

# NASD NOTICE TO MEMBERS 96-1

**Mail Vote—NASD Solicits Member Vote On Amendments To The NASD By-Laws To Require Members To File Required Documents Electronically; Last Voting Date: February 16, 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 on proposed amendments to the NASD By-Laws that will require members to file electronically Forms U-4, U-5, and BD and amendments thereto. These amendments also establish time periods for when such filings must be made. **Ballots must be postmarked no later than February 16, 1996.** Text of the amendment follows this Notice.

## Background

Since 1992, the NASD has undertaken an extensive redesign effort to improve the Central Registration Depository (CRD<sup>SM</sup>) and to move toward total electronic filing of registration-related forms. The central focus of the redesign effort is to provide efficient, reliable, effective state-of-the-art systems and procedures at reasonable cost to support licensing and regulation of the securities industry. Implementation of mandatory electronic filing will eliminate delays in processing information in hard copy. Currently scheduled for pilot phase during February 1996, the redesigned CRD will offer efficient processing of registration-related filings and user-friendly access to information in those filings for all industry and regulatory participants. A detailed discussion of the CRD implementation plan appears in *Membership On Your Side*, Vol. 4, No. 5, December 1995. (Copies of this issue may be obtained by contacting your assigned Quality & Service Team.)

The revisions to the By-Laws include amendments that require filers to submit information on Forms U-4, U-5, and BD electronically. The impact of this requirement on smaller member firms with limited access and form-filing needs was considered by the NASD Board of Governors. The Board addressed this concern by providing all firms with the option to

contract with third-party service bureaus to handle the filings with the CRD. Member firms can choose for themselves based on their needs whether to file information electronically themselves by acquiring the necessary hardware and software and training their registration staff or to do so via a third-party service bureau. The NASD Membership Department is working with vendors and service bureaus to make sure they are prepared to provide this service to members.

Specific By-Laws provisions that currently require filers to use "forms" or provide "written notification" are changed to require filing forms electronically. The provisions that refer to the filer obligations to keep applications "current" have been revised to set out more specific requirements including specific time frames (usually 30 days) for the filing of information. In addition, NASD membership eligibility criteria are amended to require firms to file electronically. Firms who fail to comply with the electronic filing requirement may be subject to suspension or cancelation of membership.

## Request For Vote

The NASD Board of Governors believes the proposed amendments will provide a more efficient and reliable system for the filing of required forms and amendments thereto. 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 February 16, 1996.**

Questions regarding this Notice may be directed to Craig L. Landauer, Associate General Counsel, Office of General Counsel, at (202) 728-8291.

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## For Member Vote—Text Of Proposed Amendments To The By-Laws

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

### NASD BY-LAWS

#### ARTICLE II QUALIFICATIONS OF MEMBERS AND ASSOCIATED PERSONS

Sec. 1 and Sec. 2 No change.

#### Ineligibility of Certain Persons for Membership or Association

Sec. 3(a) No registered broker, dealer, municipal securities broker or dealer, or government securities broker or dealer shall be admitted to membership, and no member shall be continued in membership, if such broker, dealer, municipal securities broker or dealer, or government securities broker or dealer, or member fails or ceases to satisfy the qualification requirements under Section 2 of this Article, if applicable, or if such broker, dealer, municipal securities broker or dealer or government securities broker or dealer, or member is or becomes subject to a disqualification under Section 4 of this Article[,] or if such member fails to comply with the requirement that all forms filed pursuant to these By-Laws be filed via electronic process or such other process the Corporation may prescribe.

(b) through (f) No change.

Sec. 4 No change.

#### ARTICLE III MEMBERSHIP

##### Application for Membership

Sec. 1(a) Application for membership in the Corporation, properly signed by the applicant, shall be made to the Corporation via electronic process or such other process the Corporation may prescribe, on the form to be pre-

scribed by the Corporation, and shall contain:

(b) and (c) No change.

(d) Each member shall ensure that its membership application with the Corporation is kept current at all times by supplementary amendments via electronic process or such other process the Corporation may prescribe to the original application. Such amendments to the application shall be filed with the Corporation not later than thirty (30) calendar days after learning of the facts or circumstances giving rise to the amendment.

Sec. 2 No change.

##### Executive Representative

Sec. 3 Each member shall appoint and certify to the Secretary of the Corporation one “executive representative” who shall represent, vote and act for the member in all the affairs of the Corporation, except that other executives of a member may also hold office in the Corporation, serve on the Board of Governors or committees of the Corporation, or otherwise take part in the affairs of the Corporation. A member may change its executive representative upon giving [written] notice thereof via electronic process or such other process the Corporation may prescribe to the Secretary, or may, when necessary, appoint, by [written] notice via electronic process to the Secretary, a substitute for its executive representative. An executive representative of a member or a substitute shall be a member of senior management and registered principal of the member.

Sec. 4 No change.

##### Resignation of Members

Sec. 5 Membership in the Association may be voluntarily terminated only by formal resignation. Resigna-

tions of members must be filed via electronic process or such other process the Corporation may prescribe [in writing] and addressed to the Corporation which shall immediately notify the appropriate District Committee. Any member may resign from the Corporation at any time. Such resignation shall not take effect until thirty (30) calendar days after the receipt thereof by the Corporation and until all indebtedness due the Corporation from such member shall have been paid in full and so long as any complaint or action is pending against the member under the Code of Procedure. The Corporation, however, may in its discretion declare a resignation effective at any time.

Sec. 6 and Sec. 7 No change.

##### Registration of Branch Offices

Sec. 8(a) No change.

(b) Each member of the Corporation shall promptly advise the Corporation via electronic process or such other process the Corporation may prescribe of the opening, [or] closing, relocation, change in designated supervisor or change in designated activities of any branch office of such member not later than thirty (30) calendar days after the effective date of such change.

Sec. 9 and Sec. 10 No change.

#### ARTICLE IV REGISTERED REPRESENTATIVES AND ASSOCIATED PERSONS

##### Qualification Requirements

Sec. 1 No change.

Sec. 2(a) Application by any person for registration with the Corporation, properly signed by the applicant, shall be made to the Corporation via electronic process or such other process the Corporation may prescribe,

on the form to be prescribed by the Corporation [Board of Governors] and shall contain:

(1) through (3) No change.

(b) No change.

(c) Every application for registration filed with the Corporation shall be kept current at all times by supplementary amendments via electronic process or such other process the Corporation may prescribe to the original application. Such amendments to the application shall be filed with the Corporation not later than thirty (30) calendar days of learning of the facts or circumstances giving rise to the amendment. If such amendment involves a statutory disqualification as defined in Section 3(a)(39) and Section 15(b)(4) of the Act, such amendment shall be filed not later than ten (10) calendar days after such disqualification occurs.

**Notification by Member to Corporation and Associated Person of Termination; Amendment to Notification**

**Sec. 3(a)** Following the termination of the association with a member of a

person who is registered with it, such member shall [promptly, but] not [in no event] later than thirty (30) calendar days after such termination, give [written] notice of the termination of such association to the Corporation [Association] via electronic process or such other process the Corporation may prescribe on a form designated by the Corporation [Board of Governors], and concurrently shall provide to the person whose association has been terminated a copy of said notice as filed with the Corporation [Association]. A member which does not submit such notification [in writing], and provide a copy to the person whose association has been terminated, within the time period prescribed shall be assessed a late filing fee as specified by the Corporation [Board of Governors]. Termination of registration of such person associated with a member shall not take effect so long as any complaint or action under the Code of Procedure is pending against a member and to which complaint or action such person associated with a member is also a respondent, or so long as any complaint or action is pending against such person individually under the Code of Procedure. The Corporation, however, may in its discretion

declare the termination effective at any time.

(b) The member shall notify the Corporation [Association] via electronic process or such other process the Corporation may prescribe [in writing] by means of an amendment to the notice filed pursuant to paragraph (a) above in the event that the member learns of facts or circumstances causing any information set forth in said notice to become inaccurate or incomplete. Such amendment shall be filed with the Corporation [Association] via electronic process or such other process the Corporation may prescribe and a copy provided to the person whose association with the member has been terminated not later than thirty (30) calendar days after the member learns of facts or circumstances giving rise to the amendment.



# NASD NOTICE TO MEMBERS 96-2

## SEC Approves Amendments To Article II, Section 4 Of The NASD By-Laws To Include Statutory Disqualification Provisions Adopted By Congress

### 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 November 8, 1995, in Rel. No. 34-36466; SR-NASD-95-45, the Securities and Exchange Commission (SEC) approved amendments to Article II, Section 4 of the NASD® By-Laws to conform the NASD's eligibility criteria to changes adopted by Congress in 1990 to the statutory disqualification provisions found in Sections 3(a)(39) and 15(b)(4) of the Securities Exchange Act of 1934 (the Act).

### Background

Section 15(A)(g)(2) of the Act gives the NASD the authority to bar a person from becoming or remaining associated with an NASD member if the person is or becomes subject to a statutory disqualification as defined in Sections 3(a)(39) and 15(b)(4) of the Act. The NASD's eligibility criteria in Article II, Section 4 of the By-Laws have followed the statutory disqualification provisions in the Act. In November 1990, Congress amended the statutory disqualification provisions of the Act to include all felony convictions for 10 years from the date of the conviction and to include various foreign regulatory actions.

### Description Of Amendments

The NASD, in the interest of uniformity and consistency, has amended Article II, Section 4 of the By-Laws to add the changes that were adopted by Congress in 1990. All felony convictions will be statutory disqualifications for 10 years from the date of the conviction. Various foreign regulatory actions will be statutory disqualifications as well. Members are reminded, as was discussed in *Notice to Members 90-2*, that they cannot employ or have associated with them in any capacity a person subject to a statutory disqualification, unless such employment or association has been

approved in advance by the NASD and, where applicable, the SEC.

Questions regarding this Notice may be directed to Craig L. Landauer, Associate General Counsel, Office of General Counsel, at (202) 728-8291.

### Text Of New Rule

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

## ARTICLE II

### QUALIFICATIONS OF MEMBERS AND ASSOCIATED PERSONS

**Sec. 1** through **Sec. 3** No change.

### Definition of Disqualification

**Sec. 4.** A person is subject to a "disqualification" with respect to membership, or association with a member, if such person:

### [Commission and Self- Regulatory Organization Disciplinary Sanctions]

(a) has been and is expelled or suspended from membership or participation in, or barred or suspended from being associated with a member of, any self-regulatory organization, foreign equivalent of a self-regulatory organization, foreign or international securities exchange, contract market designated pursuant to Section 5 of the Commodity Exchange Act, or foreign equivalent of a contract market designated pursuant to [or futures association, registered under Section 17 of such Act, or] any substantially equivalent foreign statute or regulation, or futures association registered under Section 17 of the Commodity Exchange Act or a foreign equivalent of a futures association designated pursuant to any substantially equivalent foreign statute or regulation, or

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has been and is denied trading privileges on any such contract market or foreign equivalent;

(b) [is subject to an order of the Commission or, other appropriate regulatory agency denying, suspending for a period not exceeding twelve months, or revoking his registration as a broker, dealer, municipal securities dealer (including a bank or department or division of a bank), or government securities broker or dealer or barring or suspending him from being associated with a broker, dealer, or municipal securities dealer (including a bank or department or division of a bank), or is subject to an order of the Commodity Futures Trading Commission denying, suspending, or revoking his registration under the Commodity Exchange Act;]

is subject to —

(1) an order of the Commission, other appropriate regulatory agency, or foreign financial regulatory authority:

(i) denying, suspending for a period not exceeding 12 months, or revoking his registration as a broker, dealer, municipal securities dealer, government securities broker, or government securities dealer or limiting his activities as a foreign person performing a function substantially equivalent to any of the above; or

(ii) barring or suspending for a period not exceeding 12 months his being associated with a broker, dealer, municipal securities dealer, government securities broker, government securities dealer, or foreign person performing a function substantially equivalent to any of the above;

(2) an order of the Commodity Futures Trading Commission denying, suspending, or revoking his registration under the Commodity

Exchange Act (7 U.S.C. 1 et seq.); or

(3) an order by a foreign financial regulatory authority denying, suspending, or revoking the person's authority to engage in transactions in contracts of sale of a commodity for future delivery or other instruments traded on or subject to the rules of a contract market, board of trade, or foreign equivalent thereof;

(c) by his conduct while associated with a broker, dealer, municipal securities dealer [(including a bank or department or division of a bank)], [or] government securities broker, or government securities dealer, or while associated with an entity or person required to be registered under the Commodity Exchange Act, has been found to be a cause of any effective suspension, expulsion or order of the character described in subsections (a) or (b) of this Section;

(d) by his conduct while associated with any broker, dealer, municipal securities dealer, government securities broker, government securities dealer, or any other entity engaged in transactions in securities, or while associated with an entity engaged in transactions in contracts of sale of a commodity for future delivery or other instruments traded on or subject to the rules of a contract market, board of trade, or foreign equivalent thereof, has been found to be a cause of any effective suspension, expulsion, or order by a foreign or international securities exchange or foreign financial regulatory authority empowered by a foreign government to administer or enforce its laws relating to financial transactions as described in subsection (a) or (b) of this Section;

[(d)](e) has associated with him any person who is known, or in the exercise of reasonable care should be known, to him to be a person described in subsections (a), (b), [or]

(c), or (d) of this Section;

#### **[Misstatements]**

[(e)](f) has willfully made or caused to be made in any application for membership in a self-regulatory organization, or to become associated with a member of a self-regulatory organization, or in any report required to be filed with a self-regulatory organization, or in any proceeding before a self-regulatory organization, any statement which was at the time, and in light of the circumstances under which it was made, false or misleading with respect to any material fact, or has omitted to state in any such application, report, or proceeding any material fact which is required to be stated therein;

#### **[Convictions]**

[(f)](g)(1) has been convicted within ten years preceding the filing of any application for membership in the Corporation, or to become associated with a member of the Corporation, or at any time thereafter, of any felony or misdemeanor or of a substantially equivalent crime by a foreign court of competent jurisdiction which:

[(1)](i) involves the purchase or sale of any security, the taking of a false oath, the making of a false report, bribery, perjury, burglary, any substantially equivalent activity however denominated by the laws of the relevant foreign government, or conspiracy to commit any such offense;

[(2)](ii) arises out of the conduct of the business of a broker, dealer, municipal securities dealer, [or] government securities broker, [or] government securities dealer, investment adviser, bank, insurance company, fiduciary, transfer agent, foreign person performing a function substantially equivalent to any of the above, or any entity or person

required to be registered under the Commodity Exchange Act or any substantially equivalent foreign statute or regulation;

[(3)](iii) involves the larceny, theft, robbery, extortion, forgery, counterfeiting, fraudulent concealment, embezzlement, fraudulent conversion, or misappropriation of funds or securities, or substantially equivalent activity however denominated by the laws of the relevant foreign government; or

[(4)](iv) involves the violation of Sections 152, 1341, 1342 or 1343 or Chapters 25 or 47 of Title 18, United States Code[;], or a violation of a substantially equivalent foreign statute;

(2) has been convicted within ten years preceding the filing of any application for membership in the Corporation, or to become associated with a member of the Corporation, or at any time thereafter of any other felony.

#### [Injunctions]

[(g)](h) is permanently or temporarily enjoined by order, judgment, or decree of any court of competent jurisdiction from acting as an invest-

ment adviser, underwriter, broker, dealer, [or] municipal securities dealer, government securities broker, [or] government securities dealer, transfer agent, foreign person performing a function substantially equivalent to any of the above, (or) entity or person required to be registered under the Commodity Exchange Act, or any substantially equivalent foreign statute or regulation, [municipal securities dealer (including a bank or department or division of a bank)], or [government securities broker or dealer or] as an affiliated person or employee of any investment company, bank, insurance company, foreign entity substantially equivalent to any of the above, or from engaging in or continuing any conduct or practice in connection with any such activity, or in connection with the purchase or sale of any security.

(i) has been found by a foreign financial regulatory authority to have:

(1) made or caused to be made in any application for registration or report required to be filed with a foreign financial regulatory authority, or in any proceeding before a foreign financial regulatory authority with respect to registration, any statement that was at the time and in the light of the circumstances under which it

was made false or misleading with respect to any material fact, or has omitted to state in any application or report to the foreign financial regulatory authority any material fact that is required to be stated therein;

(2) violated any foreign statute or regulation regarding transactions in securities, or contracts of sale of a commodity for future delivery, traded on or subject to the rules of a contract market or any board of trade;

(3) aided, abetted, counseled, commanded, induced, or procured the violation by any person of any provision of any statutory provisions enacted by a foreign government, or rules or regulations thereunder, empowering a foreign financial regulatory authority regarding transactions in securities, or contracts of sale of a commodity for future delivery, traded or subject to the rules of a contract market or any board of trade, or has been found, by a foreign financial regulatory authority, to have failed reasonably to supervise, with a view to preventing violations of such statutory provisions, rules, and regulations, another person who commits such a violation, if such other person is subject to his supervision.



