public customer that he paid for with a check drawn on the account of a company he controlled.

Anders also failed to respond to NASD requests for information and Moreland received compensation from Anders in connection with his sale of shares of a security to a public customer that was outside the scope of his relationship with his member firm and without providing written notice to the firm that he received the monies. Miranti and Villalobos failed to establish, implement, and enforce supervisory procedures reasonably designed to assure compliance with the NASD rules and policies and the federal securities laws.

Christopher H. Anderson (Registered Representative, Chesterfield, Missouri) submitted a Letter of Acceptance, Waiver and Consent pursuant to which he was fined \$5,000 and suspended from association with any NASD member in any capacity for one year. Without admit-

ting or denying the allegations, Anderson consented to the described sanctions and to the entry of findings that he arranged for another registered individual to sign the name of a public customer on insurance applications. The findings stated that Anderson witnessed a customer's signature on an application and saw the customer on the date the application was written when he knew the owner had not signed the application.

Frederick R. Antonelli (Associated Person, Brooklyn, New York) was fined \$20,000 and barred from association with any NASD member in any capacity. The sanctions were based on findings that Antonelli arranged to have an impostor take the Series 7 exam for him and failed to respond to NASD requests to appear for an on-the-record investigative interview.

Rex T. Austin (Registered Representative, Aurora, Colorado) was fined \$10,000 and barred from association with any NASD member in any capacity. The sanctions were based on findings that Austin submitted to the NASD a Form U-4 application that failed to disclose a criminal charge filed against him.

Daryl W. Barth (Registered Representative, Middleton, Wisconsin) submitted a Letter of Acceptance, Waiver and Consent pursuant to which he was fined \$70,000, barred from association with any NASD member in any capacity, and required to pay \$9,130.75 in restitution to a member firm. Without admitting or denying the allegations, Barth consented to the described sanctions and to the entry of findings that he obtained from a public customer a check for \$52,300.73 with instructions to use the funds to purchase an annuity with a member firm. The NASD determined that Barth failed to follow the customer's instructions in that he used \$43,169.98 to pur-

chase shares of a mutual fund and used \$9,130.75 for something other than the customer's benefit. The findings also stated that Barth failed to respond to NASD requests for information.

John Linck Bascomb (Registered Representative, Rock Island, Illinois) submitted a Letter of Acceptance, Waiver and Consent pursuant to which he was fined \$5,000 and suspended from association with any NASD member in any capacity for one year. Without admitting or denying the allegations, Bascomb consented to the described sanctions and to the entry of findings that he signed an insurance customer's name to insurance applications at the request of another registered representative. The NASD also found that Bascomb submitted variable life insurance applications to his member firm when he knew that the proposed insured had not signed the applications and witnessed the signing of insurance applications by a person other than the insured, and then attested that he had seen the insured on the date the application was written when he had not.

John J. Becker, Jr. (Registered Representative, Elkton, Maryland) submitted an Offer of Settlement pursuant to which he was fined \$25,000 and barred from association with any NASD member in any capacity. Without admitting or denying the allegations, Becker consented to the described sanctions and to the entry of findings that he forged the signature of a public customer on a supplemental insurance policy form without informing his member firm and without the knowledge or consent of the customer. Becker also failed to respond to NASD requests for information.

Elwanda Bell (Registered Representative, Roswell, New Mexico) was fined \$41,500, barred from asso-

ciation with any NASD member in any capacity, and ordered to pay \$4,309.68 to her former member firm. The sanctions were based on findings that Bell obtained from a public customer a \$4,309.68 check for investment purposes and, contrary to the customer's instructions, deposited the funds into the account of an entity with which he was affiliated. In addition, Bell failed to respond to NASD requests for information.

Bradley J. Bennett (Registered Representative, Portage, Wisconsin) was fined \$20,000 and barred from association with any NASD member in any capacity. The sanctions were based on findings that Bennett failed to respond to NASD requests for information about the circumstances surrounding a customer complaint received by the NASD.

Marc J. Berman (Registered Representative, Los Angeles, California) was fined \$25,000, barred from association with any NASD member in any capacity, and ordered to disgorge \$42,291.35 in commissions to public customers. The sanctions were based on findings that Berman made recommendations to public customers to embark on a series of trades characterized by frequent short-term trading, options trading, speculative trading, and trading on margin without having reasonable grounds for believing that the recommendations were suitable for the customers based on their tax status, investment objectives, and financial situations. Berman opened a securities account at another member firm and failed to notify his member firm in writing of his intention to open the account or that he had opened it, and failed to notify the other firm of his association with this member firm.

Steven E. Boyer (Registered Representative, Lewistown, Pennsylvania) submitted an Offer of Settlement

pursuant to which he was fined \$75,000 and barred from association with any NASD member in any capacity. Without admitting or denying the allegations, Boyer consented to the described sanctions and to the entry of findings that he obtained funds by misrepresentation in that he submitted to his member firm for reimbursement copies of checks that he had written but which he had not actually transmitted to the payees appearing on the checks. Boyer also failed to respond to NASD requests to provide copies of certain specified bank account statements.

Richard R. Brooks (Registered Representative, Taunton, Massachusetts) was fined \$50,000 and barred from association with any NASD member in any capacity. The sanctions were based on findings that Brooks withheld and misappropriated for his own use and benefit insurance customer funds totaling \$6,340.07, without the customer's knowledge or consent. In addition, Brooks failed to respond to NASD requests for information.

Raymond M. Brown (Registered Representative, Manlius, New York) was fined \$20,000 and barred from association with any NASD member in any capacity. The sanctions were based on findings that Brown failed to respond to NASD requests for information about his termination from a member firm.

Thomas Anthony Cartolano (Registered Representative, Plainview, New York) was fined \$10,000, ordered to pay \$8,073 in restitution to his member firm, and barred from association with any NASD member in any capacity. The sanctions were based on findings that Cartolano received from public customers \$8,073 as premium payments, failed to deposit the funds into the customers' accounts and, instead, converted the funds for his own use and

benefit. In addition, Cartolano failed to respond to NASD requests for information.

Paul A. Cetrola (Associated Person, Staten Island, New York) submitted a Letter of Acceptance, Waiver and Consent pursuant to which he was barred from association with any NASD member in any capacity. Without admitting or denying the allegations, Cetrola consented to the described sanction and to the entry of findings that he arranged to have an imposter take the Series 7 exam for him.

James E. Coath (Registered Representative, Buffalo Grove, Illinois) submitted an Offer of Settlement pursuant to which he was fined \$5,000 and suspended from association with any NASD member in any capacity for 30 days. Without admitting or denying the allegations, Coath consented to the described sanctions and to the entry of findings that he recommended and effected, or caused to be effected, the purchase and sales of securities for the account of a public customer without having a reasonable basis to believe that such recommendations were suitable for the public customer based on the customer's investment objectives, financial situation, and needs.

Bryan L. Cohen (Registered Representative, Chappaqua, New York) submitted a Letter of Acceptance, Waiver and Consent pursuant to which he was fined \$100,000, barred from association with any NASD member in any capacity, and ordered to pay restitution to his member firm or a public customer. Without admitting or denying the allegations, Cohen consented to the described sanctions and to the entry of findings that he forged a public customer's signature on four personal checks totaling \$33,500 without the customer's knowledge or consent and converted the funds for his own

use and benefit. The NASD also found that Cohen issued a personal loan guarantee to a public customer on his member firm's letterhead, without the firm's knowledge, consent, or approval. The findings stated that Cohen secured a loan policy for \$3,071.27 from a public customer's life insurance policy, forged the customer's signature on the check, and retained the funds for his own use and benefit without the customer's knowledge.

Roy R. Cook, Jr. (Registered Representative, Allison Park, Pennsylvania) submitted a Letter of Acceptance, Waiver and Consent pursuant to which he was fined \$6,300 and suspended from association with any NASD member in any capacity for five business days. Without admitting or denying the allegations, Cook consented to the described sanctions and to the entry of findings that he sold securities to members of the public and failed to provide previous written notification to his member firm of such activities.

Robert Fitzgerald Craig (Registered Principal, Alpharetta, Georgia) was fined \$20,000 and barred from association with any NASD member in any capacity. The sanctions were based on findings that Craig failed to respond to NASD requests to appear and testify at a hearing involving an NASD complaint.

Charles Davis (Registered Representative, Jamaica Plain, Massachusetts) was fined \$100,000 and barred from association with any NASD member in any capacity. The sanctions were based on findings that Davis, without the knowledge or consent of his member firm or public customers, misappropriated customer funds totaling \$49,630.10. The funds were monies he received from investors to pay insurance premiums and purchase two mutual funds. In addition, Davis failed to respond to

NASD requests for information.

Edward D. Davis (Associated Person, Fayetteville, North Carolina) was fined \$20,000 and barred from association with any NASD member in any capacity. The sanctions were based on findings that Davis failed to respond to an NASD request for information about his termination from a member firm.

Kenneth Patrick DiLeo (Registered Representative, Lakewood, New Jersey) submitted a Letter of Acceptance, Waiver and Consent pursuant to which he was fined \$25,000 and barred from association with any NASD member in any capacity. Without admitting or denying the allegations, DiLeo consented to the described sanctions and to the entry of findings that, without the consent or knowledge of the sales manager of his member firm, he signed the manager's initials on a trade cancellation. The NASD also found that DiLeo opened four customer accounts and effected transactions therein without the knowledge or authorization of public customers, and falsified information on his member firm's customer new account applications.

Patrick A. Drollinger (Registered Representative, Bayside, New York) was fined \$45,000 and barred from association with any NASD member in any capacity. The sanctions were based on findings that Drollinger fabricated or caused to be fabricated fictitious monthly account statements and confirmations evidencing trades different than those actually executed in a public customer's account. Drollinger also mailed or caused to be mailed to the customer false account statements and false confirmations purporting to evidence the purchase of bonds in the customer's accounts. In addition, Drollinger failed to appear at the NASD for an on-the-record interview.

Richard J. Eininger (Registered Representative, New York, New York) was fined \$100,000 and barred from association with any NASD member in any capacity. The sanctions were based on findings that Eininger issued checks payable to himself and/or to cash totaling \$202,500 from the account of an affiliated company of his member firm, that he negotiated for his own use and benefit, without the firm's knowledge or approval. In addition, Eininger cashed a \$2,000 personal check at his member firm that was dishonored at his bank for insufficient funds. Eininger also failed to respond to an NASD request for information.

William C. Emerick (Registered Representative, Aurora, Colorado) submitted a Letter of Acceptance, Waiver and Consent pursuant to which he was fined \$34,590 and suspended from association with any NASD member in any capacity for one year. Without admitting or denying the allegations, Emerick consented to the described sanctions and to the entry of findings that he made material misrepresentations to customers in connection with the solicitation of securities transactions. In addition, the NASD found that Emerick effected a transaction in the account of a public customer without the customer's authorization.

Timothy Donald Evans (Registered Representative, Fergus Falls, Minnesota) submitted a Letter of Acceptance, Waiver and Consent pursuant to which he was fined \$5,000, barred from association with any NASD member in any capacity, and ordered to pay \$7,326.83 in restitution to his member firm. Without admitting or denying the allegations, Evans consented to the described sanctions and to the entry of findings that, without the knowledge or consent of a public customer, he signed the customer's name to a disbursement request form

and an application for reimbursement form concerning an insurance policy. The findings also stated that Evans induced public customers to purchase life insurance policies by misrepresenting to the customers that after their initial deposit, no other additional premium payments would be required to keep the policy in force.

Thomas J. Fox (Registered Representative, McLean, Virginia) was fined \$30,000 and barred from association with any NASD member in any capacity. The sanctions were based on findings that, without providing previous written notice to his member firm, Fox engaged in the offer and sale of a \$169,800 promissory note outside of the normal scope of his association with his member firm. Fox also failed to respond to NASD requests for information.

Arthur N. Frischman (Registered Representative, North Brunswick, New Jersey) submitted a Letter of Acceptance, Waiver and Consent pursuant to which he was fined \$100,000, barred from association with any NASD member in any capacity, and ordered to pay \$46,643.72 in restitution to his member firm. Without admitting or denying the allegations, Frischman consented to the described sanctions and to the entry of findings that he secured unauthorized policy loans from the insurance policies of public customers and forged their signatures on the loan disbursement checks. The NASD found that Frischman then converted the customers' funds totaling \$46,643.72 for his own use and personal benefit.

Patrick Joseph Gabrielli, II (Registered Representative, Orinda, California) submitted an Offer of Settlement pursuant to which he was fined \$25,000, suspended from association with any NASD member in any capacity for three business days, and suspended from effecting transactions for retail customers' accounts

for six months. Without admitting or denying the allegations, Gabrielli consented to the described sanctions and to the entry of findings that he recommended to public customers the purchase and sale of securities without having reasonable grounds for believing that such recommendations were suitable for the customers considering their financial situations and needs. The findings also stated that Gabrielli effected purchases and sales of securities in the public customers' accounts without their knowledge or consent.

Ronald W. Gibbs (Registered Representative, Chicago, Illinois) was fined \$50,000 and barred from association with any NASD member in any capacity. The SEC affirmed the sanctions following appeal of an October 1994 NBCC decision. The sanctions were based on findings that Gibbs participated in 37 private securities transactions while failing to give his member firm previous written notice of his intention to engage in such activities.

Wayne Anthony Glennmeier (Registered Representative, Denver, Colorado) submitted a Letter of Acceptance, Waiver and Consent pursuant to which he was fined \$75,000 and barred from association with any NASD member in any capacity. Without admitting or denying the allegations, Glennmeier consented to the described sanctions and to the entry of findings that he obtained two checks totaling \$560.20 payable to customers of his member firm and caused the customers' endorsements to be placed on the checks without authorization. The NASD determined that Glennmeier placed his endorsement on the checks, without the authorization of the payee, and converted them to cash. Furthermore, the NASD found that Glennmeier effected transactions in the accounts of two customers without receiving authorization from either customer before effecting the

trades. The findings also stated that Glennmeier deliberately caused the address records of four customers of his member firm to contain false information to assure that none of these customers would receive correspondence from his firm that would have led to the detection of his activities. Glennmeier also failed to respond to NASD requests for information.

Brian M. Gordon (Registered Representative, Englewood, Colorado) submitted an Offer of Settlement pursuant to which he was fined \$8,500, suspended from association with any NASD member in any capacity for 10 days, and required to requalify by examination in any capacity in which he seeks to become associated with a member. Without admitting or denying the allegations, Gordon consented to the described sanctions and to the entry of findings that he caused the records of his member firm to be inaccurate by failing to indicate that he was affiliated with a business entity for which he had opened a securities account. In addition, the NASD found that, in contravention of the Board of Governors Free-Riding and Withholding Interpretation, Gordon purchased a hot issue in this account.

William A. Gray, Jr. (Registered Representative, Torrance, California) submitted a Letter of Acceptance, Waiver and Consent pursuant to which he was fined \$10,000 and barred from association with any NASD member in any capacity. Without admitting or denying the allegations, Gray consented to the described sanctions and to the entry of findings that he signed as a "Witness" on two life insurance applications attesting to the authenticity of the alleged signatures of public customers, although he did not witness the signing of these applications.

Charles W. Griffin, Jr. (Registered Principal, West Chester, Pennsylvania) submitted a Letter of Accep-

tance, Waiver and Consent pursuant to which he was fined \$15,000, suspended from association with any NASD member in any capacity for one year, and required to pay \$84,650 in restitution to customers. Without admitting or denying the allegations, Griffin consented to the described sanctions and to the entry of findings that he sold securities to investors and failed to give his member firm previous written notice describing the proposed transactions and his proposed role therein.

Vincent G. Ha (Registered Representative, Aurora, Colorado) was fined \$10,000 and barred from association with any NASD member in any capacity. The sanctions were based on findings that Ha caused a document titled "irrevocable standby letter of credit" to be written on his member firm's letterhead and distributed to an insurance company. The NASD found that the member firm had not authorized the issuance of this letter of credit, and that Ha was not authorized to execute the letter of credit on behalf of his member firm.

Peter M. Hamder (Registered Representative, Sharpsville, Pennsylvania) submitted an Offer of Settlement pursuant to which he was fined \$120,000, barred from association with any NASD member in any capacity, and ordered to pay \$26,500 in restitution. Without admitting or denying the allegations, Hamder consented to the described sanctions and to the entry of findings that he received from public customers checks totaling \$26,500 to purchase securities and insurance products. The NASD determined that Hamder did not use the funds for their intended purpose. In addition, the NASD found that Hamder failed to respond to NASD requests for information.

Hubert A. Hamm (Registered Representative, Oakfield, New York) submitted a Letter of Acceptance,

Waiver and Consent pursuant to which he was barred from association with any NASD member in any capacity. Without admitting or denying the allegations, Hamm consented to the described sanction and to the entry of findings that he obtained from public customers checks totaling \$5,301 to be applied to the customers' variable life insurance policies. The NASD found that Hamm failed to apply \$3,301 of the funds as requested and used them for some purpose other than for the customers' benefit.

John N. Harman (Registered Representative, Orlando, Florida) submitted an Offer of Settlement pursuant to which he was suspended from association with any NASD member in any capacity for 15 days. Without admitting or denying the allegations, Harman consented to the described sanction and to the entry of findings that he solicited and recommended to public customers a limited partnership investment without having a reasonable basis for believing that the investment was suitable for the customers based on their financial situations and needs. In addition, the NASD found that Harman completed or caused to be completed a new account form for public customers that falsely stated their annual income, net worth, securities holdings, real estate holdings, and occupation, and had no reasonable basis for believing that the information was accurate, and knew, or should have known, that the information was false.

Michael B. Harty (Registered Representative, Menomonee Falls, Wisconsin) submitted an Offer of Settlement pursuant to which he was fined \$120,000, barred from association with any NASD member in any capacity, and required to pay \$158,276.94 to public customers. Without admitting or denying the allegations, Harty consented to the

described sanctions and to the entry of findings that he participated in private securities transactions while failing and neglecting to give written notice of his intention to engage in such activity to his member firm and to receive the firm's approval before engaging in such activity. The findings also stated that Harty failed to respond to NASD requests for information.

Richard J. Higbee (Registered Representative, Wausau, Florida) was fined \$20,000 and barred from association with any NASD member in any capacity. The sanctions were based on findings that Higbee sold variable annuity contracts to public customers through the use of sales materials that were not approved by a principal of his member firm. In addition, Higbee failed to respond to an NASD request for information.

Jeffrey Michael Hippler (Registered Representative, Waite Park, Minnesota) submitted a Letter of Acceptance, Waiver and Consent pursuant to which he was fined \$23,823.85, barred from association with any NASD member in any capacity, and required to pay \$4,764.77 in restitution to any party or parties entitled. Without admitting or denying the allegations, Hippler consented to the described sanctions and to the entry of findings that he received from a public customer \$1,496.55 in surrender checks endorsed by the customer to establish a new insurance contract. Instead, without the knowledge or consent of the customer, Hippler forged his wife's signature to the check, deposited the proceeds into his personal bank account, and converted the funds to his own use and benefit. The findings also stated that Hippler, without the knowledge or consent of a public customer, endorsed two checks totaling \$3,268.22 made payable to the customer, deposited the proceeds into his personal bank account, and converted the funds to his own use and benefit.

Robert A. Hodgkiss, Jr. (Registered Representative, Cary, North Carolina) was fined \$10,000 and suspended from association with any NASD member in any capacity for three months. The sanctions were based on findings that Hodgkiss made misrepresentations to a public customer in connection with a customer's purchase of securities.

Mark T. Johnson (Registered Principal, Baltimore, Maryland) was fined \$20,000 and barred from association with any NASD member in any capacity. The sanctions were based on findings that Johnson failed to respond to NASD requests for information regarding customer complaints.

Ricardo Johnson (Registered Representative, Eagleville, Pennsylvania) was fined \$50,000 and barred from association with any NASD member in any capacity. The sanctions were based on findings that Johnson received from a public customer three checks totaling \$6,250 payable to his member firm to purchase an investment through the firm. Johnson added himself as payee, negotiated the checks, and retained the proceeds. Johnson also failed to respond to NASD requests for information.

Jimmy C. Kao (Registered Representative, West Covina, California) submitted a Letter of Acceptance, Waiver and Consent pursuant to which he was fined \$110,000 and barred from association with any NASD member in any capacity. Without admitting or denying the allegations, Kao consented to the described sanctions and to the entry of findings that he caused \$20,800 to be withdrawn from various joint and individual checking and savings accounts of public customers and converted the funds to his own use. The NASD also determined that Kao submitted to his member firm a Form U-4 with false responses to questions about his disciplinary history.

Kerry P. Kennedy (Registered Representative, Northbrook, Illinois) was fined \$25,000, suspended from association with any NASD member in any capacity for 180 days, and ordered to requalify by examination as a general securities representative. The NBCC imposed the sanctions following review of an Atlanta DBCC decision. The sanctions were based on findings that Kennedy forged the signatures of two public customers on a margin agreement for a jointly held securities account.

Jeffrey E. Kerstetter (Registered Representative, Vincentown, New Jersey) submitted a Letter of Acceptance, Waiver and Consent pursuant to which he was fined \$15,000 and barred from association with any NASD member in any capacity. Without admitting or denying the allegations, Kerstetter consented to the described sanctions and to the entry of findings that he signed customers' names at several places on applications for variable life insurance and related forms, as if such signatures were genuine, and he submitted the applications, forms, and funds to his member firm without disclosing to the firm that he, not the customer, had supplied the funds for the premium payment submitted with the respective application, and without disclosing that he had placed the purported signatures of the customers on the applications and related forms. The NASD found that, in connection with three of the applications submitted by Kerstetter, after the insurance policy did not go into effect, his member firm issued checks payable to the respective customers refunding the initial premium submitted with the application. The NASD determined that Kerstetter obtained possession of each check and, without the customers' knowledge or consent, signed the respective customer's name on the back of each check, endorsed the checks himself, and negotiated the checks.

Keith B. Kiger (Registered Representative, Winston-Salem, North Carolina) submitted an Offer of Settlement pursuant to which he was fined \$5,000 and suspended from association with any NASD member in any capacity for one year. Without admitting or denying the allegations, Kiger consented to the described sanctions and to the entry of findings that he engaged in six private securities transactions, outside the scope of his regular employment, without giving previous written notice to or receiving previous written approval from his member firm.

Angus M. Kirchner, Jr. (Registered Representative, St. Clair Shores, Michigan) submitted a Letter of Acceptance, Waiver and Consent pursuant to which he was fined \$20,000, barred from association with any NASD member in any capacity, and required to pay restitution. Without admitting or denying the allegations, Kirchner consented to the described sanctions and to the entry of findings that he participated in the offer and sale of securities to six public customers and received \$11,100 in compensation, without giving previous written notice to or receiving previous approval from his member firm.

Jay A. Klein (Registered Representative, Laurence Harbor, New Jersey) was fined \$40,000 and barred from association with any NASD member in any capacity. The sanctions were based on findings that Klein misappropriated customer funds totaling \$4,617 received as insurance premiums and, instead, used the funds for his own personal use and benefit. In addition, Klein failed to respond to NASD requests for information.

Donna K. Kmeta (Registered Representative, Dumont, New Jersey) was fined \$100,000 and barred from association with any NASD member

in any capacity. The sanctions were based on findings that Kmeta misappropriated and converted two \$10,000 checks received from public customers. In addition, Kmeta failed to appear for an NASD on-the-record interview and to respond to NASD requests for information.

Mark Igor Krivoi (Registered Representative, Brooklyn, New York) was fined \$71,000 and barred from association with any NASD member in any capacity. The sanctions were based on findings that Krivoi received from a public customer checks totaling \$18,152.55 to open an Individual Retirement Account (IRA) account and purchase two annuity policies. Krivoi did not comply with the customer's instructions and caused the checks to be deposited in an unidentifiable account known only to him. In addition, Krivoi failed to appear at the NASD for on-the-record interviews concerning the customer complaints.

Alex Krutyansky (Registered Representative, New York, New York) was fined \$20,000 and barred from association with any NASD member in any capacity. The sanctions were based on findings that Krutyansky arranged to have an imposter take the Series 7 qualification exam on his behalf and failed to respond to NASD requests for information.

Joseph Michael Krygowski (Registered Representative, Pittsboro, Indiana) submitted an Offer of Settlement pursuant to which he was fined \$2,500 and suspended from association with any NASD member in any capacity for six months. Without admitting or denying the allegations, Krygowski consented to the described sanctions and to the entry of findings that he failed to respond to NASD requests for information.

Raymond F. Lenardson (Registered Representative, Grand Rapids, Michigan) submitted a Let-

ter of Acceptance, Waiver and Consent pursuant to which he was fined \$5,000, suspended from association with any NASD member in any capacity for 60 days, and required to requalify by exam before acting in a registered capacity. Without admitting or denying the allegations, Lenardson consented to the described sanctions and to the entry of findings that he failed to obtain a public customer's authorization before signing her name on an IRA Rollover form.

Joseph Lombardo (Registered Representative, Staten Island, New York) was fined \$100,000, barred from association with any NASD member in any capacity, and ordered to pay \$18,132 in restitution to his member firm. The sanctions were based on findings that Lombardo requested and received from his member firm two checks totaling \$11,239 made payable to a public customer, forged or caused the customer's name to be forged on the checks, and converted the funds to his personal use, without the customer's previous knowledge or authorization. In addition, Lombardo failed to respond to NASD requests for information about his termination from a member firm.

Richard F. Marney (Registered Representative, Boca Raton, Florida) was fined \$20,000 and barred from association with any NASD member in any capacity. The sanctions were based on findings that Marney failed to respond to NASD requests for information about his termination from a member firm.

Daniel M. McKeown (Registered Representative, Marietta, Georgia) was fined \$50,000, barred from association with any NASD member in any capacity, and ordered to disgorge \$1,517.50 in commissions to the NASD. The sanctions were based on findings that McKeown effected or caused to be effected 10 transactions

in the securities account of a public customer without the customer's knowledge or consent.

