

NASD NOTICE TO MEMBERS 96-69

Industry/Regulatory Council On Continuing Education Issues Update On The Status Of The Securities Industry Continuing Education Program

Suggested Routing

- Senior Management
- Advertising
- Corporate Finance
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Executive Summary

On February 8, 1995, the Securities and Exchange Commission (SEC) approved Rule 1120 (formerly Schedule C, Part XII of the NASD[®] By-Laws) of the NASD Membership and Registration Rules which prescribes requirements for the Securities Industry Continuing Education Program (Program). The Program has two elements—a Regulatory Element and a Firm Element, and became effective July 1, 1995.

The Securities Industry/Regulatory Council on Continuing Education (Council) includes 13 members representing a cross-section of securities firms and six self-regulatory organizations¹. Both the SEC and the North American Securities Administrators Association have appointed liaisons to the Council.

The Council facilitates industry/regulatory coordination of the administration and future development of the Program. Council duties include recommending and helping to develop specific content and questions for the Regulatory Element, and minimum core curricula for the Firm Element. The Council also periodically reports on the Program's progress, and issues guidelines to help broker/dealers comply with the requirements of the

Firm Element. The first *Status Report* and *Guidelines* were issued by the Council in March 1995 (See *Special Notice to Members 95-13*). Following this Notice is a revised *Status Report*, a revised question-and-answer section on the Regulatory and Firm Elements, and a revised *Guidelines For Firm Element Training*. These documents address questions about the Program that have been raised by firms. Although there are no changes to the content of the Regulatory Element computer-based training, the *Content Outline For The Regulatory Element* has also been included.

Questions about this Notice may be directed to any of the following NASD RegulationSM staff: John Linnehan, Director, Continuing Education, at (301) 208-2932; Frank J. McAuliffe, Vice President, Qualifications, Examinations, and Continuing Education, at (301) 590-6694; or Daniel M. Sibears, Vice President, District Oversight, at (202) 728-6911.

¹ The American Stock Exchange, Inc., the Chicago Board Options Exchange, Inc., the Municipal Securities Rulemaking Board, the National Association of Securities Dealers, Inc., the New York Stock Exchange, Inc., and the Philadelphia Stock Exchange, Inc.



The Securities Industry Continuing Education Program

Status Report On The Securities Industry Continuing Education Program

The Securities Industry/Regulatory Council on Continuing Education (Council) is comprised of 13 industry and six self-regulatory organization (SRO) representatives.¹ Industry representatives serve three-year terms and are selected through a nominating committee process designed to maintain representation from a broad cross section of firms. The Council also benefits from the contributions of liaison personnel from the Securities and Exchange Commission (SEC) and the North American Securities Administrators Association (NASAA).

The Council's purpose is to facilitate industry/regulatory coordination of the administration and future development of the Securities Industry Continuing Education Program (Program). The Program was created in February 1995 when SEC approved SRO rules which became effective July 1, 1995. The SRO rules were the result of cooperative effort by the industry and its regulators. The rules stipulate a Regulatory Element and a Firm Element as the two components of the Program. The Council recommends and helps develop specific content and questions for the Regulatory Element, and minimum core curricula for the Firm Element. Another Council role is to monitor the progress of the Program and to periodically prepare status reports to the industry.

The Regulatory Element

The Regulatory Element of the Program requires all persons who are registered 10 years or less and those who have been the subject of a serious disciplinary action regardless of how long they have been registered, to participate in periodic computer-based training sessions dealing with industry rules and regulations. The attached *Content Outline For The Regulatory Element* provides the scope of coverage contained in the computer-based training.

The content of the Regulatory Element was initially determined by an industry committee representing a diverse range of broker/dealers, in conjunction with the Council, industry regulatory agencies, and SROs. In late 1995, the Council established two Regulatory Element Content Committees (Content Committees) to carry on the task of ensuring that the Regulatory Element training addressed current industry issues. The Content Committees comprise management, compliance, sales, and marketing executives from a cross section of industry firms, as well as SRO, state regulatory, and SEC staff members. The Content Committees, coordinated by the New York Stock Exchange, develop new training scenarios for the Regulatory Element. The first new material was introduced to the computer-based training sessions October 1. New

material is scheduled to be introduced every quarter.

The Council and its Regulatory Element Committee have also taken initial steps to develop special computer-based training for registered supervisors. Regulatory Element training for those in the industry who undertake this important function is planned to be available in 1997. Over time, the Council hopes to introduce specific computer-based Regulatory Element training to other distinct groups of securities registrations, as contrasted to the "one-size-fits-all" approach in use at this time.

Since July 1, 1995 and through September 30, 1996, over 100,000 Regulatory Element training sessions have been administered mainly in the United States. In March 1996 the current network of 55 NASD Regulation PROCTOR® Centers was acquired by Sylvan Learning Centers, Inc. The number of Sylvan Technology Center locations will be increased to 125 by March 1, 1997, and to 250 by March 1, 1998. NASD Regulation will continue to offer its Mobile PROCTOR facilities to industry firms in the U.S. and in London, England where it has been administering Regulatory Element sessions to registered persons in England, Scotland, and Wales since August 1996. Sylvan plans to make available many of its sites outside the U.S. for Regulatory Element training beginning in 1997.

¹A list of Council members and liaisons is included in this Status Report.