# NASD NOTICE TO MEMBERS 96-3

## NASD Files With The SEC Proposed Rule Governing Members Operating On Bank Premises

### 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 December 28, 1995, the National Association of Securities Dealers, Inc., (NASD<sup>®</sup>) filed with the Securities and Exchange Commission (SEC) for its approval rules governing members conducting business on the premises of a financial institution (proposed rules). The proposed rules focus on issues of investor confusion involving the purchase of uninsured securities products and, among other things, require that a broker/dealer operating on the premises of a financial institution take certain steps with regard to its physical location at the financial institution, customer disclosure procedures, and promotional literature to clearly distinguish the services provided by the broker/dealer from the functions of the financial institution. The SEC will publish the proposed rules in the *Federal Register*, indicating a time period when members and others may comment.

**The new rules will not become final until approved by the SEC.**

### Background

The NASD is publishing this Notice to alert members to the fact that the proposed rules governing the broker/dealer services conducted by NASD members on the premises of financial institutions were submitted to the SEC for approval on December 28, 1995. The proposed rules in the final form will be published by the SEC for public comment in the *Federal Register*. The financial institution broker/dealer proposal was originally published for comment in *Notice to Members 94-94*. In response, the NASD received significant comment which resulted in important amendments being made to its original proposal.

In many respects, the proposed rules, as approved by the NASD and filed with the SEC, significantly adopt the investor protection principles set

forth in the SEC staff no-action letter issued to Chubb Securities Corporation (the Chubb Letter), which delineates the SEC policy regarding broker/dealers operating on the premises of financial institutions under third-party networking arrangements. Unlike the Chubb Letter, however, the NASD-proposed rules uniformly apply to financial institution-affiliated broker/dealers and broker/dealers engaged in networking arrangements. Notably, the NASD proposal also complements the February 15, 1994, *Interagency Statement on Retail Sales of Nondeposit Investment Products (Interagency Statement)* issued by financial institution regulators.<sup>1</sup> The Interagency Statement adopts many of the principles embodied in the Chubb Letter and directs financial institutions to follow the guidelines when making direct sales or overseeing sales of securities to customers by broker/dealers on the premises of financial institutions.

### NASD Bank Broker/Dealer Committee

In January 1995, the NASD Board of Governors (Board) approved the formation of its Bank Broker/Dealer Committee (Committee), which is a standing Committee comprised of individuals with significant industry experience who are affiliated with, or providing broker/dealer services to, financial institutions. The major purpose of the Committee is to create and sustain a framework for the business conduct of broker/dealers affiliated with or providing services to financial institutions by: recommending to the Board fair and reasonable

<sup>1</sup> The Board of Governors of the Federal Reserve System (Fed.), the Federal Deposit Insurance Corporation, the Office of the Comptroller of the Currency (OCC), and the Office of Thrift Supervision (OTS) (financial institution regulators).

regulations that assure protection and disclosure to the investing public; promoting consistency in regulation; and striving for a competitive and level playing field for all financial intermediaries.

Upon its creation, the Committee conducted a thorough analysis of *Notice to Members 94-94* and the observations, suggested amendments, and general recommendations set forth in 284 comment letters received in response to the original proposal. As a result, the Committee recommended, and the Board approved, amendments that are highly responsive to the issues raised by commentators. Indeed, the revised proposal addresses commentators' concerns regarding a number of areas, including regulatory consistency and unnecessary regulatory duplication. Consequently, the NASD believes the proposal strikes an appropriate balance between the NASD's investor protection obligations and the concerns articulated by commentators.

### **Amendments To The Bank Broker/Dealer Proposal**

The proposed rules were substantially revised in response to the comments received. The following is a brief discussion of some of the revisions. Members should not rely on this Notice as a basis for developing comments but, rather, should await publication of the final proposed rules in the *Federal Register*.

In response to commentators' concerns that certain aspects of the original proposal, if adopted, would duplicate existing NASD rules, the proposed rules have been revised to eliminate certain provisions that duplicated existing NASD rules. With respect to arguments that the proposed rules duplicate the rules of other regulatory entities, the NASD notes that many rules, policies, and guidelines of other agencies do not

directly or indirectly apply to NASD members (e.g., the *Interagency Statement*). The NASD believes it is imperative to adopt a set of rules that establish clear standards of conduct governing the practices of member firms operating on the premises of financial institutions that are enforceable by the NASD.

Although some commentators expressed concerns about the jurisdictional scope of the originally proposed rules, the NASD never intended to, and the proposed rules do not extend their jurisdictional reach to financial institutions (or their employees) that are not members of the NASD. Accordingly, the proposed rules have been amended to make this clear by modifying the definition of the term "broker/dealer services" to clarify that the proposed rules only extend to NASD member firms. Nothing in the proposal is intended to limit the ability of banks and their employees to engage in securities transactions pursuant to the exemption from broker/dealer registration that is afforded "banks" as defined by the Securities Exchange Act of 1934.

In addition, commentators focused on differences that existed between the regulations of financial institution regulators and the NASD proposal. As an example, commentators cited inconsistencies between the NASD proposal and the *Interagency Statement*. The NASD agrees with the commentators' concerns. Therefore, the NASD has amended the original proposed rules to eliminate, to the degree possible, inconsistencies and conflicts between the proposed rules and existing rules and guidelines of financial institution regulators. For instance, among other things, the proposal's physical location and signage requirements were revised to provide greater consistency with the standards established by the *Interagency Statement*.

Specifically, to minimize customer confusion, the "setting" provisions of the proposed rules require that, wherever possible, the member's broker/dealer services be conducted in a physical location distinct from the area where the financial institution's retail deposits are taken. This aspect of the proposal recognizes, as does the *Interagency Statement*, that physical limitations in the space occupied by some financial institution may prevent ideal physical distinctions between the broker/dealer activities from the retail deposit-taking activities of the financial institution from being maintained. Accordingly, the NASD has qualified the physical distinctions requirement by using the phrase "wherever possible."

Further, with regard to consistency in regulations, the proposed rules require a member operating on the premises of a financial institution to provide customer disclosures regarding securities products at the time an account is opened. As revised, the proposed disclosures are substantively identical to the disclosures required by the *Interagency Statement*. Specifically, the NASD member must disclose that securities products: (i) are not insured by the Federal Deposit Insurance Corporation or other applicable deposit insurance; (ii) are not deposits or other obligations of the financial institution and are not guaranteed by the financial institution; and (iii) are subject to investment risks, including possible loss of the principal invested. In response to commentators, the original proposal to require the NASD member to disclose that securities products are not protected by the Securities Investment Protection Corporation (SIPC) as to the loss of principal invested has been deleted from the revised proposal.

In addressing communications with the public, the original proposal did not contemplate the use of joint

account statements of an NASD member firm and a financial institution. In response to commentators and to be consistent with the *Interagency Statement*, the proposed rules permit the use of joint account statements where the member's securities products are clearly distinguished from deposit-insured products or accounts of the financial institution and the minimum risk disclosures are provided.

Finally, there were two aspects of the original proposal that attracted significant comment. As originally proposed, a broker/dealer would have been prohibited from using confidential financial information maintained by a financial institution to solicit customers for its broker/dealer services. Many commentators expressed objections to this prohibition for various reasons. In the event the NASD determined to adopt restrictions regarding the use of confidential financial information, commentators requested that the NASD define the term "confidential financial information" for purposes of the rules, and that the practice be permitted where the customer grants his or her prior approval. In response, the proposed rule will permit a member to use confidential financial information provided by a financial institution with the customer's prior written consent. Finally, the proposed rules define the term "confidential financial information" so as to exclude customers' names, addresses, and telephone numbers, unless the customer specifies otherwise, and other information that could be obtained from unaffiliated credit bureaus or similar companies in the ordinary course of business.

With regard to the payment of referral fees by a member to an employee of a financial institution, the NASD acknowledges that the proposed provision may differ from the *Interagency Statement* and the Chubb Letter,

but it is entirely consistent with prior NASD pronouncements and longstanding positions. While the *Interagency Statement* and the Chubb Letter permit broker/dealers to make one-time payments, the NASD has determined to adhere to its longstanding position that if such payments occur on a regular, ongoing basis, the recipient is required to register as an associated person. Moreover, the NASD has previously clarified that members are prohibited from paying referral fees to unregistered persons if the recipient repeatedly refers customers to the member.

Although the text of the rules as filed with the SEC on December 28 is set forth below, members should not rely on the proposed rules published herein as the final version of the rules, or as the version that will be published by the SEC for public comment in the *Federal Register*. It is possible that the rules will be amended prior to publication in the *Federal Register* or prior to final approval by the SEC. The NASD recommends that members wait until the proposed rules are published for comment in the *Federal Register* before attempting to submit comments in order to avoid commenting on provisions that may be amended following submission to the SEC. This Notice is not a request for the submission of comments to the NASD. Accordingly, members should submit all comments directly to the SEC once the final rule proposal is published in the *Federal Register* to ensure that the SEC receives all comments. Although the NASD does not know when the SEC will publish the proposal in the *Federal Register*, when it is published by the SEC, the SEC will specify a designated time period for interested parties to comment on the proposal.

Questions concerning this Notice may be Directed to R. Clark Hooper, Vice President, Advertising/Investment Companies Regulation, at

(202) 728-8325; or Daniel M. Sibears, Director, Regulatory Policy, at (202) 728-6911.

## TEXT OF PROPOSED RULE

(Note: New text is underlined.)

## RULES OF FAIR PRACTICE

### Broker/Dealer Conduct on the Premises of Financial Institutions

Sec. \_\_\_\_\_.

#### (a) Applicability

This section shall apply exclusively to those broker/dealer services conducted by members on the premises of a financial institution where retail deposits are taken. This section does not alter or abrogate members' obligations to comply with other applicable NASD rules, regulations, and requirements, nor those of other regulatory authorities that may govern members operating on the premises of financial institutions.

#### (b) Definitions

(1) For purposes of this section, the term "financial institution" shall mean federal and state-chartered banks, savings and loan associations, savings banks, credit unions, and the service corporations of such institutions.

(2) "Networking arrangement" and "brokerage affiliate arrangement" shall mean a contractual arrangement between a member and a financial institution pursuant to which the member conducts broker/dealer services for customers of the financial institution and the general public on the premises of such financial institution where retail deposits are taken, without the financial institution, any required service corporation, or their respective nonregistered employees registering as a broker/dealer under the Securities Exchange Act of 1934.

(3) "Affiliate" shall mean a company which controls, is controlled by or is under common control with a member as defined in Schedule E of the By-Laws.

(4) "Broker/dealer services" shall mean the investment banking or securities business as defined in Paragraph (l) of Article I of the By-Laws.

(5) "Confidential financial information" shall not include:

(A) customers' names, addresses, and telephone numbers, unless a customer specifies otherwise; or

(B) information that can be obtained from unaffiliated credit bureaus or similar companies in the ordinary course of business.

### **(c) Standards for Member Conduct**

No member shall conduct broker/dealer services on the premises of a financial institution unless the member complies initially and continuously with the following requirements:

#### **Setting**

(1) Wherever possible, the member's broker/dealer services shall be conducted in a physical location distinct from the area where the financial institution's retail deposits are taken, and identified in a manner that clearly distinguishes the broker/dealer services from the activities of the financial institution. In all situations, members shall distinguish the broker/dealer services from the financial institution's retail deposit-taking activities. The member's name shall be clearly displayed in the area in which the member conducts its broker/dealer services.

#### **Networking and Brokerage Affiliate Agreements**

(2) Networking and brokerage affili-

ate arrangements between a member and a financial institution must be governed by a written agreement that sets forth the responsibilities of the parties and the compensation arrangements. The member must ensure the agreement stipulates that:

(A) supervisory personnel of the member and representatives of the Securities and Exchange Commission and the Association will be permitted access to the financial institution's premises where the member conducts broker/dealer services in order to inspect the books and records and other relevant information maintained by the member with respect to its broker/dealer services;

(B) unregistered employees of the financial institution will not receive any compensation, cash or non-cash, that is conditioned on whether a referral of a customer of the financial institution to the member results in a transaction; and

(C) the member will notify the financial institution if any associated person of the member who is employed by the financial institution is terminated for cause by the member.

#### **Compensation of Registered/Unregistered Persons**

(3) The member shall not provide cash or non-cash compensation to employees of the financial institution who are not registered with an NASD member in connection with, but not limited to, locating, introducing, or referring customers of the financial institution to the member.

#### **Customer Disclosure and Written Acknowledgment**

(4)(A) When a customer account is opened by a broker/dealer on the premises of a financial institution where retail deposits are taken, the member shall disclose, orally and in

writing, that the securities products purchased or sold by the member:

(i) are not insured by the Federal Deposit Insurance Corporation ("FDIC") or other applicable deposit insurance;

(ii) are not deposits or other obligations of the financial institution and are not guaranteed by the financial institution; and

(iii) are subject to investment risks, including possible loss of the principal invested.

(B) For all accounts opened by a broker/dealer on the premises of a financial institution where retail deposits are taken, the member shall make reasonable efforts to obtain from each customer during the account opening process a written acknowledgement of the disclosures required by Subsections (c)(4)(A)(i) through (iii).

#### **Use of Confidential Financial Information**

(5) The member shall not use confidential financial information provided by the financial institution regarding its customer unless prior written approval has been granted by the customer to release the information.

#### **Communications with the Public**

(6)(A) All member communications regarding securities transactions and long and short positions, including confirmations and account statements, must indicate clearly that the broker/dealer services are provided by the member. Communications that include information regarding non-deposit-insured securities products of the member and deposit-insured products or accounts of the financial institution should distinguish clearly between the two. Securities transactions conducted by the member

should be introduced with the member's identity and, at a minimum, the member must disclose that securities products: are not insured by the FDIC or other applicable deposit insurance; are not deposits or other obligations of the financial institution and are not guaranteed by the financial institution; are subject to investment risks, including possible loss of the principal invested.

(B) Advertisements, sales literature, and other similar materials issued by the member that relate exclusively to its broker/dealer services will be

deemed to be the materials of the member and must indicate prominently the identity of the member providing the broker/dealer services. The financial institution may be referenced in a nonprominent manner in advertising or promotional materials for the purpose of identifying the location where broker/dealer services are available and, where appropriate, to disclose a material relationship between the member and the financial institution, such as the role of an investment adviser to an open-end investment company ("mutual fund").

(C) Advertisements, sales literature, and other similar materials jointly issued by the member and a financial institution that discuss services or products offered by both entities must distinguish clearly the products and services offered by the financial institution from those offered by the member. The name of the member must be displayed prominently in the section of the materials that describes the broker/dealer services offered by the member, which section will be deemed materials of the member.



# NASD NOTICE TO MEMBERS 96-4

## 1995-96 Renewal Rosters And Final Adjusted Invoices

### 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 1995-96 NASD® broker/dealer and agent registration renewal cycle begins its second phase this month. The NASD is publishing information in this Notice to help members review, reconcile, and respond to the Final Adjusted Invoice packages that mailed to all member firms in mid-January.

### Final Adjusted Invoice Packages

On or about January 16, 1996, the NASD mailed final adjusted invoices and renewal rosters to all NASD member firms. The invoice will reflect the year-end 1995 total fees for NASD personnel assessments, NASD branch-office assessments, New York Stock Exchange (NYSE), American Stock Exchange (ASE), Chicago Board Options Exchange (CBOE), Pacific Stock Exchange (PSE), and Philadelphia Stock Exchange (PHLX) maintenance fees, state agent renewal fees, and state broker/dealer renewal fees. It will also reflect payment submitted by an NASD member in response to the initial renewal invoice mailed in November 1995.

The final invoice will include a renewal roster that lists each firm's NASD- and, if applicable, NYSE-, ASE-, CBOE-, PSE-, and PHLX-registered personnel as of year-end 1995. The roster also will list alphabetically all firm agents whose registrations were renewed in states. Firms with registered branch offices that were active as of December 31, 1995, will also receive a branch-office roster.

A member's final invoice will reflect an "amount due," a "credit due," or a "zero balance." If a firm's year-end 1995 total of NASD, NYSE, ASE, CBOE, PSE, PHLX, and state renewal fees exceeded the firm's payment submitted in response to the

initial renewal invoice, the NASD paid the jurisdictions the additional renewal fees due at year-end on behalf of the firm and will mail an "amount due" invoice to collect that sum from the member firm.

If the firm's invoice reflects an amount due, the NASD requests payment by wire transfer or company check. Wire transfer instructions will be in the renewal invoice packet or can be obtained by calling NASD Finance Department at (301) 590-6088. Make the check payable to the National Association of Securities Dealers, Inc., with reference to the firm's Central Registration Depository (CRD<sup>SM</sup>) number, the word "Renewal," and mail it with the top portion of the invoice. **Payments must be received by the NASD no later than March 8, 1996.**

If the firm's payment submitted in response to the initial renewal invoice exceeds its year-end 1995 total of NASD, NYSE, ASE, CBOE, PHLX, PSE, and state renewal fees, a "credit due" invoice will be issued. If the firm's invoice reflects a credit due of \$100 or more and the firm would like a refund check, it should sign the top portion of the invoice and send it to:

Manolita Gorres  
NASD, Inc.  
9513 Key West Avenue  
Rockville, MD 20850-3389.