Anthony J. Miranti (Registered Principal, San Diego, California) was fined \$20,000, suspended from association with any NASD member in any capacity for one year, and required to requalify by exam in any capacity in which he intends to associate with a member firm. In addition, Miranti was required to disgorge \$31,289 to the NASD. The sanctions were based on findings that a former member firm, acting through Miranti, effected principal retail transactions with public customers at prices that were unfair and excessive, in that the prices charged to the firm's customers ranged from 5.26 to 38.75 percent above the prevailing market price for the securities.

Frederick M. Moran (Registered Representative, Bayshore, New York) submitted a Letter of Acceptance, Waiver and Consent pursuant to which he was fined \$50,000 and barred from association with any NASD member in any capacity. Without admitting or denying the allegations, Moran consented to the described sanctions and to the entry of findings that he was the manager of a portfolio that was identified as having an improper adjustment of a \$15 million position in U.S. Treasury strips. The findings stated that the firm showed that Moran put the proper valuation on the position, but submitted an accounting adjustment that modified the value of the position. In addition, Moran failed to respond to an NASD request for information.

John Moschello (Associated Person, Staten Island, New York) submitted a Letter of Acceptance, Waiver and Consent pursuant to which he was barred from association with any NASD member in any capacity. Without admitting or deny-

ing the allegations, Moschello consented to the described sanction and to the entry of findings that he arranged to have an imposter take the Series 7 qualification exam for him.

Kelvin Levelle Nash (Registered Representative, Irving, Texas) submitted an Offer of Settlement pursuant to which he was fined \$1,500 and suspended from association with any NASD member in any capacity for two weeks. Without admitting or denying the allegations, Nash consented to the described sanctions and to the entry of findings that he made improper use of customer funds totaling \$10,000.

Howard B. Nicklas (Registered Representative, Baltimore, Maryland) was fined \$50,000 and barred from association with any NASD member in any capacity. The sanctions were based on findings that Nicklas prepared and submitted to a public customer an account statement that misrepresented the account's value and securities position. In addition, Nicklas failed to respond to NASD requests for information.

Scott William Parks (Registered Representative, Eden Prairie, Minnesota) submitted a Letter of Acceptance, Waiver and Consent pursuant to which he was fined \$5,707.40 and suspended from association with any NASD member in any capacity for seven days. Without admitting or denying the allegations, Parks consented to the described sanctions and to the entry of findings that, without the knowledge or consent of public customers, he purchased and sold securities for their accounts.

John G. Pearce (Registered Principal, West Palm Beach, Florida) was fined \$10,000, and suspended from association with any NASD member in any capacity for 90 days and thereafter until he satisfies an arbitration award. The NBCC

imposed the sanctions following appeal of a Cleveland DBCC decision. The sanctions were based on findings that Pearce failed to pay an \$85,000 arbitration award.

Pearce has appealed this action to the SEC, and the sanctions are not in effect pending consideration of the appeal.

Andrew Pedone (Registered Representative, Booneville, New York) was fined \$1,000 and suspended from association with any NASD member in any capacity for two years. The NBCC imposed the sanctions following appeal of a Boston DBCC decision. The sanctions were based on findings that Pedone used a false name on an insurance policy to reinstate a customer's policy that had been canceled by his member firm due to nonpayment of premiums.

Mr. Pedone's suspension began August 14, 1992, and concluded August 14, 1994.

Jack Peiser (Registered Representative, Chicago, Illinois) submitted a Letter of Acceptance, Waiver and Consent pursuant to which he was fined \$5,000, suspended from association with any NASD member in any capacity for two years, and required to pay \$1,340.38 in restitution to a member firm. Without admitting or denying the allegations, Peiser consented to the described sanctions and to the entry of findings that he failed to reflect accurately customers' intended contributions to their 403(b) plans in that the compensation copy he submitted to his member firm indicated larger contribution than the payroll copy submitted to the customers' employer, thus causing the firm to advance Peiser excessive commission payments of about \$1,340.38.

Philip S. Peterman (Associated Person, Lemon Grove, California) submitted a Letter of Acceptance,

Waiver and Consent pursuant to which he was fined \$10,000 and barred from association with any NASD member in any capacity. Without admitting or denying the allegations, Peterman consented to the described sanctions and to the entry of findings that he submitted to his member firm a Form U-4 that was received by the NASD that contained false responses to questions regarding criminal actions.

Demetrice Price (Associated Person, Sauk Village, Illinois) was fined \$40,000 and barred from association with any NASD member in any capacity. The sanctions were based on findings that Price failed to disclose on a Form U-4 that she had been charged with theft. Price also failed to respond to NASD requests for information.

Lester R. Riehman (Registered Representative, Temecula, California) submitted a Letter of Acceptance, Waiver and Consent pursuant to which he was fined \$10,000 and barred from association with any NASD member in any capacity. Without admitting or denying the allegations, Riehman consented to the described sanctions and to the entry of findings that he forged a customer's signature on a notice regarding replacement of life insurance or annuity to expedite the processing of paperwork necessary to transfer the customer's funds from a tax shelter annuity to an investment company trust without the customer's authorization.

Jerry M. Roberson (Registered Representative, Dyersburg, Tennessee) was fined \$120,000, barred from association with any NASD member in any capacity, and ordered to pay \$70,573.04 in restitution to his member firm. The sanctions were based on findings that Roberson received from a public customer two IRA Rollover checks totaling

\$53,817.18 to invest in an annuity product through his member firm. Roberson failed and neglected to execute the purchase of the annuity on the customer's behalf, and, instead, endorsed the checks and converted funds for his own use and benefit without the customer's knowledge or consent. In addition, Roberson failed to respond to NASD requests for information.

Dennis D. Roettger, Sr. (Registered Representative, Commerce Township, Michigan) submitted a Letter of Acceptance, Waiver and Consent pursuant to which he was fined \$25,000, barred from association with any NASD member in any capacity, and required to pay restitution. Roettger consented to the described sanctions and to the entry of findings that he participated in the offer and sale of securities to five public customers and received \$15,780 in compensation, without giving previous written notice to and receiving previous written approval from his member firm.

Roberto R. Santos (Registered Representative, Dearborn, Michigan) submitted a Letter of Acceptance, Waiver and Consent pursuant to which he was fined \$7,500, barred from association with any NASD member in any capacity, and required to pay restitution. Without admitting or denying the allegations, Santos consented to the described sanctions and to the entry of findings that he participated in the offer and sale of securities to six public customers and received \$2,240 in compensation, without giving previous written notice to and receiving previous approval from his member firm.

John A. Schmitz (Registered Representative, Huntington Station, New York) was fined \$100,000, barred from association with any NASD member in any capacity, and ordered to pay \$20,739.72 in restitution. The sanctions were based on

findings that Schmitz recommended an investment to a public customer without having a reasonable basis to believe that the investment was neither consistent with the customer's investment objectives nor suitable for her based on her financial need. In addition, Schmitz misappropriated \$20,739.72 received from a public customer intended for investment purposes by depositing the funds in an account belonging to his wife. Schmitz also participated in a private securities transaction without providing previous written notice to his member firm and without receiving previous written approval of his participation in the transactions.

Henry M. Shields (Registered Representative, Tucson, Arizona) was fined \$35,000, barred from association with any NASD member in any capacity with a right to reapply after one year, and ordered to disgorge \$6,838 to the NASD. The sanctions were based on findings that Shields recommended and effected purchase and sale transactions in the account of a public customer without having reasonable grounds for believing the recommendations were suitable for the customer considering the type of account and the customer's financial situation and needs. In addition, Shields recommended and/or effected transactions in the same customer's account that were excessive in frequency in view of the nature of the account, its financial resources, and its investment objectives. Shields exercised discretion in a customer's account without obtaining written discretionary authority from the customer and without receiving written acceptance of the account as discretionary from his member firm. Shields also prepared and delivered to the customer a document that contained materially inaccurate and misleading information about a stock.

James S. Shore (Registered Representative, Knoxville, Tennessee)

submitted a Letter of Acceptance, Waiver and Consent pursuant to which he was fined \$20,000 and barred from association with any NASD member in any capacity with the right to reapply for association with a member firm after one year. Without admitting or denying the allegations, Shore consented to the described sanctions and to the entry of findings that he exercised discretion in the accounts of public customers, without having obtained previous written authorization from the customers and previous written acceptance of the accounts as discretionary by his member firm.

Mikhail Shoyket (Registered Representative, Brooklyn, New York) was fined \$20,000 and barred from association with any NASD member in any capacity. The sanctions were based on findings that Shoyket had someone else take the Series 7 exam on his behalf. In addition, Shoyket failed to respond to NASD requests for information.

Michael C. Sigmon (Registered Representative, Stone Mountain, Georgia) submitted an Offer of Settlement pursuant to which he was fined \$20,000 and barred from association with any NASD member in any capacity. Without admitting or denying the allegations, Sigmon consented to the described sanctions and to the entry of findings that he failed to respond to an NASD request for information.

Dale A. Simmons (Associated Person, Lansing, Illinois) was barred from association with any NASD member in any capacity. The sanction was based on findings that Simmons sat for the Series 6 exam and, contrary to instructions given to him, had certain notes with material relevant to the exam with him in the room that were available for his inspection and review during the course of the exam.

Dennis M. Smaka (Registered Representative, Oriskany, New York) was fined \$50,000 and barred from association with any NASD member in any capacity. The sanctions were based on findings that Smaka, without the knowledge or consent of a public customer or his member firm, withheld and misappropriated \$16,000 in funds that he fraudulently withdrew from the customer's fixed annuities. In addition, Smaka failed to respond to NASD requests for information.

Steve Lee Smith (Registered Representative, Westminster, Colorado) was fined \$20,000 and barred from association with any NASD member in any capacity. The sanctions were based on findings that Smith failed to respond to an NASD request for information regarding a customer complaint.

Pearl J. Sobocinski (Associated Person, Allen Park, Michigan) submitted a Letter of Acceptance, Waiver and Consent pursuant to which she was fined \$10,000, barred from association with any NASD member in any capacity, and required to pay restitution. Without admitting or denying the allegations, Sobocinski consented to the described sanctions and to the entry of findings that she participated in the offer and sale of securities to six public customers, and received \$4,360 in compensation, without giving previous written notice to and receiving previous written approval from her member firm.

Donald K. Stunoff (Registered Representative, Scottsdale, Arizona) was fined \$125,000, barred from association with any NASD member in any capacity, and required to pay \$70,643.45 in restitution to his member firm. The sanctions were based on findings that Stunoff withdrew about \$45,250 from the securities account of a public customer using an automated teller machine access card, without the consent of the

customer. In response to an NASD request for information, Stunoff provided false documentation to the NASD that purported to authorize his withdrawal of funds from the customer's account that bore signatures that were purported to belong to the customer's daughters. Based on information obtained from the customer's daughters, neither of them signed the document, nor did they authorize anyone to make withdrawals from their father's securities account.

David Sumner (Registered Representative, Philadelphia, Pennsylvania) submitted a Letter of Acceptance, Waiver and Consent pursuant to which he was fined \$25,000 and barred from association with any NASD member in any capacity. Without admitting or denying the allegations, Sumner consented to the described sanctions and to the entry of findings that he submitted eight fraudulent annuity applications for nonexisting persons to his member to receive commission advances.

William J. Townsend, Jr. (Registered Representative, Louisville, Kentucky) submitted a Letter of Acceptance, Waiver and Consent pursuant to which he was fined \$110,000, barred from association with any NASD member in any capacity, and ordered to pay \$26,000 in restitution. Without admitting or denying the allegations, Townsend consented to the described sanctions and to the entry of findings that he disbursed, or caused to be disbursed, three checks totaling \$26,000 from the accounts of a public customer, forged the customer's signature to the checks, and converted the funds for his own use and benefit without the knowledge or consent of the public customer. The NASD also found that Townsend failed to respond timely to NASD requests for information.

William Truesdale, Jr. (Registered Representative, Altamonte Springs, Florida) was fined \$40,000, barred

from association with any NASD member in any capacity, and ordered to disgorge \$118.35 to the NASD. The sanctions were based on findings that Truesdale effected or caused to be effected three transactions in the securities account of a public customer without the customer's knowledge or consent. In addition, Truesdale failed to respond to an NASD request for information.

Ernest R. Turbessi (Registered Representative, Jessup, Pennsylvania) was fined \$50,000 and barred from association with any NASD member in any capacity. The sanctions were based on findings that Turbessi falsified or caused to be falsified the purported endorsements of two policy holders on five checks totaling \$2,242.69 that had been issued by a member firm. Turbessi falsified the signature of a public customer on a disbursement request form requesting a policy loan that he submitted to his member firm. Turbessi also failed to respond to NASD requests for information.

Richard Stanley Twardak (Registered Representative, Alsip, Illinois) was fined \$110,000, barred from association with any NASD member in any capacity, and required to pay \$6,391.33 in restitution to member firms. The sanctions were based on findings that Twardak signed public customers' names to disbursement request forms without the knowledge or consent of the customers, resulting in a total of \$9,242.84 in loans from insurance policies owned by the customers. He applied \$2,848.21 to pay for other policies owned by the customers and then, without the customers' knowledge or consent, signed or caused the customers' names to be signed to checks issued by his member firm, deposited the checks in a bank account that he controlled or in which he had an interest, and retained \$6,585.52 for his own use and bene-

fit. Twardak also failed to respond to NASD requests for information.

Ralph J. Urban (Registered Representative, Mt. Clemens, Michigan) submitted a Letter of Acceptance, Waiver and Consent pursuant to which he was fined \$75,000, barred from association with any NASD member in any capacity, and required to pay restitution. Without admitting or denying the allegations, Urban consented to the described sanctions and to the entry of findings that he participated in the offer and sale of securities to 13 public customers and received \$70,264 in compensation, without giving previous written notice to and receiving previous written approval from his member firm.

Julie S. Westberry (Registered Representative, Plantation, Florida) was fined \$10,000 and barred from association with any NASD member in any capacity. The NBCC imposed the sanctions following review of an Atlanta DBCC decision. The sanctions were based on findings that Westberry caused \$6,991.80 to be withdrawn from the mutual fund account of a public customer, and used the funds to pay a life insurance premium of another public customer who was also an acquaintance of Westberry.

Jack Ronald Wolff (Registered Principal, Blowing Rock, North Carolina) submitted a Letter of Acceptance, Waiver and Consent pursuant to which he was suspended from association with any NASD member in any capacity for 90 days and required to requalify by examination as a general securities principal. Without admitting or denying the allegations, Wolff consented to the described sanctions and to the entry of findings that his member firm effected transactions in nonexempt securities while the firm had insufficient net capital to comply with its required minimum under SEC Rule 15c3-1.

Individuals Fined

Riley W. Barker (Registered Principal, Niwot, Colorado) submitted an Offer of Settlement pursuant to which he was fined \$12,500. Without admitting or denying the allegations, Barker consented to the described sanction and to the entry of findings that, in connection with a private placement limited partnership offering, he caused the disbursement of funds from an escrow account to the issuer before the required amount had been deposited. The findings also stated that Barker used building signs and stationery and distributed confirmations and newsletters that failed to comply with the requirements in Article III, Section 35 of the NASD Rules of Fair Practice.

James G. Cook (Registered Principal, Del Norte, Colorado) was fined \$2,500, required to requalify by exam in any capacity, and required to pay \$17,500 in restitution to customers. The sanctions were based on findings that Cook participated in the sale of promissory notes to three public customers outside the scope of his relationship with his member firm and without providing prompt written notice of these activities to his member firm.

Jonathan Hyde (Registered Representative, Summit, New Jersey) was fined \$20,000 and required to requalify by exam as a general securities representative. The sanctions were based on findings that Hyde acquired certain municipal bonds on behalf of his member firm that caused him to exceed the inventory dollar limit that had been imposed on him, and to prevent his member firm from discovering this fact, he employed a variety of devices and artifices in acquiring the municipal bonds by effecting purchases of municipal bonds but failing to prepare order tickets documenting the purchases. Hyde also failed to disclose to his

member firm that he had an arrangement with a municipal bond trader employed by another member firm to repurchase bonds on behalf of his firm that he sold to the trader at a price that would provide the trader with a modest profit. In addition, Hyde paid \$1,350 to the municipal bond trader as compensation for his involvement in the bond repurchase arrangement.

Phillip W. Key, Jr. (Registered Representative, Greensboro, North Carolina) and **Harold B. Stancil, Jr. (Registered Representative, Greensboro, North Carolina)**. Key submitted an Offer of Settlement pursuant to which he was fined \$25,641.66. Stancil, in a separate decision, was fined \$16,412.35. Without admitting or denying the allegations, Key consented to the described sanction and to the entry of findings that Key and Stancil solicited for compensation investors who purchased notes, outside the scope of their employment with their member firms, without giving previous written notice to or receiving previous written permission from the firms.

Peers Jens Nuesken (Registered Representative, Peoria, Illinois) was fined \$10,000. The sanction was based on findings that Nuesken participated in outside business activities while failing and neglecting to provide prompt written notice to his member firm of such activities. Nuesken also prepared and sent to a public customer a letter regarding an investment without submitting the letter to his member firm for review and approval.

Harold B. Stancil, Jr. (Registered Representative, Greensboro, North Carolina) was fined \$16,412.35. The sanctions were based on findings that Stancil, outside the scope of his regular employment with a member firm, solicited investors who purchased \$138,424 in promissory notes for compensation, without giving previ-

ous written notice to, or receiving previous written permission from his member firm.

Robert L. Stevens (Registered Principal, Denver, Colorado) was fined \$10,000 and required to requalify by exam in any capacity. The sanctions were based on findings Stevens failed to supervise a registered representative's activities adequately regarding recommendations to customers.

Ernesto O. Torres (Registered Representative, Aurora, Colorado) was fined \$10,000 and required to requalify by exam in any capacity. The sanctions were based on findings that Torres solicited the purchase of interests in two limited liability companies by three public customers of his member firm and was compensated by the limited liability companies for his solicitation efforts, without providing his member firm with prompt written notice of such activities.

Firms Expelled For Failure To Pay Fines, Costs And/Or Provide Proof Of Restitution In Connection With Violations

Annandale Securities, Inc., Los Angeles, California

D.M. Black & Co., Inc., Spokane, Washington

Firms Suspended

The following firms were suspended from membership in the NASD for failure to comply with formal written requests to submit financial information to the NASD. The actions were based on the provisions of Article IV, Section 5 of the NASD Rules of Fair Practice and Article VII, Section 2 of the NASD By-Laws. The date the suspension

began is listed after each entry. If the firm has complied with the requests for information, the listing also includes the date the suspension concluded.

Blackheath Corporation, Rockledge, Florida (September 28, 1995)

Dynamic Group Securities Corp., Newport Beach, California (September 28, 1995)

FSG Securities, Inc., New York, New York (September 28, 1995)

Harrington Securities Corporation, Williamsville, New York (September 28, 1995)

Hart Securities, Inc., Houston, Texas (September 28, 1995)

Hellmold Associates, Inc., New York, New York (September 28, 1995)

Lewis Rose & Company, Fort Lauderdale, Florida (September 28, 1995)

Public Fidelity Corporation, Costa Mesa, California (September 22, 1995)

Quintana Associates, Inc., Alamo, California (September 28, 1995)

Rothschild Global Investments, Inc., Tampa, Florida (September 28, 1995)

Suspension Lifted

The NASD lifted a suspension from membership on the date shown for the following firm, because it has complied with formal written requests to submit financial information.

Wall Street Investment Corporation, New York, New York (September 19, 1995)

Individuals Whose Registrations Were Revoked For Failure To Pay Fines, Costs, And/Or Provide Proof Of Restitution In Connection With Violations

David M. Black, Spokane, Washington

Kevin T. Cabell, East Rochester, New York

John J. Jarvis, Pittsburgh, Pennsylvania

Jim Hwy Shin, Sunnyvale, California

Richard K. Steele, Sr., Beverly Hills, California

Danny L. Wayne, Oconomowoc, Wisconsin

George A. Weed, Benton, Illinois

NASD Expels Prime Investors, Inc., Bars Its President And A Sales Representative, And Imposes Fines Totaling \$200,000

NASD expelled Prime Investors, Inc., of Lee's Summit, Missouri, barred its President, Kenneth J. Wright, and barred with a right to reapply after two years, a sales representative, Michael L. Johnson. A joint and several fine of \$150,000 was levied against Prime and Wright and a fine of \$50,000 was levied against Johnson. The firm's expulsion and the bars of Wright and Johnson were effective on September 11, 1995.

The NASD found that Prime, acting through Wright and Johnson, sold unregistered securities, and made material misrepresentations and omissions of fact in connection with the sale of those securities. The NASD also found that Prime, acting through Wright, misused customers' funds and engaged in several

improper extensions of credit, including day trading in cash accounts and the use of a fictitious account to “park” stock to avoid a sellout.

The NASD found that the notes sold by Prime, Wright, and Johnson pursuant to a “business plan” were securities that were not registered or exempt from registration under the 1993 Securities Act. According to NASD findings, respondents made material misstatements or omissions of fact in selling these notes. The misstatements included representations that the notes were tax free, col-

lateralized, and guaranteed, when they were not. The NASD determined that Prime, acting through Wright, misused offering funds raised by placing monies in personal securities accounts, lending those monies to friends, employees, and customers, and using about \$77,000 of the monies to cover a debit balance owed by Wright and coinvestors in a third-party securities account.

In discussing sanctions, the NASD decision states: “We believe that the NASD must ensure that public investors are protected against a

recurrence of the violative conduct in which respondents engaged.”

The NASD’s decision was issued following an appeal of a disciplinary action taken by the Kansas City, Missouri, DBCC. While this disciplinary action represents a final enforcement action by the NASD, respondents Prime and Wright have filed an appeal with the SEC. On September 28, 1995, the SEC denied the respondents’ request for a stay pending appeal of the expulsion and bar, respectively.

FOR YOUR INFORMATION

SEC Approves Amendment To Schedule B To The NASD By-Laws

On September 29, 1995, the SEC approved an amendment to Schedule B to the NASD By-Laws to delete informational text on the number of members of the NASD Board of Governors (Board) elected from each District. The inclusion of the text regarding District representation was informational only and its inclusion unnecessarily limits the ability of the Board to act under Article VII, Section 4(b) of the By-Laws to make changes to the Board's composition.

Upcoming Release Of PC FOCUS Version 2.00 (For DOS)

An update to the PC FOCUS application will be released in December 1995. The PC FOCUS application has been modified to accommodate the electronic collection of the Schedule I paper supplement (Question 19, re: bank control) and of annual municipal income data (formerly collected on the NASD Annual Assessment Report).

The rules used to validate information have been enhanced to improve the validity and consistency of the data submitted to the NASD®. In particular, the rules applied to the annual Schedule I now include intraform edit checks. These new edits will verify that responses throughout the form are consistent. "Instructions" will be provided in the distribution package. **Please read the new "Instructions" before preparing**

your 1995 Schedule I Report for guidance regarding the relationship between the various questions and the potential PC FOCUS errors that may occur.

The PC FOCUS v2.00 distribution package will include:

- 3.5" PC FOCUS v2.00 diskette*
- Installation Instructions
- Summary of Enhancements and Additions
- *PC FOCUS User Guide v1.02* Update (stickers)
- Instructions.

**Note: If you need a 5.25" diskette, please call the Customer Support Hot Line at (800) 321-NASD.*

This upgrade must be installed before you file your 1995 Schedule I, which is due on January 24, 1996. You may install the application immediately upon receipt, if you prefer.

To ensure complete compatibility between PC FOCUS v2.00 and the new Customer Complaints application, **we strongly recommend that you install and test the Customer Complaints and PC FOCUS v2.00 applications as soon as possible.** If you experience any technical difficulties, early testing will allow the Customer Support Hot Line to resolve any problems you encounter in sufficient time to meet the required filing due dates. If you need help installing or using either application, please call the Customer Support Hot Line at (800) 321-NASD.

IMPORTANT*Special Notices to Members*

December 11, 1995

Dear NASD Member,

This upcoming New Year signals an unprecedented milestone in the evolution of the NASD and The Nasdaq Stock Market.

On November 17, acting on the recommendations of an NASD-created Select Committee headed by former U.S. Senator Warren Rudman of New Hampshire, the NASD Board of Governors approved a series of standard-setting changes in structure and governance that have broad implications for the securities industry and the investing public.

In essence, we will be putting the NASD at the forefront of setting new standards for self-regulation. We will be creating a new organizational structure, enabling us to more effectively meet our rapidly expanding regulatory responsibilities. We will be reconfiguring our governing boards, giving investors, Nasdaq companies, and other non-industry public representatives a partnering role with members in policy making. And we will be upgrading and expanding key professional and technology resources, adding sharp new focus to our enforcement and disciplinary operations.

The implementation plan that was adopted by the Board at its November meeting closely follows the Select Committee's "Principles of Effective Governance," endorsed by the Board in September and presented to you in the *NASD Notice to Members 95-84*, October 1995.

As a self-regulatory institution, it is critical that investors have a high level of confidence in the fairness of our markets and the nation's self-regulatory system. The NASD is fully committed to implementing all aspects of the plan. We believe that the perception and the reality of fairness are reinforced by the changes that will take place in structure and governance.

Your understanding of and support for this implementation plan is an integral part of our overall mission to continuously enhance investor protection. We solicit your favorable vote on By-Laws modifications that will move the restructuring process forward in a timely manner.

The *Special Notices to Members* which follow provide background on the Select Committee's recommendations, details on the restructuring and the reconfiguration of governing boards, the By-Laws Notice and ballot, and an overview of the changes that will take place to disciplinary and enforcement procedures.