The Firm Element

The Firm Element requires broker/dealers to keep their employees up to date on job- and product-related subjects by means of a formal, ongoing continuing education process. The Firm Element requires serious preparation and implementation. Every firm must annually assess its continuing education needs in consideration of the firm's size, structure, and scope of business. The firm must then establish and execute a formal training plan to address its continuing education needs.

The Firm Element has been implemented in two stages. Firms were required to have completed their initial continuing education and training needs analysis, and their formal training plans by July 1, 1995. Firms could begin to implement their plans any time after July 1, 1995 but no later than January 1, 1996. As expected, many commercial training providers and industry associations stepped forward to assist securities firms. For its part, NASD Regulation prepared software (the *Training Analysis and Planning Tool*

versions 1.0 and 2.0) to help firms undertake their needs analysis, prepare their plan, track its progress, and identify training providers.

The Council and its Firm Element Committee have been closely following the various ways in which industry firms have addressed the Firm Element. The Council hosted several focus groups of industry firms to hear first-hand how firms were complying with the Firm Element. In response to the many questions and concerns about the Firm Element which have been expressed by firms since the inception of the Program and to assist firms as they undertake preparation of their 1997 plans, the Firm Element Committee has revised the *Guidelines For Firm Element Training*, which are included with this report. The Firm Element Committee has plans to issue examples of Firm Element practices which will illustrate successful ways particular firms have complied with the Firm Element. The Firm Element Committee will also comment on these plans and provide constructive suggestions on how they could be improved.

What Lies Ahead

The success of the Securities Industry Continuing Education Program, which is so important to the competence and professionalism of our industry, and ultimately, to the investing public, requires continuous cooperation by all in the securities industry. Industry members are encouraged to become involved with the future of the Program by communicating their observations and ideas on continuing education to members of the Council.

*Therese M. Haberle
Chairperson,
Securities Industry/Regulatory
Council On Continuing Education
Senior Vice President, Chief
Compliance Officer
Charles Schwab & Co., Inc.*

Members Of The Securities Industry/Regulatory Council On Continuing Education

Chairperson

Therese M. Haberle
Senior Vice President, Chief
Compliance Officer
Charles Schwab & Co., Inc.
San Francisco, CA

James Harrod
General Principal, Investment
Representative – Training
Edward D. Jones & Co.
St. Louis, MO

Howard A. Baker
Senior Vice President
American Stock Exchange
New York, NY

Industry Representatives

Judith G. Belash
Vice President & Associate General
Counsel
Goldman, Sachs & Co.
New York, NY

Richard L. Hinton
President
Campbell, Waterman, Inc.
Seattle, WA

Darrell Drago
Vice President of Compliance
Chicago Board Options Exchange
Chicago, IL

Mary Alice Brophy
Senior Vice President, Compliance
Dain Bosworth, Inc.
Minneapolis, MN

James F. Settel
Senior Vice President &
Corporate Ethics Officer (Retired)
Prudential Securities, Inc.
New York, NY

Frank J. McAuliffe
Vice President
NASD Regulation, Inc.
Rockville, MD

Ronald E. Buesinger
Corporate Secretary &
Senior Vice President (Retired)
A.G. Edwards & Sons, Inc.
St. Louis, MO

Lois Towers
Compliance Officer
Fidelity Investments
Boston, MA

Loretta J. Rollins
Director of Professional
Qualifications
Municipal Securities
Rulemaking Board
Alexandria, VA

Elena Dasaro
Managing Director and
Chief Compliance Officer
H.C. Wainright & Co., Inc.
Boston, MA

Robert H. Watts
Senior Vice President & Chief
Compliance Officer
John Hancock Mutual Life
Insurance Company
Boston, MA

Donald van Weezel
Managing Director,
Regulatory Affairs
New York Stock Exchange, Inc.
New York, NY

David A. DeMuro
Senior Vice President
Associate General Counsel
Lehman Brothers Inc.
New York, NY

O. Ray Vass
First Vice President
Director of Regulatory Policy
Merrill Lynch, Pierce, Fenner &
Smith, Inc.
Princeton, NJ

SRO Staff Participants

Joseph A. Bailey
Vice President
Member Firm Regulation
New York Stock Exchange, Inc.
New York, NY

M. Anthony Greene
President
Investment Management &
Research, Inc.
Atlanta, GA

SRO Representatives

Diane Anderson
Vice President of Examinations
Philadelphia Stock Exchange
Philadelphia, PA

JoEllen Carlson
Director, Testing Standards
New York Stock Exchange, Inc.
New York, NY

P. William Hotchkiss
Director
District Oversight
NASD Regulation, Inc.
Washington, DC

John Linnehan
Director
Continuing Education
NASD Regulation, Inc.
Rockville, MD

Christopher F. Meyer
Continuing Education Coordinator
New York Stock Exchange, Inc.
New York, NY

Salvatore Pallante
Senior Vice President
New York Stock Exchange, Inc.
New York, NY

John E. Pinto
Executive Vice President
NASD Regulation, Inc.
Washington, DC

Daniel M. Sibears
Vice President
NASD Regulation, Inc.
Washington, DC

NASAA Liaisons

Ralph A. Lambiase
Director
Connecticut – Department of
Banking
Division of Securities
Hartford, CT

Don B. Saxon
Director
Division of Securities
Florida – Office of Comptroller
State of Florida
Department of Banking & Finance
Tallahassee, FL

SEC Liaisons

Robert Colby
Deputy Director
Securities and Exchange
Commission
Washington, DC

Holly Smith
Associate Director
Division of Market Regulation
Securities and Exchange
Commission
Washington, DC



The Securities Industry Continuing Education Program

Questions And Answers Regarding The Securities Industry Continuing Education Program

Background And General Description

1.