This invoice stub *must* be signed by an officer or principal of your firm and should include the name and address of the firm's contact to whom the check should be sent. The refund requests will be processed as soon as possible. The average turn around time for receiving a check last year was about four weeks. Credit due amounts of less than \$100 will be transferred automatically to the firm's CRD account. If the NASD does not

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receive a request for a refund check by March 8, 1996, the full credit amount will be transferred to the firm's CRD account.

Final adjusted invoices that reflect zero balances require no further actions by the member.

### **Reviewing The Renewal Roster**

Member renewal rosters include all agent registrations renewed for 1996. **Registrations that were pending approval or were deficient at year-**

**end 1995 were not assessed renewal fees; therefore, they will not be reported on the renewal roster.**

Members should examine their roster carefully to ensure that all registration approvals and terminations are properly listed.

Discrepancies should be reported *in writing*, along with supporting documentation, such as Notices of Approval/Termination, Forms U-4 or U-5, or Schedule E amendments. Report each discrepancy directly to the jurisdictions involved—NASD,

NYSE, ASE, CBOE, PSE, PHLX, or the applicable state. All renewal roster discrepancies must be reported by **March 15, 1996.**

The inside cover of the renewal roster contains detailed instructions to help members complete the renewal process. Questions regarding this Notice may be directed to your firm's assigned Quality & Service Team or, if the firm is not assigned, the NASD's Gateway at (301) 590-6500.

# NASD NOTICE TO MEMBERS 96-5

## CRD Redesign Requires Actions By Members

### 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 Central Registration Depository (CRD<sup>SM</sup>) Redesign will require several action items from members. A *Membership On Your Side* will be mailed to the CRD contact in each member firm in the next couple of weeks that contains several items on which members must take action, CRD system pricing information, a list of service bureaus, and a Site Preparation Guide.

### Summary Of Action Items

The items members can expect to see over the next few months include:

• **CRD Subscriber Agreement package**—The Subscriber Agreement allows members, or a service bureau designated by the member firm, to use the new software to file electronically materials with the CRD. The Agreement package contains:

— a Subscriber Agreement for the Central Registration Depository Systems, which all members must complete;

— a Broker/Dealer Addendum to the Central Registration Depository Subscriber Agreement for completion by member firms that plan to file information for themselves, and

— a Broker/Dealer Agent-Filing Addendum to the Central Registration Depository Subscriber Agreement for completion by member firms that plan to use a service bureau or other agent to file information for them with the CRD.

Members will return all appropriate forms to their assigned Quality & Service Team. (Any firm that has not been assigned a Quality & Service Team can call the NASD's Gateway at (301) 590-6500.

• **Site Preparation Guide**—This document gives detailed technical information on how members must prepare their location for CRD system installation.

• **Training brochure**—This brochure describes how members will be trained on the new CRD system. Member firms can use this brochure to enroll for specific workshops that will be made available nationwide.

Questions regarding this Notice can be directed to your assigned Quality & Service Team listed below, or the NASD's Gateway, at (301) 590-6500.

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



# NASD NOTICE TO MEMBERS 96-6

Nasdaq National Market  
Additions, Changes,  
And Deletions As Of  
December 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 December 20, 1995, the following 99 issues joined the Nasdaq National Market®, bringing the total number of issues to 4,003:

Symbol	Company	Entry Date	SOES Execution Level
ANIC	Anicom, Inc.	11/21/95	500
CDLI	Consolidated Delivery & Logistics, Inc.	11/21/95	500
FFIC	Flushing Financial Corporation	11/21/95	200
IVAC	Intevac, Inc.	11/21/95	200
LSREF	LaSalle Re Holdings, Limited	11/21/95	500
MEDP	MedPlus, Inc.	11/21/95	200
NTAP	Network Appliance Corporation	11/21/95	1000
SSTI	Silicon Storage Technology, Inc.	11/21/95	200
OVEN	The Italian Oven, Inc.	11/21/95	200
AMRN	Amerin Corporation	11/22/95	200
CLNPP	Callon Petroleum Company (Pfd A)	11/22/95	200
GNSRV	Gensia, Inc. (Rts 12/31/96 WI)	11/22/95	500
GYNE	Gynecare, Inc.	11/22/95	1000
MAIDY	M.A.I.D., plc (ADR)	11/22/95	200
PRXL	PAREXEL International Corporation	11/22/95	500
PGNS	PathoGenesis Corporation	11/22/95	200
VSEIF	Venture Seismic, Ltd.	11/22/95	200
VSEWF	Venture Seismic, Ltd. (Wts 11/7/00)	11/22/95	200
TENWF	Tee-Com Electronics Inc. (Wts 11/22/96)	11/24/95	200
SWMCF	Sanctuary Woods Multimedia Corporation	11/27/95	200
MIDD	The Middleby Corporation	11/28/95	200
CGIX	Carnegie Group, Inc.	11/29/95	200
PIXR	Pixar	11/29/95	200
NWPX	Northwest Pipe Company	11/30/95	200
BMRQ	BENCHMARK Microelectronics, Inc.	12/1/95	200
EUSA	Eagle USA Airfreight, Inc.	12/1/95	200
LHSPF	Lernout & Hauspie Speech Products, N.V.	12/1/95	200
METG	META Group, Inc.	12/1/95	200
OSII	Objective Systems Integrators, Inc.	12/1/95	200
RTEL	Raytel Medical Corporation	12/1/95	200
WSTL	Westell Technologies, Inc. (Cl A)	12/1/95	200
ABACF	Abacan Resource Corporation	12/4/95	200
PNDA	Panda Project, Inc. (The)	12/4/95	200
PBIX	Patriot Bank Corporation	12/4/95	200
BESIF	BE Semiconductor Industries, N.V. (Ord Shrs)	12/5/95	200
HAHI	Help At Home, Inc.	12/5/95	200
HAHIW	Help At Home, Inc. (Wts 12/5/00)	12/5/95	200
PCOP	Pharmacopeia, Inc.	12/5/95	200
WPAC	Western Pacific Airlines, Inc.	12/5/95	200
LTRE	Learning Tree International, Inc.	12/6/95	200
QTEL	Quintel Entertainment, Inc.	12/6/95	200
RDIC	ReadiCare, Inc.	12/6/95	500

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Symbol	Company	Entry Date	SOES Execution Level
SIMC	Spacetec IMC Corporation	12/6/95	200
MECN	Mecon, Inc.	12/7/95	200
CTXS	Citrix Systems, Inc.	12/8/95	200
CRNSF	Cronos Group (The)	12/8/95	200
NSIX	Neuromedical Systems, Inc.	12/8/95	1000
OHSL	OHSL Financial Corp.	12/8/95	200
FISHZ	Small's Oilfield Services Corp. (Wts B 12/8/00)	12/8/95	200
SRCM	Source Media, Inc.	12/11/95	200
VSNR	Visioneer, Inc.	12/11/95	200
AMLJ	AML Communications, Inc.	12/12/95	200
ADLT	Advanced Lighting Technologies, Inc.	12/12/95	200
AACIB	All American Communications, Inc. (Cl B)	12/12/95	500
CVDI	Cardiovascular Diagnostics, Inc.	12/12/95	200
MTLS	MetaTools, Inc.	12/12/95	200
PHYS	Physio-Control International Corp.	12/12/95	200
RAIN	Rainforest Cafe, Inc.	12/12/95	500
GOAL	Ascent Entertainment Group, Inc.	12/13/95	200
CWLRV	Chartwell Re Corporation (WI)	12/13/95	500
KNSY	Kensley Nash Corporation	12/13/95	200
LGAMV	Lexington Global Asset Managers, Inc. (WI)	12/13/95	200
MDCC	Molecular Devices Corporation	12/13/95	200
SQAX	SQA, Inc.	12/13/95	200
AACI	All American Communications, Inc.	12/14/95	500
ERGO	Ergo Science Corporation	12/14/95	500
STAY	Extended Stay America, Inc.	12/14/95	200
GTIS	GT Interactive Software Corp.	12/14/95	200
HOPS	Hart Brewing, Inc.	12/14/95	200
MRRW	Morrow Snowboards, Inc.	12/14/95	200
NKID	Noodle Kidoodle, Inc.	12/14/95	200
SNAP	Synaptic Pharmaceutical Corporation	12/14/95	200
TFRC	TechForce Corporation	12/14/95	200
THIR	Third Financial Corp.	12/14/95	200
TLGD	Tollgrade Communications, Inc.	12/14/95	200
ADTK	Adept Technology, Inc.	12/15/95	200
ADSP	Ariel Corporation	12/15/95	200
ADSPW	Ariel Corporation (Wts 1/25/00)	12/15/95	200
CKSG	CKS Group, Inc.	12/15/95	200
FUSE	Fuisz Technologies Ltd.	12/15/95	200
BUNZ	Schlotsky's, Inc.	12/15/95	200
SGASZ	Star Gas Partners, L.P. (Shrs Ben Int)	12/15/95	1000
TPPPF	Triple P, N.V.	12/15/95	200
ZRAN	Zoran Corporation	12/15/95	500
OLSAY	OLS Asia Holdings, Limited (ADR)	12/18/95	500
OLSWF	OLS Asia Holdings, Limited (Wts 12/18/98)	12/18/95	500
GCREF	GCR Holdings, Limited (Ord Shrs)	12/19/95	200
NUCO	NuCo2 Inc.	12/19/95	200
UNHC	Unison HealthCare Corporation	12/19/95	200
AMCS	AMISYS Managed Care Systems, Inc.	12/20/95	200
CSTL	Castelle	12/20/95	200
CLTK	Celeritek, Inc.	12/20/95	200

Symbol	Company	Entry Date	SOES Execution Level
CTYS	Cityscape Financial Corp.	12/20/95	200
ELCO	Elcom International, Inc.	12/20/95	200
FFGI	ForeFront Group, Inc. (The)	12/20/95	200
GUAR	Guarantee Life Companies (The)	12/20/95	200
ISEE	Sterling Vision, Inc.	12/20/95	500
TRNI	Trans-Industries, Inc.	12/20/95	500
XATA	XATA Corporation	12/20/95	200

### Nasdaq National Market Symbol And/Or Name Changes

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

New/Old Symbol	New/Old Security	Date Of Change
CABP/CMSH	Cameron Ashley Building Products, Inc./Cameron Ashley, Inc.	11/21/95
DDDDF/DDDDF	New Dimension Software Ltd./4th Dimension Software Ltd.	11/27/95
PSIX/PSIX	PSINet Inc./Performance Systems International, Inc.	11/27/95
RWIN/RWIN	Republic Industries, Inc./Republic Waste Industries, Inc.	11/28/95
AVNT/ARCS	Avant! Corporation/ArcSys, Inc.	11/29/95
AMTX/ICOT	Amati Communications Corp./ICOT Corporation	11/29/95
ARSNW/ARSNW	Airsensors, Inc. (Wts 11/7/97)/Airsensors, Inc. (Wts 3/9/96)	11/30/95
MPTR/MPTR	MedPartners/Mullikin, Inc./MedPartners, Inc.	12/1/95
NHSL/NHSL	NHS Financial, Inc./New Horizons Savings and Loan Association	12/1/95
RMED/REIC	Research Medical, Inc./Research Industries Corporation	12/1/95
SFFB/SFFB	Southern Financial Bancorp/Southern Financial Federal Savings Bank	12/1/95
IGPFF/IGPFF	Imperial Ginseng Products, Ltd./ Canadian Imperial Ginseng Products, Ltd.	12/8/95
WLDN/COBK	Walden Bancorp, Inc./Co-operative Bank of Concord (The)	12/11/95
WPPGY/WPGDY	WPP Group plc (ADR)/WPP Group plc (ADR New)	12/11/95
CLZRW/CLZRW	Candela Corp. (Wts 10/24/99)/Candela Laser Corp. (Wts 10/24/99)	12/13/95
CLZR/CLZR	Candela Corporation/Candela Laser Corporation	12/13/95
CYNRW/CYNRW	Canyon Resources Corp. (Wts 3/31/96)/ Canyon Resources Corp. (Wts 12/31/95)	12/15/95
REXI/REXI	Resource America, Inc. (Cl A)/Resource America, Inc.	12/15/95
LGAM/LGAMV	Lexington Global Asset Managers, Inc./ Lexington Global Asset Managers, Inc. (WI)	12/18/95
ICOMF/ICOMF	Intellect Communications Sys, Ltd./Challenger International, Ltd.	12/19/95
OLSWF/OLSWY	OLS Asia Holdings, Ltd. (Wts 12/18/00)/ OLS Asia Holdings, Ltd. (Wts 12/18/00)	12/19/95
SESI/FISH	Superior Energy Services, Inc./Small's Oilfield Services, Corp.	12/20/95
SESIW/FISHW	Superior Energy Services, Inc. (Wts A 7/6/97)/ Small's Oilfield Svcs., Corp. (Wts A 7/6/97)	12/20/95
SESIZ/FISHZ	Superior Energy Services, Inc. (Wts B 12/8/00)/ Small's Oilfield Svcs., Corp. (Wts B 12/8/00)	12/20/95

**Nasdaq National Market Deletions**

<b>Symbol</b>	<b>Security</b>	<b>Date</b>
ACPI	American Consumer Products, Inc.	11/21/95
AGVS	NDC Automation, Inc.	11/21/95
SHKIF	SHL Systemhouse Inc.	11/21/95
ARAM	Aramed, Inc.	11/22/95
DENAF	Delrina Corp.	11/24/95
ECSC	EcoScience Corporation	11/24/95
ISSS	Integrated Silicon Systems, Inc.	11/28/95
LANTF	Lannet Data Communications Ltd.	11/28/95
REXNQ	Rexon Incorporated	11/29/95
ROAD	Roadway Services, Inc.	11/29/95
AISX	Applied Immune Sciences, Inc.	11/30/95
ACXT	ACX Technologies, Inc.	12/1/95
CHFD	Charter Federal Savings Bank	12/1/95
CSTN	Cornerstone Financial Corp.	12/1/95
UNVX	Univax Biologics, Inc.	12/1/95
MEGT	Megatest Corp.	12/4/95
MMEDC	Multimedia, Inc.	12/5/95
FLCP	Falcon Products, Inc.	12/6/95
NPRS	Newpark Resources, Inc.	12/6/95
PRGR	ProGroup, Inc.	12/7/95
SCGN	SciGenics, Inc.	12/7/95
GRIF	Griffin Technology, Inc.	12/8/95
BTSB	Braintree Savings Bank (The)	12/11/95
MONFZ	Monaco Finance, Inc. (Cl B Wts 12/11/95)	12/12/95
ARELW	Alpharel, Inc. (Wts 12/12/95)	12/13/95
CMDT	Comdata Holdings Corporation	12/13/95
PMAN	Piedmont Management Co., Inc.	12/13/95
DRHI	D.R. Horton, Inc.	12/14/95
ICBK	Intercontinental Bank	12/14/95
BTGCW	Bio-Technology General Corp. (Wts 12/19/95)	12/15/95
XLGX	Xylogics, Inc.	12/15/95
COTN	Delta and Pine Land Company	12/18/95
GCBK	Great Country Bank	12/18/95
RCRE	Retirement Care Associates, Inc.	12/18/95
FFCI	Fairfield Communities, Inc.	12/20/95
HTCC	Hungarian Telephone and Cable Corp.	12/20/95
MILL	Miller Industries, Inc.	12/20/95
NWTH	NetWorth, Inc.	12/20/95
ORND	OrNda HealthCorp	12/20/95
RXTC	Renal Treatment Centers, Inc.	12/20/95
SIMM	Simmons Outdoor Corp.	12/20/95
ZNXS	Zynaxis, Inc.	12/20/95

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 96-7

As of December 28, 1995, the following bonds were added to the Fixed Income Pricing System (FIPS<sup>SM</sup>).