Compelling Reasons For Change

Throughout its history, the NASD has searched for and found new and innovative ways to address marketplace trends and emerging industry issues. But unlike any previous period in its history, in 1994, the NASD came under intense public scrutiny of its regulatory oversight of member firms and its stewardship of The Nasdaq Stock Market.

Amidst this wave of criticism, augmented by a Department of Justice investigation of market makers and an SEC investigation of NASD enforcement of Nasdaq trading rules, the NASD Board of Governors, in cooperation with SEC Chairman, Arthur Levitt, asked former U.S. Senator Warren Rudman to lead a review of NASD governance and oversight.

This independent, seven-member Select Committee, composed of individuals who have significant experience in the securities industry or are former members or senior staff of the SEC, worked almost 10 months and interviewed nearly 200 people to produce the most substantive and thorough study of the NASD to date.

The NASD oversees the activities of over 5,400 securities firms, more than 57,000 member branch offices, and nearly 500,000 registered securities professionals. In addition, it conducts examinations of member firms; investigates possible violations of Association rules, SEC regulations, and the federal securities law; and conducts disciplinary proceedings involving member firms and associated persons. It is the principal arbitration forum for securities disputes and reviews of member advertising and corporate finance agreements. The NASD also administers qualification testing for all securities principals and registered representatives, on its own behalf and on behalf of state securities authorities.

Add to this charter the stewardship of The Nasdaq Stock Market—the fastest growing equities market in the world—and the substance and complexity of the NASD's overall obligations far surpass those of any other SRO, including the major exchanges. Nasdaq has become, in just 24 years, a major source of capital for America's growth companies, with more than 5,000 issuers and a total capitalization of over \$1 trillion (three times 1990 levels). Its growth is nothing short of explosive: the Nasdaq Composite index, set at 100 in 1971, is now over 1,000, and daily volumes in 1995 have gone beyond 600 million shares (one week's trading on Nasdaq today is equivalent to Nasdaq's entire first year of operation).

The Select Committee found this to be a daunting role, and one that, if not addressed soon, threatens to undermine the NASD's ability to effectively carry out its mission. The Committee concluded that the NASD's governance structure has not kept pace with Nasdaq's explosive growth and the NASD's expanding regulatory responsibilities. In some cases, it said, the existing structure has led to ineffective rule making for the Nasdaq market. In others, it has required the NASD to mediate economic clashes among its members arising from their divergent interests in the Nasdaq market. Further, the Committee concluded that the current structure has also placed the NASD, as the owner

of Nasdaq's trading systems, in the unenviable position of regulating the competing systems owned by NASD members. The result: NASD and Nasdaq missions are disserved.

At the Board's request, the Select Committee also examined first-hand our enforcement and disciplinary procedures, some going back 5 to 10 years; conducted surveys and held discussions with federal and state regulators; and reviewed extensive documentation on NASD regulatory operations. While the Committee found that the overall NASD disciplinary process is designed to be effective and fair, it noted that disciplinary proceedings have become more contentious, complex, and consequential than the existing system was designed to accommodate. And certain areas of the regulatory operation, it observed, have not been given the mandate, resources, or prominence necessary for effective oversight, including the critical internal review function.

With the explosive growth of Nasdaq and the rapid expansion of NASD regulatory responsibilities, the public's claim to representation on the NASD's governing bodies has increased. Here too, the Committee found that the organization has not kept pace with meeting the far-reaching needs of its diverse constituent groups.

The Select Committee reached a unanimous conclusion: *fundamental change is required*. "The NASD's relationship with Nasdaq should be restructured so as to put substantial 'daylight' between the membership association and the market, with separate governing bodies whose compositions are tailored to the particular requirements of their respective missions and constituencies."

To heighten investor confidence in the fairness of the markets and self-regulatory system and broaden public acceptance of the NASD's policies, the Committee strongly recommended that the Association's governing Board be reconfigured to have a majority of non-industry public representatives, which would set a new standard for public participation in the governance of our securities markets.

The NASD Board of Governors agreed and asked the staff to prepare an implementation plan that addresses all of the Committee's recommendations.

Implementation Plan Outlines Restructuring Imperatives

The plan, as approved by the Board at its November meeting, calls for the parent organization, NASD, Inc., and its non-industry public majority Board, to set policy for, provide key corporate services to, and oversee the effectiveness of two subsidiaries as they carry out their respective responsibilities. The two operating units will be independent subsidiaries: a reconstituted Nasdaq, and a newly created NASD Regulation, Inc. (NASDR). Each operating subsidiary will have a full-time president, elected by the subsidiary boards that will each have balanced representation—50 percent industry and 50 percent non-industry.

The parent organization will be headed by a Chief Executive Officer (CEO), a title that best describes the senior-most executive position in the Association. The parent Board will be composed of five Non-Industry Governors, three Governors from NASD member firms, and the CEO of NASD, Inc.

One nominating committee, composed of two representatives from each of the three governing Boards—balanced between industry and non-industry—and the CEO of the Association will recruit and nominate outstanding professionals and public figures who

are knowledgeable, experienced, and have an interest in the securities industry for all three governing Boards. All governing Boards will be structured to provide a representation of relevant investor, member, issuer, and other constituent interests. Governors of all three Boards will normally serve for three-year terms, staggered to provide continuity, and will be eligible to serve more than one term. The Boards and the Nominating Committee will review the governing process on an ongoing basis to assure that no single constituency dominates a particular governing body or governance process.

With your approval of the necessary By-Laws modifications (*Notice to Members 95-101*) and SEC approval, the governing structure for the Association and the Nasdaq subsidiary could be in place as early as the first quarter of 1996.

The Nasdaq subsidiary will operate and surveil The Nasdaq Stock Market, electronic OTC markets, and all related systems, including trading-halt functions. It will also be responsible for enforcement of contractual obligations between Nasdaq and market participants. Nasdaq's balanced 13-member Board will include six non-industry public representatives, six from the securities industry (including three market-maker representatives), and the President of Nasdaq. The CEO of NASD, Inc., will serve on the Board in a non-voting capacity.

NASDR To Regulate Broker/Dealer Profession

The present NASD organization is structured primarily to conduct the NASD's regulatory and member service operations and present board members will be transferred during 1996 to the Board of the new NASDR subsidiary. By January 1997, the NASDR Board will shift from one composed of a majority of industry representatives to one with balanced representation of industry and non-industry public directors. At that time, it is expected to have no more than 25 directors with a goal of downsizing to 21—10 non-industry, 10 industry, and the president of NASDR. The CEO of NASD, Inc., will serve on the NASDR Board in a non-voting capacity.

NASDR will have primary authority to regulate the broker/dealer profession and provide member and constituent services. The subsidiary will develop and administer NASD Rules of Fair Practice, membership rules, and operational requirements for NASD, Inc., members. NASDR will examine and investigate member firms and their associated persons; enforce securities laws, NASD, Inc., NASDR, and Nasdaq rules and ethical standards; and administer the disciplinary process. NASDR will also be responsible for all disciplinary actions for violations of market-related rules. The actions may be based on initial investigations by the Nasdaq subsidiary or independent investigations by NASDR.

By-Laws Modifications

As a first step to implement the Select Committee's recommendations, it will be necessary to modify NASD By-Laws to reconfigure the NASD Board. No changes are required at this time to The Nasdaq Stock Market, Inc., By-Laws.

Please review the amendments in *Notice to Members 95-101* carefully. The membership is asked to approve changes to Articles VII and X, and the deletion of Article V, of the NASD By-Laws. These changes will permit the NASD to begin the restructuring necessary to implement the principles set forth in the report of The Select Committee on Structure and Governance.

The Committee proposed, and the NASD Board agreed, that with the creation of a new subsidiary responsible for securities regulation, the governing Board of the Association should have a majority of non-industry members. It should be smaller than the current Board and should have in place a structure and policies that will ensure a balance of non-industry and industry representation on the Nasdaq and NASDR Boards.

Briefly, the changes to the By-Laws: create a national nominating committee comprising the CEO of the Association and an equal number of industry and non-industry persons; reconstitute the Board as a majority non-industry Board comprising the CEO and “Industry” and “Non-Industry” Governors, and reduces the minimum size of the Board from 25 to 5 (the implementation plan adopted by the Board at its November 1995 meeting specified a 1996 Board of 9 persons—the CEO, 3 Industry, and 5 Non-Industry Governors); deletes Article V to remove an archaic and unnecessary reference to the affiliation of other Registered Securities Associations with the NASD (such affiliations remain authorized by Section 15A of the Securities Exchange Act of 1934); and amends Article X to replace the term “President” with the term “Chief Executive Officer” to make clear that this person is the most senior executive of the Association. Additional changes clarify the procedures for the resignation, removal, and replacement of officers.

Adding Focus, Expanding And Upgrading Resources

In keeping with the Committee’s recommendation that certain areas of the regulatory operation be given the mandate, resources, and prominence necessary for effective oversight, the implementation plan includes changes to NASD disciplinary and enforcement procedures. Other elements of the plan call for the addition of new offices, or the re-focusing of responsibilities or priorities within existing offices.

For those of you who have participated in the NASD disciplinary process, you know that the issues we address today increasingly involve more complicated questions of law. Sanctions imposed in disciplinary proceedings have increased substantially in recent years. Therefore, NASDR will be augmenting its volunteer system with professional Hearing Officers on all panels adjudicating contested disciplinary cases. This will make the process more efficient, particularly in complex or contentious cases. Member volunteers will continue to bring their business experience and judgment to bear in evaluating the facts and assessing penalties.

Two additional aspects of the implementation plan are noteworthy: the expansion of the NASD Office of Internal Review and the creation of an Office of Investor Services.

To broaden the scope and focus of its operational reviews, the NASD will increase its Office of Internal Review staff to include the addition of an Ombudsman who will address concerns and issues from industry, internal, and public sources. The department will report to the CEO of NASD, Inc., as well as to the NASD Audit Committee.

The new Office of Investor Services will centralize the Association’s activities focused on investors, including education, inquiries, outreach programs, liaison with investor organizations, and utilization of technology to provide additional information services to investors.

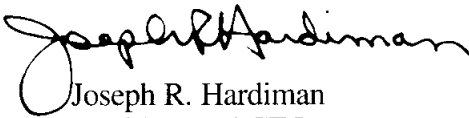
To summarize, these changes in structure will enhance the NASD’s ability to meet its regulatory responsibilities both now and in the future. Significant member participation

in governance has been, and will continue to be, a hallmark of self-regulation. More balance on the Boards will bring about solutions and results that receive far greater acceptance of our self-regulatory system by investors.

As a supplement to this *Notice to Members* packet, you will also receive a videotape featuring the perspectives of Ian Davidson, current Chairman of the NASD Board of Governors; Mary Alice Brophy, Chairman-elect of the NASD Board of Governors; and Richard DeMartini, chairman of the Nasdaq Board of Directors.

Please complete the enclosed ballot promptly and review the contents of both Notices carefully. We appreciate your support as we embark on this truly significant period in our history.

Sincerely,

A handwritten signature in black ink, appearing to read "Joseph R. Hardiman". The signature is written in a cursive style with a large initial "J".

Joseph R. Hardiman
President and CEO

SPECIAL NASD NOTICE TO MEMBERS 95-101

Mail Vote—NASD Solicits Member Vote On Amendments To The NASD By-Laws To Reconfigure The NASD Board And Establish A National Nominating Committee; Last Voting Date: January 12, 1996

Suggested Routing

- Senior Management
- Advertising
- Corporate Finance
- Government Securities
- Institutional
- Internal Audit
- Legal & Compliance
- Municipal
- Mutual Fund
- Operations
- Options
- Registration
- Research
- Syndicate
- Systems
- Trading
- Training

Executive Summary

The NASD® invites members to vote to approve amendments to Articles VII and X and to delete Article V of the NASD By-Laws. The **last voting date is January 12, 1996**. The text of the proposed amendments follows this Notice.

Background

The proposed amendments to Articles VII and X and the deletion of Article V of the NASD By-Laws will permit the NASD to begin the restructuring necessary to implement the principles articulated in the report of The Select Committee on Structure and Governance (the Select Committee). The NASD, Inc., Board of Governors has adopted the Select Committee proposal that the NASD, Inc., create a new subsidiary responsible for regulation and the provision of member and constituent services, with the NASD, Inc., retaining responsibility for general oversight over the effectiveness of the self-regulatory and business operations of the NASD and its major subsidiaries, The Nasdaq Stock MarketSM and NASD Regulation, Inc. (NASDR), and final policymaking authority for the Association as a whole. The Board also adopted Select Committee proposals to restructure and reduce the size of the NASD, Inc., Board, and implement policies that will ensure a balance of non-industry and industry representation on The Nasdaq Stock Market and NASDR Boards. The governing board of the NASD, Inc., is proposed to be restructured to have a majority of non-industry members.

Briefly, the changes to the By-Laws, which are described in more detail below, will:

- Create a national nominating committee comprising the Chief

Executive Officer (CEO) of the NASD, Inc., and an equal number of industry and non-industry persons. This committee will identify and nominate, for election by the NASD, Inc., Board, industry and non-industry persons to serve on the NASD, Inc., Board. The committee will also nominate industry and non-industry persons to serve on the subsidiary boards, to provide adequate representation of the various constituencies served by the Association.

- Reconstitute the Board as a majority non-industry board comprising the CEO and “Industry” and “Non-Industry” Governors, and reduces the minimum size of the Board from 25 to 5. The term “Industry Governors” means persons associated with an NASD, Inc., member. The term “Non-Industry Governors” means persons representing investors, issuers, and other constituents, pursuant to criteria that will be adopted by the NASD, Inc., Board. The implementation plan adopted by the Board at its November 1995 meeting specified a 1996 NASD, Inc., board of nine persons—the CEO, three Industry, and five Non-Industry Governors.

- Delete Article V to remove an unnecessary reference to the affiliation of other Registered Securities Associations with the NASD. Such affiliations remain authorized by Section 15A of the Securities Exchange Act of 1934.

- Amend Article X to replace the term “President” with the term “Chief Executive Officer,” to make clear that this person is the most-senior executive of the Association. Additional changes clarify the procedures for the resignation, removal, and replacement of officers.

Article VII Amendments

The following is a description of the

proposed amendments to Article VII of the By-Laws:

Section 1—Powers And Authority Of Board Of Governors

There are numerous references, beginning in this section, to the “restated” Certificate of Incorporation. The NASD’s Certificate of Incorporation will be amended to be consistent with the changes proposed for the By-Laws.

Section 2—Authority To Suspend For Failure To Submit Required Information

There are numerous references to the “Chief Executive Officer.” This term replaces the term “President,” to make clear that this person is the most senior executive of the Association.

Section 3—Authority To Take Action Under Emergency Or Extraordinary Market Conditions

These changes eliminate the special, small committee that has authority to take action in case of emergencies or extraordinary market conditions, when the Board is not available. This special committee is necessary today, when the NASD Board and the Executive Committee are large and, under emergency conditions, difficult to assemble. The new, smaller Board and the correspondingly small Executive Committee will make this special committee unnecessary.

Section 4—Composition And Qualifications Of The Board

These changes reconstitute the NASD Board as a smaller, majority Non-Industry Board, comprising the CEO, Industry, and Non-Industry Governors. The Board shall have at least five persons and will have the flexibility to determine the size that is most efficient, but must main-

tain a Non-Industry majority.

Section 5—Term Of Office Of Governors

These changes alter the Governors’ term of office from a three-year fixed term to a term not to exceed three years. This change will enhance the effectiveness of the Board by providing the flexibility to attract the services of individuals able to make a valuable contribution to the Association, who may not be able to commit to a three-year term but who may be able to commit to a fixed term of one or two years. Successive terms will be permitted.

Section 6—Filling Of Vacancies

At present, the By-Laws provide that, in case of an in-term vacancy, a Governor elected from a District will be replaced by a successor from that District. This newly named section provides that all vacancies occurring during a term of office will be filled by a vote of the remaining Governors. This change is necessary because, under the amended By-Laws, Governors of the NASD, Inc., will not be elected from NASD administrative Districts. Pursuant to the implementation plan adopted by the Board, the NASDR Board will include representatives of member firms elected by NASD Districts.

Section 7—Election Of Board Members

This section establishes a National Nominating Committee of seven or more persons, comprising the CEO, at least three persons associated with NASD members, and an equal number of non-industry persons. New Governors will be selected by the Board from among persons nominated by this committee. This will ensure that the nominating process includes a balance of industry and public interest. This committee is also empow-

ered to nominate persons to serve as directors of The Nasdaq Stock Market, Inc., and NASDR Boards.

Section 8—Meeting Of Board; Quorum; Required Vote, And Section 9—Action By Written Consent Of Governors

The amendments to these sections clarify that the Board and any Committee may act when a majority is present at a meeting, and that a meeting includes any event at which persons may interact, including telephone and video conferences. Committee or Board action may be taken in the absence of a meeting only by unanimous consent.

Section 10—Offices Of The Corporation

This section is being deleted as unnecessary. It restates what is true by operation of law.

Request For Vote

The NASD Board of Governors believes the proposed amendments will facilitate implementation of the Select Committee’s recommendations. Please mark the attached ballot according to your convictions and mail it in the enclosed, stamped envelope to The Corporation Trust Company, 1209 Orange Street, Wilmington, Delaware, 19801. Ballots must be postmarked **no later than January 12, 1996.**

Questions about this Notice may be directed to Phillip A. Rosen, Associate General Counsel, at (202) 728-8446.

Text Of Amendments To The NASD By-Laws

(Note: New text is underlined; deletions are bracketed.)

Only those provisions containing proposed amendments are printed below. The full text of the NASD By-Laws appear in the *NASD Manual* at pp. 1001–1695.

Additional note: The following Article entitled “Affiliates” is proposed to be deleted in its entirety.

[ARTICLE V

AFFILIATES

Qualifications for Affiliation

Sec. 1. Any association of brokers or dealers, registered with the Commission as an affiliated securities association under the provisions of Section 15A of the Act, may become an affiliate of the Corporation as hereinafter provided in this Article.

Application for Admission as Affiliate

Sec. 2. Application for admission as an affiliate shall be made to the Board of Governors in writing, in such form as the Board of Governors may prescribe, and shall contain a certified copy of the application to the Commission for registration as an affiliated securities association, a certified copy of the order of the Commission granting such registration, and such other reasonable information as the Board of Governors may require.

Agreement of Affiliate

Sec. 3. No applicant may become an affiliate of the Corporation unless it agrees:

(a) That it will classify its members, for purposes of levying dues and assessments, on the same basis as that applicable to members of the Corporation and that the amount of dues or assessments payable by each of its members for any given period,

based on such classification, shall not be lower than that payable by a member of the Corporation in the same class for the comparable period; provided, however, that if by reason of the special type of business conducted by members of an applicant, the foregoing agreement is impracticable of application to such applicant, such applicant shall agree that it will fix and levy dues or assessments payable by its members on some other basis to be agreed upon by the applicant and the Board of Governors of the Corporation, which shall be fair and equitable in view of the dues and assessments payable by members of the Corporation.

(b) That it will pay the Corporation annually, in the form of dues or otherwise, for services to be rendered by the Corporation to the applicant, the amount to be agreed upon by the applicant and the Board of Governors of the Corporation annually in advance, and that should the applicant and the Corporation be unable to reach an agreement as to an appropriate amount, the applicant will consent to the submission of the controversy to the Commission for arbitration, and that if submitted, it will abide by the Commission’s decision thereon;

(c) That, after affiliation, it will at all times keep its charter, by-laws, and other rules so integrated with the corresponding Charter, By-Laws, and other rules of the Corporation as not to conflict in any way therewith; and

(d) That the Board of Governors, in accordance with the provisions of Section 6 of this Article, may at any time suspend or cancel its affiliation with the Corporation.

Conditions of Affiliation

Sec. 4. No applicant may become an affiliate of the Corporation unless it

appears to the Board of Governors:

(a) That such applicant is so organized and is of such a character as to be able to comply with and carry out its purposes, and those of the Corporation and of the Act; and

(b) That the charter, by-laws, and other rules of the applicant are so integrated with the corresponding Charter, By-Laws, and other rules of the Corporation as not to conflict in any way therewith.

Approval of Admission as an Affiliate

Sec. 5. If it appears to the Board of Governors that the foregoing requirements of this Article are met by the applicant, it shall approve such applicant’s admission as an affiliate; otherwise, after appropriate notice and opportunity for hearing, it shall disapprove such application in writing and shall set forth therein the specific grounds upon which such disapproval is based.

Suspension or Cancellation of Affiliation

Sec. 6. The Board of Governors may at any time suspend or cancel the affiliation of an affiliate with the Corporation if the Board of Governors finds that the affiliate has ceased to be of such character as to be able to or has failed to carry out its purposes or the purposes of the Act, or has failed to carry out any of the conditions of affiliation. In any proceeding, however, under this Section to determine whether the affiliation of an affiliate should be suspended or canceled, specific charges shall be brought; such affiliate shall be notified of, and be given an opportunity to defend against such charges; a record shall be kept; and any determination that the affiliation of an affiliate shall be suspended or canceled shall be in writing and shall set forth therein the specific

grounds upon which such determination is based. Such suspension or expulsion shall take effect upon the 60th day after the filing with the Commission of notice thereof and a copy of the record of the proceedings before the Board of Governors, unless within thirty days after such filing such suspensions or cancellation is disapproved by the Commission.

Exclusion of Territory Covered by Affiliated Association

Sec. 7. The Board of Governors shall, if it deems such action to be in the interest of efficient and economical administration and desirable in carrying out the purposes of the Act, recommend appropriate changes in the By-Laws to exclude the territory covered by an affiliate association from the geographical area covered by the Corporation.]

ARTICLE VII

BOARD OF GOVERNORS

Powers and Authority of Board of Governors

Sec. 1. (a) The Board of Governors shall be the governing body of the Corporation and, except as otherwise provided by applicable law, the Restated Certificate of Incorporation or these By-Laws, shall be vested with all powers necessary for the management and administration of the affairs of the Corporation and the promotion of the Corporation's welfare, objects and purposes. In the exercise of such powers, the Board of Governors[,] shall have the authority to:

Sec. 1(a)(1) through Sec. 1(a)(9). No change.

(10) engage in any activities or conduct necessary or appropriate to carry out the Corporation's purposes under its Restated Certificate of Incorporation and the federal securities laws.

Sec. 1(b). No change.

Authority to Suspend for Failure to Submit Required Information

Sec. 2. (a). No change.

(b) The Board of Governors is authorized to delegate the authority hereinabove granted to the [President] Chief Executive Officer of the Corporation; provided, however, that the Executive Committee of the Board of Governors shall be notified in writing of any such contemplated action by the [President] Chief Executive Officer.

Authority to Take Action Under Emergency or Extraordinary Market Conditions

Sec. 3. [(a)] The Board of Governors, [or between meetings of the Board, a Committee consisting of the Chairman of the Board (or in his absence, a Vice Chairman of the board), the President of the Corporation, and a member of the Executive Committee,]

in the event of an emergency or extraordinary market conditions, shall have the authority to take any action regarding (1) the trading in or operation of the over-the-counter securities market, the operation of any automated system owned or operated by the Corporation or any subsidiary thereof, and the participation in any such system of any or all persons or the trading therein of any or all securities and (2) the operation of any or all member firms' offices or systems, if, in the opinion of the Board

[of the Committee hereby constituted,] such action is necessary or appropriate for the protection of investors or the public interest or for the orderly operation of the marketplace or the system.

[(b) The authority provided in Subsection (a) shall be exercised by

the Committee only if the President, in his discretion, concludes that it is not practical or appropriate to convene a meeting of the Board of Governors or executive Committee to consider the contemplated action.]

[(c) The President shall immediately report any action taken by the Committee pursuant to this Section to the Executive Committee and to the Board of Governors.]

Composition and Qualifications of the Board

Sec. 4. (a) The management and administration of the affairs of the Corporation shall be vested in a Board of Governors [composed of from twenty-five to twenty-nine Governors as determined from time to time by the Board. The Board shall consist of: (1) at least thirteen but not more than fifteen Governors to be elected by the members of the various districts] . Governors shall be elected by the Board in accordance with the provisions of [subsection (b) hereof; (2) at least eleven but not more than thirteen Governors to be elected by the Board]

Section 7 of this Article. A person shall be qualified to serve on the Board if such person is: (1) the Chief Executive Officer of the Corporation; (2) associated with a member of the Corporation (an "Industry Governor"); or (3) satisfies the criteria adopted from time to time by the Board (a "Non-Industry Governor").

(b) The Board of Governors shall consist of five or more members, the number thereof to be determined from time to time by resolution of the Board of Governors, and shall include at all times: (1) the Chief Executive Officer; (2) one or more Non-Industry Governors representative of issuers and investors and not associated with a member of the

Corporation; (3) one or more Industry Governors; and (4) a majority of Non-Industry Governors, unless (A) there shall be a vacancy in the position of a Non-Industry Governor, in which case such vacancy shall be filled by a person satisfying the criteria for a Non-Industry Governor in accordance with the provisions of Section 6 of this Article or (B) a Governor elected as a Non-Industry Governor becomes an Industry Governor and his remaining term of office is six months or less. If a Governor elected as a Non-Industry Governor becomes an Industry Governor and his remaining term of office is more than six months, or a Governor elected as an Industry Governor becomes a Non-Industry Governor and his remaining term of office is more than six months, he shall be automatically removed from office unless the Board determines otherwise.

[subsection (c) hereof; (3) the President of the Corporation to be selected by the Board in accordance with the provisions of Article X, Section 2 of the By-Laws. The Board, in exercising its power to determine its size and composition under this subsection (a), shall be required to select its members in a manner such that when all vacancies, if any, are filled, the number of Governors elected by the members of the various districts in accordance with subsection (b) hereof shall exceed the number of Governors (including the President) not so elected.]