Q. What is the Securities Industry/Regulatory Council on Continuing Education (Council) and what role does it play?

A. The Council consists of representatives from six self-regulatory organizations (SROs)¹ and at least nine but not more than fifteen industry representatives. The industry representatives serve three-year terms and are selected through a nominating committee process designed to maintain representation from a broad cross section of firms. The Council also benefits from guidance and input from liaison personnel from the Securities and Exchange Commission (SEC) and the North America Securities Administrators Association (NASAA). Its purpose is to facilitate cooperative industry/regulatory coordination of the administration and future development of the program in keeping with applicable SRO rules and changing industry needs over time. Its roles include recommending and helping develop specific content and questions for the Regulatory Element and minimum core curricula for the Firm Element as well as developing and updating information about the Program for industry-wide dissemination.

2.

Q. Does the Council have authority to enforce requirements of the Continuing Education Program (Program); i.e., to require firms to transmit specific information or carry out training in specific areas?

A. No. The Council may be called upon to offer recommendations and insights as to areas of regulatory emphasis, interpretations, or future rule modifications. However, examination and enforcement authority rests with the SROs.

3.

Q. Why does the Continuing Education Program consist of two elements?

A. The two-element structure reflects the need for a uniform industry-wide program which also recognizes widely divergent firm and individual training needs. A program incorporating only material broadly applicable to all registered persons could achieve uniformity, but would fail to address the wide and varying range of topics appropriate for specific firms and individuals—especially with respect to product-oriented training. Hence, the program was designed with two distinct elements. The Regulatory Element incorporates uniform coverage, delivery, and record-keeping for regulatory, compliance, ethical,

and supervisory subjects important to a wide range of registered persons. The Firm Element requires firms to annually evaluate their own training needs, devise a written training plan, and conduct training accordingly with the flexibility to use a wide variety of material, sources, and delivery methods.

Regulatory Element

The Regulatory Element—
Who Is Required To
Participate?

4.

Q. Who is covered by the Regulatory Element?

A. Each person registered for 10 years or less is covered by the Regulatory Element and must take the regulatory computer-based training within 120 calendar days after the second, fifth, and tenth anniversaries of his or her initial registration date. In addition, registered persons who have been the subject of a significant disciplinary action during the last 10 years (from July 1, 1995) or become subject to a significant disciplinary action after that date, are subject to the Regulatory Element requirements. See the *Significant Disciplinary Actions* section below, for more information.

¹The American Stock Exchange, Inc., the Chicago Board Options Exchange, Inc., the Municipal Securities Rulemaking Board, the National Association of Securities Dealers, Inc., the New York Stock Exchange, Inc., and the Philadelphia Stock Exchange, Inc.

5.

Q. What is the initial registration date?

A. The initial registration date is the first date a person became registered with an SRO, regardless of the registrations the person acquired after his or her initial registration. The initial registration date is the date the person's registration was approved, not the date the person completed and passed the registration qualification examination. For this Program, a person who has a gap greater than two years in his or her registration history will have the initial registration date reset to the new date of approval following the registration gap.

6.

Q. What types of NASD and NYSE registrations are affected by the Program and the Regulatory Element?

A. Those who hold the following registrations are subject to the Regulatory Element requirements:

- 4 Registered Options Principal
- 6 Investment Company Products/Variable Contracts Limited Representative
- 7 General Securities Representative
- 7 Securities Trader (NYSE)
- 7 Trading Supervisor (NYSE)
- 7A Floor Members Engaged in Public Business with Professional Customers (NYSE)
- 7B Floor Clerks of Members Engaged in Public Business with Professional Customers (NYSE)
- 8 General Securities Sales Supervisor
- 8 Branch Office Manager (NYSE)
- 11 Assistant Representative—Order Processing

- 12 General Securities Sales Supervisor (NYSE)
- 13 Allied Member (NYSE)
- 14 Compliance Official
- 15 Foreign Currency Options
- 16 Supervisory Analyst (NYSE)
- 17 Limited Registered Representative (United Kingdom)
- 22 Direct Participation Programs Limited Representative
- 24 General Securities Principal
- 26 Investment Company Products/Variable Contracts Limited Principal
- 27 Financial and Operations Principal
- 28 Introducing Broker/Dealer Financial and Operations Principal
- 37 Canada Module of the General Securities Representative Examination (Options included)
- 38 Canada Module of the General Securities Representative Examination (Options not included)
- 39 Direct Participation Programs Limited Principal
- 47 Japan Module of the General Securities Representative Examination
- 52 Municipal Securities Representative
- 53 Municipal Securities Principal
- 62 Corporate Securities Limited Representative
 - Government Securities Principal
 - Securities Lending Representative (NYSE)
 - Securities Lending Supervisor (NYSE)

Persons holding only a commodities registration with the National Futures Association or state investment advisor registrations are not tracked by the Central Registration Depository (CRD) and are not included.

Persons registered with the NASD solely as Foreign Associates are not subject to the Regulatory Element.

Persons approved by the NYSE solely as an officer of a member or member organization, or with the sole status of approved person, are not subject to the Regulatory Element.

7.

Q. What if an individual has multiple registrations obtained in different years, such as a Series 6 in 1988 and a Series 7 in 1991? What date determines when that person must participate in the Regulatory Element?