Symbol	Name	Coupon	Maturity
CBBS.GA	CBS Inc	7.625	1/1/02
CBBS.GB	CBS Inc	7.750	6/1/99
CBBS.GC	CBS Inc	7.125	11/1/23
CBBS.GD	CBS Inc	8.875	6/1/22
CMS.GC	CMS Energy	7.000	6/15/00
CMS.GD	CMS Energy	7.000	7/15/00
CMS.GE	CMS Energy	7.000	7/15/00
CMS.GF	CMS Energy	8.000	7/15/02
WHCR.GA	Westinghouse Credit Corp	8.875	6/15/14
WX.GA	Westinghouse Electric	7.750	4/15/96
WX.GB	Westinghouse Electric	8.875	6/1/01
WX.GC	Westinghouse Electric	8.375	6/15/02
WX.GD	Westinghouse Electric	8.625	8/1/12
WX.GE	Westinghouse Electric	6.875	9/1/03
WX.GF	Westinghouse Electric	7.875	9/1/23
GND.GA	Grand Casinos Inc	10.125	12/1/03
DAL.GY	Delta Air Lines Inc.	8.540	1/2/07
DAL.GZ	Delta Air Lines Inc.	8.540	1/2/07
DAL.HA	Delta Air Lines Inc.	8.540	1/2/07
DAL.HB	Delta Air Lines Inc.	8.540	1/2/07
DAL.HC	Delta Air Lines Inc.	9.300	1/2/10
DAL.HD	Delta Air Lines Inc.	9.300	1/2/10
DAL.HE	Delta Air Lines Inc.	9.300	1/2/10
DAL.HF	Delta Air Lines Inc.	9.300	1/2/10
DAL.HG	Delta Air Lines Inc.	9.300	1/2/10
DAL.HH	Delta Air Lines Inc.	9.300	1/2/11
MCAB.GC	Marcus Cable/Marcus Cable Cap	14.250	12/15/05
RGRO.GC	Ralphs Grocery Co.	10.450	12/15/05
VCI.GA	Valassis Communication Inc.	9.550	12/1/03
VLIN.GA	Valassis Inserts Inc.	8.875	3/15/99
VLIN.GB	Valassis Inserts Inc.	8.375	3/15/97
DMIC.GA	Diamond Cable Commun	11.750	12/15/05
RCCA.GD	Rogers Cablesystems	10.000	12/1/07
RCCA.GE	Rogers Cablesystems	11.000	12/1/15
BCKI.GB	Buckeye Cellulose	8.500	12/15/05
UIHI.GA	United Int'l Hldgs Inc	14.000	11/15/99
UIHI.GB	United Int'l Hldgs Inc	0.000	0/0/99
WALB.GA	Walbro Corp	9.875	7/15/05
FITZ.GA	Fitzgerald Gaming	13.000	12/15/02
VIA.GC	Viacom Inc.	6.750	1/15/03
VIA.GD	Viacom Inc.	7.625	1/15/16
VPI.GA	Vintage Petroleum	9.000	12/15/05
CPSS.GA	Consumer Portfolio Svcs	10.000	1/1/06
AMA.GB	Advanced Medical	15.000	7/15/99
BRRY.GA	Berry Plastics Corp	12.250	4/15/04
TEXN.GE	Texas NewMex Pwr Co.	12.500	1/15/99

Fixed Income Pricing  
System Additions,  
Changes, And Deletions  
As Of December 28, 1995

## Suggested Routing

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

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As of December 28, 1995, the following bonds were deleted from FIPS.

<b>Symbol</b>	<b>Name</b>
SCIH.GB	SCI Holdings Corp
BLJC.GA	Blair John & Co.

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 January

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, January 15, 1996. 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 Expelled,  
Individual Sanctioned  
Worthington & Dunn Securities,  
Inc. (Dallas, Texas) and Jason Dru  
Dvorin (Registered Principal,  
Plano, Texas).** The firm was expelled from NASD membership and Dvorin was fined \$25,000 and barred from association with any NASD member in any capacity. The sanctions were based on findings that the firm, acting through Dvorin, failed to maintain accurate books and records and filed a late and inaccurate FOCUS Part IIA report. Also, the firm, acting through Dvorin, held a customer's check while purporting to operate under the exemptive provisions of Rule 15c3-3 under the Securities Exchange Act of 1934 that would not permit the firm to do so, and failed to transmit promptly such check to an independent escrow agent. The firm, acting through Dvorin, maintained the registration of registered representatives who did not function as representatives of the firm and were not active in the investment banking or securities business of the firm, and failed to maintain subscription documents or any other documents reflecting the financial status and investment objectives of public customers. The firm, acting through Dvorin, also received compensation of \$11,000 in the form

of an override, that was not disclosed to offerees and/or investors of fractional, undivided oil and gas interest.

**Firm Suspended,  
Individual Sanctioned  
Mid Continent Securities, Inc.  
(Arvada, Colorado) and Charlene  
Pratt (Registered Principal, Arva-  
da, Colorado)** submitted a Letter of Acceptance, Waiver and Consent pursuant to which they were fined \$33,500, jointly and severally. Also, the firm was suspended from NASD membership for 45 days. Pratt was suspended from association with any NASD member in any principal capacity for 90 days and required to requalify by exam as a 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 Pratt, participated in two contingency offerings and, with respect to each working interest program, the escrow agreement set forth a minimum number of units required to be purchased to break escrow that was less than the number of units represented in the offering memoranda to be required to break escrow.

The findings also stated that the firm, acting through Pratt, broke escrow and released funds to the issuer before satisfying the minimum purchase contingency stated in the offering memoranda, and affiliates of the issuer purchased units before satisfying the minimum subscription contingency when the offering memoranda failed to include the disclosures necessary for such purchases to be deemed bona fide sales. The NASD also found that the firm, acting through Pratt, participated in the offering of interests in the two working interest programs after the expiration of the discretionary 90-day extension of the offering period permitted the issuer in the offering

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memoranda, when no reconfirmation offer with appropriate disclosures and amendments of the offering memoranda had occurred.

#### **Firms Fined, Individuals Sanctioned**

**The Chapman Co. (Baltimore, Maryland)** and **Nathan A. Chapman, Jr. (Registered Principal, Baltimore, Maryland)** submitted an Offer of Settlement pursuant to which they were fined \$30,000, jointly and severally. In addition, Chapman was suspended from association with any NASD member as a financial and operations principal for 10 business days. Without admitting or denying the allegations, the respondents consented to the described sanctions and to the entry of findings that the firm, acting through Chapman, effected transactions in non-exempt securities while failing to maintain its required minimum net capital. The findings also stated that the firm, acting through Chapman, prepared inaccurate computations of net capital and/or aggregate indebtedness and filed inaccurate FOCUS Part I reports. The NASD also found that the firm, acting through Chapman, failed to give timely notice of its net capital deficiencies.

**Paramount Investments International, Inc. (Denver, Colorado), Craig L. Edelmann (Registered Principal, Littleton, Colorado), and Thomas L. Gottschalk (Registered Principal, Arvada, Colorado)**. The firm submitted an Offer of Settlement pursuant to which it was fined \$15,000, \$10,000 of which is payable jointly and severally with Gottschalk. The firm also was suspended from NASD membership for five business days with the proviso that the firm may effect unsolicited sell transactions for its customers during the suspension period and must designate a new financial and operations principal. Gottschalk was

suspended from association with any NASD member in any principal capacity for 10 business days and required to requalify by exam in any principal capacity. Edelmann was fined \$20,000, suspended from association with any NASD member in any principal capacity for 30 days, and required to requalify by exam in any principal capacity. The National Business Conduct Committee (NBCC) imposed the sanctions against Edelmann and Gottschalk following appeal of a Denver District Business Conduct Committee (DBCC) decision. Without admitting or denying the allegations, the firm consented to the described sanction and to the entry of findings that the firm, acting through Edelmann and Gottschalk, allowed an individual to function as an associated person of the firm when he or she was subject to a statutory disqualification and was ineligible to be associated with the firm.

The firm's suspension will begin May 20, 1996, and conclude May 24, 1996.

**Firms And Individuals Fined Benbrook Wheeler Securities, Ltd. (Houston, Texas) and W. Buckner Ogilvie, Jr. (Registered Principal, Houston, Texas)** were fined \$15,000, jointly and severally, and Ogilvie must requalify by exam in all capacities. The sanctions were based on findings that the firm and Ogilvie failed to maintain accurate books and records. The firm and Ogilvie also prematurely instructed an escrow agent to break escrow and disburse the funds to them, and failed to deposit and retain all customer funds in an escrow account. Also, the firm, acting through Ogilvie, failed to comply with its exemption under the Securities Exchange Rule 15c3-3 in that they had direct access to and took possession of customer funds and failed to maintain the requisite

amount of net capital. The firm, acting through Ogilvie, also failed to renew an expired fidelity bond, failed to review and approve sales correspondence, and failed to conduct an annual review of a branch office.

**Cullum & Sandow Securities, Inc. (Dallas, Texas) and Richard L. Sandow (Registered Principal, Southlake, Texas)** submitted an Offer of Settlement pursuant to which the firm and Sandow were fined \$15,000, jointly and severally. Without admitting or denying the allegations, the respondents consented to the described sanctions and to the entry of findings that they failed to supervise adequately the activities of a registered individual.

#### **Firm Fined**

**Pruco Securities Corporation (Newark, New Jersey)** 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 certain agents solicited retail customers to purchase a variable life insurance product. Upon obtaining customer instructions to purchase the variable product, an order was entered to purchase a fixed life insurance product that was exchanged for a variable product when these agents became registered with the NASD.

**Individuals Barred Or Suspended Scott Allen Atwood (Registered Representative, Sherwood, Oregon)** was fined \$25,000 and barred from association with any NASD member in any capacity. The sanctions were based on findings that Atwood received from public customers checks totaling \$4,268.26 for deposit in their investment accounts. Atwood failed to deposit timely the checks for their intended purposes

and, instead, kept the checks in his possession until after his termination from his member firm. Atwood also failed to respond to NASD requests for information.

**Michael Bartow (Registered Representative, Beach Park, Illinois)** was fined \$13,000, barred from association with any NASD member in any capacity, and ordered to pay \$2,600 in restitution to a member firm. The sanctions were based on findings that Bartow received from a public customer \$2,600 with instructions that the funds be deposited in the customer's variable appreciable life insurance policy. Bartow failed to follow said instructions and used the funds for some purpose other than for the customer's benefit. Bartow also failed to respond to NASD requests for information.

**James Brian Bishop (Registered Representative, Dallas, Texas)** was fined \$20,000 and barred from association with any NASD member in any capacity. The sanctions were based on findings that Bishop issued, or caused to be issued, personal checks drawn on insufficient bank funds that he delivered to his member firm or its clearing firm in purported settlement of securities transactions, thereby causing the firm to suffer a loss in excess of \$7,000. Bishop also reimbursed a public customer \$3,000 for losses allegedly incurred by the customer in securities transactions that Bishop had previously effected. Bishop also effected unauthorized transactions in the account of a public customer and failed to respond to NASD requests for information.

**Phillip Bommarito (Registered Representative, Albion, Michigan)** was fined \$10,000, suspended from association with any NASD member in any capacity for six months, and required to requalify by exam as a representative. The sanctions were

based on findings that Bommarito participated in the sale of a fixed annuity product and failed to give prompt written notification of his outside business activities to his member firm.

**David Martin Burrows (Registered Representative, Dallas, Texas)** submitted a Letter of Acceptance, Waiver and Consent pursuant to which he was fined \$29,250 and barred from association with any NASD member in any capacity. Without admitting or denying the allegations, Burrows consented to the described sanctions and to the entry of findings that he received from a public customer an \$850 check and converted the funds for his own use and benefit. The NASD also found that Burrows engaged in a private securities transaction without giving prior written notice to and receiving approval from his member firm. The findings also stated that Burrows failed to respond to NASD requests for information.

**Joseph D. Caieiro (Registered Representative, Somerville, Massachusetts)** was fined \$35,000 and barred from association with any NASD member in any capacity. The sanctions were based on findings that, without the knowledge or consent of policyholders, Caieiro withheld and misappropriated for his own use and benefit insurance dividend checks totaling \$3,400. Caieiro also failed to respond to NASD requests for information.

**Melvin Louis Christian (Associated Person, Detroit, Michigan)** was fined \$70,000 and barred from association with any NASD member in any capacity. The sanctions were based on findings that Christian participated in the offer and sale of securities on a private basis to public customers and failed to give prior written notice to or obtain prior written authorization from his member firm to engage in such activities.

Christian also failed to respond to NASD requests for information.

**Kieron D. Cole (Registered Representative, Cambridge, Massachusetts)** was fined \$50,000 and barred from association with any NASD member in any capacity. The sanctions were based on findings that Cole submitted fictitious loan requests on traditional life insurance policies for two policyholders wherein he obtained the checks, forged the policyholders' signatures, and converted the proceeds totaling \$7,500 for his own use and benefit. Cole also failed to respond to NASD requests for information.

**Timothy Leroy Colen (Registered Representative, Chicago, Illinois)** was barred from association with any NASD member in any capacity. The sanction was based on findings that Colen received from a public customer \$17,000 with instructions to use the funds to purchase securities. Colen failed to follow the instructions and used the funds for some purpose other than for the customer's benefit. Colen also failed to respond to NASD requests for information.

**Selwyn Keith Conley (Registered Representative, Detroit, Michigan)** was fined \$20,000 and barred from association with any NASD member in any capacity. The sanctions were based on findings that Conley failed to respond to NASD requests for information.

**Cambodochine Dao (Registered Representative, Gaithersburg, Maryland)** submitted an Offer of Settlement pursuant to which he was fined \$30,000 and barred from association with any NASD member in any capacity. Without admitting or denying the allegations, Dao consented to the described sanctions and to the entry of findings that he forged, or caused to be forged, a public customer's signature on two

checks totaling \$2,002.42, negotiated the checks, and converted the proceeds for his personal use and benefit. The NASD also found that Dao failed to respond to NASD requests for information.

**Richard Thomas DeBrino (Registered Representative, Yakima, Washington)** submitted an Offer of Settlement 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, DeBrino consented to the described sanctions and to the entry of findings that he received from a public customer a \$5,000 check and added, or caused to be added, his name as a second payee to the check and deposited the check into a bank account under his control. The findings stated that subsequently an account was opened for the customer using a \$2,000 cashier's check purchased by DeBrino.

**Henry D. Deshaies (Registered Representative, Massena, New York)** 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, Deshaies consented to the described sanctions and to the entry of findings that he forged disbursement forms and converted customer funds totaling \$1,969.95 for his own use and benefit.

**Scott Charles Galbraith (Registered Representative, Stockton, California)** was suspended from association with any NASD member in any capacity for 90 days and required to requalify by exam. The sanctions were based on findings that Galbraith participated in the purchase of notes by investors without giving prior written notification to his member firm.

**Trevor A. Garrick (Registered Representative, Dorchester, Massachusetts)** 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, Garrick consented to the described sanctions and to the entry of findings that he signed a public customer's name to a \$1,929.01 check made payable to the customer and converted the funds for his own use and benefit.

**Edward Arms Gaylord (Registered Representative, Holladay, Utah)** was barred from association with any NASD member in any capacity. The sanction was based on the findings that Gaylord sold short, in his personal account, \$30,000,000 of U.S. Treasury Bonds on a when-issued basis and covered the short position in his account at a loss of \$382,762, resulting in a total debit balance in his account of \$436,108, of which he failed and neglected to pay.

**Robert D. Gersh (Registered Representative, Burlington, Massachusetts)** 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. Without admitting or denying the allegations, Gersh consented to the described sanctions and to the entry of findings that he failed to respond to NASD requests for information.

**Steven Douglas Graham (Registered Representative, San Jose, California)** submitted a Letter of Acceptance, Waiver and Consent pursuant to which he was fined \$22,500 and barred from association with any NASD member in any capacity. Without admitting or denying the allegations, Graham forged a public customer's signature to a disbursement request form and submit-

ted it to his member firm, received a \$4,500 check, and attempted to convert the proceeds for his own use and benefit.

**James Gregory Greenwood (Registered Representative, Sparks, Nevada)** was fined \$20,000 and barred from association with any NASD member in any capacity. The sanctions were based on findings that Greenwood failed to respond to NASD requests for information concerning a customer complaint.

**Minetta Hare (Registered Representative, Detroit, Michigan)** was fined \$120,000, barred from association with any NASD member in any capacity, and ordered to pay \$20,600 in restitution to a member firm. The sanctions were based on findings that Hare received from public customers \$20,663.33 in cashier's and redemption checks with instructions to use the funds to purchase various securities and investments. Hare failed to follow the instructions and used the funds for some purpose other than for the customers' benefit. Hare also failed to respond to NASD requests for information.

**Alberto Hernandez (Registered Representative, Los Angeles, California)** was fined \$25,000 and barred from association with any NASD member in any capacity. The sanctions were based on findings that Hernandez made false representations to his member firm concerning his prior employment with another member firm. Hernandez also placed an order on behalf of his member firm to purchase bonds while failing to submit the order ticket for approval by an officer of the firm. Furthermore, Hernandez failed to obtain delivery instructions from the customer and failed to obtain required approvals or sufficient customer information when he opened a new account for a public customer.

**James R. Hornibrook (Registered Representative, Little Rock, Arkansas)** submitted an Offer of Settlement 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, Hornibrook consented to the described sanctions and to the entry of findings that he engaged in private securities transactions without giving prior written notice to and receiving prior approval from his member firm. The NASD also found that Hornibrook misrepresented or failed to state certain material facts to public customers about these activities.

**Robert L. Johnson (Registered Representative, Chicago, Illinois)** was fined \$25,000, barred from association with any NASD member in any capacity, and ordered to pay \$124.20 in restitution to a member firm. The sanctions were based on findings that Johnson obtained from public customers \$124.20 in cash with instructions to pay the premium on their insurance policies. Johnson failed to follow the instructions and used the funds for some purpose other than for the customers' benefit. Johnson also failed to respond to NASD requests for information.