[(b) The several districts shall be represented on the Board. Each district shall elect at least one Governor. The Board shall determine from time to time which districts, if any, shall elect more than one Governor, so as to provide fair representation of the Corporation's members and of its various districts on the Board. The determination of which districts shall

elect more than one Governor need not be submitted to the membership for approval and shall become effective at such time as the Board may prescribe. The Board shall, from time to time, consider the fairness of the representation of members and of the various districts on the Board. Whenever the Board finds any unfairness in such representation to exist, it shall make appropriate changes in the number of boundaries of the districts or the number of Governors elected by each district to provide fair representation of members and districts.]

[(c) The Board shall elect (1) at least three Governors representative of investors, none of whom are associated with a member or any broker or dealer; (2) at least three Governors representative of issuers, at least one of whom is not associated with a member or any broker or dealer; (3) at least three Governors chosen from members; (4) at least one Governor representative of the principal underwriters of investment company shares or affiliated members; and (5) at least one Governor representative of insurance companies or insurance company affiliated members.]

Term of Office of Governors

Sec. 5. Each Governor, except as otherwise provided by [these By-Laws or the] the Restated Certificate of Incorporation or these By-Laws, shall hold office for a term of [three years, and] not more than three years, such term to be fixed by the Board at the time of the election of such Governor, or until his successor is elected and qualified, or until his death, resignation [or removal. The President], disqualification or removal. Governors may be elected to successive terms of office. The Chief Executive Officer of the Corporation shall serve as a member of the Board until his successor is selected and qualified, or until his

death, resignation [or removal.], disqualification or removal.

[Succession to Office] Filling of Vacancies

Sec. 6. (a) [The office of a retiring Governor elected under subsection (b) of] Any vacancy in the office of a Governor, whether occurring by reason of death, disability, disqualification, removal, or resignation, other than a vacancy occurring by reason of an increase in the size of the Board, shall be filled by majority vote of the remaining Governors then in office and any person elected to fill such vacancy shall satisfy the qualifications and criteria for the governorship being filled as provided in Section 4 of this Article [shall be filled by the election of a Governor from the same district as that of the retiring Governor. The office of a retiring Governor elected under subsection (c) of Section 4 of this Article shall be filled by election by the Board as provided in subsection (c) of Section 4 of this Article].

[(b) Notwithstanding subsection (a) of this Section 6, the Board shall prescribe the succession of office in cases affected by a change in the number of Governors constituting the Board, the composition of the Board, the number or boundaries of districts, or the number of Governors elected by a district.]

(b) Any vacancy in the office of a Governor occurring by reason of an increase in the size of the Board shall be filled by majority vote of the Board and any person elected to fill such vacancy shall satisfy the criteria for such newly created governorship as shall be established by resolution of the Board, provided that the filing of any such vacancy shall not be inconsistent with any other provision of these By-Laws.

Election of Board Members

Sec. 7. The Governors elected by the Board under [subsection (b) of] Section 4 of this Article shall be [chosen as follows:] nominated by the Nominating Committee as provided in this Section 7.

[Procedure for Nominations by Nominating Committees]

The Nominating Committee

[(a) Before June 1 of each year, the Secretary of the Corporation shall notify in writing the Chairman of the respective District Committees of the expiration of the term of office of any member of the Board elected under subsection (b) of Section 4 of this Article which will expire during the next calendar year. The said Chairman shall thereupon notify]

(a) The Nominating Committee shall consist of seven or more persons, the number thereof to be determined from time to time by resolution of the Board of Governors. Members of the Nominating Committee [elected for such District pursuant to the provisions of Section 3 of Article IX of the By-Laws and such] shall be elected by the Board from time to time. The Nominating Committee shall

[proceed to nominate a candidate from such District for the office of each such member of the Board whose term is to expire. Nominating Committees in nominating candidates for the office of Governor shall endeavor, as nearly as practicable, to secure appropriate and fair representation on the Board of all classes and types of members engaged in the investment banking and securities business. No Nominating Committee shall nominate an incumbent member of the Board to succeed himself unless it first takes appropriate action by a written ballot sent to the entire membership within the District to

ascertain that such nomination is acceptable to] consist of: (1) the Chief Executive Officer of the Corporation; (2) at least three persons associated with members of the Corporation (“Industry Members”); and (3) a number of non-industry representatives who satisfy the criteria adopted from time to time by the Board equal in amount to the number of Industry Members serving on the Nominating Committee. Members of the Nominating Committee need not be Governors. Members of the Nominating Committee may be removed, with or without cause, by vote of a majority of the members of [voting on such ballot in the District except where the incumbent member of the Board is serving pursuant to the provisions of Section 8(a) of this Article. Before October 1 of each year, each candidate nominated by the Nominating Committees shall be certified to the respective District Committee. Within five (5) days after certification, a copy of such certification shall be sent by the District Committee to each member of the Corporation eligible to vote in the District. Such candidate shall be designated the “regular candidate.”]

[Nomination of Additional Candidates]

[(b) An additional candidate or candidates may be nominated for the office of any member elected under Section 4(b) of this Article, and whose term is to expire, if written notice of the nomination, signed by at least ten percent of the members of the Corporation eligible to vote in the district, is filed with the District Committee within thirty (30) days from the date of the notice of the action taken by the Nominating Committee. If no additional candidate or candidates are nominated within such thirty-day period, the candidate or candidates nominated by the Nominating Committee shall

be considered duly elected, and the District Committee shall certify the election to] the Board of Governors.

[Contested Elections]

Procedure for Nomination of Governors

[(c) If any additional candidate or candidates are nominated, as provided in subsection (b) of this Section, the District Committee shall forthwith cause the names of the regular candidate and of all other duly nominated candidates for each office to be placed upon a ballot, which shall be sent to all members of the Corporation eligible to vote in the district. Each member of the Corporation having its principal place of business in the district shall be entitled to one vote, and each member having one or more registered branch offices in the district shall be entitled to vote as provided in Section 9 of Article III. The District Committee shall fix a date before which ballots must be returned to be counted. All ballots shall be opened and counted by such officer or employee of the Corporation as the Chairman of the District Committee may designate and in the presence of a representative of each of the candidates if such representation is requested in writing by any candidate named on the ballot. The candidate for each office to be filled receiving the largest number of votes cast shall be declared elected to membership on the Board of Governors, and certification thereof shall be made forthwith to the Board of Governors. In the event of a tie, there shall be a run-off election. In all elections held under this subsection voting shall be made by secret ballot, the procedure for which shall be prescribed by the Board of Governors.]

(b) The Nominating Committee shall propose a nominee for each governorship up for election (a “Nominee”)

and shall provide the name, qualifications and such other information regarding each such Nominee as the Nominating Committee deems pertinent. The Nominating Committee may also propose nominees for boards of directors of any wholly owned subsidiary of the Corporation.

[Transitional Procedures]

[(d) Notwithstanding subsections (a), (b) and (c) of this Section 7, the Board shall prescribe the nomination and election procedures in cases affected by a change in the number of Governors constituting the Board, the composition of the Board, the number or boundaries of districts, or the number of Governors elected by a district.]

[Filling of Vacancies on Board]

[Sec. 8. All vacancies in the Board other than those caused by the expiration of a Governor's term of office, shall be filled as follows:]

[(a) If the unexpired term of a Governor elected under subsection (b) of Section 4 of this Article is for less than twelve months, such vacancy shall be filled by appointment by the District Nominating Committee of a representative of a member of the Corporation eligible to vote in the same district.]

[(b) If the unexpired term of a governor elected under subsection (b) of Section 4 of this Article is for twelve months or more, such vacancy shall be filled by election, which shall be conducted as nearly as practicable in accordance with the provisions of Section 7 of this Article.]

[(c) If the unexpired term is that of a Governor elected by the Board such vacancy shall be filled in accordance with the provisions of subsections (c)(1) through (c)(5) of Section 4 of this Article as the case may be.]

Meetings of Board; Quorum; Required Vote

[Sec. 9.] Sec. 8. Meetings of the Board of Governors shall be held at such times and places, upon such notice, and in accordance with such procedure as the Board of Governors in its discretion may determine. A quorum of the Board of Governors shall consist of a majority of the [members] total number of Governors of the Corporation, and any action taken by a majority vote at any meeting at which a quorum is present, except as otherwise provided in the Restated Certificate of Incorporation or these By-Laws, shall constitute the action of the Board. [Meetings] Members of the Board of Governors [may be held by mail, telephone or telegraph, in which case any action taken by a majority vote of] , or any committee designated by the Board of Governors [shall constitute the action of the Board. Any action taken by telephonic vote shall be confirmed in writing at a regular meeting of the Board of Governors] or any other committee of the Corporation, may participate in a meeting thereof by means of communications facilities that ensure all persons participating in the meeting can hear and speak to each other, and participation in a meeting pursuant to this By-Law shall constitute presence in person at such meeting. No member of the Board of Governors shall vote by proxy at any meeting of the Board.

[Offices of Corporation] Action by Written Consent of Governors

[Sec. 10. The Corporation shall maintain such offices as]

Sec. 9. Unless otherwise restricted by the Restated Certificate of Incorporation or these By-Laws, any action required or permitted to be

taken at any meeting of the Board of Governors [may from time to time deem necessary or appropriate], or of any committee of the Board or any committee of the Corporation, may be taken without a meeting if all members of the Board of Governors or such committee, as the case may be, consent thereto in writing, and the writing or writings are filed with the minutes of proceedings of the Board of Governors or such committee.

ARTICLE X

OFFICERS AND EMPLOYEES

Election of Officers of the Board

Sec. 1. No change.

Officers of the Corporation

Sec. 2. The Board of Governors shall select a [chief executive officer, to be designated President of the Corporation] Chief Executive Officer, who shall be responsible for the management and administration of its affairs and shall be the official representative of the Corporation in all public matters and who shall have such powers and duties in the management of the Corporation as may be prescribed in a resolution by the Board of Governors. The Chief Executive Officer shall be ex-officio a member of any committee authorized by the Board of Governors. The Board may provide for such other executive or administrative officers as it shall deem necessary or advisable, including, but not limited to, President, Executive Vice-President, Senior Vice-President, Vice-President, General Counsel, Secretary and Treasurer of the Corporation. All such officers shall have such titles, such powers and duties and shall be entitled to such compensation as shall be determined from time to time by the Board of Governors.

[The terms of office of such officers shall be at the pleasure of the Board of Governors, which by affirmative vote of a majority of the members, may remove any such] Each such officer shall hold office until his successor is elected and qualified or until his earlier resignation or removal. Any officer may resign at any time upon written notice to the corporation. The Board of Governors may remove any officer, with or without cause, at any time, but such removal shall be without prejudice to the contractual rights

of such officer, if any, with the Corporation. Any number of offices may be held by the same person. Any vacancy occurring in any office of the Corporation by death, resignation, removal or otherwise may be filled for the unexpired portion of the term by the Board of Governors at any meeting.

Absence of Chief Executive Officer [President]

Sec. 3. In the case of the absence or inability to act of the [President]

Chief Executive Officer of the Corporation, or in case of a vacancy in such office, the Board of Governors may appoint its Chairman or such other person as it may designate to act as such officer pro tem, who shall assume all the functions and discharge all the duties of the [President] Chief Executive Officer.

Sec. 4 through Sec. 6. No change.

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SPECIAL NASD NOTICE TO MEMBERS 95-102

Overview Of Planned Changes To Disciplinary And Enforcement Procedures

Suggested Routing

- Senior Management
- Advertising
- Corporate Finance
- Government Securities
- Institutional
- Internal Audit
- Legal & Compliance
- Municipal
- Mutual Fund
- Operations
- Options
- Registration
- Research
- Syndicate
- Systems
- Trading
- Training

Executive Summary

The NASD[®] Select Committee on Structure and Governance (Select Committee), also known as the Rudman Committee, has proposed significant changes to the manner in which the NASD operates. After substantial discussion, the NASD Board of Governors adopted the proposals in substantially the form recommended by the Select Committee. A number of these proposals call for fundamental changes to the procedures followed in the NASD's disciplinary program. Others call for the establishment of new offices within the NASD, or the refocusing of responsibilities or priorities within existing offices.

The NASD conducted a detailed analysis of the Select Committee's recommendations and shortly thereafter developed a plan for implementation which was presented to the Board in mid-November 1995. The principal procedural changes that the NASD expects to implement in 1996 include:

- the creation of an Office of Professional Hearing Officers and the use of professional Hearing Officers in all disciplinary cases;
- an amendment to the NASD Code of Procedure to define and prohibit ex parte communications;
- an amendment to the Code of Procedure providing for an "open file" discovery process intended to assist respondents in preparing their defenses;
- new rules and possible sanctions against hearing participants who behave improperly during proceedings;
- the delegation of operational tasks to Office of General Counsel (OGC) staff to refocus the National Business

Conduct Committee (NBCC) on national policy issues;

- a study of personnel resources to determine whether there is sufficient staff to handle the proposed changes;
- an increase in staff and broadening of scope for the Office of Internal Review, including the creation of a new "ombudsman" position;
- the centralization of staff responsible for coordinating national, regional, and local initiatives to coordinate regulatory and enforcement matters; and
- the creation of a new Investor Services Department to coordinate investor programs throughout the Association and act as liaison to investors and investor groups.

Changes To Disciplinary And Enforcement Procedures

Office Of Professional Hearing Officers

The NASD's plan to use professional Hearing Officers in all disciplinary cases, and the resulting creation of the Office of Professional Hearing Officers, together constitute the single most fundamental change that will occur in the NASD disciplinary program. The Office of Professional Hearing Officers will be housed under the newly established NASD Regulation, Inc. (NASDR). The NASD expects to appoint the Chief Hearing Officer in early 1996 and to fully staff the Office of Professional Hearing Officers by the end of that year.

After implementation of the new procedures, Hearing Officers will play a key role in managing cases and handling the many procedural issues that increasingly arise in disciplinary proceedings. They will participate as

voting members of all District Business Conduct Committee (DBCC) and Market Surveillance Committee (MSC) hearing panels, and will chair these panels. However, industry volunteers will continue to constitute the majority on disciplinary hearing panels.

Hearing Officers will assume primary responsibility for managing the procedural aspects of disciplinary hearings before, during, and after the hearings. Before hearings, Hearing Officers will be expected to administer a new pre-hearing/motion process, which is discussed in greater detail below. Because Hearing Officers will resolve procedural and evidentiary issues at the pre-hearing stage, the NASD anticipates that hearings will be more orderly and focus on substantive issues. Hearing Officers will also oversee the settlement and discovery process prior to the hearings to ensure that all relevant documents are produced timely and that ex parte communications do not occur. (See discussion of ex parte communications below.)

Hearing Officers will chair the hearing panels, rule on procedural and other legal matters, advise industry volunteers on relevant legal principles, and ensure the creation and maintenance of an appropriate record. As chairperson, the Hearing Officer will participate in hearing panel deliberations and, like the two industry volunteer panelists, he or she will vote on the disposition of cases. Once voting has occurred, the Hearing Officer will be responsible for drafting a decision that represents the views of the hearing panel.

Following hearings, Hearing Officers will conduct necessary legal research, provide legal guidance to the industry panelists, and analyze the hearing transcript and exhibits to prepare a written decision that reflects the view of the Hearing

Panel. This augments service to the Hearing Panels as presently there is no legal advisor appointed in most cases.

Additionally, Hearing Officers will be empowered independently to resolve certain categories of disciplinary cases, without the participation of industry volunteers: 1) cases that fall within the NASD's minor violation plan¹ but in which respondents wish to challenge the alleged violations; and 2) cases in which the respondent has defaulted by failing to respond to a DBCC or MSC complaint. In the first category of cases, however, respondents would not be compelled to have their cases heard by a Hearing Officer alone; they may request a hearing before the customary three-person hearing panel.

Although cases falling within the above two categories generally do not require the expertise of industry volunteers, they do require a carefully constructed record regarding technical issues (e.g., whether actual or constructive service has been effected). These categories, therefore, appear to be well suited to processing by Hearing Officers alone and should result in more efficient use of the industry volunteers' time.

The NASD anticipates that the use of trained hearing professionals will enhance the NASD's ability to conduct fair and efficient disciplinary proceedings. At the same time, the functional role of professional Hearing Officers will free industry volunteers to focus on their area of expertise: securities industry business practices. As a consequence, the NASD believes that the introduction of professional Hearing Officers will enhance the self-regulatory process.

Although the Office of Professional Hearing Officers will be housed within NASDR, the office will be wholly separate from that corpora-

tion's examination, investigatory, and prosecuting departments. The office also will be separate from NASDR appellate and oversight staff. At least initially, the office will be centralized in a single location—likely in the Washington, DC, metropolitan area—to make the most effective use of the substantial staffing and physical resources that will be necessary to support Hearing Officer operations, to promote uniformity and consistency in training and management, and to ensure appropriate separation between the Hearing Officers and regional prosecutorial staff. After the NASD gains experience with the Hearing Officer program, consideration will be given as to whether satellite offices are needed and appropriate.

Motions

Consistent with its initiative on Hearing Officers, the NASD plans to adopt a Code of Procedure provision that authorizes Hearing Officers to engage in a broad range of case-management activities, most significantly, governing the matters of motions—how they are filed and served, and the length and timing of these motions. These provisions likely will be modeled after comparable

¹ The minor violation plan allows simplified handling of misconduct for which the recommended sanctions are limited to censures, or fines that do not exceed \$2,500. Persons who are believed to have engaged in misconduct falling within the plan are given notice of that fact before a disciplinary complaint is issued, and may consent to the entry of specified sanctions. The proposal outlined in text would permit Hearing Officers to act as single-person hearing panels in cases in which disciplinary respondents elected against having allegations of misconduct resolved pursuant to the minor violation plan. Details regarding the minor violation plan may be found in Article II, Section 10(b) of the NASD Code of Procedure, and in *NASD Notice to Members 93-42*.

provisions in federal court and agency rules. Other case-management activities, such as conducting pre-trial conferences and entering scheduling orders, will be modeled after a comparable provision in the SEC's Rules of Practice.

Ex Parte Contacts

Another anticipated change to disciplinary and enforcement procedures is the amendment of the NASD Code of Procedure to define what constitutes ex parte communications and to prohibit such communications in disciplinary proceedings. Generally speaking, an ex parte communication is one that occurs between a party to a proceeding and a decision-maker regarding the merits of the proceeding, without notice to other parties. For example, the term would encompass off-the-record communications between either a disciplinary respondent or NASD prosecutorial staff and a member of a DBCC hearing panel regarding the issues presented in a pending disciplinary proceeding. In drafting these provisions, the NASD will be guided by comparable provisions in the Administrative Procedure Act, and the rules of various of federal agencies, including the Securities and Exchange Commission (SEC).

As recommended by the Select Committee, prosecuting attorneys will cease their traditional involvement in the decision-drafting process, and as discussed above, decision-drafting responsibilities will be shifted to Hearing Officers in an attempt to avoid ex parte contacts. Also, prosecuting attorneys will cease to advise DBCC panels on whether settlement offers conform to *NASD Sanction Guidelines* or other applicable NASD policies. Once again, this advisory function will be performed by Hearing Officers. However, consistent with long-standing SEC practice, prosecutorial staff will be

permitted to present offers of settlement to District Committees on an ex parte basis when staff urges acceptance of offers and the respondent consents to such staff presentation.

The Acceptance, Waiver, and Consent (AWC) process—the widely utilized procedure for settling cases by providing respondents advance notice that they are going to be the subject of a complaint and allowing them to settle the matter quickly—will remain unchanged: AWCs will continue to be negotiated between NASD prosecutorial staff and respondents and be submitted to the DBCC or MSC in the normal course of business.

Beyond implementing the Select Committee's recommendations regarding ex parte communications in the decision-drafting and settlement processes, the NASD will devote substantial effort to identifying other contexts in which ex parte contacts may occur, and devising procedures to prevent inappropriate contacts. The NASD welcomes suggestions regarding additional measures that it might consider in addressing circumstances that have given rise to ex parte concerns in the past.

Discovery

In another Select Committee recommendation approved by the Board for implementation, the NASD will amend its Code of Procedure to provide for the type of "open file" discovery that is available in SEC enforcement proceedings. Materials in the NASD's possession relevant to a specific case will be made available to respondents for inspection and copying at an early stage in disciplinary proceedings, unless that material is subject to certain narrow categories of exceptions. The NASD believes that the new procedures will assist respondents substantially in

preparing their defenses. Not only will respondents have access to staff documents beyond those that the NASD staff will introduce as hearing exhibits, but the access will occur much earlier in disciplinary proceedings.

Among other discovery-process initiatives:

- The NASD will adopt the principles followed by prosecutors (and the prosecutorial staffs of many federal agencies) to determine the extent of the NASD's obligation to disclose exculpatory evidence—evidence that may clear a respondent, for example.
- NASD discovery obligations will be case-specific. Respondents will be able to obtain non-privileged materials relevant to the specific proceeding in which they are involved; respondents' access will be limited to documents that are relevant to the facts of that case.
- The NASD staff's document production deadline will fall relatively early in the disciplinary proceeding. The NASD is considering adopting the SEC's requirement that staff documents be made available to respondents no later than 14 days after respondents answer the complaint.
- In order to be fairer to respondents who are representing themselves, NASD staff documents will be made available as a matter of right; access will not be contingent upon a respondent's making a request. Instead, respondents will be notified that staff documents are available for inspection and copying.
- The NASD intends to follow the SEC's practice of requiring production of otherwise privileged documents that contain material exculpatory evidence. Staff will be required to produce these documents to respondents.

- The NASD plans to provide guidance on the limited circumstances in which the NASD will, at the request of a respondent, compel third parties to produce documentary or testimonial evidence.

Sanctions

New procedures resulting from the Select Committee recommendations include less tolerance for inappropriate behavior that occurs during hearings. The NASD plans to adopt variants of the SEC rules that address contemptuous conduct during hearings. Among other things, the NASD will adopt a new Code of Procedure provision to authorize Hearing Officers and hearing panels to exclude persons who engage in contemptuous behavior, or frivolous, dilatory, or other improper practices. This applies to anyone involved in the hearing: respondents, counsel, witnesses, or others. In addition, the NASD will consider whether member firms, associated persons, or NASD staff should be subject to monetary sanctions if they engage in improper behavior during proceedings. Finally, the NASD plans to address whether counsel, who are excluded from hearings for contumacious or otherwise inappropriate behavior, should forfeit the privilege of appearing in future NASD disciplinary proceedings.

NBCC Refocused On Policy

To enable the NBCC to devote more time to issues of national policy, many time-consuming operational tasks will be delegated to NASD OGC staff to perform them under the NBCC's oversight and direction. The OGC staff's role will be expanded to include reviewing settlement offers and non-appealed disciplinary cases and OGC staff will provide extensive additional services to the NBCC, including substantially expanded assistance in preparing

for NBCC hearings, to free the NBCC to focus on "big picture" issues.

In the membership area, the NASD also contemplates that the roles of the District staff, the District Committees, and the NBCC will be refined and clarified. For instance, to increase NBCC involvement in policy and membership applications, the NBCC will devote considerable effort to amending the membership criteria set forth in Schedule C of the NASD By-Laws, and formulating uniform policy guidance for the NASD District Offices in applying those criteria. The NASD expects that, in the future, both the District Committees and the NBCC will act in purely appellate capacities with regard to membership applications and restriction agreements. Authority to act with respect to these matters will be delegated to District staff, whose function will be limited to administering membership policies that have been established by the NBCC. In the future, District Committees and the NBCC will focus on ensuring that NBCC-established policies are administered by the staff, fairly and uniformly.

Diversity In DBCC Composition And Selection

Answering the Select Committee's recommendation to foster diversity in DBCC membership, nominating committees now will be provided with more information regarding the relevant criteria such as the need for diversity in size and type of firms represented, and in product knowledge and functional expertise. Nominating committees also may be provided with profiles that summarize relevant membership information including categorization of District Committee members by revenue, number of registered representatives, and primary income sources. The NASD will also consider devel-

oping candidate outreach programs, more clearly delineating the responsibilities of District Directors in the nomination process, and providing nominating committees with more candidate background information.

Resources And Staffing

To abate any concerns that existing staff will be insufficient to manage all of the approved changes, the NASD intends to perform immediate analysis of disciplinary and enforcement personnel needs. This analysis will include a determination of resources necessary to establish an Office of Professional Hearing Officers, and a significant expansion of OGC duties associated with the NBCC's appellate functions.

NASDR will construct, implement, and use, on an ongoing basis, a resource needs model that objectively determines resources required to perform current tasks, and projects resources required to perform additional tasks planned for upcoming years. Further, the NASD plans to adopt a policy that will require all future proposals that may affect staffing and resource needs (e.g., rulemaking, or shifts in priorities) to include an estimate of the anticipated resource requirements.

New Offices And Functions Planned

Office Of Internal Review

To broaden the scope and focus of its operational reviews, the NASD will increase the staff of the Office of Internal Review. This step will also permit Internal Review to focus on District reviews, and an aggressive plan to review all Districts will be adopted and implemented as soon as possible.

The Office of Internal Review will be

located within the parent corporation and will report to the CEO as well as to the NASD Audit Committee. Internal Review will be housed within the parent corporation to insulate the office and its staff from possible retribution by the operating business lines. The Vice President for Internal Review will be empowered to conduct special investigations on his or her own initiative.

Ombudsman Function Established

A new position and function recommended by the Select Committee—the “ombudsman”—will also be sited within the NASD’s existing Office of Internal Review. The ombudsman will receive, consider, and investigate “out of channel” concerns and complaints, that is, those remaining after normal complaint mechanisms are exhausted, from internal and external sources, and act as a liaison with operating departments to resolve complaints.