A. The date of the initial registration (1988) applies, provided that the person has remained continuously registered since that time and has had no significant disciplinary action as described below.

8.

Q. What if the above individual had a Series 65 State Investment Advisor registration in 1992 and a Series 6 in 1993? What date determines when that person must participate in the Regulatory Element?

A. The date of the NASD Series 6 registration (1993) is the determining date, provided that the person has remained continuously registered since that time and has had no significant disciplinary action as described below. The Series 65 State Investment Advisor registration does not cause a person to be covered by the Program.

9.

Q. Certain municipal securities representatives and principals were registered with one or more bank regulators pursuant to Municipal Securities Rulemaking Board (MSRB) rules before becoming associated with an NASD® member. What is their initial registration date and how do you measure the period of their continuous registration?

A. The initial registration date is the date the person was first registered with the bank regulator. The period of continuous registration begins with this date and includes the period of bank registration. Because the CRD does not contain the bank registration information, the CRD recognizes such persons as being registered less than 10 years. However, if in combination with the bank registration, the person has been previously registered for more than 10 years, and such person has no significant disciplinary history that makes the person subject to the Regulatory Element, he or she is not required to meet any Regulatory Element requirements. If a firm receives a Continuing Education Advisory Message for such a person, it should advise its CRDSM Quality & Service Team in writing that the person has a registration history with a bank regulator. The letter must include the amount of time registered before becoming associated with an NASD firm and the bank regulatory organization(s) with which the person was registered so that this information can be verified with the bank regulator(s).

10.

Q. *What if a person's registration temporarily lapses?*

A. If a person ceases to be registered for less than two years, he or she will maintain the original registration date but will have to participate in any Regulatory Element program that he or she may have missed during the lapsed period. For example, if a person's registration lapses at four and one-half years, and that person wishes to reactivate at what would be his or her six-year anniversary, he or she must complete the fifth-year Regulatory Element requirement before the registration can be reactivated.

11.

Q. *What if the person ceases to be registered for two or more years?*

A. That person begins the entire registration process anew. That is, he or she must take the appropriate qualification examination(s) and reenter the Regulatory Element at the beginning of a new 10-year cycle as if entering the Program for the first time.

12.

Q. *What is the initial registration date of the person who was not registered for two or more years and reentered the securities business by waiver rather than by examination?*

A. For the purposes of this rule, the initial registration date of that person is the waiver approval date.

13.

Q. *Is anyone exempt from the Regulatory Element of the Program?*

A. Those who have been registered more than 10 years and who have not been the subject of a significant disciplinary action during the most recent 10 years are exempt from the Regulatory Element. However, if an individual incurs a significant disciplinary action at any time in the future, or is ordered by a state securities regulator, an SRO, or the SEC to reenter the Regulatory Element, that person will be subject to the Regulatory Element in a new 10-year cycle. Also exempt from the Regulatory Element are those registered persons whose activities are limited solely to the transaction of business with members or registered broker/dealers on an exchange trading floor; persons approved by the NYSE, Inc. with the sole status of officer of a member or member organization pursuant to the requirements of

Exchange Rule 345(b); and persons approved by the NYSE with the sole status of approved person.

14.

Q. *What is the rationale behind not requiring the Regulatory Element for an individual after 10 years?*

A. Because information to be transmitted through the Regulatory Element is primarily of a compliance, regulatory, ethical, and sales-practice nature, individuals registered for more than 10 years without a significant disciplinary action presumably have adequately absorbed this material, and this understanding should be reflected in their manner of doing business. In addition, all registered individuals who are *covered persons* (see Question 48) will continue to be subject to the requirements of the Firm Element for as long as they are considered "*covered persons*."

Significant Disciplinary Actions

15.

Q. *What is a significant disciplinary action?*

A. A significant disciplinary action occurs when a registered person:

- becomes subject to a statutory disqualification pursuant to the Securities Exchange Act of 1934. Such disqualifications currently include bars, suspensions, and civil injunctions involving securities matters, any felony convictions or a misdemeanor conviction that involves investments or an investment-related business, any fraud, false statements or omissions, wrongful taking of property, bribery, perjury, forgery, counterfeiting, extortion, or a conspiracy to commit any of these offenses;

- becomes subject to suspension or is solely or jointly and severally subject to the imposition of a fine of \$5,000 or more for violating any provision of any securities law or regulation, or any agreement with, or rule or standard of conduct of, any securities SRO, or as imposed by any such regulatory organization or SRO in connection with a disciplinary proceeding; or
- is ordered to reenter the Regulatory Element as a sanction in a disciplinary action by any securities governmental agency or securities SRO.

16.

Q. How does the imposition of a significant disciplinary action affect a person's status in the Regulatory Element?

A. A significant disciplinary action *resets the clock* for an individual who is already covered by, or who has previously met the requirements of, the Regulatory Element. Forty-five days after a disciplinary decision is issued, it becomes final. The 46th day becomes the new effective date and the individual has 120 days from the effective date to complete the first of four Regulatory Element computer-based training sessions. The individual must successfully complete the three additional Regulatory Element sessions within 120 days after the second, fifth, and tenth anniversaries of the effective date associated with that disciplinary action.

17.

Q. How will a final significant disciplinary action that is under appeal affect a person's Regulatory Element requirement status?