**Wolcott Kenyon (Registered Representative, Bridgewater, Connecticut)** submitted an Offer of Settlement pursuant to which he was fined \$1,000 and suspended from association with any NASD member in any capacity for 30 days. Without admitting or denying the allegations, Kenyon consented to the described sanctions and to the entry of findings that he failed to respond to formal written requests for information.

**Richard I. Kessler (Registered Representative, Staten Island, New York)** submitted an Offer of Settlement pursuant to which he was barred from association with any

NASD member in any capacity. Without admitting or denying the allegations, Kessler consented to the described sanctions and to the entry of findings that, twice, he falsely claimed that he was the individual scheduled to take a Series 7 exam, presented identification bearing the individual's name, and took the exam for the individual.

**Dennis George Laspesa (Registered Representative, Orland Park, Illinois)** was fined \$49,500, barred from association with any NASD member in any capacity, and ordered to pay \$5,863.23 in restitution to a member firm. The sanctions were based on findings that Laspesa received from a public customer checks totaling \$5,863.23 with instructions to use such funds to pay premiums on variable appreciable life policies. Laspesa failed to follow the instructions and used the funds for some purpose other than for the customer's benefit. Laspesa also failed to respond to NASD requests for information.

**Carmine Manna, Jr. (Registered Representative, San Francisco, California)** was fined \$5,000 and suspended from association with any NASD member in any capacity for five business days. The sanctions were based on findings that Manna effected the purchase of shares of stock in the accounts of public customers without their prior knowledge or consent.

**John Peter Mazza (Registered Representative, Seattle, Washington)** 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, Mazza consented to the described sanctions and to the entry of findings that he recommended to public customers the purchase of securities, and

in the course of dealing with the customers, violated his responsibility of fair dealing with his customers. The findings also stated that Mazza recommended the purchase of securities that were unsuitable for the customers in view of the facts disclosed by the customers as to their other security holdings, financial situations and needs, and the size and nature of the recommended transactions.

**John C. McNeil, II (Registered Representative, Skaneateles, New York)** 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, McNeil consented to the described sanctions and to the entry of findings that he forged the signatures of public customers to refund checks totaling \$250 and converted the proceeds for his own use and benefit.

**Roger Allen Meyer (Registered Representative, Wheaton, Illinois)** was fined \$90,000, suspended from association with any NASD member in any capacity for 10 business days, and required to requalify by exam as a general securities representative. The sanctions were based on findings that Meyer participated in private securities transactions and failed to provide prior written notice to or obtain prior written authorization from his member firm to engage in such activities.

**Francis George Nenes, Jr. (Registered Principal, Glendale, Arizona)** submitted an Offer of Settlement pursuant to which he was fined \$2,500, suspended from recommending any security subject to Securities and Exchange Commission (SEC) Rule 15g et. seq. for 60 days, and required to requalify as a general securities principal. Without admitting or denying the allegations, Nenes consented

to the described sanctions and to the entry of findings that a member firm, acting through Nenes, effected securities transactions without complying with the requirements of SEC Rule 15g of the Securities Exchange Act of 1934.

The suspension for Nenes began November 13, 1995, and concluded January 11, 1996.

**John Carl Oberhausen (Registered Representative, Fort Worth, Texas)** was fined \$20,000 and barred from association with any NASD member in any capacity. The sanctions were based on findings that Oberhausen engaged in an outside business activity without providing written notice to his member firm. Oberhausen also failed to respond to an NASD request for information.

**Phillip B. Phair (Registered Representative, Chicago, Illinois)** was fined \$120,000, barred from association with any NASD member in any capacity, and ordered to pay \$71,480 in restitution to a member firm. The sanctions were based on findings that Phair obtained from public customers \$71,480 in checks and wire transfers with instructions to use the funds to purchase securities. Phair failed to follow the instructions in that he used the funds for some purpose other than for the customers' benefit.

**Steven J. Roennebeck (Registered Representative, Salt Lake City, Utah)** was fined \$20,000 and barred from association with any NASD member in any capacity. The sanctions were based on findings that Roennebeck failed to respond to NASD requests for information concerning his termination from a member firm.

**Jeffrey S. Schulman (Registered Representative, Tempe, Arizona)** was fined \$20,000 and barred from association with any NASD member

in any capacity. The sanctions were based on findings that Schulman failed to respond to NASD requests for information concerning a customer complaint.

**Menka Z. Scott (Registered Representative, Knoxville, Tennessee)** was fined \$25,000, barred from association with any NASD member in any capacity, and must pay \$400 in restitution. The sanctions were based on findings that Scott received from a public customer \$400.90 in cash as payment for insurance policies, failed and neglected to submit the funds to her member firm, and, instead, converted the funds for her own use and benefit without the knowledge or consent of the public customer. Scott also failed to respond to an NASD request for information.

**Robert W. Snider (Registered Representative, Bayport, Michigan)** was fined \$70,000 and barred from association with any NASD member in any capacity. The sanctions were based on findings that Snider participated in the offer and sale of securities on a private basis to a public customer and failed and neglected to give prior written notice to or obtain prior written authorization from his member firm to engage in such activities. Snider also failed to respond to NASD requests for information.

**Joseph Anthony Stailey (Registered Representative, Taylor, Michigan)** was fined \$20,000 and barred from association with any NASD member in any capacity. The sanctions were based on findings that Stailey failed to respond to NASD requests for information.

**Brent Yee Suen (Registered Representative, Dallas, Texas)** submitted an Offer of Settlement pursuant to which he was suspended from association with any NASD member in any capacity for six months. Without admitting or denying the allegations,

Suen consented to the described sanction and to the entry of findings that he prepared and delivered misleading letters to a mortgage company and financial services company in regard to his employment with his member firm to obtain a residential mortgage.

**Blair J. Taylor (Registered Representative, Los Angeles, California)** was fined \$27,500 and barred from association with any NASD member in any capacity. The sanctions were based on findings that Taylor effected, or caused to be effected, the purchase of shares of stock for the account of a public customer without the customer's knowledge or consent. Taylor also failed to respond to NASD requests for information.

**Charles Kenneth VanVliet (Registered Representative, Grand Rapids, Michigan)** was fined \$45,000, barred from association with any NASD member in any capacity, and required to pay \$34,735 plus interest in restitution to public customers. The sanctions were based on findings that VanVliet participated in private securities transactions and failed and neglected to give prior written notice to and obtain prior approval from his member firm to engage in such activities. VanVliet also failed to respond to NASD requests for information.

**John Henry Vecchioni (Associated Person, Bloomfield Hills, Michigan)** was fined \$70,000 and barred from association with any NASD member in any capacity. The sanctions were based on findings that Vecchioni engaged in private securities transactions and failed and neglected to give prior written notice of and to obtain prior written approval from his member firm to engage in such activities. Vecchioni also failed to respond to NASD requests for information.

**Gilson J. Viator (Registered Representative, Austin, Texas)** submitted a Letter of Acceptance, Waiver and Consent pursuant to which he was fined \$56,550 and barred from association with any NASD member in any capacity. Without admitting or denying the allegations, Viator consented to the described sanctions and to the entry of findings that he received from public customers checks totaling \$6,310 and converted the funds to his own use and benefit. The findings also stated that Viator forged a public customer's signature to a \$5,000 refund check and failed to respond to NASD requests for information.

**Rossi Lamont Walter (Registered Representative, Dallas, Texas)** submitted an Offer of Settlement pursuant to which he was fined \$20,000 and suspended from association with any NASD member in any capacity for five business days. Without admitting or denying the allegations, Walter consented to the described sanctions and to the entry of findings that he effected unauthorized transactions in the accounts of a public customer and improperly switched securities in such accounts through transactions consisting of the purchases and sales of shares of mutual funds with similar investment objectives.

#### Individuals Fined

**Nicholas Michael Diminico (Registered Representative, Houston, Texas)** was fined \$10,000. The sanction was based on findings that Diminico effected unauthorized purchases of a common stock in the accounts of public customers.

**Byung Ki Kim (Registered Representative, Scarsdale, New York)** submitted a Letter of Acceptance, Waiver and Consent pursuant to which he was fined \$15,000 and ordered to requalify as a general securities representative. Without

admitting or denying the allegations, Kim consented to the described sanctions and to the entry of findings that he engaged in business activities outside the scope of his relationship with his member firm without providing prompt written notice to the firm.

#### Firms 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.

**M. Rimson & Co., Inc.,** New York, New York (November 29, 1995)

**R.B. Webster Investments, Inc.,** Lauderhill, Florida (December 5, 1995)

**Westmark Securities Corp.,** Van Nuys, California (December 7, 1995)

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

**Riley W. Barker,** Niwot, Colorado

**Fores J. Beaudry,** Portland, Oregon

**Brett L. Bouchy,** Gilbert, Arizona

**James G. Cook,** Del Norte, Colorado

**Keith B. Kiger,** Winston-Salem, North Carolina

**Kelvin L. Nash,** Grand Prairie, Texas

**Stanley E. Nygaard,** Valrico, Florida

**Sara B. Sharpe,** Fort Worth, Texas

**Henry M. Shields, Jr.,** Tucson, Arizona

**Patricia H. Smith,** Hanover, Pennsylvania

**Harold B. Stancil, Jr.,** Greensboro, North Carolina

**Robert L. Stevens,** Denver, Colorado

**Ernesto O. Torres,** Aurora, Colorado

#### Individuals Whose Registrations Were Canceled/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.

**Henry Walter Custin,** Norwalk, Connecticut (December 15, 1995)

**Warren S. Green,** New York, New York (December 5, 1995)

#### NASD Takes Disciplinary Action And Assesses Fines Totaling \$110,000 Against Johnston Kent Securities, Inc., And Individuals

The NASD accepted an Offer of Settlement to resolve two formal actions taken against former member Johnston Kent Securities, Inc., and its principals, George Johnston and Franklyn Frye. In connection with the settlement, the firm agreed to withdraw its broker/dealer registration or face expulsion, Johnston agreed to be barred from association with a broker/dealer in any capacity, and Frye consented to a bar in any capacity requiring registration as a principal. The firm and Johnston also were fined \$100,000, jointly and severally, and the firm and Frye were fined \$10,000, jointly and severally.

The respondents consented to findings that the firm, acting through Johnston, engaged in a course of contact involving misrepresentations

and deceptive acts, including the preparation and delivery of documents purporting to confirm large transactions in U.S. government securities that never occurred in accounts at Johnston Kent that never existed and sending letters to independent auditors verifying that the positions represented the confirmations. "Based on our investigation, we believe that these activities were

in furtherance of a broader scheme, involving others not subject to our jurisdiction, to defraud and possibly steal money from several employer self-insurance funds," noted NASD District 3 Director Frank J. Birgfeld. "Fortunately, we were able to move quickly against the member involved and take definitive actions." He added that during its investigation the District staff had been in contact with fed-

eral officials interested in the matter.

The findings also included a failure by Frye to supervise Johnston in a manner reasonably designed to prevent the violations described above and a net capital and related violations by the firm and Johnston.

The bars took effect on November 22, 1995.

# FOR YOUR INFORMATION

## **NASD Membership Department Officially Launches "Gateway"**

To better reflect its purpose in the organization, the NASD Member Services Phone Center changed its name to Gateway. Gateway serves all constituents, members, and investors, thus it is the entrance to the NASD. Gateway phone number remains the same—(301) 590-6500.

## **Government Securities Act Regulations: Large Position Rules Proposal**

The Department of the Treasury (Treasury) is publishing for comment proposed rules that would establish a new Part 420 providing recordkeeping and reporting requirements pertaining to large positions in certain Treasury securities. The proposed regulations are being issued pursuant to the Government Securities Act Amendments of 1993, which authorized the Secretary of the Treasury to prescribe rules requiring persons holding, maintaining, or controlling large positions in to-be-issued or recently issued Treasury securities to keep records and file reports of such large positions.

The proposed recordkeeping rules require any person or entity that controls a position equal to or greater than \$2 billion in a Treasury security to maintain and preserve certain records that enable the entity to record, compile, aggregate, and report large position information. The proposed reporting rules require entities to file a large position report

with the Federal Reserve Bank of New York if their reportable position equals or exceeds the large position threshold in a particular Treasury security as specified by the Treasury in a notice requesting large position information. Treasury's proposed large-position rules are intended to provide it and other securities regulators with information on concentrations of control that would enable them to understand better the possible reasons for apparent significant price distortions and the causes of market shortages in certain Treasury securities.

The entire proposal and request for comments can be found on page 65214 of the *Federal Register*, December 18, 1995. Comments **must be received on or before February 16, 1996**. Comments should be sent to:

Government Department  
of the Treasury  
999 E Street, NW, Room 515  
Washington, DC 20239-0001.

Comments received will be available for public inspection and copying at the Treasury Department Library, Room 5030, Main Treasury Building, 1500 Pennsylvania Avenue, NW, Washington, DC 20220.

For further information, contact Ken Papaj, Director, or Don Hammond, Assistant Director, Government Securities Regulations Staff, at (202) 219-3632. TDD for the hearing impaired is (202) 219-3988.

# NASD NOTICE TO MEMBERS 96-8

## SEC Approves Amendments To Section 59 Of The Uniform Practice Code Clarifying Delivery Deadlines That May Be Specified In Buy-In Notices

### 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 December 28, 1995, the Securities and Exchange Commission (SEC) approved amendments to Section 59 of the Uniform Practice Code (UPC). The amendments clarify that the delivery deadlines that may be specified in buy-in notices issued pursuant to Section 59 may not specify a delivery time earlier than 3 p.m., Eastern Time (ET), for depository eligible securities. The amendments are effective immediately. The text of the amendments follows this Notice.

### Background

Under Section 59 of the UPC, when the seller has not completed a contract of sale of securities by delivering the securities called for in the contract on settlement day, the buyer may close the contract by purchasing the subject securities in the open market ("buying-in"). When securities are bought-in to complete a contract, the seller is liable for any difference between the contract price and the buy-in price.

Pursuant to subsection 59(a) of the UPC, a buy-in is initiated by the buyer delivering a notice of buy-in to the seller at his or her office not later than 12 noon, the seller's time, two business days preceding the execution of the proposed buy-in. Subsection 59(b) provides that the notice must include the terms of the contract to be closed and must state that unless delivery is effected at or before a certain specified time not earlier than 11:30 a.m., buyer's local time, the security may be bought-in for the account of the seller (meaning the seller assumes the liability for the market price of the security bought-in). Subsection 59(b) also provides that if the originator of the buy-in notice is a participant in a registered securities depository, and the security to be bought-in is a depository eligible security, the buy-in may not be

executed before 2:30 p.m., ET.

The NASD<sup>®</sup> recently identified an inconsistency in subsection 59(b) in that the provisions permit a buy-in notice to specify a delivery deadline no earlier than 11:30 a.m., buyer's local time, yet the buy-in may not be executed before 2:30 p.m., ET. If the seller obtained securities and tendered them for delivery after the notice deadline but before the buy-in was executed, the provisions of the rule and the notice could permit the buyer to refuse delivery and subject the seller to the risk of a bad execution.

To resolve this inconsistency, the NASD is amending subsection 59(b) of the UPC to modify the delivery times permitted to be specified in the buy-in notice. With respect to buy-in notices for depository eligible securities where the originator is a depository participant the NASD is amending subsection 59(b) to provide that the notice may not specify a delivery time earlier than 3 p.m., ET.<sup>1</sup> By limiting this restriction to depository eligible securities and depository participants, the amended rule retains the current provision permitting broker-to-broker buy-ins specifying an earlier delivery time (no earlier than 11:30 a.m., buyer's local time).

The NASD also is amending subsection 59(b)(2), which permits the recipient of a buy-in notice to retransmit the notice to another broker/dealer from whom the subject securities are due. The amendment to subsection 59(b)(2) provides that a re-transmitted

<sup>1</sup> The NASD notes that with the advent of same-day funds settlement (SDFS) in early 1996, the new settlement time frames associated with the Depository Trust Company's SD FS System will permit deliveries to occur as late as 3 p.m., ET. Therefore, the earliest appropriate buy-in execution time in Section 59(b) should be 3 p.m., ET.

buy-in notice must be delivered to the recipient not later than 12 noon, seller's local time, on the business day preceding the buy-in date and that the specified delivery time in the re-transmitted notice must not be earlier than the time specified in the original notice. This amendment clarifies the existing language and will ensure the receipt of the re-transmitted notice approximately one full business day's notice prior to the delivery deadline.<sup>2</sup>

Questions regarding this Notice may be directed to Dorothy L. Kennedy, Assistant Director, Nasdaq<sup>®</sup> Market Operations, (203) 385-6243.

### Text Of Amendment

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

### UNIFORM PRACTICE CODE

### CLOSE-OUT PROCEDURE

#### "Buying-in"

#### Sec. 59.

A contract which has not been completed by the seller according to its terms may be closed by the buyer not sooner than the third business day following the date delivery was due, in accordance with the following procedure:

#### Notice of "buy-in"

(a)(1) Written notice of "buy-in" shall be delivered to the seller at his office not later than 12 noon, his time, two business days preceding the execution of the proposed "buy-in."