Centralized Coordination With Other Regulators

The NASD plans to centralize in a

single unit staff responsible for coordinating national, regional, and local initiatives designed to further coordination of regulatory and enforcement matters with state regulators, the SEC, other federal regulators, and the other SROs. This action would formalize efforts presently carried out by the Office of Regulatory Policy and others. This central unit will, among other things, sponsor annual meetings with other securities regulators to address regulatory and enforcement matters and coordinate national initiatives. The central unit will also serve as the point of contact for state and other regulators seeking information or assistance from NASDR.

Investor Services

A new Investor Services Department will be charged with promoting individual investor education, functioning as a central point of entry for written inquiries from investors, coordinating investor programs throughout the Association, administering a formal investor outreach program, acting as liaison with investor organizations and governmental con-

sumer affairs offices, and identifying technology services that might be provided to investors.

Because investor concerns may emanate from the rules of either Nasdaq® or NASDR, and because the office’s educational efforts should be targeted at both securities market issues and the regulatory process, the Investor Services Department will be housed in the corporate parent. This newly created department will be headed by an officer who reports to the CEO of the parent corporation. The head of this Office will be authorized to raise issues and have open access to the chairs of the NASD’s Quality of Markets Committee and/or non-industry directors of the Nasdaq or NASDR Boards.

Questions regarding this Notice should be directed to Daniel M. Sibears, Director, Office of Regulatory Policy at (202) 782-6911 or Anne H. Wright, Assistant General Counsel, Office of General Counsel, at (202) 728-8815.

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NASD

NOTICES TO MEMBERS

National Association of Securities Dealers, Inc.

December 1995

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NASD NOTICE TO MEMBERS 95-103

SEC Approves A Policy That Delegates Authority To The NASD Staff And The NASD Fixed Income Committee To Review Member Requests For Exemptions From MSRB Rule G-37(b)

Suggested Routing

- Senior Management
- Advertising
- Corporate Finance
- Government Securities
- Institutional
- Internal Audit
- Legal & Compliance
- Municipal
- Mutual Fund
- Operations
- Options
- Registration
- Research
- Syndicate
- Systems
- Trading
- Training

Executive Summary

On October 20, 1995, the Securities and Exchange Commission (SEC) approved a statement of policy that establishes internal NASD[®] procedures delegating to the NASD staff and the NASD Fixed Income Committee the authority to review requests by members for exemptions from the business prohibition requirement in Municipal Securities Rulemaking Board (MSRB) Rule G-37(b).

The statement of policy is an NASD internal procedure and will not be in the *NASD Manual*. A footnote referencing this Notice will be placed by the heading of the Code of Procedure. The full text of the statement of policy, which became effective October 20, 1995, follows the discussion below.

Background

The SEC approved MSRB Rule G-37 on April 7, 1994.¹ MSRB Rule G-37(b) prohibits any broker, dealer, or municipal securities dealer from engaging in municipal securities business with any issuer within two years after any contribution to an official of that issuer made by that broker, dealer, or municipal securities dealer, or any political action committee controlled by that broker, dealer, or municipal securities dealer. The two-year prohibition is not triggered by contributions by a municipal finance professional to issuer officials for whom that municipal finance professional was entitled to vote if such contribution does not exceed \$250 per official per election.

Subsequently, on June 3, 1994, the SEC granted accelerated approval to an amendment to MSRB Rule G-37² to provide a procedure for a broker, dealer, or municipal securities dealer to seek exemptive relief from the business prohibition language under

MSRB Rule G-37(b) if the broker, dealer, or municipal securities dealer discovers that a prohibited political contribution was made. Pursuant to Release 34-34160, subsection (i) to MSRB Rule G-37 permits the NASD to exempt, conditionally or unconditionally, an NASD member that is prohibited from engaging in municipal securities business with an issuer pursuant to subsection (b) of MSRB Rule G-37. MSRB Rule G-37(i)(ii) provides that the NASD shall consider, among other factors, whether such exemption is consistent with the public interest, the protection of investors and the purposes of this Rule. MSRB Rule G-37(i)(ii) sets forth further criteria for granting the exemption by requiring that the MSRB member have in place procedures designed to ensure compliance with the Rule, had no actual knowledge of the contribution(s), and has taken other remedial measures as may be appropriate.

Release No. 34-3160 states that the MSRB believes that exemptions from MSRB Rule G-37 should be granted only if a disgruntled employee contributes to an issuer official to injure the member or if an employee makes a number of small contributions during an election cycle (e.g., four years), which, when consolidated, amount to slightly over the \$250 *de minimis* exemption (such as contributions totaling \$255). It also states that the MSRB would expect that the exemption not be routinely requested by dealers and that exemptions would be granted by the NASD only in limited circumstances. To implement a procedure for reviewing requests for NASD member exemptions anticipated under MSRB Rule

¹ Securities Exchange Act Release No. 33868 (April 7, 1994), 59 F.R. 17621 (April 13, 1994).

² Securities Exchange Act Release No. 34160 (June 3, 1994), 59 FR 30376 (June 13, 1994) ("Release 34-34160").

G-37, the NASD has adopted a Policy that establishes an NASD internal procedure to review and grant or deny exemptions from MSRB Rule G-37.

Members are advised to retain this Notice for future reference. The policy is an NASD internal procedure and will not be in the *NASD Manual*. A footnote referencing this Notice will be placed by the heading of the Code of Procedure.

Description Of NASD Policy

Initial Review

The NASD Board of Governors (Board) has delegated authority to John E. Pinto, Executive Vice President, NASD Regulation Business Line, to authorize a member of the staff to conduct an initial review of requests of NASD members for exemptions pursuant to Section (1) of MSRB Rule G-37. The staff authorized to review exemption requests will issue a written decision to the member that will set forth the decision and that the member may request a review of the staff decision by the Fixed Income Committee within 15 calendar days of the date of the decision.

Appellate Review

The Board has delegated authority to the Fixed Income Committee, or a subcommittee thereof, to review the appeal of a member from a decision of the staff with respect to the member's request for an exemption from MSRB Rule G-37. The Fixed Income Committee, or a subcommittee thereof, is required to issue a written decision to the member setting forth the decision. Unless a matter is called for discretionary review by the Board, the decision of the Fixed Income Committee, or a subcommittee thereof, will constitute final NASD action.

Written Record Required

The review conducted by the staff of the Regulation Business Line and the Fixed Income Committee, or a subcommittee thereof, of a member's request for exemption will be on the written record, including any submissions made by the member in support of its request for exemption.

Board Review

The decision of the Fixed Income Committee, or a subcommittee thereof, may be reviewed by the Board solely upon the request of one or more Governors. Such review, which may be undertaken solely at the discretion of the Board, will be in accordance with any future resolutions of the Board governing the review of the Fixed Income Committee decisions. In reviewing any decision of the Fixed Income Committee, the Board may affirm, modify, or reverse the decisions of Fixed Income Committee or remand the matter to the Fixed Income Committee with appropriate instructions. In the event of discretionary review by the Board, the decision of the Board constitutes final NASD action.

Summary Of MSRB Rule G-37³

To help members comply with MSRB Rule G-37, the NASD is providing the following exact text from the MSRB Reports outlining the substantive requirements of MSRB Rule G-37 and related MSRB Rules, except for MSRB Rule G-37(i) discussed above.

In general, rule G-37 (i) prohibits brokers, dealers and municipal securities dealers ("dealers") from engaging in municipal securities business with issuers if certain political contributions have been made to officials of such issuers; and (ii) requires dealers to record and disclose certain

political contributions, as well as other information, to allow public scrutiny of political contributions and the municipal securities business of a dealer. The rule is divided into eight sections, which are lettered (a) - (h).

Section (a) sets forth the general purpose and intent of the rule.

Section (b) is the business prohibition section which prohibits dealers from engaging in municipal securities business with an issuer within two years after any contribution to an official of such issuer made by the dealer, any municipal finance professional and any political action committee (PAC) controlled by the dealer or any municipal finance professional. This paragraph also sets forth a de minimis exemption such that a dealer would not be subject to the prohibition on business if the only contributions made were by municipal finance professionals who were entitled to vote for the officials to whom they contributed, provided that such contributions by each municipal finance professional did not exceed \$250 per official per election.

Section (c) is the anti-solicitation provision which prohibits dealers and municipal finance professionals from soliciting any person or PAC to make contributions, or to coordinate (or bundle) contributions to an official of an issuer with which the dealer is engaging or seeking to engage in municipal securities business.

Section (d) prohibits dealers and municipal finance professionals from doing indirectly any act which the dealer or municipal finance professional is prohibited from doing

³ MSRB Reports, June 14, Number 3 (June 1994) at 11. See also, *MSRB Manual*, General Rules, Rule G-37, MSRB Interpretations, Questions and Answers concerning Political Contributions and Prohibitions on Municipal Securities Business: Rule G-37.

directly, pursuant to sections (b) and (c) of the rule.

Section (e) is the reporting provision which requires dealers to submit to the Board certain summary information on their municipal securities business and contributions to issuer officials and political parties, by the dealer, municipal finance professionals, PACs controlled by dealers and municipal finance professionals, and executive officers. Section (e) also provides that the reports must be submitted in accordance with rule G-37 filing procedures. These procedures require dealers to file two copies of Form G-37 within thirty (30) calendar days after the end of each calendar quarter (which filing dates correspond to January 31, April 30, July 31, and October 31).

Section (f) states that the Board will accept additional information that is voluntarily provided by dealers or others, so long as such information is submitted pursuant to the rule G-37 filing procedures.

Section (g) is the definitional section which defines the following terms: (i) contribution; (ii) issuer; (iii) broker, dealer and municipal securities dealer; (iv) municipal finance professional; (v) executive officer; (vi) official of an issuer; and (vii) municipal securities business.

Section (h) provides that a prohibition on municipal securities business under section (b) arises only from contributions made on or after April 25, 1994.

In addition, Board rule G-8(a)(xvi) sets forth the specific recordkeeping requirements for rule G-37 which begin with contributions made and municipal securities business engaged in as of April 25, 1994. These requirements are designed to assist dealers in determining whether or not they may engage in business

with a particular issuer. In addition to recording contributions to officials of issuers made by dealers, municipal finance professionals and PACs controlled by dealers and municipal finance professionals, rule G-8 requires dealers to record contributions made by executive officers and contributions made to political parties of states and political subdivisions. Dealers also are required to record the name, company, role and compensation arrangement of any person employed by the dealer to obtain or retain municipal business. Rule G-9(a)(viii), on record retention, requires dealers to retain the records made pursuant to rule G-8(a)(xvi) for at least six years.

Questions regarding this Notice may be directed to Walter Robertson, NASD Compliance Department, at (202) 728-8236. In addition, the MSRB has advised the NASD that members may call the MSRB about questions concerning MSRB Rule G-37.

Text Of New Rule

(Note: New text is underlined.)

Procedure of the Board of Governors For The Granting of Exemptions From MSRB Rule G-37

1. The Board of Governors ("Board") delegates authority to John E. Pinto, Executive Vice President, Regulation Business Line, to authorize a member of the staff to review requests of NASD members for exemptions pursuant to Section (1) of MSRB Rule G-37.

2. The staff authorized to review exemption requests shall issue a written decision to the member which shall set forth the decision and that the member may request a review of the staff decision by the Fixed Income Committee of the NASD

within 15 calendar days of the date of the decision.

3. The Board of Governors delegates authority to the Fixed Income Committee, or a subcommittee thereof, to review the appeal of a member from a decision of the staff with respect to the member's request for an exemption from MSRB Rule G-37.

4. The Fixed Income Committee, or a subcommittee thereof, shall issue a written decision to the member setting forth the decision.

5. Unless a matter is called for discretionary review by the Board pursuant to Section 7 of this Policy, the decision of the Fixed Income Committee, or a subcommittee thereof, constitutes final action of the NASD.

6. The review conducted by the staff of the Regulation Business Line and the Fixed Income Committee, or a subcommittee thereof, of a member's request for exemption will be on the written record, including any submissions made by the member in support of its request for exemption.

7. The decision of the Fixed Income Committee, or a subcommittee thereof, may be reviewed by the Board solely upon the request of one or more Governors. Such review, which may be undertaken solely at the discretion of the Board, shall be in accordance with resolutions of the Board governing the review of the Fixed Income Committee decisions. In reviewing any decision of the Fixed Income Committee, the Board may affirm, modify or reverse the decisions of the Fixed Income Committee or remand the matter to the Fixed Income Committee with appropriate instructions. In the event of discretionary review by the Board, the decision of the Board constitutes final action of the NASD.

NASD NOTICE TO MEMBERS 95-104

Expanded Sign-In Procedures At The PROCTOR Centers, **Effective February 1, 1996**; And PROCTOR Adds Remote Delivery Sites

Suggested Routing

- Senior Management
- Advertising
- Corporate Finance
- Government Securities
- Institutional
- Internal Audit
- Legal & Compliance
- Municipal
- Mutual Fund
- Operations
- Options
- Registration
- Research
- Syndicate
- Systems
- Trading
- Training

Expanded Sign-In Procedures

Concerns always exist regarding proper identification of candidates who are taking exams and training. A single finger imprint procedure will be added to our sign-in procedure to help address this issue.

Effective February 1, 1996, all candidates taking computerized NASD® exams or Continuing Education Program training sessions must provide a single fingerprint impression at the PROCTOR® Certification Testing Center *before* being seated. Obviously, candidates who do not comply with the new procedure will *not* be seated, and will be assessed a late cancelation fee.

Under the supervision of the PROCTOR Center staff, all candidates must adhere to the following sign-in procedures before being seated for their session:

- Present one **Official ID** (state or government issued), with picture and signature.
- Sign the **NASD Rules of Conduct** form.
- Provide a single **fingerprint** on the **NASD Rules of Conduct** form, using the “inkless” pads supplied by the PROCTOR Center.

If you have any questions, please contact Dan Klingbiel, NASD Member Services, at (301) 590-6394.

Remote Delivery Sites

NASD Member Services expects to provide testing and training at remote delivery sites in the following cities at least once per quarter in the first half of 1996:

Alaska: Anchorage
California: Culver City, Fresno, Fullerton, La Verne, Riverside, San Jose
Florida: Jacksonville, Fort Myers, West Palm Beach
Hawaii: Honolulu
Idaho: Boise
Louisiana: Shreveport
Michigan: Lansing
Mississippi: Jackson
Montana: Billings, Great Falls
Nevada: Las Vegas
New Hampshire: Manchester
New Jersey: Edison, Newark, Paterson
New York: Buffalo, Loudonville
North Dakota: Bismarck
Puerto Rico: Rio Piedras
South Carolina: Charleston
South Dakota: Sioux Falls
Texas: Austin, Lubbock
Vermont: Burlington
Virginia: Norfolk
Washington: Spokane
Wyoming: Cheyenne

A final schedule for the first half of 1996 is in development. To schedule in one of these locations call (800) 999-6647 and select option 1 at the voice prompt.

NASD NOTICE TO MEMBERS 95-105

Treasury Offers Revised Currency Transaction Report Form

Suggested Routing

- Senior Management
- Advertising
- Corporate Finance
- Government Securities
- Institutional
- Internal Audit
- Legal & Compliance
- Municipal
- Mutual Fund
- Operations
- Options
- Registration
- Research
- Syndicate
- Systems
- Trading
- Training

Executive Summary

The Department of the Treasury (Treasury) issued a revised Form 4789, Currency Transaction Report (CTR), under the Bank Secrecy Act (BSA). CTRs are used to file reports of deposits, withdrawals, exchanges of currency, or other payments or transfers involving a transaction in currency totaling more than \$10,000. The revised form was effective October 1, 1995, but filers will **not** be penalized for using the old form until after December 31, 1995.

Background

The BSA authorizes Treasury to require financial institutions, including broker/dealers, to keep records and file reports regarding the source, volume, and movement of funds into and out of the country and through domestic financial institutions. These records and reports are very useful in criminal, tax, and regulatory matters, specifically in money laundering investigations.

Recently, the authority of the Secretary of the Treasury to administer the BSA was delegated to the Director of the Treasury's Financial Crimes Enforcement Network (FinCEN). FinCEN has computer access to CTRs and uses this access independently and in conjunction with other law enforcement agency databases to produce reports for use by law enforcement in detecting money laundering and other financial crimes.

Changes To The CTR

According to FinCEN, it sought to reduce the regulatory burden on financial institutions by revising the CTR. CTR revisions, which reduce the amount of required information by 30 percent, focus on the quality of infor-

mation rather than the quantity. The revised form eliminates duplication of information and information that was difficult to obtain or of limited value to law enforcement authorities.

One major change to the form is the reversal of Sections A and B: "Person(s) on Whose Behalf Transaction(s) is conducted," which was Section B on the old CTR is now Section A, and "Individual(s) Conducting transaction(s)," which was formerly Section A is now Section B. This was done to place a greater emphasis on all those who benefit from (the beneficiaries of) the transaction by noting that information first in Section A.

Copies of the revised CTR may be obtained from the IRS Forms Distribution Centers by calling (800) TAX-FORMS, which is (800) 829-3676. A copy of the revised form follows this Notice.

In September 1995, FinCEN published a series of questions and answers about completing and filing the new CTR. While this information is not meant to be comprehensive and does not replace the CTR form instructions and/or the BSA regulations, it provides general, basic guidance. An excerpt of questions and answers that may apply to broker/dealers is reprinted below for your convenience.

Members are urged to begin using the revised CTR as soon as possible. Questions concerning this Notice may be directed to Susan Lang, NASD Compliance Department, at (202) 728-6969.

Questions And Answers

Question #1: Who should file the revised CTR Form 4789?

Answer: Each financial institution

identified in the regulations in 31 CFR Part 103, must file a revised CTR Form 4789 for each deposit, withdrawal, exchange of currency, or other payment or transfer, by, through, or to the financial institution which involves a transaction in currency totaling more than \$10,000 in one business day. Multiple transactions must be treated as a simple transaction if the financial institution has knowledge that: (1) they are by or on behalf of the same person, and (2) they result in either currency received (Cash In) or currency disbursed (Cash Out) by the financial institution totaling more than \$10,000 in any one business day.

Question #2: Should the revised CTR Form 4789 be used to report suspicious activity?

Answer: The revised CTR should not be filed for suspicious transactions involving \$10,000 or less in currency or to note that a transaction of more than \$10,000 in currency is suspicious. Any suspicious or unusual activity should be reported by a financial institution in the manner prescribed by its appropriate federal regulator or FinCEN. If a transaction is suspicious and in excess of \$10,000 in currency, then both a revised CTR and, if applicable, a referral form must be filed.

For banks, a new Suspicious Activity Report (SAR) Form is being prepared for distribution before the end of 1995 for use in reporting suspicious transactions involving \$10,000 or less in currency OR to note that a transaction of more than \$10,000 in currency is suspicious. Until a similar form is developed for non-bank financial institutions, they should write "SUSPICIOUS" across the top of the revised CTR.

Question #3: When should financial institutions begin using the revised CTR Form 4789?

Answer: The revised CTR becomes effective on the **business day** of October 1, 1995. Filers must continue to use the current CTR Form 4789 (Rev. July 1994) for reportable transactions that occur before October 1, 1995 (business day).

Question #4: Where can I get usable copies of the revised CTR Form 4789?

Answer: Usable copies of the revised CTR are available from the IRS Forms Distribution Centers by calling 1-800-TAX-FORMS ((800) 829-3676).

Question #5: May the old CTR be filed after October 1, 1995?

Answer: FinCEN is allowing a necessary transition time until the end of December 1995 for financial institutions to start filing the new CTR. Between October 1 and December 31, 1995, paper filers will **not** be penalized for continuing to file the old CTR or the ADVANCE COPY of the new CTR, which has been available for training purposes since May 1995, while making every "good faith" effort to obtain and file the new CTR as soon as possible after October 1, 1995 (business day). This same policy will also apply to magnetic CTR files.

Question #6: Where can I get specifications for magnetic filing of the revised CTR?

Answer: Requests for specifications on magnetic filing of the revised CTR should be directed to the IRS Detroit Computing Center, ATTN: CTR Magnetic Media Coordinator, P. O. Box 33604, Detroit, MI 48232-5604.

Question #7: The IRS Detroit Computing Center issued specifications on magnetic filing of the revised CTR during the week of June 12,

1995. It will take at least six months from the time of receipt of these specifications until they are fully installed and usable on financial institutions' systems. Is it acceptable for financial institutions to continue to file magnetically the old CTR Form 4789 (Rev. July 1994) until December 1995?

Answer: Yes, because of the transition time necessary to file the revised CTR magnetically, financial institutions will **not** be penalized for continuing to use the old CTR while making every "good faith" effort to work with the IRS Detroit Computing Center to implement specifications for magnetic filing of the revised CTR. It is expected that this process should be completed at the latest by the end of December 1995. This same policy will also apply to paper CTR filers.

Question #8: Where should I file the revised CTR?

Answer: File the CTR by the 15th calendar day after the day of the transaction with the IRS Detroit Computing Center, ATTN: CTR, P. O. Box 33604, Detroit, MI 48232-5604 or with your local IRS office. Keep a copy (either paper or magnetic) of each CTR for at least five years from the date filed.

Question #9: Is a U.S. passport acceptable identification since it does not contain an address and is not specifically listed in the regulations (31 CFR Part 103.28)?

Answer: Yes, for purposes of completing the new CTR, a U.S. passport is considered an acceptable form of identification. Although verification of an address by official document or other means (e.g., through credit bureaus) is desirable, acceptable identification may be made by an official document containing name and a photograph (preferably with

address) that is normally acceptable by financial institutions as a means of identification when cashing checks for non-depositors.

Question #10: What is a cedular card?

Answer: A cedular card is the term used for a personal identification card issued by foreign governments, particularly in Latin America and Spain, to citizens above a certain age (not issued to minors) and within certain categories (excluding certain classifications of citizens, e.g., military).

Question #11: What should be included on additional sheets attached to the original CTR?

Answer: In order for attached sheets to be clearly associated with the original CTR, it would be desirable to have as much identifying information as possible on the attached sheets, including: (1) the name of the financial institution filing the form and (2) the date of the transaction. At a minimum, on all attached sheets of paper to the original CTR, the financial institution should note the following: (1) the name(s) of the person(s) or organization(s) on whose behalf the transaction(s) is conducted and (2) the Social Security or employer identification number(s).

Question #12: Must a financial institution amend an incomplete old CTR after October 1, 1995, if the missing information is no longer required on the revised CTR (e.g., a CTR is filed on September 28, 1995, then the financial institution discovers additional information on October 3 that should have been provided as an amendment to the old CTR; however, that information is no longer required on the new CTR)? (Item 1a: Amends prior report)

Answer: Because the revised CTR requires less information, after Octo-

ber 1, 1995, there is no requirement to amend old CTRs when the amendment concerns information on fields that have been eliminated on the revised CTR.

Question #13: When should the box for "multiple persons" be checked? (Item 1b: Multiple persons)

Answer: Multiple person transactions are those conducted by or on behalf of two or more individuals; or on behalf of two or more organizations; or on behalf of at least one individual and at least one organization. In these cases, box "1b" (multiple persons) should be checked.

Question #14: Do all holders of the account, even if they do not come to the financial institution, need to be put on the revised CTR as "Person(s) on Whose Behalf Transaction(s) Is Conducted?"

Answer: For deposits, all those who are known to benefit from the transaction must be identified on the CTR. However, if a person makes a withdrawal from a joint account, only his/her name needs to be listed as the beneficiary of the transaction if: (1) he/she states that the withdrawal is on his/her own behalf or the financial institution knows that the person making the withdrawal is the only beneficiary, and (2) the financial institution has no reason to believe otherwise.

Question #15: When should the box for "multiple transactions" be checked? (Item 1c: Multiple transactions)

Answer: Multiple transactions are any two or more transactions which the financial institution has knowledge are conducted by or on behalf of any person during the same business day and which result in a total cash-in or cash-out of over \$10,000. In these cases, box "1c" (multiple

transactions) should be checked.

Question #16: Must the financial institution note whether the number provided in Item 6 is a Social Security number (SSN) or an employer identification number (EIN) since there is no separate configuration of spaces?

Answer: It is not necessary to note whether the number in Item 6 is an SSN or EIN, and the revised CTR has been simplified to eliminate the separate configuration of these numbers because they may be differentiated solely on the basis of their initial numbers. IRS Service Centers assign EINs, which start with numbers not assigned to SSNs; whereas, the Social Security Administration assigns SSNs, which start with numbers not assigned to EINs.

Question #17: While an SSN or EIN is required on a CTR, if a CTR is filed without an SSN or EIN, should the financial institution amend the CTR if it subsequently obtains an SSN or EIN? (Items 6 and 19)

Answer: Yes, the CTR should be amended if an SSN or EIN is subsequently obtained.

Question #18: Are the terms "homemaker," "retired," or "unemployed" acceptable as descriptions for occupations? (Item 13)

Answer: "Homemaker," "retired," or "unemployed" are acceptable as occupational descriptions, but financial institutions should attempt to get more specific information. As a basic part of "know your customer" programs, financial institutions should pay particular attention to customers with such non-specific occupations who continually make large cash deposits. "Self-employed" is not acceptable without additional information as it is too non-specific.

Question #19: Instructions state that financial institutions should enter as much information as is available in Section B. Does this mean that if it is not available, then they do not have to provide it? Should the financial institution refuse to conduct the transaction if the customer refuses to provide the required information?

Answer: The law requires financial institutions to file complete and accurate CTRs. The CTR Form 4789 indicates the only circumstances in which incomplete data is acceptable (e.g., Armored Car Service, Mail Deposit or Shipment, etc.). If a financial institution elects to conduct a transaction for which it files an incomplete CTR, other than for these specified circumstances, then it should attach an explanation of why the CTR is incomplete.

Question #20: If box “a” in Section B is checked for Armored Car Service, should the provider’s name be inserted?

Answer: No, the Armored Car Service provider’s name does not have to be recorded on the CTR.