A. If an appeal is filed, the Regulatory Element requirement

associated with that disciplinary action will be *suspended* and the individual will retain the Regulatory Element status he or she had before the appeal. If the significant disciplinary action is sustained on appeal, the effective date would become the 46th day after the action was sustained. The person will then have 120 days from that date in which to complete a Regulatory Element computer-based training session. Additionally, the person must complete Regulatory Element sessions within 120 days of the second, fifth, and tenth anniversaries of the effective date associated with the significant disciplinary action.

18.

Q. What about those individuals with significant disciplinary actions in their records within the 10 years before July 1, 1995?

A. Individuals with significant disciplinary actions in their records within the 10 years before July 1, 1995, are subject to the Regulatory Element requirements. The effective date of the significant disciplinary action is the base date from which anniversary requirements are calculated and the person is required to satisfy all requirements for anniversaries occurring on or after July 1, 1995.

For example, if a person registered for 15 years was the subject of a final significant disciplinary action dated August 14, 1992, that person is required to reenter the Regulatory Element. The effective date of the action is September 29, 1992, and anniversaries are calculated from that date. Because the Program rules were not effective until July 1, 1995, this person will only have to take Regulatory Element computer-based training sessions on the fifth (8/14/97) and tenth (8/14/02) anniversaries of the effective date.

Continuing Education Notifications And Reports Issued By CRD To Firms

19.

Q. What types of notifications and reports does CRD provide firms to help them track the status of their registered employees subject to the Regulatory Element?

A. CRD issues Continuing Education Advisory Messages in the form of individual notifications and summary reports.

Individual Notifications

- An *Initial Notice* is sent 30 days before a registered person's anniversary date to advise the firm of the person's approaching registration or disciplinary anniversary, and to inform the person of the associated Program requirement. The notification includes the beginning and ending dates of the 120-day window, as well as notice of authorization to schedule a training session for any available date in that window. The person must then make an appointment and take the computer-based training at any Sylvan Technology Center before the end of the 120-day period. See *Scheduling And Administration Of Computer-Based Training Sessions At Sylvan Technology Centers*.
- A *Second Notice* is sent when only 30 days remain in the 120-day window. The notice advises the firm of the individual's status and includes a reminder of the consequences of not complying with the Regulatory Element requirements.
- A *Notice of Session Completion* is sent when the registered person satisfies the Regulatory Element

requirement by completing a computer-based training session, or by approved waiver (see below). If applicable, the notification will indicate that the person completed all pending requirements of the Regulatory Element.

- A *Notice of Inactive Status* is sent to inform the firm of any registered person who fails to complete the Regulatory Element computer-based training within the required period that his or her registration is no longer active and he or she may not perform, or be paid for, any activity that requires a securities registration. Such persons must remain on inactive status until such time as they complete the required Regulatory Element session.

Summary Reports

In the middle of each month, CRD sends firms summary status reports. The *Requirement Summary* report shows registered persons who are in open 120-day windows, grouped as follows:

- persons who have begun their 120-day window;
- persons who have 90 days remaining in their 120-day window;
- persons who have 60 days remaining in their 120-day window; or
- persons who have 30 days remaining in their 120-day window.

Firms must carefully review the names on the *Requirement Summary* to identify any individual for whom the firm did not record or receive an *Initial Notification*. This will most often happen with individuals who have been hired by a firm when they are in an open window, or who incur a significant

disciplinary action and must re-enter the Regulatory Element. Significant disciplinary actions are often made known to the CRD after the effective date of the action and an *Initial Notification* is not sent to the firm.

Other summary reports show registered persons who have:

- completed their requirement within the past 30 days (Completion Summary);
- had their registration changed to inactive within the past 30 days (Inactive Summary);
- remained inactive for more than 30 days (Previously Inactive Summary); or
- had their registration status changed from inactive to another status within the past 30 days (Previously Inactive/Satisfied Summary).

20.

Q. If a person is registered with more than one firm, which firm or firms receive Advisory Messages and Summary Reports for that person?

A. CRD sends *Advisory Messages* and *Summary Reports* to every firm where CRD shows the registered person to have an open registration.

Note: Even though notification is provided by the CRD as a courtesy, the final responsibility to ensure timely completion of the Regulatory Element requirement belongs to firms and registered persons themselves.

21.

Q. What information about a person's Regulatory Element status will a prospective hiring firm have access to?

A. A person's Regulatory Element status is accessible to a prospective hiring firm either by phone from a CRD Quality & Service Team member or by using the Pre-Hire Function in FAQs. Thus, prospective employing firms can determine if the person is in an open-window status, has satisfied or completed the Regulatory Element requirements, or is inactive for failure to comply with the Regulatory Element requirements. A person whose registration is inactive and who is hired by a new firm, can be approved by an SRO, but the person must not engage in activity that requires a securities registration until he or she satisfies the Regulatory Element requirement that led to the inactive status. Any person who remains inactive for more than two years will have to requalify for registration by examination and will reenter a new 10-year Regulatory Element cycle.

Waivers

22.

Q. Is it possible for a person to have the Regulatory Element requirements waived?

A. While it is a rare occurrence, waivers may be granted only under the most extraordinary circumstances.

23.

Q. How does a firm request a waiver from the Regulatory Element requirements?

A. A principal of the firm must make the request in writing and send the written waiver request to the firm's CRD Quality & Service Team for a decision.

Scheduling And Administration Of Computer-Based Training Sessions At Sylvan Technology Centers

24.