(2) For purposes of this rule written notice shall include an electronic notice through a medium that provides for an immediate return receipt capability. Such electronic media shall include but not be limited to facsimile transmission, a computerized network facility, etc.

#### Information contained in "buy-in" notice

(b)(1) Every notice of "buy-in" shall state the date of the contract to be closed, the quantity and contract price of the securities covered by said contract, the settlement date of said contract and any other information deemed necessary to properly identify the contract to be closed. Such notice shall state further than unless delivery is effected at or before a certain specified time, which may not be prior to 11:30 a.m. local time in the community where the buyer maintains his office, the security may be "bought-in" on the date specified for the account of the seller. If the originator of a "buy-in" in a depository eligible security is a participant in a registered securities depository, the

specified delivery time may not be prior to 3:00 p.m. Eastern Time and the "buy-in" may not be executed prior to [2:30] 3:00 p.m., Eastern Time. Each "buy-in" notice shall also state the name and telephone number of the individual authorized to pursue further discussions concerning the buy-in.

(2) Notice may be redelivered immediately to another broker/dealer from whom the securities involved are due in the form of a re-transmitted notice ("re-transmit"). A r[R]e-transmitted notice of buy-in must be delivered to subsequent broker/dealers not later than 12 noon, recipient's local time, on the [one] business day preceding the time and date of execution of the proposed buy-in, and the time specified for delivery may not be prior to the time specified in the original notice.

<sup>2</sup> The NASD notes that because subsection 59(b)(1) permits the buy-in notice to specify a delivery deadline of 11:30 a.m., buyer's local time, for broker-to-broker buy-ins in non-depository eligible securities, it is possible that a buy-in notice re-transmitted at 12 noon the previous business day would afford the recipient 23-1/2 hours to deliver. Nevertheless, the proposed amendment is an improvement to the current rule language which arguably permits retransmittal to occur at the end of the previous business day, affording the recipient as little as 18-1/2 hours notice.

# NASD NOTICE TO MEMBERS 96-9

## SEC Approves NASD Proposal Relating To Third-Market Trading In IPOs Of Exchange-Listed Securities

### 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 December 20, 1995, the Securities and Exchange Commission (SEC) approved a proposed Rule change by the NASD<sup>®</sup> that prohibits NASD members from executing over-the-counter transactions in an exchange-listed security that is the subject of an initial public offering (IPO) until the security has opened for trading on the exchange that lists the security. The Rule change is effective immediately.

### Background And Description

To promote the fair and orderly distribution and pricing of exchange-listed securities that are subject to an IPO, the NASD proposed, and the SEC approved, an amendment to Section 4 of Schedule G to the NASD By-Laws that provides that NASD members may not execute over-the-counter transactions (*i.e.*, third-market transactions) in exchange-listed securities that are the subject of an IPO until the exchange listing the security has first opened the security for trading. Under the proposal, a security is deemed to be first opened for trading on the listing exchange when the exchange disseminates an opening transaction in the security via the Consolidated Tape.

Although it has been common practice for participants in the third market to refrain from trading an exchange-listed IPO security until the exchange listing the IPO opens the security for trading, there have been isolated instances where trading in an exchange-listed IPO has begun in the third market before it has begun trading on the market listing the security.

While the NASD has found no evidence that the trading of IPOs in the third market has had any detrimental market effect, the NASD believes prohibiting the trading of exchange-listed IPOs in the third market until the primary market is open is a prudent precautionary step that is consis-

tent with the orderly distribution and pricing of IPO securities.

Questions regarding this Rule change should be directed to NASD Market Surveillance, at (301) 590-6080, or Thomas R. Gira, Assistant General Counsel, The Nasdaq Stock Market, Inc., at (202) 728-8957.

### Text Of Amendments

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

### Schedule G

#### Sec. 1. Definitions

(a) through (f) No change.

(g) The term "over-the-counter transaction" shall mean a transaction in an eligible security effected otherwise than on a national securities exchange.

(h) A security is subject to an "initial public offering" if: (1) the offering of the security is registered under the Securities Act of 1933; and (2) the issuer of the security, immediately prior to filing the registration statement with respect to such offering was not subject to the reporting requirements of Section 13 or 15(d) of the Securities Exchange Act of 1934.

#### Sec. 4. Trading Practices

(a) through (h) No change.

(i) No member or person associated with a member shall execute or cause to be executed, directly or indirectly, an over-the-counter transaction in a security subject to an initial public offering until such security has first opened for trading on the national securities exchange listing the security, as indicated by the dissemination of an opening transaction in the security by the listing exchange via the Consolidated Tape.

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# NASD NOTICE TO MEMBERS 96-10

## Expanded Limit-Order Protection Rule Gets Further Clarification By NASD

### 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 6, 1995, the expanded Limit-Order Protection Interpretation to Article III, Section 1 of the NASD<sup>®</sup> Rules of Fair Practice that prohibits member firms from trading ahead of customer limit orders (commonly known as Manning II) became fully effective. The expanded Interpretation extends the scope of limit-order protection in The Nasdaq Stock Market<sup>SM</sup> to ensure that all customer limit orders are afforded the same protection throughout Nasdaq<sup>®</sup>.

From June 21, 1995, to September 6, 1995, the Interpretation allowed a temporary phase-in period that permitted a market maker holding customer limit orders greater than 1,000 shares sent to it by another member firm (member-to-member orders) to trade at the same price as such limit order without protecting the limit order. On September 6, 1995, the temporary phase-in period expired. Since that date, all customer limit orders, whether they come from the firm's own customers or from another member firm's customers, must be handled in the same way by the firm accepting the limit order. That is, the member firm must not trade ahead of any customer limit order it holds without protecting that order.

Since the SEC approved the rule change in June 1995, the NASD has issued *Special Notice to Members 95-43* (June 5, 1995) and *Notice to Members 95-67* (August 1995) to provide guidance regarding a member's obligations under the Limit-Order Protection Interpretation. Since the Notices were issued, the NASD has continued to receive questions regarding the protection and reporting of limit orders handled on a net basis, defined as transactions where the customer wants the total transaction cost, inclusive of fees or commissions, to be set at a single price.

### More Guidance Offered

Members have raised questions about the NASD's Question and Answer 2 in *Notice to Members 95-67*. In that discussion, the NASD addressed issues related to limit orders placed with a firm at a net price, and discussed the actual price at which the limit order must be protected. To reiterate the NASD's policy regarding a member firm's obligation regarding a net-price limit order, the NASD provides this guidance.

Assume that the inside market is 10 bid-10 1/2 offered. A customer places a 500-share order to buy with the firm, and states that he or she wants to trade net, with total transaction costs not to exceed 10 3/4. As stated in *Notice to Members 95-67*, Q. & A. 2, the firm must inform the customer of the specific price at which it will protect that order.

In this example, assume that the firm charges a markup of 1/2. The firm must inform the customer at the time of order entry that the limit order will be held and protected at 10 1/4. Under such circumstances, the Limit-Order Protection Interpretation requires that the firm must not buy for its own account at 10 1/4 or below, without filling the customer's order at the protected price, up to the number of shares that the firm has traded. For example, assume that while holding the 500-share limit order to buy at 10 1/4, the firm receives a market order to sell 500 shares in that security that the firm purchases at its bid of 10.

Because it has bought 500 shares at a price inferior to the 500-share limit order at 10 1/4, the firm must sell 500 shares to the customer with the limit at 10 1/4, i.e., the limit-order price agreed to between the customer and the market maker. The firm must report the trade through the Automated Confirmation Transaction (ACT<sup>SM</sup>)

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service at 10 1/4, with the price exclusive of any markup or other remuneration. On the confirmation sent to the customer, the firm must disclose the reported trade price, 10 1/4, the price to the customer, 10 3/4, and the difference between them, 1/2, as the firm's remuneration for the transaction. This reporting is in compliance with the NASD trade-reporting rules under Schedule D, the SEC's confirmation disclosure requirements under Rule 10b-10, and is consistent with the original disclosure made to the customer at the time the order was entered.

**Member firms are not permitted to report trade prices in such net transactions in a manner inconsistent with the stated agreement between the customer and the firm. Thus, in net transactions, after the customer and the firm have agreed to the actual limit price at which a limit order is protected, it is not permissible for a firm to report a trade with the cus-**

**tomers at a price higher (lower) than the agreed-upon price in the context of a buy (sell) limit order and report a smaller markup (or markdown) on the confirm.**

#### **Another Example**

Using the same example, assume the facts as above: the inside market is 10-10 1/2 and a customer places an order to buy 500 shares at a net price of 10 3/4; the firm then informs the customer that it will protect that order at 10 1/4 with a markup of 1/2. Assume again that the market maker holding such order buys for its own account at 10. At this point, the firm immediately fills the limit order because of its Manning obligation. It is **not** permissible to report the sale to the customer pursuant to the limit order at 10 1/2 (or at any other price higher than 10 1/4) and report only a markup of 1/4, or less, because such report improperly reflects an inaccurate markup and the reported trade

price is incorrect because it includes a markup. Transaction reports through ACT must exclude markups, markdowns, and other such remuneration, and under Rule 10b-10, the confirmation must disclose the full markup, markdown, or other remuneration to the customer. Any practices to the contrary would be inconsistent with these requirements.

Nothing in this discussion is intended to keep a firm from providing the customer an execution at a more favorable price. Thus, if in the above examples the firm had an opportunity to provide the customer with an execution at a price better than 10 1/4, e.g., 10 1/8, the firm is permitted to execute and report the trade at the improved price.

Questions regarding this Notice should be directed to NASD Market Surveillance at (800) 925-8156.

# NASD NOTICE TO MEMBERS 96-11

## Presidents' 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 Market<sup>SM</sup> 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

\*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."

Brokers, dealers, and municipal securities dealers should use these settlement dates to clear and settle transactions pursuant to the NASD<sup>®</sup> 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 96-12

As of January 19, 1996, the following 35 issues joined the Nasdaq National Market<sup>®</sup>, bringing the total number of issues to 3,984:

Symbol	Company	Entry Date	SOES Execution Level
ESTR	ElectroStar, Inc.	12/21/95	200
FRAG	French Fragrances, Inc.	12/21/95	200
HOMEF	Home Centers (DIY), Limited (Ord Shs)	12/21/95	500
RGNT	Regent Assisted Living, Inc.	12/21/95	200
SPAB	SPACEHAB, Incorporated	12/21/95	200
VBRK	Vacation Break U.S.A., Inc.	12/21/95	1000
ASHEW	Aasche Transportation Svcs, Inc. (Wts 2/9/00)	12/22/95	200
IPSW	Ipswich Savings Bank	12/22/95	200
MINI	Mobile Mini, Inc.	12/26/95	200
MTBN	Mountbatten, Inc.	12/26/95	200
AHCI	Ambanc Holding Co., Inc.	12/27/95	200
CMGT	Complete Management, Inc.	12/28/95	200
EMCG	EMCOR Group, Inc.	12/28/95	200
PPTV	PPT Vision Inc.	12/28/95	200
SPNSF	Saipiens International Corp. N.V. (Ord Shs)	12/28/95	200
ULTR	Ultradata Systems, Inc.	12/28/95	200
ULTRW	Ultradata Systems, Inc. (Wts A 2/1/98)	12/28/95	200
CBSB	Charter Financial, Inc.	12/29/95	200
HFNC	HFNC Financial Corp.	12/29/95	200
HBNK	Highland Federal Bank, A Federal Savings Bank	12/29/95	200
PEEK	Peekskill Financial Corporation	12/29/95	200
STLBV	Stolt-Nielsen S.A. (ADR WI)	12/29/95	200
AREA	Area Bancshares Corporation	1/2/96	200
ECIN	EMCEE Broadcast Products Inc.	1/2/96	200
ESOL	Employee Solutions, Inc.	1/2/96	500
ROADV	Roadway Express, Inc. (WI)	1/2/96	200
EQVN	Equivision, Inc.	1/3/96	500
BFITV	Bally Total Fitness Holding Corporation (WI)	1/4/96	200
LFBI	Little Falls Bancorp, Inc.	1/5/96	200
TCICP	TCI Communications, Inc.	1/10/96	200
USCM	USCI, Inc.	1/10/96	200
SAGE	Sagebrush, Inc.	1/11/96	200
INCY	Incyte Pharmaceuticals, Inc.	1/16/96	200
CCOW	Capital Corp. of the West	1/18/96	200
ALES	Nor'Wester Brewing Company, Inc.	1/18/96	200

Nasdaq National Market  
Additions, Changes,  
And Deletions As Of  
January 19, 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

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## Nasdaq National Market Symbol And/Or Name Changes

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

New/Old Symbol	New/Old Security	Date Of Change
FNGB/FNGB	First Northern Capital Corporation/ First Northern Savings Bank S.A.	12/21/95
NICH/BEBA	Nitches, Inc./Beeba's Creations, Inc.	12/22/95
DENRF/NNEXF	Denbury Resources, Inc./Newscope Resources Ltd.	12/22/95
CWLR/CWLRV	Chartwell Re Corporation/Chartwell Re Corporation (WI)	12/27/95
IITCF/IITCF	IITC Holdings, Ltd./Intera Information Technologies Corp.	12/28/95
GNSAR/GNSRV	Gensia, Inc. (Rts 12/31/96)/Gensia, Inc. (Rts 12/31/96 WI)	12/29/95
FFBA/FFBA	First Colorado Bancorp, Inc./First Federal Savings Bank of Colorado	1/2/96
STLBY/STLBV	Stolt-Nielsen S.A. (ADR)/Stolt-Nielsen S.A. (ADR WI)	1/2/96
TCTC/TCTC	Tompkins County Trustco, Inc./Tompkins County Trust Company	1/2/96
MSBC/PBGI	MainStreet BankGroup, Inc./Piedmont BankGroup, Inc.	1/3/96
BFIT/BFITV	Bally Total Fitness Holding Corp./Bally Total Fitness Holding Corp. (WI)	1/10/96
NALC/NAGC	National Lodging Corp./National Gaming Corp.	1/16/96
ROAD/ROADV	Roadway Express, Inc./Roadway Express, Inc. (WI)	1/16/96
STMI/STMI	S T M Wireless, Inc./Satellite Technology Management, Inc.	1/17/96
NABI/NBIO	NABI, Inc./North American Biologicals, Inc.	1/18/96

## Nasdaq National Market Deletions

Symbol	Security	Date
BSSI	BioSafety Systems, Inc.	12/21/95
CFBC	CF Bancorp, Inc.	12/21/95
CORT	Cort Business Services Corp.	12/21/95
CPIA	CPI Aerostructures, Inc.	12/22/95
HAMBQ	Hamburger Hamlet Restaurants, Inc.	12/22/95
MTMCW	Micros to Mainframes, Inc. (Wts 10/26/97)	12/22/95
ORBT	Orbit International Corporation	12/22/95
SBLT	Sunbelt Companies, Inc. (The)	12/26/95
PRES	Prime Residential, Inc.	12/27/95
WEST	West One Bancorp	12/27/95
BTEC	BancTec, Inc.	12/28/95
LRNG	Learning Company (The)	12/28/95
SUST	Sunstates Corporation	12/28/95
SUSTP	Sunstates Corporation (\$3.75 Cum Pfd)	12/28/95
AECI	American Electronic Components, Inc.	12/29/95
HHGR	Helian Health Group, Inc.	12/29/95
SCTT	Scotts Company (The)	12/29/95
CABK	Capital Bancorporation, Inc.	1/2/96
CABKZ	Capital Bancorporation, Inc. (Dep Shrs)	1/2/96
HRTT	Heart Technology, Inc.	1/2/96
KYMDA	Kentucky Medical Insurance Co. (Cl A)	1/2/96
LOYC	Loyola Capital Corp.	1/2/96
MIDL	Midlantic Corporation	1/2/96
NORWY	NORWEB plc (Sp ADR)	1/2/96
FERTP	Nu-West Industries, Inc. (Cl A Pfd)	1/2/96
ADVG	Advantage Companies, Inc.	1/3/96
BRBC	Bay Ridge Bancorp, Inc.	1/3/96

<b>Symbol</b>	<b>Security</b>	<b>Date</b>
HWKB	Hawkeye Bancorporation	1/3/96
INTFW	Interface Systems, Inc. (Wts 12/29/95)	1/3/96
MRBL	Marble Financial Corporation	1/3/96
PRBC	Premier Bancorp, Inc.	1/3/96
AHNT	Access HealthNet, Inc.	1/4/96
MMGT	Medical Management, Inc.	1/4/96
BKSO	Bank South Corporation	1/10/96
CSFC	C S F Holdings, Inc.	1/10/96
CFBKP	Citizens Federal Bank, A Federal Savings Bank	1/10/96
AROS	Advance Ross Corporation	1/11/96
CCHIA	C C H, Inc. (Cl A)	1/11/96
CCHIB	C C H, Inc. (Cl B)	1/11/96
DMCB	Data Measurement Corp.	1/11/96
RIOH	Rio Hotel & Casino, Inc.	1/11/96
RCMIF	Rogers Cantel Mobile Communications, Inc. (Cl B)	1/11/96
RFBK	R S Financial Corp.	1/12/96
SUNY	Sunrise Bancorp	1/12/96
CLDRP	Cliffs Drilling Company (Conv. Exch Pfd)	1/15/96
MXTR	Maxtor Corporation	1/15/96
POPS	National Beverage Corp.	1/15/96
RULE	Rule Industries, Inc.	1/15/96
HOLI	Hollinger International, Inc. (Cl A)	1/16/96
ARANY	Aran Energy plc (ADR)	1/17/96
EFIC	EFI Electronics Corporation	1/18/96
KBKC	K B K Capital Corporation	1/18/96
NXGN	NexGen, Inc.	1/18/96
AMFF	AMFED Financial, Inc.	1/19/96

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 96-13

Fixed Income Pricing  
System Additions,  
Changes, And Deletions  
As Of January 30, 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

As of January 30, 1996, the following bonds were added to the Fixed Income Pricing System (FIPS<sup>SM</sup>).