Question #21: Is box “d” for Multiple Transactions on the revised CTR’s Part I, Section B the same as the old CTR’s Part I, box “3d”? If so, what is considered a “reasonable effort” for obtaining information when the aggregation of multiple transactions has exceeded the reporting threshold? (Part I Section B box d: Multiple Transactions)

Answer: Yes, box “d” in Part I, Section B of the revised CTR is the same as box “3d” for Multiple Transactions in Part I of the old CTR, and should be checked to indicate that some or all of the information required in Items 15-25 is missing because the transaction being reported is a multiple transaction. A rea-

sonable effort to obtain information for reporting multiple transactions that when aggregated exceeded the reporting threshold might include a check of the financial institution’s records, telephone calls to customers, and obtaining information from persons who handled the multiple transactions. However, if complete information is still not obtained, then box “d” in Part I Section B must be checked to explain why.

Question #22: Should “multiple transactions” be aggregated?

Answer: Yes, to report multiple transactions, all the individual transactions of which the financial institution has knowledge must be aggregated, which means that debits must be added to debits, and credits must be added to credits. If the cash debits or the cash credits totals exceed \$10,000 in a business day, a CTR is required. If debits and credits each exceed \$10,000, they can both be reported on a single CTR. Do not mix debits and credits by off-setting one against the other, that is, do not mix cash-in transactions with cash-out transactions.

Question #23: How should trusts and other third-party accounts be reported?

Answer: If Jane Doe, the trustee of the John Smith Trust, makes a reportable deposit to the Trust Account, information on Jane Doe, the trustee, including the method used to verify her identification, must be entered in Part I, Section A. Identifying information on the John Smith Trust, who is the beneficiary of the transaction, must also be reported in a separate Section A (on the back of the CTR Form). Then check box “e” (Conducted On Own Behalf) to indicate why Section B is left blank. However, if the transaction is conducted for Jane Doe, the trustee, by her secretary, then in addi-

tion to identifying Jane Doe (the trustee) and the John Smith Trust (the beneficiary) in separate Section “As,” report identifying information on the secretary, who actually conducted the transaction, in Part I, Section B.

Question #24: Should dashes be used in recording the financial institution’s Magnetic Ink Character Recognition (MICR) number? (Item 43)

Answer: No, dashes should not be inserted in recording of the MICR number in Item 43.

Question #25: May the preparer and the approver of the new CTR be the same person?

Answer: Yes, the preparer and the approving official of the new CTR may be the same person. This is a change in policy based on standardizing paper filing with magnetic filing of the CTR. However, it is still strongly recommended that financial institutions, as a matter of internal review of CTRs, have two people involved.

Question #26: Must the signature of the approving official be an original, or may it be pre-printed? (Item 45)

Answer: The signature of the approving official in Item 45 must be an original signature; it may not be pre-printed.

Question #27: May a department’s name be pre-printed instead of the name of a person to contact? (Item 48)

Answer: The name of a person to contact for questions about the CTR (not a department’s name) is preferred in Item 48; however, the name of the compliance office or other designated department would be acceptable.

Currency Transaction Report

▶ Use this 1995 revision effective October 1, 1995.
 ▶ For Paperwork Reduction Act Notice, see page 3. ▶ Please type or print.
 (Complete all parts that apply—See instructions)

- 1 Check all box(es) that apply:
 a Amends prior report b Multiple persons c Multiple transactions

Part I Person(s) Involved in Transaction(s)

Section A—Person(s) on Whose Behalf Transaction(s) Is Conducted

| | | | | | | | | | | |
|---|--|----------|-------------------------------------|--------------------------|--|---|--|--|--|--|
| 2 Individual's last name or Organization's name | | | 3 First name | | | 4 M.I. | | | | |
| 5 Doing business as (DBA) | | | | | | 6 SSN or EIN | | | | |
| 7 Address (number, street, and apt. or suite no.) | | | | | | 8 Date of birth | | | | |
| 9 City | | 10 State | 11 ZIP code | 12 Country (if not U.S.) | | 13 Occupation, profession, or business | | | | |
| 14 If an individual, describe method used to verify identity: | | | | | | | | | | |
| a <input type="checkbox"/> Driver's license/State I.D. | | | b <input type="checkbox"/> Passport | | | c <input type="checkbox"/> Alien registration | | | d <input type="checkbox"/> Other | |
| e Issued by: | | | f Number: | | | | | | | |

Section B—Individual(s) Conducting Transaction(s) (if other than above).

If Section B is left blank or incomplete, check the box(es) below to indicate the reason(s):

| | | | | | | | | | | |
|---|--|----------|---|--------------------------|--|--|--|--|--|--|
| a <input type="checkbox"/> Armored Car Service | | | b <input type="checkbox"/> Mail Deposit or Shipment | | | c <input type="checkbox"/> Night Deposit or Automated Teller Machine (ATM) | | | | |
| d <input type="checkbox"/> Multiple Transactions | | | e <input type="checkbox"/> Conducted On Own Behalf | | | | | | | |
| 15 Individual's last name | | | 16 First name | | | 17 M.I. | | | | |
| 18 Address (number, street, and apt. or suite no.) | | | | | | 19 SSN | | | | |
| 20 City | | 21 State | 22 ZIP code | 23 Country (if not U.S.) | | 24 Date of birth | | | | |
| 25 If an individual, describe method used to verify identity: | | | | | | | | | | |
| a <input type="checkbox"/> Driver's license/State I.D. | | | b <input type="checkbox"/> Passport | | | c <input type="checkbox"/> Alien registration | | | d <input type="checkbox"/> Other | |
| e Issued by: | | | f Number: | | | | | | | |

Part II Amount and Type of Transaction(s). Check all boxes that apply.

| | | | | | | | | | | |
|---|--|--|---|--|--|--|--|--|--|--|
| 26 Cash In \$ _____ .00 | | | 27 Cash Out \$ _____ .00 | | | 28 Date of Transaction | | | | |
| 29 <input type="checkbox"/> Foreign Currency _____ (Country) | | | 30 <input type="checkbox"/> Wire Transfer(s) | | | 31 <input type="checkbox"/> Negotiable Instrument(s) Purchased | | | | |
| 32 <input type="checkbox"/> Negotiable Instrument(s) Cashed | | | 33 <input type="checkbox"/> Currency Exchange(s) | | | 34 <input type="checkbox"/> Deposit(s)/Withdrawal(s) | | | | |
| 35 <input type="checkbox"/> Account Number(s) Affected (if any): _____ | | | 36 <input type="checkbox"/> Other (specify): _____ | | | | | | | |

Part III Financial Institution Where Transaction(s) Takes Place

| | | | | | | | | | |
|--|----------------------------------|----------|-------------|---|--|---------------|----------------------------|--|--|
| 37 Name of financial institution | | | | Enter Federal Regulator or BSA Examiner code number from the instructions here. ▶ [] | | | | | |
| 38 Address (number, street, and apt. or suite no.) | | | | | | 39 SSN or EIN | | | |
| 40 City | | 41 State | 42 ZIP code | 43 MICR No. | | | | | |
| Sign Here ▶ | 44 Title of approving official | | | 45 Signature of approving official | | | 46 Date of signature | | |
| | 47 Type or print preparer's name | | | 48 Type or print name of person to contact | | | 49 Telephone number () | | |

Multiple Persons

(Complete applicable parts below if box 1b on page 1 is checked.)

Part I Person(s) Involved in Transaction(s)

Section A—Person(s) on Whose Behalf Transaction(s) Is Conducted

| | | | | | | | | |
|---|--|----------|-------------------------------------|--------------------------|---|--|----------------------------------|--|
| 2 Individual's last name or Organization's name | | | 3 First name | | | 4 M.I. | | |
| 5 Doing business as (DBA) | | | | | | 6 SSN or EIN | | |
| 7 Address (number, street, and apt. or suite no.) | | | | | | 8 Date of birth | | |
| 9 City | | 10 State | 11 ZIP code | 12 Country (if not U.S.) | | 13 Occupation, profession, or business | | |
| 14 If an individual, describe method used to verify identity: | | | | | | | | |
| a <input type="checkbox"/> Driver's license/State I.D. | | | b <input type="checkbox"/> Passport | | c <input type="checkbox"/> Alien registration | | d <input type="checkbox"/> Other | |
| e Issued by: | | | f Number: | | | | | |

Section B—Individual(s) Conducting Transaction(s) (if other than above).

| | | | | | | | | |
|---|--|----------|-------------------------------------|--------------------------|---|------------------|----------------------------------|--|
| 15 Individual's last name | | | 16 First name | | | 17 M.I. | | |
| 18 Address (number, street, and apt. or suite no.) | | | | | | 19 SSN | | |
| 20 City | | 21 State | 22 ZIP code | 23 Country (if not U.S.) | | 24 Date of birth | | |
| 25 If an individual, describe method used to verify identity: | | | | | | | | |
| a <input type="checkbox"/> Driver's license/State I.D. | | | b <input type="checkbox"/> Passport | | c <input type="checkbox"/> Alien registration | | d <input type="checkbox"/> Other | |
| e Issued by: | | | f Number: | | | | | |

Part I Person(s) Involved in Transaction(s)

Section A—Person(s) on Whose Behalf Transaction(s) Is Conducted

| | | | | | | | | |
|---|--|----------|-------------------------------------|--------------------------|---|--|----------------------------------|--|
| 2 Individual's last name or Organization's name | | | 3 First name | | | 4 M.I. | | |
| 5 Doing business as (DBA) | | | | | | 6 SSN or EIN | | |
| 7 Address (number, street, and apt. or suite no.) | | | | | | 8 Date of birth | | |
| 9 City | | 10 State | 11 ZIP code | 12 Country (if not U.S.) | | 13 Occupation, profession, or business | | |
| 14 If an individual, describe method used to verify identity: | | | | | | | | |
| a <input type="checkbox"/> Driver's license/State I.D. | | | b <input type="checkbox"/> Passport | | c <input type="checkbox"/> Alien registration | | d <input type="checkbox"/> Other | |
| e Issued by: | | | f Number: | | | | | |

Section B—Individual(s) Conducting Transaction(s) (if other than above).

| | | | | | | | | |
|---|--|----------|-------------------------------------|--------------------------|---|------------------|----------------------------------|--|
| 15 Individual's last name | | | 16 First name | | | 17 M.I. | | |
| 18 Address (number, street, and apt. or suite no.) | | | | | | 19 SSN | | |
| 20 City | | 21 State | 22 ZIP code | 23 Country (if not U.S.) | | 24 Date of birth | | |
| 25 If an individual, describe method used to verify identity: | | | | | | | | |
| a <input type="checkbox"/> Driver's license/State I.D. | | | b <input type="checkbox"/> Passport | | c <input type="checkbox"/> Alien registration | | d <input type="checkbox"/> Other | |
| e Issued by: | | | f Number: | | | | | |

Paperwork Reduction Act Notice.—The requested information has been determined to be useful in criminal, tax, and regulatory investigations and proceedings. Financial institutions are required to provide the information under 31 U.S.C. 5313 and 31 CFR Part 103. These provisions are commonly referred to as the Bank Secrecy Act (BSA) which is administered by the U.S. Department of the Treasury's Financial Crimes Enforcement Network (FinCEN).

The time needed to complete this form will vary depending on individual circumstances. The estimated average time is 19 minutes. If you have comments concerning the accuracy of this time estimate or suggestions for making this form simpler, we would be happy to hear from you. You can write to the **Internal Revenue Service, Attention: Tax Forms Committee, PC:FP, Washington, DC 20224. DO NOT** send this form to this office. Instead, see **When and Where To File** below.

Suspicious Transactions

This Currency Transaction Report (CTR) should NOT be filed for suspicious transactions involving \$10,000 or less in currency OR to note that a transaction of more than \$10,000 is suspicious. Any suspicious or unusual activity should be reported by a financial institution in the manner prescribed by its appropriate federal regulator or BSA examiner. (See Item 37.) If a transaction is suspicious and in excess of \$10,000 in currency, then both a CTR and the appropriate referral form must be filed.

Should the suspicious activity require immediate attention, financial institutions should telephone 1-800-800-CTRS. An Internal Revenue Service (IRS) employee will direct the call to the local office of the IRS Criminal Investigation Division (CID). This toll-free number is operational Monday through Friday, from approximately 9:00 am to 6:00 pm Eastern Standard Time. If an emergency, consult directory assistance for the local IRS CID Office.

General Instructions

Who Must File.—Each financial institution (other than a casino, which instead must file Form 8362 and the U.S. Postal Service for which there are separate rules), must file Form 4789 (CTR) for each deposit, withdrawal, exchange of currency, or other payment or transfer, by, through, or to the financial institution which involves a transaction in currency of more than \$10,000. Multiple transactions must be treated as a single transaction if the financial institution has knowledge that (1) they are by or on behalf of the same person, and (2) they result in either currency received (Cash In) or currency disbursed (Cash Out) by the financial institution totaling more than \$10,000 during any one business day. For a bank, a business day is the day on which transactions are routinely posted to customers' accounts, as normally communicated to depository customers. For all other financial institutions, a business day is a calendar day.

Generally, financial institutions are defined as banks, other types of depository institutions, brokers or dealers in securities, money transmitters, currency exchangers, check cashers, issuers and sellers of money orders and traveler's checks. Should you have questions, see the definitions in 31 CFR Part 103.

When and Where To File.—File this CTR by the 15th calendar day after the day of the transaction with the IRS Detroit Computing Center, ATTN: CTR, P.O. Box 33604, Detroit, MI 48232-5604 or with your local IRS office. Keep a

copy of each CTR for five years from the date filed.

A financial institution may apply to file the CTRs magnetically. To obtain an application to file magnetically, write to the IRS Detroit Computing Center, ATTN: CTR Magnetic Media Coordinator, at the address listed above.

Identification Requirements.—All individuals (except employees of armored car services) conducting a reportable transaction(s) for themselves or for another person must be identified by means of an official document(s).

Acceptable forms of identification include a driver's license, military, and military/dependent identification cards, passport, state issued identification card, cedular card (foreign), non-resident alien identification cards, or any other identification document or documents, which contain name and preferably address and a photograph and are normally acceptable by financial institutions as a means of identification when cashing checks for persons other than established customers.

Acceptable identification information obtained previously and maintained in the financial institution's records may be used. For example, if documents verifying an individual's identity were examined and recorded on a signature card when an account was opened, the financial institution may rely on that information. In completing the CTR, the financial institution must indicate on the form the method, type, and number of the identification. Statements such as "known customer" or "signature card on file" are not sufficient for form completion.

Penalties.—Civil and criminal penalties are provided for failure to file a CTR or to supply information or for filing a false or fraudulent CTR. See 31 U.S.C. 5321, 5322 and 5324.

For purposes of this CTR, the terms below have the following meanings:

Currency.—The coin and paper money of the United States or any other country, which is circulated and customarily used and accepted as money.

Person.—An individual, corporation, partnership, trust or estate, joint stock company, association, syndicate, joint venture or other unincorporated organization or group.

Organization.—Person other than an individual.

Transaction in Currency.—The physical transfer of currency from one person to another. This does not include a transfer of funds by means of bank check, bank draft, wire transfer or other written order that does not involve the physical transfer of currency.

Negotiable Instruments.—All checks and drafts (including business, personal, bank, cashier's and third-party), money orders, and promissory notes. For purposes of this CTR, all traveler's checks shall also be considered negotiable instruments. All such instruments shall be considered negotiable instruments whether or not they are in bearer form.

Specific Instructions

Because of the limited space on the front and back of the CTR, it may be necessary to submit additional information on attached sheets. Submit this additional information on plain paper attached to the CTR. Be sure to put the individual's or organization's name and identifying number (items 2, 3, 4, and 6 of the CTR) on any additional sheets so that if it becomes separated, it may be associated with the CTR.

Item 1a. Amends Prior Report.—If this CTR is being filed because it amends a report filed

previously, check Item 1a. Staple a copy of the original CTR to the amended one, complete Part II, fully and only those other entries which are being amended.

Item 1b. Multiple Persons.—If this transaction is being conducted by more than one person or on behalf of more than one person, check Item 1b. Enter information in Part I for one of the persons and provide information on any other persons on the back of the CTR.

Item 1c. Multiple Transactions.—If the financial institution has knowledge that there are multiple transactions, check Item 1c.

PART I - Person(s) Involved in Transaction(s)

Section A **must** be completed. If an individual conducts a transaction on his own behalf, complete Section A; leave Section B BLANK. If an individual conducts a transaction on his own behalf and on behalf of another person(s), complete Section A for each person; leave Section B BLANK. If an individual conducts a transaction on behalf of another person(s), complete Section B for the individual conducting the transaction, and complete Section A for each person on whose behalf the transaction is conducted of whom the financial institution has knowledge.

Section A. Person(s) on Whose Behalf Transaction(s) Is Conducted.—See instructions above.

Items 2, 3, and 4. Individual/Organization Name.—If the person on whose behalf the transaction(s) is conducted is an individual, put his/her last name in Item 2, first name in Item 3 and middle initial in Item 4. If there is no middle initial, leave item 4 BLANK. If the transaction is conducted on behalf of an organization, put its name in Item 2 and leave Items 3 and 4 BLANK.

Item 5. Doing Business As (DBA).—If the financial institution has knowledge of a separate "doing business as" name, enter it in Item 5. For example, Johnson Enterprises DBA PJ's Pizzeria.

Item 6. Social Security Number (SSN) or Employer Identification Number (EIN).—Enter the SSN or EIN of the person identified in Item 2. If none, write NONE.

Items 7, 9, 10, 11 and 12. Address.—Enter the permanent street address including zip code of the person identified in Item 2. Use the Post Office's two letter state abbreviation code. A P.O. Box should not be used by itself and may only be used if there is no street address. If a P.O. Box is used, the name of the apartment or suite number, road or route number where the person resides must also be provided. If the address is outside the U.S., provide the street address, city, province, or state, postal code (if known), and the name of the country.

Item 8. Date of Birth.—Enter the date of birth. Six numerals must be inserted for each date. The first two will reflect the month of birth, the second two the calendar day of birth, and the last two numerals the year of birth. Zero (0) should precede any single digit number. For example, if an individual's birth date is April 3, 1948, Item 8 should read 04 03 48.

Item 13. Occupation, Profession, or Business.—Identify fully the occupation, profession or business of the person on whose behalf the transaction(s) was conducted. For example, secretary, shoe salesman, carpenter, attorney, housewife, restaurant, liquor store, etc. Do not use non-specific terms such as merchant, self-employed, businessman, etc.

Item 14. If an Individual, Describe Method Used To Verify.—If an individual conducts the transaction(s) on his/her own behalf, his/her identity must be verified by examination of an acceptable document (see **General Instructions**). For example, check box **a** if a driver's license is used to verify an individual's identity, and enter the state that issued the license and the number in items **e** and **f**. If the transaction is conducted by an individual on behalf of another individual not present or an organization, enter N/A in item 14.

Section B. Individual(s) Conducting Transaction(s) (if other than above).—Financial institutions should enter as much information as is available. However, there may be instances in which Items 15-25 may be left BLANK or incomplete.

If Items 15-25 are left BLANK or incomplete, check one or more of the boxes provided to indicate the reason(s).

Example: If there are multiple transactions that, if only when aggregated, the financial institution has knowledge the transactions exceed the reporting threshold, and therefore, did not identify the transactor(s), check box **d** for Multiple Transactions.

Items 15, 16, and 17. Individual(s) Name.—Complete these items if an individual conducts a transaction(s) on behalf of another person. For example, if John Doe, an employee of XYZ Grocery Store makes a deposit to the store's account, XYZ Grocery Store should be identified in Section A, and John Doe should be identified in Section B.

Items 18, 20, 21, 22, and 23. Address.—Enter the permanent street address including zip code of the individual. (See Items 7, 9, 10, 11, and 12.)

Item 19. SSN.—If the individual has an SSN, enter it in Item 19. If the individual does not have an SSN, enter NONE.

Item 24. Date of Birth.—Enter the individual's date of birth. See the instructions for item 8.

Item 25. If an Individual, Describe Method Used To Verify.—Enter the method by which the individual's identity is verified (see **General Instructions** and Item 14).

PART II - Amount and Type of Transaction(s)

Complete Part II to identify the type of transaction(s) reported and the amount(s) involved.

Items 26 and 27. Cash In/Cash Out.—In the spaces provided, enter the amount of currency received (Cash In) or disbursed (Cash Out) by the financial institution. If foreign currency is exchanged, use the U.S. dollar equivalent on the day of the transaction.

If less than a full dollar amount is involved, increase that figure to the next highest dollar. For example, if the currency totals \$20,000.05, show the total as \$20,001.00.

Item 28. Date of Transaction.—Six numerals must be inserted for each date. (See Item 8.)

Determining Whether Transactions Meet the Reporting Threshold

Only cash transactions that, if alone or when aggregated, exceed \$10,000 should be reported on the CTR. Transactions shall not be offset against one another.

If there are both Cash In and Cash Out transactions that are reportable, the amounts should be considered separately and not aggregated. However, they may be reported on a single CTR.

If there is a currency exchange, it should be aggregated separately with each of the Cash In and Cash Out totals.

Example 1: A person deposits \$11,000 in currency to his savings account and withdraws \$3,000 in currency from his checking account.

The CTR should be completed as follows: Cash In \$11,000 and no entry for Cash Out. This is because the \$3,000 transaction does not meet the reporting threshold.

Example 2: A person deposits \$11,000 in currency to his savings account and withdraws \$12,000 in currency from his checking account.

The CTR should be completed as follows: Cash In \$11,000, Cash Out \$12,000. This is because there are two reportable transactions. However, one CTR may be filed to reflect both.

Example 3: A person deposits \$6,000 in currency to his savings account and withdraws \$4,000 in currency from his checking account. Further, he presents \$5,000 in currency to be exchanged for the equivalent in French francs.

The CTR should be completed as follows: Cash In \$11,000 and no entry for Cash Out. This is because in determining whether the transactions are reportable, the currency exchange is aggregated with each of the Cash In and the Cash Out amounts. The result is a reportable \$11,000 Cash In transaction. The total Cash Out amount is \$9,000 which does not meet the reporting threshold; therefore, it is not entered on the CTR.

Example 4: A person deposits \$6,000 in currency to his savings account and withdraws \$7,000 in currency from his checking account. Further, he presents \$5,000 in currency to be exchanged for the equivalent in French francs.

The CTR should be completed as follows: Cash In \$11,000, Cash Out \$12,000. This is because in determining whether the transactions are reportable, the currency exchange is aggregated with each of the Cash In and Cash Out amounts. In this example, each of the Cash In and Cash Out totals exceed \$10,000 and must be reflected on the CTR.

Item 29. Foreign Currency.—If foreign currency is involved, check Item 29 and identify the country. If multiple foreign currencies are involved, identify the country for which the largest amount is exchanged.

Items 30-33.—Check the appropriate item(s) to identify the following type of transaction(s):

- 30. Wire Transfer(s)
- 31. Negotiable Instrument(s) Purchased
- 32. Negotiable Instrument(s) Cashed
- 33. Currency Exchange(s)

Item 34. Deposits/Withdrawals.—Check this item to identify deposits to or withdrawals from accounts, e.g., demand deposit accounts, savings accounts, time deposits, mutual fund accounts or any other account held at the financial institution. Enter the account number(s) in item 35.

Item 35. Account Numbers Affected (if any).—Enter the account numbers of any accounts affected by the transaction(s) that are maintained

at the financial institution conducting the transaction(s). If necessary, use additional sheets of paper to indicate all of the affected accounts.

Example 1: If a person cashes a check drawn on an account held at the financial institution, the CTR should be completed as follows: Indicate Negotiable Instrument(s) Cashed and provide the account number of the check.

If the transaction does not affect an account, make no entry.

Example 2: A person cashes a check drawn on another financial institution. In this instance, Negotiable Instrument(s) Cashed would be indicated, but no account at the financial institution has been affected. Therefore, item 35 should be left BLANK.

Item 36. Other (specify).—If a transaction is not identified in Items 30-34, check Item 36 and provide an additional description. For example, a person presents a check to purchase "foreign currency".

Part III - Financial Institution Where Transaction(s) Takes Place

Item 37. Name of Financial Institution and Identity of Federal Regulator or BSA Examiner.

—Enter the financial institution's full legal name and identify the federal regulator or BSA examiner, using the following codes:

| FEDERAL REGULATOR OR BSA EXAMINER | CODE |
|--|------|
| Comptroller of the Currency (OCC) | 1 |
| Federal Deposit Insurance Corporation (FDIC) | 2 |
| Federal Reserve System (FRS) | 3 |
| Office of Thrift Supervision (OTS) | 4 |
| National Credit Union Administration (NCUA) | 5 |
| Securities and Exchange Commission (SEC) | 6 |
| Internal Revenue Service (IRS) | 7 |
| U.S. Postal Service (USPS) | 8 |

Items 38, 40, 41, and 42. Address.—Enter the street address, city, state, and ZIP code of the financial institution where the transaction occurred. If there are multiple transactions, provide information on the office or branch where any one of the transactions has occurred.

Item 39. EIN or SSN.—Enter the financial institution's EIN. If the financial institution does not have an EIN, enter the SSN of the financial institution's principal owner.

Item 43. MICR Number.—If a depository institution, enter the Magnetic Ink Character Recognition (MICR) number.

Signature

Items 44 and 45. Title and Signature of Approving Official.—The official who reviews and approves the CTR must indicate his/her title and sign the CTR.

Item 46. Date the Form Was Signed.—The approving official must enter the date the CTR is signed. (See Item 8.)

Item 47. Preparer's Name.—Type or print the full name of the individual preparing the CTR. The preparer and the approving official may not necessarily be the same individual.

Items 48 and 49. Contact Person/Telephone Number.—Type or print the name and telephone number of an individual to contact concerning questions about the CTR.