Q. Where can a person take the computer-based training of the Regulatory Element and how long will the training last?

A. Sylvan Learning Centers, Inc., which has acquired the former NASD PROCTOR® Certification and Training Centers, delivers the computer-based training program in many of the Sylvan Technology Centers located throughout the country. The current network of 55 former PROCTOR locations will increase to 125 locations by March 1, 1997, and to 250 locations by March 1, 1998. A participant will have up to three hours to complete the training session. Persons with disabilities may be given additional time to complete the training if requested in advance when making the training appointment. (See Question 30.)

NASD Regulation operates a Certification and Training Center in London, for the benefit of covered persons located in England, Scotland, or Wales.

25.

Q. How does a person make an appointment at a Sylvan Technology Center?

A. The person or the person's firm may make an appointment to take the Regulatory Element computer-based training by calling the nearest Sylvan Technology Center or Sylvan's National Registration Center at (800) 578-6273. For appointments in London, please phone (0171) 825 5515 in the U.K.,

or 44 171 825 5515 outside the U.K. When calling, be prepared to provide:

- the candidate's name and social security number;
- the firm's name; and
- a telephone number where Sylvan can reach the candidate or the candidate's firm.

Due to the many computer-based training sessions and qualification examinations administered at the Sylvan Technology Centers, individuals are strongly encouraged to schedule their appointments as soon as possible within their 120-day window.

26.

Q. Can a firm request a Regulatory Element computer-based training session for registered person who is not otherwise covered by the Regulatory Element requirements?

A. Yes. To request a computer-based training session for a registered person not otherwise covered by the Regulatory Element, a firm submits a request through the Firm Access Query System (FAQS) using the EXAM-REQ command, or sends page one of Form U-4 using the "Other" line to request a session. The firm's CRD account will be charged for the training session when the appointment is requested, rather than after the session is taken.

27.

Q. What does it cost to take the computer-based training at a Sylvan Technology Center and how will firms be charged?

A. The cost is \$75 for each computer-based training session taken at a Sylvan Technology Center and

is charged to the firm's CRD account. "No-shows" and those who cancel within 48 hours of a scheduled appointment will be charged \$75. If a firm requests a session for an employee who has not received a notification from CRD that he or she is required to satisfy the Regulatory Element, the \$75 will be deducted from the firm's CRD account at the time the request is made, and not after the session is completed.

28.

Q. If a person does not complete the Regulatory Element computer-based training within the allotted time, how long must he or she wait before rescheduling another appointment?

A. If the Sylvan Technology Center schedule permits, an appointment may be made as early as the next business day. To avoid going inactive for failing to satisfy the Regulatory Element training on the last day of the 120-day window, it is important that registered persons do not wait until the last minute to schedule an appointment. There will be another \$75 charge for the rescheduled session.

29.

Q. Can a person schedule or reschedule the Regulatory Element computer-based training after his or her 120-day window closes?

A. Yes. A person who is required to satisfy the Regulatory Element computer-based training requirement can schedule an appointment at a Sylvan Technology Center, up to two years after the close of his or her 120-day window. Remember, however, that the person whose 120-day window closes without satisfaction of the Regulatory Element requirements will have his or her registration made inactive. This

means that the person may not conduct, or be paid for, any activities that require a securities registration. Furthermore, a person whose registration remains inactive for more than two years must requalify for his or her registration by examination and begin a new 10-year Regulatory Element cycle.

30.

Q. Are there any provisions to accommodate people with disabilities at the Sylvan Technology Centers?

A. Yes. Persons with disabilities or their firms should make the Sylvan Technology Center aware of their special needs when making the appointment.

31.

Q. Are there any plans to enable delivery of the Regulatory Element computer-based training internally at sites provided by member firms?

A. Presently, NASD Regulation utilizes its Mobile PROCTOR Center service to deliver the Regulatory Element computer-based training to members who request on-site delivery. However, since a number of member firms have expressed interest in being able to deliver the computer-based training using their own facilities, this question is a matter of continuing study by the Council. Concerns include outside perception of the effectiveness of a program with this feature, the security of the content material, and the integrity of the process (i.e. positive identification of the person taking the training and verification of his or her independent performance). The ultimate determination as to whether internal delivery can be made available to firms with the technical capability to administer it under appropriately controlled conditions will

depend to a large extent on the development of technology to satisfy these concerns.

32.

Q. How can a firm schedule delivery of the Regulatory Element computer-based training by a Mobile PROCTOR Center and will the cost still be \$75 a session?

A. The Mobile PROCTOR Center is scheduled by PROCTOR support personnel in Rockville, MD. The cost of delivering the computer-based training by a Mobile PROCTOR Center is priced to cover actual expenses incurred by the NASD Regulation staff to deliver the training. Therefore the overall cost is usually more than \$75 a session.

33.

Q. How can a registered person who resides outside the United States satisfy his or her Regulatory Element requirement?

A. Registered persons outside the United States are still subject to the requirements of the Regulatory Element. With the exception of persons residing in England, Scotland, or Wales, who must use the NASD Regulation London Training Center, persons outside the U.S. cannot currently receive the computer-based training in a computerized and secure setting. These individuals may have their Regulatory Element requirement postponed until facilities are available. Firms that receive Regulatory Element Advisory Messages for registered persons residing outside the United States, England, Scotland, or Wales should request a deferral. A registered principal of the firm must make the request in writing and send it to the firm's CRD Quality & Service Team. The letter should contain the person's name,

social security or CRD number, and the city and country in which the person lives. The CRD will defer that person's Regulatory Element status and notify the firm when delivery of the computer-based training is available. Of course, any registered person with a Regulatory Element deferral may satisfy his or her requirement at any Sylvan Technology Center in the U.S. or the NASD Regulation London Training Center, and is encouraged to do so, should circumstances permit.