Symbol	Name	Coupon	Maturity
GRLC.GA	Great Lakes Carbon Corp	10.000	1/1/06
NEOD.GA	Neodata Services Inc	12.000	5/1/03
FNRI.GA	Flores and Rucks Inc	13.500	12/1/04
BANC.GA	BankAtlantic Bancorp Inc	9.000	10/1/05
CCIL.GA	Cellular Comm. Int'l Inc	0.000	8/15/00
CRWP.GA	Crown Paper Company	11.000	9/1/05
PTEL.GA	Peoples Telephone Company	12.250	7/15/02
CYSS.GA	County Seat Stores Inc	12.000	10/1/02
KM.GA	K Mart Corp	12.500	3/1/05
KM.GB	K Mart Corp	8.125	12/1/06
KM.GC	K Mart Corp	8.250	1/1/22
KM.GD	K Mart Corp	8.375	7/1/22
KM.GE	K Mart Corp	7.750	10/1/12
KM.GF	K Mart Corp	7.950	2/1/23
MFST.GB	MFS Communications	0.000	1/15/06
PDQ.GA	Prime Hospitality Corp	9.250	1/15/06
TK.GA	Teekay Shipping Corp	8.320	2/1/08
CCG.GA	Chelsea GCA Rlty Prtshp LP	7.750	1/26/01
ATEL.GB	American Telecasting Inc.	14.500	8/15/05

As of January 30, 1996, the following bonds were deleted from FIPS.

Symbol	Name
CG.GB	Columbia Gas
CG.GC	Columbia Gas
CG.GD	Columbia Gas
CG.GE	Columbia Gas
CG.GF	Columbia Gas
CG.GG	Columbia Gas
CG.GH	Columbia Gas
CG.GI	Columbia Gas
CG.GJ	Columbia Gas
CG.GK	Columbia Gas
CG.GL	Columbia Gas
CG.GM	Columbia Gas
CG.GN	Columbia Gas
CG.GO	Columbia Gas
CG.GP	Columbia Gas
CG.GQ	Columbia Gas
CG.GR	Columbia Gas
CG.GS	Columbia Gas
CG.GT	Columbia Gas
CG.GU	Columbia Gas
BLG.GA	Ballys Grand Inc
INSL.GC	Insilco Corp
STBP.GA	Southeast Banking Corp
SUCA.GA	Sun Carriers Inc

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<b>Symbol</b>	<b>Name</b>
TRCK.GA	Truck Components Inc
TXSP.GA	Texas Supermarkets Inc
FLES.GA*	Food-4-Less Supermkts Inc

As of January 30, 1996, changes were made to the symbols of the following FIPS bonds:

<b>New Symbol</b>	<b>Old Symbol</b>	<b>Name</b>
RBNC.GA	RPBN.GB	Republic Bancorp Inc
STSA.GA	STFI.GA	Sterling Financial Corp
SVN.GB	SNV.GB	Spectravision Inc

In previous editions of the *Notices to Members*, the following FIPS bond symbols were listed incorrectly. Please note the corrected listings below.

<b>Correct Symbol</b>	<b>Name</b>
SBO.GB	Showboat
OI.GH	Owens Illinois

\* FIPS mandatory bond

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 February

The NASD<sup>®</sup> 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 Tuesday, February 20, 1996. 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 Expelled, Individuals Sanctioned**

**Burnett Grey & Co., Inc. (Atlanta, Georgia)** and **Linda M. King (Registered Representative, Marietta, Georgia)**. The firm was fined \$20,000 and expelled from NASD membership. A separate Offer of Settlement was submitted by King pursuant to which she was fined \$5,000, suspended from association with any NASD member in any capacity for six months, and barred from association with any NASD member in any proprietary, supervisory, or managerial capacity, with the right to reapply to become associated with a member after three years. Without admitting or denying the allegations, King consented to the described sanctions and to the entry of findings that the firm, acting through King, conducted a securities business while failing to maintain sufficient net capital. The findings also stated that the firm, acting through King, failed to accurately make certain books and records and filed materially inaccurate FOCUS Part I and IIA reports.

**U.S. Securities Corporation of Washington, DC (Chevy Chase, Maryland), Anthony D. Roberts (Registered Principal, Burtonsville, Maryland), and L. Guy Hagerty (Registered Representative, Fairfax, Virginia)**. The firm was

expelled from NASD membership and Roberts was barred from association with any NASD member in any capacity, and the firm and Roberts were fined \$80,000, jointly and severally. The firm and Hagerty were fined \$22,500, jointly and severally and required to pay \$18,993.60 in restitution. The sanctions were based on findings that the firm, acting through Roberts, conducted a securities business while failing to maintain sufficient net capital, failed to maintain accurate books and records, and filed inaccurate FOCUS Part I and IIA reports. The firm, acting through Roberts, also failed to give timely telegraphic notice of its net capital deficiencies and notice when it failed to prepare and maintain its trial balance and general ledgers.

Furthermore, the firm, acting through Roberts, failed to notify the NASD and receive prior approval to effect changes to its restriction agreement and effected retail principal securities transactions, and failed to comply with Securities and Exchange Commission (SEC) Rule 10b-10 in that it did not disclose to the customers in the confirmation statements of each transaction, the amounts of the markups or markdowns the firm realized. The firm, acting through Roberts, also sent letters to prospective clients that contained false and misleading information, failed to supervise Hagerty relating to markups and markdowns of principal securities transactions, and failed to establish and maintain written supervisory procedures.

The firm, acting through Roberts, participated as the placement agent in a minimum/maximum offering of units and received from subscribers \$15,000 prior to the sale of the minimum number of units and failed to transmit the funds to a separate bank escrow account. Instead, the funds were transmitted directly to the issuer's attorney and deposited in the

attorney's account. The firm, acting through Roberts, also failed to return subscriber funds or notify the subscriber and reconfirm the purchase when the offering had been extended past the termination date and the terms of the offering had not been met, and failed to conduct any annual compliance meetings with its registered representatives. Roberts also failed to respond to NASD requests for information.

The firm, acting through Hagerty, also effected transactions as principal with retail customers at unfair prices and sold shares of a new issue that traded at a premium in the secondary market to a restricted account in contravention of the NASD Board of Governors Free-Riding and Withholding Interpretation.

#### **Firm Suspended, Individual Sanctioned**

**Patterson Icenogle, Inc. (Tulsa, Oklahoma)** and **Mark D. Icenogle (Registered Principal, Tulsa, Oklahoma)** submitted an Offer of Settlement pursuant to which they were fined \$25,000, jointly and severally. The firm was suspended from soliciting retail transactions in penny stocks for six months and Icenogle was suspended from association with any NASD member in any capacity for one week and required to requalify by exam as a general securities representative. Without admitting or denying the allegations, the respondents consented to the described sanctions and to the entry of findings that the firm, acting through Icenogle, engaged in sales of securities without having a reasonable basis for believing that the prices charged to public customers were fair. The findings also stated that the firm, acting through Icenogle, received excessive commissions, up to 25 percent on each sale transaction of common stocks, and failed to reflect these transactions on the books and records

of the firm. The NASD found that the firm, acting through Icenogle, failed to issue confirmation statements to the purchasers of the aforementioned stock. Furthermore, the NASD determined that the firm, acting through Icenogle, engaged in securities transactions with public customers on a principal basis at prices that were not fair, with markups exceeding 10 percent over the firm's contemporaneous cost.

Also, the NASD found that the firm, acting through Icenogle, engaged in securities transactions with public customers, whereby Icenogle interpositioned his personal trading account between public customers, thereby causing customers to pay him a secret profit, in addition to the commissions charged to such customers. The findings also stated that the firm, acting through Icenogle, failed and neglected to disclose on confirmation statements sent to public customers the difference between the price charged to public customers and the firm's contemporaneous purchase price.

The NASD determined that the firm, acting through Icenogle, failed to accurately report to the NASD the highest price at which it sold and the lowest price at which it purchased securities, the total volume of sales executed in the securities business, whether the trades establishing the highest price at which the securities were sold represented an execution with a customer or with another broker/dealer, and, the amount of markup in the price on the sale of the securities. The NASD also found that the firm, acting through Icenogle, failed and neglected to transmit sales reports promptly to the NASD regarding the last sales of common stocks, and, failed to submit timely trade order tickets for sale transactions, thus causing the firm's books and records to be inaccurate.

#### **Firms Fined, Individuals Sanctioned**

**Joseph Roberts & Co., Inc. (Chicago, Illinois), Robert B. DiMarco, Jr. (Registered Principal, Chicago, Illinois), and Joseph F. DeSanto (Registered Principal, Chicago, Illinois)** submitted an Offer of Settlement pursuant to which the firm and DeSanto were fined \$50,000, jointly and severally. The firm was prohibited for one year from participation in the purchase or sale of any restricted or control security in transactions requiring compliance with Rule 144 of the Securities Act of 1933, as amended. DeSanto was suspended from association with any NASD member in any capacity for 15 business days and immediately thereafter suspended from association with any NASD member in any principal capacity for 120 days. DiMarco was fined \$25,000 and suspended from association with any NASD member in any principal capacity for 30 days. Without admitting or denying the allegations, the respondents consented to the described sanctions and to the entry of findings that the firm, acting through DiMarco and DeSanto, failed to comply with the terms of its restrictive agreement with the NASD and failed to establish, maintain, or enforce written supervisory procedures.

The findings also stated that the firm, acting through DiMarco and DeSanto, participated in the sales of securities when there was no registration statement filed with the SEC or in effect for such securities and effected securities transactions by means of manipulative, deceptive, and/or other fraudulent devices or contrivances, in that they made untrue statements of material facts or omitted to state material facts concerning the fact that the respondents were selling, or had arranged to sell, a significant number of shares of stock for affiliates of the issuer and that they had received loans or other funds from affiliates of the issuer.

**Westcap Securities, L.P. (Houston, Texas), Alan F. McIntyre (Registered Principal, Germantown, Tennessee), and Mark M. Salter (Registered Principal, Houston, Texas)** submitted Offers of Settlement pursuant to which the firm was fined \$75,000. McIntyre was fined \$50,000, barred from association with any NASD member in any principal capacity, suspended from association with any NASD member in any capacity for one year, and required to requalify as a general securities representative. Salter was fined \$20,000, suspended from association with any NASD member in any capacity for one week, suspended from association with any NASD member in any principal capacity for three months, and required to requalify as a general securities representative. Without admitting or denying the allegations, the respondents consented to the described sanctions and to the entry of findings that McIntyre effected purchase and sale transactions on behalf of a public customer involving certain U.S. government agency securities, in which he failed and neglected to disclose to the board of directors and senior officers that the purchase and sale prices for the securities were not reasonably related to the then-current market prices for the securities.

The NASD also found that the firm, McIntyre, and Salter used other individuals as conduits between McIntyre and the firm. The findings stated that Salter, acting on behalf of the firm, and McIntyre, recouped losses incurred in these transactions by selling other U.S. government agency securities at prices in excess of the then-current market price. The NASD also determined that McIntyre, the firm, and Salter failed to reflect on the books and records of the firm that these transactions were not effected at the then-current market prices and that the adjusted purchase price on the first leg of each

adjusted trade was conditioned upon a subsequent sale at a further inflated or adjusted price. McIntyre, the firm, and Salter also caused false and misleading confirmations to be mailed to a customer. The NASD also found that McIntyre caused the falsification of the books and records of a public customer in that realized losses on sales by the customer were concealed and the new securities purchased were recorded at inflated prices, and, in so doing, McIntyre caused third parties with an interest in these accounts to be misled regarding the performance of the investments under the control of the customer. The findings also stated that McIntyre falsified a trade ticket for a purchase by incorrectly indicating on the trade ticket that the transaction was a \$2,100,000 purchase of bonds and falsified the trade blotters of the member firm.

**Firms And Individuals Fined**  
**Chadwick Financial Group, Inc. (Santa Monica, California)** and **Timothy M. Hazzard (Registered Principal, Santa Monica, California)** submitted a Letter of Acceptance, Waiver and Consent pursuant to which they were fined \$25,840, jointly and severally. Without admitting or denying the allegations, the respondents consented to the described sanction and to the entry of findings that the firm, acting through Hazzard, induced the purchase of limited partnership interests in violation of Section 10(b) of the Exchange Act of 1934 and Rule 10(b) promulgated thereunder, in that it used a sales script that failed to disclose the risks associated with the investment. The findings also stated that the firm, acting through Hazzard, permitted non-registered persons to discuss investment products with prospective customers and to prequalify customers.

**Howe Solomon & Hall, Inc. (Miami, Florida)** and **Christopher**

**John Hall (Registered Principal, Miami, Florida)** were fined \$30,000, jointly and severally. The firm was ordered to disgorge excess profits totaling \$67,936.40 to public customers. The sanctions were based on findings that the firm, acting through Hall, effected principal sales of municipal bonds to public customers at prices that were not fair, given all relevant circumstances. The firm and Hall also failed to establish or maintain an adequate written supervisory procedure pertaining to the pricing of municipal securities.

**Firm Fined**  
**Key Brokerage Company, Inc. (Cleveland, Ohio)** 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 register all associated persons who were functioning in a principal capacity. The findings also stated that the firm failed to comply with Regulation T of the Federal Reserve Board in that in at least 35 transactions involving mutual funds wire order purchases, payment was neither received from the customer within the required seven business days nor was there a request for Regulation T extensions made by the firm on behalf of these customers. The NASD also found that the firm's written supervisory procedures and overall supervisory systems were inadequate.

**Individuals Barred Or Suspended**  
**Daniel Joseph Avant (Registered Representative, Spring, Texas)** was fined \$2,500 and suspended from association with any NASD member for seven days. The SEC affirmed the sanctions following appeal of a March 1995 National Business Conduct Committee (NBCC) decision.

The sanctions were based on findings that Avant failed to pay a \$28,000 NASD arbitration award timely.

**Erika Hilda Bauer (Registered Representative, Rochester, Michigan)** was suspended from association with any NASD member in any capacity for 90 days and required to requalify by exam. The NBCC imposed the sanctions following review of a Chicago District Business Conduct Committee (DBCC) decision. The sanctions were based on findings that Bauer sold a variable life insurance product to a customer without the customer's knowledge or consent by signing the customer's name to a form that allowed for automated withdrawal of monthly premium payments from the customer's bank account.

**Daniel Jon Benjamin (Registered Representative, Diamond Bar, California)** 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, Benjamin consented to the described sanctions and to the entry of findings that he received from a public customer a \$70,000 check to purchase mutual fund shares. The findings stated that Benjamin deposited the check into his personal securities account and used the money to purchase another mutual fund. The NASD also found that Benjamin forwarded to the customer a falsified account statement that purported to evidence the purchase of shares of the mutual fund for the customer's account, however, Benjamin failed to purchase the shares of the fund or to return the money to the customer, and converted the funds for his own use.

**Rick Randall Blair (Registered Representative, Nevada City, 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 10 business days. Without admitting or denying the allegations, Blair consented to the described sanctions and to the entry of findings that Blair exercised discretion in the account of a public customer without obtaining written authority from the customer and approval of his member firm. The NASD also found that Blair failed to respond to NASD requests for information.

**Deedra Kay Brown (Registered Representative, Phoenix, Arizona)** was fined \$25,000 and barred from association with any NASD member in any capacity. The sanctions were based on findings that Brown exercised discretion in a customer account without obtaining written discretionary authority from the customers or written acceptance of the account as discretionary from her member firm. Brown also forged two customers' signatures to a margin agreement purporting to authorize the use of margin in the customers' joint account and effected margin transactions in the account, all without the customers' authorization and consent. Brown also failed to respond to NASD requests for information.