NASD NOTICE TO MEMBERS 95-106

NASD 1996 Holiday Schedule

The NASD® will observe the following holiday schedule for 1996:

| | |
|-------------|------------------|
| January 1 | New Year's Day |
| February 19 | President's Day |
| April 5 | Good Friday |
| May 27 | Memorial Day |
| July 4 | Independence Day |
| September 2 | Labor Day |
| November 28 | Thanksgiving Day |
| December 25 | Christmas Day |

Questions regarding this holiday schedule may be directed to NASD Human Resources, at (301) 590-6821.

Suggested Routing

- Senior Management
- Advertising
- Corporate Finance
- Government Securities
- Institutional
- Internal Audit
- Legal & Compliance
- Municipal
- Mutual Fund
- Operations
- Options
- Registration
- Research
- Syndicate
- Systems
- Trading
- Training

NASD NOTICE TO MEMBERS 95-107

Trade Date-Settlement Date Schedule For 1996

Suggested Routing

- Senior Management
- Advertising
- Corporate Finance
- Government Securities
- Institutional
- Internal Audit
- Legal & Compliance
- Municipal
- Mutual Fund
- Operations
- Options
- Registration
- Research
- Syndicate
- Systems
- Trading
- Training

Martin Luther King, Jr., Day: Trade Date-Settlement Date Schedule

The schedule of trade dates-settlement dates below reflects the observance by the financial community of Martin Luther King, Jr., Day, Monday, January 15, 1996. On January 15, 1996, The Nasdaq Stock MarketSM and the securities exchanges will be open for trading. However, it will not be a settlement date because many of the nation's banking institutions will be closed.

| <u>Trade Date</u> | <u>Settlement Date</u> | <u>Reg. T Date*</u> |
|-------------------|------------------------|---------------------|
| Jan. 5 | Jan. 10 | Jan. 12 |
| 8 | 11 | 15 |
| 9 | 12 | 16 |
| 10 | 16 | 17 |
| 11 | 17 | 18 |
| 12 | 18 | 19 |
| 15 | 18 | 22 |
| 16 | 19 | 23 |

Note: January 15, 1996, is considered a business day for receiving customers' payments under Regulation T of the Federal Reserve Board.

Transactions made on January 15 will be combined with transactions made on the previous business day, January 12, for settlement on January 18. Securities will not be quoted ex-dividend, and settlements, marks to the market, reclamations, and buy-ins and sell-outs, as provided in the Uniform Practice Code, will not be made and/or exercised on January 15.

*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 five (5) 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 "Reg. T Date."

Presidents' Day: Trade Date-Settlement Date Schedule

The Nasdaq Stock Market and the securities exchanges will be closed on Monday, February 19, 1996, in observance of Presidents' Day, "Regular way" transactions made on the business days noted below will be subject to the following schedule:

| <u>Trade Date</u> | <u>Settlement Date</u> | <u>Reg. T Date*</u> |
|-------------------|------------------------|---------------------|
| Feb. 12 | Feb. 15 | Feb. 20 |
| 13 | 16 | 21 |
| 14 | 20 | 22 |
| 15 | 21 | 23 |
| 16 | 22 | 26 |
| 19 | Markets Closed | — |
| 20 | 23 | 27 |

Good Friday: Trade Date-Settlement Date Schedule

The Nasdaq Stock Market and the securities exchanges will be closed on Good Friday, April 5, 1996. "Regular way" transactions made on the business days noted below will be subject to the following schedule:

| <u>Trade Date</u> | <u>Settlement Date</u> | <u>Reg. T Date*</u> |
|-------------------|------------------------|---------------------|
| Apr. 1 | Apr. 4 | Apr. 9 |
| 2 | 8 | 10 |
| 3 | 9 | 11 |
| 4 | 10 | 12 |
| 5 | Markets Closed | — |
| 8 | 11 | 15 |

Memorial Day: Trade Date-Settlement Date Schedule

The Nasdaq Stock Market and the securities exchanges will be closed on Monday, May 27, 1996, in observance of Memorial Day. "Regular way" transactions made on the business days noted below will be subject to the following schedule:

| <u>Trade Date</u> | <u>Settlement Date</u> | <u>Reg. T Date*</u> |
|-------------------|------------------------|---------------------|
| May 21 | May 24 | May 29 |
| 22 | 28 | 30 |
| 23 | 29 | 31 |
| 24 | 30 | June 3 |
| 27 | Markets Closed | — |
| 28 | 31 | 4 |

Independence Day: Trade Date-Settlement Date Schedule

The Nasdaq Stock Market and the securities exchanges will be closed on Thursday, July 4, 1996, in observance of Independence Day. "Regular way" transactions made on the business days noted below will be subject to the following schedule:

| <u>Trade Date</u> | <u>Settlement Date</u> | <u>Reg. T Date*</u> |
|-------------------|------------------------|---------------------|
| June 28 | July 3 | July 8 |
| July 1 | 5 | 9 |
| 2 | 8 | 10 |
| 3 | 9 | 11 |
| 4 | Markets Closed | — |
| 5 | 10 | 12 |

Labor Day: Trade Date-Settlement Date Schedule

The Nasdaq Stock Market and the securities exchanges will be closed on Monday, September 2, 1996, in observance of Labor Day. "Regular way" transactions made on the business days noted below will be subject to the following schedule:

| <u>Trade Date</u> | <u>Settlement Date</u> | <u>Reg. T Date*</u> |
|-------------------|------------------------|---------------------|
| Aug. 27 | Aug. 30 | Sept. 4 |
| 28 | Sept. 3 | 5 |
| 29 | 4 | 6 |
| 30 | 5 | 9 |
| Sept. 2 | Markets Closed | — |
| 3 | 6 | 10 |

Columbus Day: Trade Date-Settlement Date Schedule

The schedule of trade dates-settlement dates below reflects the observance by the financial community of Columbus Day, Monday, October 14, 1996. On this day, The Nasdaq Stock Market and the securities exchanges will be open for trading. However, it will not be a settlement date because many of the nation's banking institutions will be closed.

| <u>Trade Date</u> | <u>Settlement Date</u> | <u>Reg. T Date*</u> |
|-------------------|------------------------|---------------------|
| Oct. 7 | Oct. 10 | Oct. 14 |
| 8 | 11 | 15 |
| 9 | 15 | 16 |
| 10 | 16 | 17 |
| 11 | 17 | 18 |
| 14 | 17 | 21 |
| 15 | 18 | 22 |

Note: October 14, 1996, is considered a business day for receiving customers' payments under Regulation T of the Federal Reserve Board.

Transactions made on Monday, October 14, will be combined with transactions made on the previous business day, October 11, for settlement on October 17. Securities will not be quoted ex-dividend, and settlements, marks to the market, reclamations, and buy-ins and sell-outs, as provided in the Uniform Practice Code, will not be made and/or exercised on October 14.

Veterans' Day And Thanksgiving Day: Trade Date-Settlement Date Schedule

The schedule of trade dates-settlement dates below reflects the observance by the financial community of Veterans' Day, Monday, November 11, 1996, and Thanksgiving Day, Thursday, November 28, 1996. On Monday, November 11, The Nasdaq Stock Market and the securities exchanges will be open for trading. However, it will not be a settlement date because many of the nation's banking institutions will be closed in observance of Veterans' Day. All securities markets will be closed on Thursday, November 28, in observance of Thanksgiving Day.

| <u>Trade Date</u> | <u>Settlement Date</u> | <u>Reg. T Date*</u> |
|-------------------|------------------------|---------------------|
| Nov. 5 | Nov. 8 | Nov. 12 |
| 6 | 12 | 13 |
| 7 | 13 | 14 |
| 8 | 14 | 15 |
| 11 | 14 | 18 |
| 12 | 15 | 19 |
| 22 | 27 | Dec. 2 |
| 25 | 29 | 3 |
| 26 | Dec. 2 | 4 |
| 27 | 3 | 5 |
| 28 | Markets Closed | — |
| 29 | 4 | 6 |

Note: November 11, 1996, is considered a business day for receiving customers' payments under Regulation T of the Federal Reserve Board.

Transactions made on November 11 will be combined with transactions made on the previous business day, November 8, for settlement on November 14. Securities will not be quoted ex-dividend, and settlements, marks to the market, reclamations, and buy-ins and sell-outs, as provided in the Uniform Practice Code, will not be made and/or exercised on November 11.

Christmas Day And New Year's Day: Trade Date-Settlement Date Schedule

The Nasdaq Stock Market and the securities exchanges will be closed on Wednesday, December 25, 1996, in observance of Christmas Day, and Wednesday, January 1, 1997, in observance of New Year's Day. "Regular way" transactions made on the business days noted below will be subject to the following schedule:

| <u>Trade Date</u> | <u>Settlement Date</u> | <u>Reg. T Date*</u> |
|-------------------|------------------------|---------------------|
| Dec. 19 | Dec. 24 | Dec. 27 |
| 20 | 26 | 30 |
| 23 | 27 | 31 |
| 24 | 30 | Jan. 2, 1997 |
| 25 | Markets Closed | — |
| 26 | 31 | 3 |
| 27 | Jan. 2, 1997 | 6 |
| 30 | 3 | 7 |
| 31 | 6 | 8 |
| Jan. 1, 1997 | Markets Closed | — |
| 2 | 7 | 9 |

Brokers, dealers, and municipal securities dealers should use the foregoing settlement dates 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 those settlement dates to a particular situation may be directed to the NASD Uniform Practice Department at (203) 375-9609.

NASD NOTICE TO MEMBERS 95-108

As of November 20, 1995, the following 76 issues joined the Nasdaq National Market®, bringing the total number of issues to 3,946:

Nasdaq National Market
Additions, Changes, And
Deletions As Of
November 20, 1995

Suggested Routing

- Senior Management
- Advertising
- Corporate Finance
- Government Securities
- Institutional
- Internal Audit
- Legal & Compliance
- Municipal
- Mutual Fund
- Operations
- Options
- Registration
- Research
- Syndicate
- Systems
- Trading
- Training

| Symbol | Company | Entry Date | SOES Execution Level |
|--------|--|------------|----------------------|
| ARGL | Argyle Television, Inc. (Cl A) | 10/24/95 | 1000 |
| ETEC | Etec Systems, Inc. | 10/24/95 | 200 |
| ITLA | Imperial Thrift and Loan Association | 10/24/95 | 200 |
| DELI | Jerry's Famous Deli, Inc. | 10/24/95 | 200 |
| PARL | Parlux Fragrances, Inc. | 10/24/95 | 200 |
| PCYC | Pharmacyclics, Inc. | 10/24/95 | 1000 |
| NMBS | Nimbus CD International, Inc. | 10/26/95 | 200 |
| ROIX | Response Oncology, Inc. | 10/26/95 | 200 |
| IGPFF | Canadian Imperial Ginseng Products, Limited | 10/27/95 | 200 |
| CHTR | Charter Power Systems, Inc. | 10/27/95 | 500 |
| DWRX | DataWorks Corporation | 10/27/95 | 200 |
| ANBK | American National Bancorp, Inc. | 10/31/95 | 200 |
| CALVF | Caledonia Mining Corporation | 10/31/95 | 200 |
| CCTI | Cooper & Chyan Technology, Inc. | 10/31/95 | 500 |
| EMSWV | Effective Management Systems, Inc. | 10/31/95 | 200 |
| SHCR | Sheridan Healthcare, Inc. | 10/31/95 | 200 |
| FWWB | First Savings Bank of Washington Bancorp, Inc. | 11/1/95 | 200 |
| CFLO | Cardiometrics, Inc. | 11/3/95 | 200 |
| CLFY | Clarify, Inc. | 11/3/95 | 200 |
| FCFC | FirstCity Financial Corporation | 11/3/95 | 200 |
| FCFCP | FirstCity Financial Corporation (Pfd B) | 11/3/95 | 200 |
| HSIC | Henry Schein, Inc. | 11/3/95 | 200 |
| MRII | Medical Resources, Inc. | 11/3/95 | 500 |
| SHED | SMT Health Services Inc. | 11/3/95 | 500 |
| ARSW | Arbor Software Corporation | 11/7/95 | 1000 |
| PERC | Perclose, Inc. | 11/7/95 | 200 |
| WIKD | Pete's Brewing Company | 11/7/95 | 200 |
| RTEC | ROSS Technology, Inc. | 11/7/95 | 200 |
| RWTIW | Redwood Trust, Inc. (Wts 12/31/97) | 11/7/95 | 1000 |
| RSFCO | Republic Security Financial Corp. (Pfd C) | 11/7/95 | 200 |
| SANO | Sano Corporation | 11/7/95 | 200 |
| TRCI | Technology Research Corporation | 11/7/95 | 500 |
| BLDPF | Ballard Power Systems, Inc. | 11/8/95 | 200 |
| CSTF | COREStaff, Inc. | 11/8/95 | 1000 |
| GELX | GelTex Pharmaceuticals, Inc. | 11/8/95 | 200 |
| HHCA | Home Health Corporation of America, Inc. | 11/8/95 | 200 |
| MESW | Meta-Software, Inc. | 11/8/95 | 1000 |
| SNDK | SanDisk Corporation | 11/8/95 | 200 |
| VTNAF | Vitran Corporation, Inc. | 11/8/95 | 200 |
| CAFE | Country Star Restaurants, Inc. | 11/9/95 | 200 |
| FRAC | Fractal Design Corporation | 11/9/95 | 200 |
| IFIN | Investors Financial Services Corp. | 11/9/95 | 500 |
| UASI | United Air Specialists, Inc. | 11/9/95 | 500 |

| Symbol | Company | Entry Date | SOES Execution Level |
|---------------|---|-------------------|-----------------------------|
| VUTK | View Tech, Inc. | 11/9/95 | 500 |
| VUTKW | View Tech, Inc. (Wts 6/16/98) | 11/9/95 | 500 |
| YESS | Yes! Entertainment Corporation | 11/9/95 | 500 |
| YESSW | Yes! Entertainment Corporation (Wts 6/8/00) | 11/9/95 | 500 |
| ADAM | A.D.A.M. Software, Inc. | 11/10/95 | 500 |
| CAFEP | Country Star Restaurants, Inc. (Pfd A) | 11/10/95 | 200 |
| NSCI | National Surgery Centers, Inc. | 11/10/95 | 500 |
| SYNX | Sync Research, Inc. | 11/10/95 | 200 |
| VSIO | Visio Corporation | 11/10/95 | 200 |
| INSGY | Insignia Solutions, plc (ADR) | 11/14/95 | 200 |
| APMC | Applied Microsystems Corporation | 11/15/95 | 200 |
| LUMI | Lumisys Incorporated | 11/15/95 | 200 |
| AMXX | AMX Corporation | 11/16/95 | 200 |
| ADVS | Advent Software, Inc. | 11/16/95 | 200 |
| ACNAF | Air Canada Corp. (Cl A NV) | 11/16/95 | 200 |
| ECGOF | American Eco Corporation | 11/16/95 | 500 |
| CLYS | Catalyst International, Inc. | 11/16/95 | 200 |
| LBMSY | Learmonth & Burchett Mgmt Systems, Inc. (ADR) | 11/16/95 | 1000 |
| ROCM | Rochester Medical Corporation | 11/16/95 | 500 |
| SHEDW | SMT Health Services Inc. (Wts 3/4/97) | 11/16/95 | 500 |
| SAVLY | Saville Systems, plc (ADR) | 11/16/95 | 500 |
| VSEN | Video Sentry Corporation | 11/16/95 | 500 |
| PHTN | Photon Dynamics, Inc. | 11/17/95 | 1000 |
| AEIS | Advanced Energy Industries, Inc. | 11/17/95 | 1000 |
| CFCI | CFC International, Inc. | 11/17/95 | 500 |
| CORT | Cort Business Services Corporation | 11/17/95 | 200 |
| FCWI | First Commonwealth, Inc. | 11/17/95 | 200 |
| IDXC | IDX Systems Corporation | 11/17/95 | 500 |
| SMOD | SMART Modular Technologies, Inc. | 11/17/95 | 200 |
| SCOP | Scopus Technology, Inc. | 11/17/95 | 200 |
| SCUR | Secure Computing Corporation | 11/17/95 | 500 |
| SIMN | Simon Transportation Services, Inc. | 11/17/95 | 200 |
| SFWR | Software 2000, Inc. | 11/17/95 | 1000 |

Nasdaq National Market Symbol And/Or Name Changes

The following changes to the list of Nasdaq National Market securities occurred since October 20, 1995:

| New/Old Symbol | New/Old Security | Date Of Change |
|-----------------------|--|-----------------------|
| TNTX/TMAT | T-NETIX Inc./Tele-Matic Corporation | 10/23/95 |
| DOSE/DOSE | Capstone Pharmacy Services, Inc./Choice Drug Systems, Inc. | 10/24/95 |
| DOSEW/DOSEW | Capstone Pharmacy Services, Inc. (Wts 3/31/96)/ Choice Drug Systems, Inc. (Wts 3/31/96) | 10/24/95 |
| ACOM/ACOM | A + Network Inc./A + Communications, Inc. | 10/25/95 |
| PFACP/PFAPV | Pro-Fac Cooperative, Inc. (Cl A Cum Pfd)/ Pro-Fac Cooperative, Inc. (Cl A Cum Pfd W/I) | 10/25/95 |
| AVRTW/AVRTW | Avert, Inc. (Wts 4/30/96)/Avert, Inc. (Wts 12/22/95) | 10/27/95 |
| SBLI/SBLI | Staff Builders, Inc. (Cl A)/Staff Builders, Inc. | 10/27/95 |

| New/Old Symbol | New/Old Security | Date Of Change |
|-----------------------|--|-----------------------|
| MAIR/ATCC | Mesaba Holdings, Inc./Mesaba Holdings, Inc. | 10/30/95 |
| TRUV/ROPS | Truevision, Inc./RasterOps | 10/30/95 |
| STAC/STAC | Stac, Inc./Stac Electronics | 10/30/95 |
| VISN/VISN | Sight Resources Corporation/ NewVision Technology, Inc. | 10/31/95 |
| VISNW/VISNW | Sight Resources Corp. (Wts 10/31/95)/ NewVision Technology, Inc. (Wts 10/31/95) | 10/31/95 |
| VISNZ/VISNZ | Sight Resources Corp. (Wts 8/25/99)/ NewVision Technology, Inc. (Wts 8/25/99) | 10/31/95 |
| SOPN/SOPN | First Savings Bancorp Inc./ First Savings Bank of Moore County Inc. | 11/1/95 |
| ISER/MMIM | InnoServ Technologies Inc./MMI Medical, Inc. | 11/1/95 |
| ODSI/ODSI | Optical Data Systems, Inc./ Optical Data Systems, Inc. | 11/1/95 |
| EMSIW/EMSWV | Effective Mgmt Systems, Inc. (Wts 9/6/05)/ Effective Mgmt Systems, Inc. (Wts W/I) | 11/6/95 |
| HRDG/HRDG | Harding Lawson Associates Group, Inc./ Harding Associates, Inc. | 11/6/95 |
| WPGDY/WPPGY | WPP Group plc (ADR New (1-5 R/S)(10 ORDS:1 ADR)/ WPP Group plc (ADR (2 ORDS:1 ADR)) | 11/13/95 |
| UNII/ACLV | Unit Instruments, Inc./ Autoclave Engineers, Inc. | 11/17/95 |
| KIDE/LCIC | 4 Kids Entertainment Inc./ Leisure Concepts Inc. | 11/17/95 |
| USRV/MCHS | US SerVis, Inc./Micro Healthsystems, Inc. | 11/20/95 |

Nasdaq National Market Deletions

| Symbol | Security | Date |
|---------------|--------------------------------------|-------------|
| ELCN | Elco Industries, Inc. | 10/23/95 |
| ERIRY | LM Ericsson Telephone Company (Rts) | 10/24/95 |
| LICIA | Lilly Industries, Inc. (Cl A) | 10/25/95 |
| INSMA | Insituform Mid-America, Inc. | 10/26/95 |
| METS | Met-Coil Systems Corporation | 10/26/95 |
| PURT | Pure Tech International, Inc. | 10/27/95 |
| CRLN | CareLine, Inc. | 10/30/95 |
| FRAM | Frame Technology Corp. | 10/30/95 |
| HUFK | Huffman Koos Inc. | 10/30/95 |
| LTCO | Lawyers Title Corp. | 10/30/95 |
| NORL | Norrell Corp. | 10/30/95 |
| BRDL | Brendle's Incorporated | 11/1/95 |
| FFOM | FirstFed Michigan Corp. | 11/1/95 |
| HFBS | Heritage Federal Bancshares, Inc. | 11/1/95 |
| JOSL | Joslyn Corporation | 11/1/95 |
| VISNW | Sight Resources Corp. (Wts 10/31/95) | 11/1/95 |
| INDEW | IndeNet, Inc.(Wts B 8/31/98) | 11/2/95 |
| ORPC | Orion Pictures Corp. | 11/2/95 |
| RENL | REN Corporation-USA | 11/2/95 |
| SSBC | Shelton Bancorp, Inc. | 11/2/95 |
| BLLE | Bolle America, Inc. | 11/3/95 |

| Symbol | Security | Date |
|---------------|---|-------------|
| DEPCA | DEP Corporation (Cl A) | 11/3/95 |
| DEPCB | DEP Corporation | 11/3/95 |
| MNCO | Michigan National Corporation | 11/3/95 |
| CFFS | Columbia First Bank, A Federal Savings Bank | 11/6/95 |
| PHARY | Pharmacia Corporation | 11/6/95 |
| PHYB | Pioneer Hi-Bred International, Inc. | 11/6/95 |
| LGNT | LEGENT Corp. | 11/7/95 |
| SYNT | Syntro Corporation | 11/7/95 |
| ROUS | The Rouse Company | 11/9/95 |
| ROUSP | The Rouse Company (CV Pfd A) | 11/9/95 |
| WORKE | Work Recovery, Inc. | 11/9/95 |
| DASW | Data Switch Corp. | 11/10/95 |
| MDAL | MedAlliance Inc. | 11/13/95 |
| ROPK | Ropak Corp. | 11/13/95 |
| DVRY | DeVRY INC. | 11/14/95 |
| MSII | Medicine Shoppe International, Inc. | 11/14/95 |
| ROBC | Robec, Inc. | 11/14/95 |
| FERT | Nu-West Industries, Inc. | 11/15/95 |
| SAYT | Sayett Group, Inc. | 11/15/95 |
| AAMS | Aames Financial Corp. | 11/20/95 |
| DFNR | D F & R Restaurants, Inc. | 11/20/95 |
| HDSNW | Hudson Technologies, Inc. (Wts 11/1/99) | 11/20/95 |

Questions regarding this Notice should be directed to Mark A. Esposito, Nasdaq Market Services Director, Issuer Services, at (202) 496-2536. Questions pertaining to trade reporting rules should be directed to Bernard Thompson, Assistant Director, NASD Market Surveillance, at (301) 590-6436.

NASD NOTICE TO MEMBERS 95-109

Fixed Income Pricing
System Additions,
Changes, And Deletions
As Of November 29, 1995

Suggested Routing

- Senior Management
- Advertising
- Corporate Finance
- Government Securities
- Institutional
- Internal Audit
- Legal & Compliance
- Municipal
- Mutual Fund
- Operations
- Options
- Registration
- Research
- Syndicate
- Systems
- Trading
- Training

As of November 29, 1995, the following bonds were added to the Fixed Income Pricing System (FIPSSM).

| Symbol | Name | Coupon | Maturity |
|---------|------------------------|--------|----------|
| MMG.GA | Metromedia Int'l Group | 9.875 | 3/15/97 |
| MMG.GB | Metromedia Int'l Group | 10.000 | 10/1/99 |
| MMG.GC | Metromedia Int'l Group | 10.000 | 10/1/99 |
| FMDD.GA | F&M Distributors | 11.500 | 4/15/03 |
| EZCI.GB | EZ Communications | 9.750 | 12/1/05 |
| LENF.GA | LenFest Communications | 8.375 | 11/1/05 |
| IVCC.GA | IVAC Corp | 9.250 | 12/1/02 |
| TEXN.GD | Tex-N.M. Power | 9.250 | 9/15/00 |
| UAL.GP | United Air | 10.360 | 11/13/12 |
| UAL.GQ | United Air | 10.360 | 11/20/12 |
| MBLM.GA | Mobile Media Commun | 9.375 | 11/1/07 |
| CVC.GE | Cablevision Systems | 9.250 | 11/7/95 |
| UMC.GA | United Meridian | 10.375 | 10/15/05 |
| QRUM.GB | Quorum Health Group | 8.750 | 11/1/05 |
| ACOM.GA | A+ Network | 11.875 | 11/1/05 |
| DAL.GX | Delta Air | 8.540 | 1/2/07 |
| OI.GI | Owens-Ill | 10.000 | 08/1/02 |
| SFR.GA | Santa Fe Energy Res. | 11.000 | 05/15/04 |

As of November 29, 1995, the following bonds were deleted from FIPS.

| Symbol | Name |
|---------|------------------|
| FMDD.GA | F&M distributors |
| UDC.GA | UDC Homes |

All bonds listed above are subject to trade-reporting requirements. Questions pertaining to trade-reporting rules should be directed to James C. Dolan, Assistant Director, NASD Market Surveillance, at (301) 590-6460.

DISCIPLINARY ACTIONS

Disciplinary Actions Reported For December

The NASD[®] has taken disciplinary actions against the following firms and individuals for violations of the NASD Rules of Fair Practice; securities laws, rules, and regulations; and the rules of the Municipal Securities Rulemaking Board. Unless otherwise indicated, suspensions will begin with the opening of business on Monday, December 18, 1995. The information relating to matters contained in this Notice is current as of the fifth of this month. Information received subsequent to the fifth is not reflected in this edition.