NASD Regulation is actively pursuing a means of making the program available worldwide and expects to announce an international program in 1997.

Subject Matter To Be Covered By The Regulatory Element

34.

Q. What topics does the Regulatory Element computer-based training cover?

A. The Regulatory Element computer-based training covers topics of general applicability to all registered persons in seven subject areas. The subject areas covered in each module are:

- Registration and reporting;
- Communications with the public;
- Suitability;
- Handling customer accounts;
- Business conduct;
- Customer accounts, trade and settlement practices; and
- New and secondary offerings.

A Content Outline for the Regulatory Element is available from the CRD Quality & Service Teams or from the NYSE.

35.

Q. How is the training presented in each subject area?

A. Participants are led by an interactive computer program through “real-life” scenarios involving a registered person. After reading the scenario, the participant is asked to choose the most appropriate response or responses to questions concerning the facts in the scenario. The computer software assesses the individual’s understanding of the topic and delivers tutorials about the subject if necessary. As the person works through each subject, the computer program provides immediate feedback about each response made.

36.

Q. Is the Regulatory Element computer-based training the same for everyone?

A. Currently the overall content of each training session is the same for everyone because each person taking the computer-based training must complete all seven subject areas. However, because there are multiple scenarios in each of the seven subject areas and the scenarios are selected at random, it is unlikely that any two people see exactly the same scenarios during the course of their computer-based training session. Over time, the Council will amend its “one size fits all” approach to reflect differing jobs and responsibilities among registered persons and supervisory versus non-supervisory roles.

37.

Q. How should an individual prepare for the Regulatory Element?

A. The Regulatory Element computer-based training program is designed to transmit information

broadly applicable to all registered persons regardless of their job functions or registration status (such as Series 6 or Series 7). As such, it does not necessarily require advance preparation. The Regulatory Element training focuses on compliance, regulatory, ethical, and sales-practice standards. Its content has been recommended by a group of industry representatives, reviewed by the Council, and approved by the SROs. The *Content Outline For The Regulatory Element* more fully explains the subject matter.

Feedback To Individuals And Firms About Performance On The Regulatory Element Computer-Based Training

38.

Q. Will the individual receive a grade or any other kind of feedback from the computer-based Regulatory Element training?

A. The computer-based training is not graded. However, the interactive training provides immediate feedback as the person works through the scenario questions. Also, as discussed above, the program administers remedial subject matter tutorials as the need arises.

39.

Q. What type of feedback will firms receive about their employees?

A. Firms will receive aggregate feedback each quarter and annually about the performance of their employees with respect to the subject areas in the Regulatory Element, provided at least two employees have taken the training during the reporting period. Firms must use this feedback in the annual analysis of their training needs and in the development of written training plans when com-

plying with the Firm Element requirements. SROs will also review aggregate firm feedback to determine subject areas that may not be adequately covered in the firm programs.

40.

Q. Is each sitting for the computer-based training of the Regulatory Element recorded in CRD?

A. Yes.

Status Of Persons Who Fail To Comply With The Requirements Of The Regulatory Element

41.

Q. What are the consequences of not complying with the Regulatory Element?

A. Any person who does not satisfy the Regulatory Element requirements will have his or her securities registration made inactive. This means that he or she may not engage in, or be paid for, activities that require a securities registration. For example, a General Securities Registered Representative (Series 7) may not engage in any activities involving the solicitation and handling of securities transactions. Likewise, if a person is registered solely as a Financial and Operations Principal, the person may neither act in the capacity of Financial and Operations Principal nor receive compensation for activities requiring that registration.

Thus, it is important to schedule Regulatory Element computer-based training appointments early in the 120-day window in the unlikely event that the person does not complete the required training on the first attempt and has to reschedule.

42.

Q. If a registered salesperson is deemed inactive, may he or she continue to receive trail or residual commissions?

A. Yes. Trail or residual commissions that are permitted to be paid under applicable SRO rules for business completed before the inactive period may be paid unless the person's firm has a policy prohibiting it.

43.

Q. Must the firm submit a Form U-5 to report that a person's registration has been made inactive for failure to meet the Regulatory Element requirements?

A. No. However, if the person is subsequently terminated by the firm for any reason including refusal to comply with the Regulatory Element requirements, a Form U-5 must be filed.

Firm Element

44.

Q. Who is covered by the Firm Element?

A. The Firm Element requirements apply to all *covered persons* (registered salespersons, traders, sales assistants, investment company shareholder servicing agents, investment bankers, and others who have direct contact with customers in the conduct of a securities sales, trading, or investment banking business, and their immediate supervisors) for as long as they are considered "*covered persons*." The term "customer" applies to retail, institutional, and investment banking customers, but does not apply to other broker/dealers.

45.

Q. Can anyone be grandfathered or exempted?

A. No covered person is grandfathered or exempted from the Firm Element.

46.

Q. Are branch managers and supervising principals covered persons within the Firm Element?

A. Yes, because they directly supervise salespersons. If a branch manager or supervising principal also has customer accounts, then his or her immediate supervisor is a "covered person" as well.

47.

Q. Does the Program require specialized Firm Element training for managers or supervisors?

A. While specialized training for managers and supervisors is not separately mandated, firms are expected to emphasize the importance of supervisory responsibilities imposed by industry laws and regulations. Thus, when training managers and supervisors, firms should also include coverage of their own internal supervisory policies, the effective use of internal monitoring or supervisory systems, and the sources of information or assistance available.