**Richard P. Brown (Registered Principal, Holmdel, New Jersey)** submitted an Offer of Settlement pursuant to which he was barred from association with any NASD member in any capacity, barred directly or indirectly from owning more than a five percent interest in any Nasdaq<sup>®</sup> company, or serving as an officer, director, or control person of a Nasdaq company. Brown also agreed to pay \$300,000 into an interest-bearing escrow account for the benefit of securities claimants. Without admitting or denying the allegations, Brown consented to the described sanctions and to the entry of findings that he engaged in a manipulative,

fraudulent, and deceptive scheme in connection with transactions in a common stock. The NASD also found that Brown sold common stock to customers at prices that were not fair and reasonable and not reasonably related to the prevailing market price for the securities with mark-ups in excess of 10 percent above the prevailing market price. The findings also stated that Brown failed to supervise.

**John R. Dankovich (Registered Representative, Sunrise, Florida)** was fined \$40,000 and barred from association with any NASD member in any capacity. The sanctions were based on findings that Dankovich opened a securities account with his member firm under the name of his infant daughter and listed false information on the new account card. Dankovich also failed to respond to an NASD request for information about his termination from a member firm.

**Robert J. Darling (Registered Representative, Bradenton, Florida)** 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, Darling consented to the described sanctions and to the entry of findings that, without the knowledge or consent of at least two public customers, he received \$16,309 in insurance proceeds from his submission of at least four fraudulent loan requests on insurance policies.

**Rodger E. Ericson (Registered Representative, Zionville, Indiana)** submitted a Letter of Acceptance, Waiver and Consent pursuant to which he was fined \$120,000, barred from association with any NASD member in any capacity, and required to pay \$64,673.85 to a member firm. Without admitting or denying the allegations, Ericson consented to the

described sanctions and to the entry of findings that he obtained \$61,250 in checks from his member firm by requesting advances against future insurance commissions of insurance agents of his member firm. After obtaining the checks, Ericson endorsed them, deposited them in an account in which he had a beneficial interest, and used the funds for some purpose other than for the benefit of the agents, without their knowledge or consent. Furthermore, the NASD found that Ericson received from a public customer a \$3,223.85 check with instructions that he use the funds to purchase an annuity. Ericson failed to follow said instructions in that he 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 for the benefit of the customer. The findings also stated that Ericson failed to respond to NASD requests for information.

**Alex V. Folgen (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 Folgen arranged to have an imposter take the Series 24 exam for him. Folgen also failed to respond to NASD requests for information.

**Ray Arvil Forrester (Registered Representative, Chicago, Illinois)** was fined \$1,000, suspended from association with any NASD member in any capacity for 30 days, and required to requalify by exam in any capacity. The NBCC imposed the sanctions following appeal of a Chicago DBCC decision. The sanctions were based on findings that Forrester telephoned his member firm, identified himself as a customer, directed the liquidation of stock held in the customer's account, and caused the proceeds to be directed to the customer in care of For-

rester at his address. Without the customer's or the member firm's knowledge or consent, Forrester received a check totaling \$1,998.48, deposited the check in an account, and the proceeds were used by someone other than the customer. Forrester also failed to respond timely to NASD requests for information.

**Gary P. Goodner (Registered Representative, Oklahoma City, Oklahoma)** 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, Goodner consented to the described sanctions and to the entry of findings that he engaged in outside business activities without having provided written notice to his member firm.

**Michael K. Hart (Registered Principal, Point Pleasant Beach, New Jersey)** was fined \$20,000 and barred from association with any NASD member in any capacity. The sanctions were based on findings that Hart failed to appear for an on-the-record interview.

**Leon Hawkins (Registered Representative, Huntsville, Alabama)** submitted a Letter of Acceptance, Waiver and Consent pursuant to which he was fined \$150,000, barred from association with any NASD member in any capacity, and ordered to pay \$35,498.69 in restitution to public customers. Without admitting or denying the allegations, Hawkins consented to the described sanctions and to the entry of findings that he received from public customers \$35,498.69 as premium payments for insurance policies. The NASD found that Hawkins failed to apply the payments to the policies as directed, and, instead, converted the funds by endorsing and cashing the checks without the customers' knowledge or consent.

**David Lee Heinemeyer (Registered Representative, Bismarck, North Dakota)** was fined \$20,000 and barred from association with any NASD member in any capacity. The sanctions were based on findings that Heinemeyer failed to respond to NASD requests for information regarding his termination from a member firm.

**Richard C. Hinckley (Registered Representative, Windsor, New York)** was fined \$25,000 and barred from association with any NASD member in any capacity. The sanctions were based on findings that Hinckley misrepresented the non-existence of a mutual fund sales charge to a public customer, and misrepresented the existence of a guarantor on a personal promissory note that he tendered to his customer upon the customer's discovery of the sales charge. Hinckley also failed to respond to NASD requests for information.

**Alton Ray Jewell, Jr. (Registered Representative, Battery Park, Virginia)** was fined \$20,000 and barred from association with any NASD member in any capacity. The sanctions were based on findings that Jewell failed to respond to NASD requests for information.

**David P. Jones (Registered Representative, Nashville, Tennessee)** was fined \$170,000, barred from association with any NASD member in any capacity, and ordered to pay \$1,120,389.88 in restitution to the appropriate parties. The sanctions were based on findings that Jones received from public customers \$1,120,389.88 in checks and cash to purchase investments on behalf of the customers. Jones failed and neglected to deposit the funds into the customers' accounts, and, instead, converted the funds to his own use and benefit by depositing the funds into a bank account that he controlled. Jones prepared fictitious

account statements for the affected public customers, attempting to conceal the conversions. Jones also failed to respond to NASD requests for information.

**John T. King (Registered Principal, Knoxville, Tennessee)** 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, King consented to the described sanctions and to the entry of findings that he engaged in the sale of unregistered securities and prepared and distributed sales literature that omitted or misstated material facts. The NASD also found that King engaged in private securities transactions without prior written notice to and approval from his member firm.

**Fred W. Kwok (Registered Representative, West Lafayette, Indiana)** was fined \$120,000, barred from association with any NASD member in any capacity, and required to pay \$120,000 in restitution to a member firm. The sanctions were based on findings that Kwok obtained from public customers \$120,293.54 in checks and cash to purchase shares in mutual funds, an annuity and universal life insurance policy, or investments through his member firm. Kwok failed to follow instructions and used the customers' funds for some purpose other than for the benefit of the customers. Kwok also failed to respond to NASD requests for information.

**Randy J. Landry (Registered Representative, Youngsville, Louisiana)** submitted a Letter of Acceptance, Waiver and Consent pursuant to which he was fined \$5,120 and suspended from association with any NASD member in any capacity for one week. Without admitting or denying the allegations, Landry con-

sented to the described sanctions and to the entry of findings that he executed the unauthorized purchase and sale of shares of stock in the account of a public customer, without the customer's knowledge or consent.

**Harry R. Lankenau (Registered Principal, Richmond, Virginia)** and **Nicholas G. Costas (Registered Principal, Richmond, Virginia)** were suspended from association with any NASD member in any capacity for 15 days. Costas also was fined \$5,000. The NBCC imposed the sanctions following review of a Washington DBCC decision. The sanctions were based on findings that Costas and Lankenau engaged in a scheme to deceive their member firm. Costas and Lankenau effected sales of municipal securities from their firm's inventory account to an institutional customer pursuant to an understanding that after a bona fide buyer for the bonds could be located, Costas would repurchase the bonds from the customer at a price that would assure the customer a profit. Lankenau also effected discretionary securities transactions for the customer's account without written authority.

The suspensions began April 12, 1993, and concluded April 26, 1993.

**Barry B. Levine (Registered Representative, Atlanta, 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, Levine consented to the described sanctions and to the entry of findings that he failed to respond to an NASD request for information.

**Kevin G. Malone (Registered Principal, East Rockaway, New York)** and **Michael P. Galterio (Registered Principal, Wantagh, New**

**York)** submitted Offers of Settlement pursuant to which Malone was fined \$40,000, suspended from association with any NASD member in any capacity for three months, and required to pay \$9,686 in restitution to public customers. Galterio was fined \$7,500, suspended from association with any NASD member in any capacity for 10 business days, and barred from association with any NASD member in any principal or supervisory capacity. Without admitting or denying the allegations, the respondents consented to the described sanctions and to the entry of findings that Malone caused his member firm to sell common stock to retail customers at an arbitrary and inflated price, knowing there was little or no demand for the stock and no favorable news or developments concerning the stock.

The NASD also found that Malone used manipulative, deceptive, and other fraudulent devices to create actual or apparent active trading in the stock, and to arbitrarily and artificially establish, maintain, and raise the price of the stock to induce its purchase and sale by others. The findings also stated that Galterio failed to establish, implement, and enforce reasonable supervisory procedures designed to prevent the firm's retail customers from being charged manipulated prices and unfair and fraudulently excessive markups in a common stock.

Malone's suspension will begin on March 18, 1996, and will conclude June 18, 1996.

**Curtis David Mase (Registered Principal, Glen Carbon, Illinois)** submitted an Offer of Settlement 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, Mase 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 failed to give prior written notice to, or obtain prior written approval from, his member firm to engage in such activities.

**Gerald J. Mundy, Sr. (Registered Representative, Livonia, Michigan)** submitted a Letter of Acceptance, Waiver and Consent pursuant to which he was fined \$35,000 and barred from association with any NASD member in any capacity. Without admitting or denying the allegations, Mundy 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 failed to give prior written notice to, or obtain prior written approval from, his member firm to engage in such activities.

**Paul A. Muro (Registered Representative, Old Bethpage, New York)** was fined \$20,000 and barred from association with any NASD member in any capacity. The sanctions were based on findings that Muro failed to respond to NASD requests for information regarding allegations that he took the Series 7 qualification exam under the name of another individual who was seeking to become registered with the NASD.

**Jerome J. Novosad (Registered Representative, Westminster, Colorado)** was fined \$50,000 and barred from association with any NASD member in any capacity. The sanctions were based on findings that Novosad failed to respond to NASD requests for information regarding his termination from a member firm.

**Steven T. Okamoto (Registered Principal, Foster City, California)** submitted a Letter of Acceptance, Waiver and Consent pursuant to

which he was fined \$5,000, barred from association with any NASD member as a registered securities principal, and required to requalify as a registered representative. Okamoto also was suspended from association with any NASD member in any capacity for 60 days. Without admitting or denying the allegations, Okamoto consented to the described sanctions and to the entry of findings that he created 10 fictitious branch office audit reports when a corresponding supervisory branch exam had not been conducted.

Okamoto's suspension began June 5, 1995, and concluded August 5, 1995.

**Barbara J. Owens (Registered Representative, Dundee, Florida)** was fined \$20,000 and barred from association with any NASD member in any capacity. The sanctions were based on findings that Owens failed to respond to NASD requests for information.

**George R. Peak (Registered Representative, Lauderhill, Florida)** was fined \$30,000 and barred from association with any NASD member in any capacity. The sanctions were based on findings that Peak effected six unauthorized purchases in the accounts of public customers and failed to respond to NASD requests for information.

**Charles O. Phillips, Jr. (Registered Representative, Decatur, Georgia)** was fined \$20,000 and barred from association with any NASD member in any capacity. The sanctions were based on findings that Phillips obtained a \$1,000 loan against the insurance policy of a public customer without the knowledge or authorization of the customer.

**Michael I. Pinsler (Registered Representative, Chicago, Illinois)** was fined \$10,000 and barred from association with any NASD member in

any capacity with the right to reapply in two years. The sanctions were based on findings that Pinsler failed to disclose on his Uniform Application for Securities Industry Registration (Form U-4) that he pleaded guilty to and had been convicted of a felony drug offense.

**George H. Rather, Jr. (Registered Representative, Spring, Texas)** was fined \$10,000, suspended from association with any NASD member in any capacity for 30 days, and ordered to requalify as a general securities representative. The SEC affirmed the sanctions following appeal of a June 1995 NBCC decision. The sanctions were based on findings that Rather failed to submit timely five order tickets.

**William D. Roberts (Registered Representative, Indianapolis, Indiana)** 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, Roberts consented to the described sanctions and to the entry of findings that he received from a public customer \$7,975 with instructions that the funds be used to purchase various investments. The NASD determined that Roberts failed to follow the customer's instructions and used the funds for some purpose other than for the benefit of the customer. The NASD also found that Roberts failed to respond fully to NASD requests for information.

**Wilber S. Stakes (Registered Representative, Stamford, Connecticut)** was fined \$100,000 and barred from association with any NASD member in any capacity. The sanctions were based on findings that Stakes made use of fraudulent devices in setting up fictitious accounts, falsifying their existence,

and executing fictitious transactions therein. Stakes also failed to respond to NASD requests for information.

**Arthur K. Taylor (Registered Representative, Royal Oak, Michigan)** submitted an Offer of Settlement 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, Taylor consented to the described sanctions and to the entry of findings that he participated in the offer and sale of securities to a public customer on a private basis and failed to give prior written notice to, or obtain prior written approval from, his member firm to engage in such activities.

**Mohammed N. Wasif (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 Wasif failed to respond to an NASD request for information regarding his termination from a member firm.

**David H. Weinreb (Registered Representative, Aventura, Florida)** was fined \$20,000 and barred from association with any NASD member in any capacity. The sanctions were based on findings that Weinreb failed to respond to NASD requests for information.

**Scott A. Weldon (Registered Representative, Chanhassen, Minnesota)** 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, Weldon consented to the described sanctions and to the entry of findings that he received from a public customer \$10,000 to purchase an annuity. Weldon did not apply the funds as instructed and, instead, with-

out the knowledge and consent of the customer, deposited the funds into his personal bank account and converted the funds to his own use and benefit.

**Davis W. Wetmore (Registered Principal, Bellaire, Texas)** submitted a Letter of Acceptance, Waiver and Consent pursuant to which he was fined \$25,000, suspended from association with any NASD member in any capacity for 60 days, and suspended from association with any NASD member in a principal capacity for six months. Wetmore also must requalify by exam as a general securities representative. Without admitting or denying the allegations, Wetmore consented to the described sanctions and to the entry of findings that he engaged in a series of purchase and sale transactions for U.S. government agency securities and agreed to execute, and caused to be executed, such transactions at prices that were not reasonably related to the then-current market price for the securities. The NASD also found that Wetmore was negligent in failing to make a reasonable effort to determine the market prices for the securities and engaged in a practice commonly identified as adjusted trading. The findings stated that Wetmore failed to reflect on the books and records of his member firm that the transactions were not effected at the then-current market prices and that the adjusted sale price on the first leg of each adjusted trade was conditioned upon the subsequent purchase at a further inflated or adjusted price. The NASD also determined that Wetmore failed to reflect on the books and records of his member firm the identity of the true contra-party on government agency trades by interpositioning another member firm between the two parties.

**Allen G. Whitmire (Associated Person, Elgin, South Carolina)** was fined \$20,000 and barred from association with any NASD member in any capacity. The sanctions were

based on findings that Whitmire failed to respond to an NASD request for information regarding his termination from a member firm.

#### **Individuals Fined**

**Russell B. Anderson (Registered Representative, Orem, Utah)** was fined \$20,000 and required to requalify by exam as a general securities sales representative. The sanctions were based on findings that Anderson effected seven transactions in the securities accounts of five customers without obtaining authorization from these customers prior to each of these transactions.

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

**Beacon Securities, Inc.** (New York, New York)

**Sheen Financial Resources, Inc.** (Boca Raton, Florida)

#### **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.

**Aesop Brokerage Services, Inc.,** West Bloomfield, Michigan (December 27, 1995)

**Boston International Group Securities Corporation,** Boston, Massachusetts (January 2, 1996)

**Hunter International Securities,**  
Pompano Beach, Florida (December  
27, 1995)

**Penn Capital Financial,** Pittsburgh,  
Pennsylvania (December 27, 1995)

**TWC Capital Corp,** Ft. Lauderdale,  
Florida (January 2, 1996)

#### **Suspension Lifted**

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

**WH Securities Group, Inc.,** New  
Orleans, Louisiana (December 29,  
1995)

**Firms 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 list-  
ed after each entry.

**J.W. Bullard & Company,** New  
York, New York (December 26,  
1995)

**M. Rimson & Co., Inc.,** New York,  
New York (January 15, 1996)

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

**Robert W. Arthur** (Scottsdale,  
Arizona)

**Gary L. Donahue** (New Rochelle,  
New York)

**Kerry Patrick Kennedy** (North-  
brook, Illinois)

**Danny G. Pinkerton** (Denver,  
Colorado)

**Brian J. Sheen** (Boca Raton,  
Florida)

**Individuals Whose Registrations  
Were Canceled/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.

**Steve Ropas,** Staten Island, New  
York (December 26, 1995)

**Jose S. Rubio,** Edgewood, Pennsyl-  
vania (December 27, 1995)



# FOR YOUR INFORMATION

## **NSCC Converts To Same-Day Funds Settlement System**

Earlier this year, the National Securities Clearing Corporation (NSCC) announced a joint undertaking with the Depository Trust Company to convert their operations to a Same-Day Funds Settlement system from a Clearing House/Next Day Funds Settlement system. This cooperative

effort was undertaken primarily to limit market risk by requiring that securities transactions be paid for in Federal Funds (*i.e.*, funds available for immediate rather than next day use). A test of the new system was conducted on December 10, 1995. **Implementation will begin with trades settling February 22, 1996.**