Firm Fined, Individual Sanctioned

M. Rimson & Co., Inc. (New York, New York) and Moshe Rimson (Registered Principal, New York, New York). The firm was fined \$10,000 and Rimson was fined \$5,000 and suspended from association with any NASD member as a general securities principal for 10 business days. The sanctions were based on findings the firm rendered knowing and substantial assistance in the unregistered distribution of shares of a common stock. The firm and Rimson also failed to establish and maintain written supervisory procedures to prevent or detect the violation.

Individuals Barred Or Suspended

Wilfred W. Alejandro (Registered Representative, Springfield, Ohio) submitted an Offer of Settlement pursuant to which he was fined \$20,000 and barred from association with any NASD member in any capacity. Without admitting or denying the allegations, Alejandro consented to the described sanctions and to the entry of findings that he failed to respond to NASD requests for information.

Thomas R. Alton (Associated Person, Alameda, California) was fined

\$50,000 and barred from association with any NASD member in any capacity. The Securities and Exchange Commission (SEC) affirmed the sanctions following appeal of a November 1994 National Business Conduct Committee (NBCC) decision. The sanctions were based on findings that Alton submitted to his member firm a Uniform Application for Securities Registration (Form U-4) wherein he gave false responses to questions about his disciplinary history.

Alton has appealed this action to a U.S. Court of Appeals, and the sanctions, other than the bar, are not in effect pending consideration of the appeal.

Daniel Michael Arsenault (Registered Representative, Keller, Texas) was fined \$25,000, suspended from association with any NASD member in any capacity for 30 days, ordered to requalify in all capacities, and must disgorge \$12,000 in commissions. The sanctions were based on findings that Arsenault effected unauthorized, excessive, and unsuitable transactions in the accounts of public customers at a loss of about \$19,914, without having reasonable grounds for believing that such transactions were suitable for the customers based on facts disclosed by the customers as to their security holdings, financial situations, and needs.

Lloyd H. Astrup (Registered Representative, Brighton, Michigan) submitted a Letter of Acceptance, Waiver and Consent pursuant to which he was fined \$6,000 and barred from association with any NASD member in any capacity. Without admitting or denying the allegations, Astrup consented to the described sanctions and to the entry of findings that he participated in a private offer and sale of securities to five public customers and received

\$1,000 in compensation, and, in connection with this, failed and neglected to give prior written notice to or receive prior written notice from his firm.

Ernest L. Beckwith (Registered Representative, Grand Rapids, Michigan) submitted a Letter of Acceptance, Waiver and Consent pursuant to which he was fined \$5,000, suspended from association with any NASD member in any capacity for two years, and required to pay \$10,042 in restitution to a member firm. Without admitting or denying the allegations, Beckwith consented to the described sanctions and to the entry of findings that he deposited a \$14,500 personal check in his securities account to pay for a \$10,042 margin debt, while he had a balance in his checking account of only \$325, causing the \$14,500 check to be returned to the member firm.

David C. Bellin (Registered Representative, Alexandria, Alabama) submitted a Letter of Acceptance, Waiver and Consent pursuant to which he was fined \$100,000 and barred from association with any NASD member in any capacity. Without admitting or denying the allegations, Bellin consented to the described sanctions and to the entry of findings that he received from a public customer checks totaling \$33,700.96 to be credited to the customer's variable annuity account. The NASD found that Bellin failed and neglected to deposit the funds into the customer's account, and, instead, converted the funds for his own use and benefit without the customer's knowledge or consent.

Lemorie Carter, Jr. (Registered Principal, Birmingham, Alabama) was fined \$70,000 and barred from association with any NASD member in any capacity. The sanctions were based on findings that Carter submitted 32 life insurance applications to

his member firm under the names of two other registered representatives of his member firm that caused 18 commission checks to be issued in the representatives' names and forged their signatures on the checks without the registered representatives' knowledge or consent. Carter also failed to respond to NASD requests for information.

Micah C. Douglas (Registered Representative, Kingwood, Texas) was fined \$7,500 and suspended from association with any NASD member in any capacity for 45 days. The NBCC imposed the sanctions following appeal of a Dallas District Business Conduct Committee (DBCC) decision. The sanctions were based on findings that Douglas failed to give his member firm prior written notice of outside business activities that consisted of securities transactions conducted in the name of a company with his name. Douglas also made misrepresentations to public customers about himself and his company. Specifically, Douglas falsely represented that his company was registered with the SEC as a broker/dealer, was a full-service broker/dealer, that all of the transactions effected by the firm were guaranteed by his member firm, had Securities Investor Protection Corporation coverage, and had never been the subject of any complaint or investigation by a self-regulatory organization. Douglas also made misrepresentations in connection with the sale of inverse floater notes in that he failed to disclose that the notes' yield would fluctuate inversely to prevailing interest rates.

Douglas has appealed this action to the SEC, and the sanctions are not in effect pending consideration of the appeal.

Ive C. Edwards, Jr. (Registered Principal, Southfield, Michigan) submitted a Letter of Acceptance,

Waiver and Consent pursuant to which he was fined \$85,000 and barred from association with any NASD member in any capacity. Without admitting or denying the allegations, Edwards consented to the described sanctions and to the entry of findings that he participated in the offer and sale of securities to public customers and received \$76,010 in compensation on a private basis and failed and neglected to give prior written notice to and receive prior written authorization from his firm.

Alex Folgen (Registered Representative, Brooklyn, New York) submitted a Letter of Acceptance, Waiver and Consent pursuant to which he was fined \$150,000 and barred from association with any NASD member in any capacity. Without admitting or denying the allegations, Folgen consented to the described sanctions and to the entry of findings that he solicited sales of common stock to public customers that included improper price predictions, misrepresentations and omissions of material fact about the stock. The findings also stated that Folgen knew, or should have known, that the stock was not suitable for at least one customer who purchased shares based on his recommendation. The NASD also found that Folgen failed to respond to NASD requests to appear and provide testimony in connection with the NASD's investigation of the stock's market activity.

Darryl M. Fromson (Registered Representative, La Mesa, California) submitted an Offer of Settlement pursuant to which he was fined \$5,000 and suspended from association with any NASD member in any capacity for one year. Without admitting or denying the allegations, Fromson consented to the described sanctions and to the entry of findings that he forged two public customers' signatures on two allocation/transfer election forms to expedite the pro-

cessing of paperwork necessary to facilitate their purchase of a variable life insurance policy. According to the findings, Fromson took loans against their whole life insurance policy. Although the customers had apparently approved of the transfer of funds, they had not authorized Fromson to sign their names on the forms.

Oliver D. Hollingsworth (Registered Representative, Broken Arrow, Oklahoma) submitted a Letter of Acceptance, Waiver and Consent pursuant to which he was fined \$15,000 and barred from association with any NASD member in any capacity. Without admitting or denying the allegations, Hollingsworth consented to the described sanctions and to the entry of findings that he engaged in outside business activities for which he received compensation without prior written notice to or approval from his member firm. The findings also stated that Hollingsworth engaged in a private securities transaction without prior written notice to and approval from his member firm. The NASD also found that Hollingsworth received from a public customer a \$10,000 check for investment in mutual funds. Hollingsworth mishandled the customer's fund in that he failed to make the investment as directed, and, instead, deposited the check into a checking account under his control, without the customer's knowledge or consent. In addition, the NASD determined that Hollingsworth failed and neglected to disclose his ownership of an entity on his Form U-4.

Terry Hyder (Registered Representative, Fresno, California) submitted a Letter of Acceptance, Waiver and Consent pursuant to which he was fined \$38,000 and barred from association with any NASD member in any capacity. Without admitting or denying the allegations, Hyder consented to the described sanctions and to the entry

of findings that he received from his member firm and deposited into his personal bank account five checks totaling \$18,000 that were drawn on a public customer's account without the customer's knowledge or consent. The findings also stated that Hyder forwarded a letter to his member firm allegedly written by the customer requesting that Hyder's name be added as a beneficial owner of the customer's account and that the address of record on this account be changed to Hyder's personal address.

Individuals Barred Or Suspended

Leon Joyner (Associated Person, Louisville, Kentucky) was fined \$45,000, barred from association with any NASD member in any capacity, and ordered to pay \$4,773.07 in restitution to his member firm's parent company. The sanctions were based on findings that Joyner received from public customers \$4,773.07 in cash and checks for payment of insurance premiums. Joyner failed and neglected to submit these funds on behalf of the customers and, instead, converted the funds for his own use and benefit, without the customers' knowledge or consent. Joyner also failed to respond to NASD requests for information.

Jay C. Kaufman (Registered Representative, Buffalo Grove, Illinois) submitted a Letter of Acceptance, Waiver and Consent pursuant to which he was fined \$60,000 and barred from association with any NASD member in any capacity. Without admitting or denying the allegations, Kaufman consented to the described sanctions and to the entry of findings that he obtained a total of \$9,792.85 in checks from a corporation that maintained 401(k) accounts at his member firm with instructions that the funds were to be promptly deposited into the accounts. Kaufman failed to follow the instruc-

tions in that he deposited the funds or caused them to be deposited into the operating account of a corporation in which he was president and had a beneficial interest and used the funds for some purpose other than the benefit of the retirement accounts.

Anthony G. Keshish (Registered Representative, Deer Park, New York) submitted a Letter of Acceptance, Waiver and Consent pursuant to which he was suspended from association with any NASD member in any capacity for five days. Without admitting or denying the allegations, Keshish consented to the described sanction and to the entry of findings that he caused customer orders to purchase a common stock and warrants to be received and processed by his member firm at prices that were not fair.

Richard Alan Kess (Registered Principal, Seminole, Florida) submitted an Offer of Settlement pursuant to which he was fined \$7,500, suspended from association with any NASD member in any capacity for 10 business days, and ordered to requalify by exam as a general securities representative and as a general securities principal. Without admitting or denying the allegations, Kess consented to the described sanctions and to the entry of findings that he engaged in private securities transactions outside the scope of his regular association with his member firm without giving prior written notice to and receiving written approval from his member firm. The NASD also found that Kess sent two letters to public customers that were not approved by his member firm and in one of the letters he represented that the customer would receive an annualized return of over 200 percent on an investment that they have not received.

Kess' suspension began November 20, 1995, and concluded December 4, 1995.

Michael Eugene Lange (Registered Representative, Gibson City, Illinois) was fined \$32,000, barred from association with any NASD member in any capacity, and required to pay \$2,000 in restitution to customers. The sanctions were based on findings that Lange obtained from public customers a \$2,000 check to purchase securities, and, instead, without the customers' knowledge or consent, deposited the check into an account that he controlled or had an interest in and converted the funds for his own use and benefit. Lange also failed to respond to NASD requests for information.

Alberto Larraz (Registered Representative, Port Chester, New York) submitted a Letter of Acceptance, Waiver and Consent pursuant to which he was fined \$25,000 and barred from association with any NASD member in any capacity. Without admitting or denying the allegations, Larraz consented to the described sanctions and to the entry of findings that he attempted to criminally possess a forged instrument and, knowing the same to be forged and with the intent to defraud, deceive, and injure another, attempted to possess and utter a forged instrument.

David A. MacLeod (Registered Representative, Ypsilanti, Michigan) submitted a Letter of Acceptance, Waiver and Consent pursuant to which he was fined \$5,000 and barred from association with any NASD member in any capacity. Without admitting or denying the allegations, MacLeod consented to the described sanctions and to the entry of findings that he participated in the offer and sale of securities to public customers on a private basis, and in connection with this, failed and neglected to give prior written notice to or receive prior written authorization from his firm.

Clyde Eugene Maxwell (Registered Representative, Waupun, Wisconsin)

submitted an Offer of Settlement pursuant to which he was fined \$100,000, barred from association with any NASD member in any capacity, and required to pay \$18,638.80 in restitution to a member firm. Without admitting or denying the allegations, Maxwell consented to the described sanctions and to the entry of findings that he obtained from public customers \$18,404 for investment purposes. Instead of using the funds as instructed by the customers, and without their knowledge or consent, Maxwell retained the funds for his own use and benefit. Maxwell also offered and sold variable life insurance products to 18 public customers and made misrepresentations of material facts or failed to state material facts to the customers in that he told the customers that the variable life insurance required only a single payment when Maxwell knew, or should have known, that the variable life insurance products required continuing payments from the customers to keep the policies in force.

Joseph Michael Naniewicz (Registered Representative, Shelby Township, Michigan) submitted an Offer of Settlement pursuant to which he was fined \$110,000 and barred from association with any NASD member in any capacity. Without admitting or denying the allegations, Naniewicz consented to the described sanctions and to the entry of findings that he caused \$46,215 from a customer's accounts to be used for the purchase of additional mutual fund shares and insurance policies for the customer without the customer's knowledge or consent. In addition, the findings stated that Naniewicz signed the customer's name to insurance policy loan request forms and mutual fund redemption forms and submitted the forms to his member firm without the customer's knowledge or consent.

Carl P. Nykaza (Registered Representative,

Trumbull, Connecticut) was fined \$100,000, barred from association with any NASD member in any capacity, and ordered to pay \$95,000 plus interest in restitution to a public customer. The NBCC imposed the sanctions following appeal of an Atlanta DBCC decision. The sanctions were based on findings that Nykaza withheld and misappropriated \$155,000, which he received from a public customer for a securities investment, without the knowledge or consent of the public customer or his member firm.

Yong Oh (Registered Representative, St. Petersburg, Florida) was fined \$12,000, barred from association with any NASD member in any capacity, and ordered to pay \$2,000 in restitution to a member firm. The sanctions were based on findings that Oh changed the address for two public customers' account to his home address, requested that a check for \$2,000 be issued from the customers' account, that the check be made out to his wife, and that the check be mailed to Oh at his home address, all without the customers' knowledge or consent. Oh obtained the check, endorsed the check, deposited it or caused it to be deposited in an account in which he had a beneficial interest, and used the funds for some purpose other than the customers' benefit without their knowledge or consent.

Jeffrey M. O'Rourke (Registered Representative, Pittsburgh, Pennsylvania) was fined \$20,000 and barred from association with any NASD member in any capacity. The NBCC affirmed the sanctions following appeal of a Philadelphia DBCC decision. The sanctions were based on findings that O'Rourke failed to respond to NASD requests for information about his termination from a member firm.

Michael Peter Pucci (Registered Representative, Milwaukee, Wis-

consin) submitted a Letter of Acceptance, Waiver and Consent pursuant to which he was fined \$2,500 and suspended from association with any NASD member in any capacity for six months. Without admitting or denying the allegations, Pucci consented to the described sanctions and to the entry of findings that he received from a public customer \$2,590 with instructions to credit the funds towards her children's variable appreciable life insurance policies. The NASD determined that Pucci failed to follow the customer's instructions in that he failed to deposit the cash promptly with his member firm.

Michael J. Searls (Registered Representative, Aurora, Colorado) submitted a Letter of Acceptance, Waiver and Consent pursuant to which he was fined \$50,000 and barred from association with any NASD member in any capacity. Without admitting or denying the allegations, Searls consented to the described sanctions and to the entry of findings that he effected a \$3,000 wire transfer from the account of a public customer to the bank account of a third party, without the public customer's knowledge or consent. The NASD also determined that, in connection with the wire transfer, Searls prepared a false letter of authorization to which he forged the public customer's signature.

Thomas M. Sexton (Registered Representative, Clarkston, Michigan) submitted a Letter of Acceptance, Waiver and Consent pursuant to which he was fined \$10,000 and barred from association with any NASD member in any capacity. Without admitting or denying the allegations, Sexton consented to the described sanctions and to the entry of findings that he participated in the offer and sale of securities to public customers and received \$4,095 in compensation on a private basis

without giving prior written notice to or receiving prior written authorization from his member firm.

Lanny R. Stout (Registered Principal, Redlands, California) was fined \$10,000, suspended from association with any NASD member in any capacity for 15 days, suspended for 90 days from participation in underwritings or private placements, and ordered to requalify by exam as a principal before acting again in that capacity. The NBCC imposed the sanctions following appeal of a Los Angeles DBCC decision. The sanctions were based on findings that Stout participated in a contingent offering of securities on a minimum-maximum basis and failed to return investor funds when the terms of the offering were not met. Stout also failed to transmit investor funds promptly to a separate bank escrow account and permitted the offering proceeds to be disbursed from the escrow account.

Donnell George Vaughn (Registered Representative, West Des Moines, Iowa) and **Barry Alan Milton (Registered Representative, Indianola, Iowa)**. Vaughn was fined \$5,000, suspended from association with any NASD member in any capacity for 90 days, and required to pay \$597.56 to a former employee of his member firm. Milton was fined \$2,500 and suspended from association with any NASD member in any capacity for 10 business days. The NBCC imposed the sanctions following appeal of a Kansas City DBCC decision. The sanctions were based on findings that, at the instruction of Vaughn, Milton forged the endorsement of an employee of his member firm on the reverse side of two checks, which totaled \$737.14, and deposited the checks into his own business account. On the same date, Milton wrote a check to Vaughn on the same account for \$597.56, which was the amount of money Milton owed

Vaughn. The check was endorsed and deposited into Vaughn's business account, and the balance of \$139.58 was retained by Milton.

Notricia D. Winborn (Registered Representative, Southfield, Michigan) submitted a Letter of Acceptance, Waiver and Consent pursuant to which she was fined \$50,000 and barred from association with any NASD member in any capacity. Without admitting or denying the allegations, Winborn consented to the described sanctions and to the entry of findings that she participated in the offer and sale of securities to public customers on a private basis, and received \$43,063 in compensation without giving prior written notice to or receiving prior written authorization from her member firm.

Jeffrey R. Wood (Registered Representative, East Windsor, New Jersey) submitted a Letter of Acceptance, Waiver and Consent pursuant to which he was fined \$87,000, barred from association with any NASD member in any capacity, and ordered to pay \$31,900 in restitution to six public customers. Without admitting or denying the allegations, Wood consented to the described sanctions and to the entry of findings that he caused 20 buy and sell transactions to be effected for the accounts of public customers without their prior knowledge or authorization. The NASD also found that Wood solicited public customers and conducted a securities business with these customers, without being registered to act in such a capacity.

Christine L. Zachos (Registered Representative, Walled Lake, Michigan) submitted a Letter of Acceptance, Waiver and Consent pursuant to which she was fined \$10,000 and barred from association with any NASD member in any capacity. Without admitting or denying the allegations, Zachos consented

to the described sanctions and to the entry of findings that she participated in the offer and sale of securities to public customers and received \$2,250 in compensation on a private basis without giving prior written notice to or receiving prior written authorization from her member firm.

Individuals Fined

James N. Burrow (Registered Representative, Little Rock, Arkansas) submitted a Letter of Acceptance, Waiver and Consent pursuant to which he was fined \$10,000. Without admitting or denying the allegations, Burrow consented to the described sanction and to the entry of findings that he executed, or caused to be executed, six purchase and sale transactions for certain government agency securities at prices that were not reasonably related to the then-current market price for these securities. By engaging in such transactions, Burrow negligently assisted others to engage in a practice and artifice, commonly identified as "adjusted trading." The NASD also determined that Burrow was negligent in failing to independently determine the market price for the securities.

Mark Francis Hales (Registered Representative, Malibu, California) submitted a Letter of Acceptance, Waiver and Consent pursuant to which he was fined \$12,399.84. Without admitting or denying the allegations, Hales consented to the described sanction and to the entry of findings that he exercised discretionary authority and executed trades in the securities account of a public customer and failed to obtain the customer's written authorization to execute the transactions.

Lawrence Arthur Horbinski (Registered Principal, New Berlin, Wisconsin), Katherine Ann Kalmer (Registered Representative, New

Berlin, Wisconsin), and John Edward Kalmer (Registered Representative, New Berlin, Wisconsin) were fined \$528,000, jointly and severally, and barred from association with any NASD member in any capacity. However, the fine may be reduced by a maximum of \$318,000 by any restitution they make to public customers. The sanctions were based on findings that Horbinski, J. Kalmer, and K. Kalmer engaged in private securities transactions without giving prior written notice to or receiving prior written approval from their member firm. Horbinski, K. Kalmer, and J. Kalmer also failed to respond to NASD requests for information.

Donald C. Shedd (Registered Representative, Lakeland, Florida) was fined \$10,000, ordered to disgorge \$1,600 in commissions, and required to requalify by exam as a general securities representative. The NBCC imposed the sanctions following appeal of an Atlanta DBCC decision. The sanctions were based on findings that Shedd engaged in private securities transactions outside the regular course or scope of his association with his member firm and failed to give prior written notice to or receive prior written notice from the member firm.

Firm Expelled For Failure To Pay Fines, Costs, And/Or Provide Proof Of Restitution In Connection With Violations

Franklin-Lord, Inc., Scottsdale, Arizona

Firm Suspended

The following firm was suspended from membership in the NASD for failure to comply with formal written requests to submit financial information to the NASD. The action was

based on the provisions of Article IV, Section 5 of the NASD Rules of Fair Practice and Article VII, Section 2 of the NASD By-Laws. The date the suspension began is listed after the entry. If the firm has complied with the requests for information, the listing also includes the date the suspension concluded.

Smith Mitchell Investment, Seattle, Washington (October 27, 1995)

Firms Suspended Pursuant To Article VI Section 2 Of The NASD Code Of Procedures For Failure To Pay An Arbitration Award

The date the suspension began is listed after each entry.

M. Rimson & Co., Inc., New York, New York (November 7, 1995)

Robert Scott Securities, Inc., Irvine, California (October 20, 1995)

Individuals Whose Registrations Were Revoked For Failure To Pay Fines, Costs, And/Or Provide Proof Of Restitution In Connection With Violations

Edwin O. Griffin, Addison, Texas

David M. Hume, Portland, Oregon

Joseph C. Marfoglio, Little Rock, Arkansas

Anthony J. Miranti, San Diego, California

Kenneth Lee Moreland, Houston, Texas

Robert J. Telese, Sarasota, Florida

Chris J. Thomas, Denver, Colorado

Jimmy W. Villalobos, LaMesa, California

Individuals Whose Registrations Were Cancelled/Suspended Pursuant To Article VI Section 2 Of The NASD Code Of Procedures For Failure To Pay Arbitration Awards

The date the suspension began is listed after each entry.

Margaret Boland, Anaheim, California (October 20, 1995)

Robert Bobak Fallah, Syosset, New York (November 9, 1995)

David L. Hagans, New York, New York (October 13, 1995)

Aleksandr Shvarts, Elizabeth, New Jersey (October 26, 1995)

NASD Takes Disciplinary Action And Assesses \$258,400 In Fines Against Worthen Investments, Inc., And Individuals For Mutual Fund Sales On Bank Premises

The NASD took disciplinary action against Worthen Investments, Inc., of Little Rock, Arkansas (Worthen); Patrick D. Miller, its former president; Frank M. McGibbony, its executive vice president and former compliance officer; and seven registered representatives in connection with the marketing and sale of various mutual fund products.

Pursuant to the NASD disciplinary action taken by its New Orleans DBCC, Worthen and all of the named respondents, without admitting or denying the allegations, consented to the findings that they made, or caused to have been made, misleading statements to their customers about the characteristics and safety features of certain mutual fund investments. Many of the mutual fund sales activities that were the subject of the NASD's disciplinary action occurred through Worthen operating on the premises of a bank.

Worthen also failed and neglected to perform adequate due diligence in connection with the promotion and sale of certain mutual fund products. Worthen did not keep copies of all customer correspondence, and failed to establish and maintain an adequate supervisory system.

Under sanctions imposed by the NASD, Worthen was censured and fined \$100,000. Worthen has agreed to several additional sanctions, including an undertaking to conduct a complete audit of all internal policies and procedures, including the adequacy of Worthen's supervisory procedures. Further, Worthen has agreed to form an investment committee to meet regularly to review the sale of all securities by Worthen sales personnel, especially with respect to suitability and the use of sales literature to promote the sale of the securities. The results of the independent audit and investment committee reviews are subject to NASD inspection.

Patrick D. Miller, the firm's former president, consented to the findings that he made, or caused to have been made, misleading and inaccurate statements to public customers in that through written solicitations approved by Miller, at least seven registered representatives employed by Worthen sent misleading sales correspondence to public customers that misstated the characteristics and safety features of certain mutual fund investments. Miller also failed to supervise employees who use such correspondence. Without admitting or denying the charges, Miller agreed to sanctions of a censure, a \$10,000 fine, a five-year suspension as a principal, and a requirement to requalify in all capacities.

Frank M. McGibbony, the firm's executive vice president and former compliance officer, consented to findings that he approved certain

items of misleading sales correspondence, which misstated the characteristics and safety features of certain mutual fund investments. McGibbony also failed to ensure that copies of customer correspondence were properly maintained in the firm's files, and failed to establish an adequate supervisory system. Without admitting or denying the allegations, McGibbony agreed to sanctions of a censure, a \$5,000 fine, a 30-day suspension as a principal, and a requirement to requalify as a principal.

Seven registered representatives employed by Worthen consented to findings that they used misleading sales correspondence that misstated the characteristics and safety features of certain mutual fund investments.

- Jamai W. Weber was censured, fined \$70,300, suspended in all capacities for three months, and required to requalify in all capacities.
- Michael C. McKinney was censured and fined \$17,900.
- Jimmy D. Harvey was censured and fined \$15,100.
- Mark H. Mathisen was censured and fined \$10,400.

Three other registered representatives employed by Worthen were also using misleading sales correspondence to promote mutual fund sales, and each was censured and assessed fines ranging from \$4,200 to \$7,600. In the aggregate, these seven registered representatives were fined \$130,900.

Worthen and five individuals registered with Worthen, and employed by Worthen Bank & Trust company, N.A., Worthen's parent company, were charged with a violation of the NASD By-Laws, in that the individuals maintained their securities licenses at Worthen when they were

not actively involved in the securities industry. Each individual was censured and fined \$2,500.

Following the occurrence of these violations, Boatmen's Bancshares,

Inc., which has recently acquired Worthen, cooperated fully with the NASD investigation, and promptly instituted new policies and procedures at Worthen to assure compliance and to prevent future violations.

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