48.

Q. Are registered research analysts covered persons within the Firm Element?

A. Yes, if they engage in sales-oriented presentations to customers.

49.

Q. Are registered sales assistants or registered investment company shareholder servicing agents, who handle service calls from customers, covered persons within the Firm Element?

A. Yes, if their activities are deemed to be conducting a securities business in a sales context. The fact that the firm has decided to register such persons suggests that there is likely to be customer contact of the type prescribed by the rules for them to be considered a covered person.

50.

Q. What is the required schedule for the needs analysis and written training plan?

A. For most firms, the Firm Element will be a two-tier process. Each year, firms must complete an analysis of their training needs and update or modify their annual written training plan accordingly. Because the plan must cover training to be conducted during the following calendar or fiscal year and must take into account matters such as budgeting, scheduling, and developing or securing the necessary educational materials, the needs analysis must be conducted and the plan must be completed (and available for regulatory inspection) by the end of each calendar or fiscal year. This does not suggest that work on either should be done only at year-end; in fact, a firm's training program would be enhanced if work on both the needs analysis and the updating or modification of the training plan progressed throughout the year.

51.

Q. If a new needs analysis is done prior to completion of the training in a given year, won't some of the same needs from the previous needs analysis show up in the new needs analysis?

A. Although firms may benefit from focusing on the needs analysis process throughout the year, the analysis and the written training plan for the coming year do not have to be completed until late in the calendar or fiscal year. Depending on the nature of the training that has been conducted during the year, the potential for the same needs to show up again may be minimized, or it may be necessary or beneficial to continue with additional or expanded training on the same subjects as a part of the training plan for the coming year. This will depend on a number of factors, including the perceived success of the training to date and whether the firm has changed or expanded its product mix or scope of business to an extent that requires further training.

52.

Q. When must training begin each year?

A. There is no single date on which training must begin. Firms must conduct training in keeping with their written training plans at various times throughout the calendar or fiscal year depending on their own needs and scheduling. For firms with limited products or small numbers of covered persons, it might be appropriate and sufficient to conduct training on only one or two occasions during the year. The primary responsibility that firms have is to ensure that coverage be adequate with information transmitted in a timely manner.

53.

Q. If new training is added after completion of a specific year's training plan, must training originally specified be completed?

A. No, not if the change is appropriate and in keeping with the firm's needs and changing circumstances. A change would be logical if the new training improved on or superseded that originally planned, or if it were deemed necessary because changed circumstances suggested new training priorities. The annual training plan should be viewed as an evolving document that can be modified if circumstances warrant, and allows for deviation if experience or unanticipated developments suggest that changes are appropriate.

54.

Q. May insurance industry continuing education or training taken in conjunction with professional designation programs such as Certified Financial Planner satisfy Firm Element requirements?

A. Participation in a program designed to meet the requirements of an educational or continuing education program of another related industry, such as that required for insurance-licensed personnel, or of a professional designation program in a field related to the securities industry may meet all or part of the Firm Element requirements. Whether additional training is necessary for a specific individual will depend on whether the coverage of the training received through the other program is consistent with the firm's needs analysis and the scope of the individual's sales-related activities.

For example, if a covered person's sales-related activities were limited to insurance and insurance-related

securities, training received through insurance industry continuing education might be sufficient. On the other hand, if the individual also sold a wider range of securities products, participation in additional training would probably be necessary. For individuals participating in the initial or on-going training related to a professional designation program, a firm might determine that the material adequately covered subjects planned for its own Firm Element training, or, if not, should require the individual to participate in portions of its own program.

If an external educational or continuing education program is used to meet an individual's Firm Element training requirement, the firm must document the applicability of that program to the training plan.

55.

Q. What should be the content of the Firm Element?

A. It will vary. Each firm is required to analyze and evaluate its training needs at least annually. The firm's size, organizational structure, and scope of business, products and services, as well as regulatory developments and the Regulatory Element performance of its registered persons, will all need to be considered in determining training needs. Once its needs are identified, the firm will devise a written training plan to address those needs with training programs appropriate to its business.

Each firm must then administer its continuing education program in accordance with its annual needs analysis and written plan, and must maintain records documenting the content of the programs and completion of the programs by covered persons.

56.

Q. How should firms use the quarterly report on Regulatory Element performance in planning the content of their Firm Element training programs?

A. The quarterly reports provided by the Program reflect the aggregate performance of the firm's covered employees who participated in the Regulatory Element during the most recent quarter, rather than the performance of specific individuals. Accordingly, the data may be of greater benefit to firms having a significant number of employees participating in the Regulatory Element training than to firms with only a few. The purpose of these data is simply to highlight areas of emphasis to firms whose personnel show performance that is below the average in a specific module. For example, if a firm's aggregate performance is below industry average in the "New and Secondary Offerings" module, and the firm participates in this type of business, it should evaluate the adequacy of coverage in this area in its Firm Element training.

57.

Q. Must a firm's needs analysis be documented in writing as a part of, or in addition to, its written training plan?

A. Yes. The written training plan should describe the methodology a firm uses in conducting its needs analysis. It should identify the factors considered by the firm, the kinds of information reviewed, and the conclusions reached from the analysis. A needs analysis incorporating the above provides a critical basis for, and linkage to, a firm's training plan.

The written plan, however, does not have to include duplications of records or source documents otherwise reasonably available. It would

be appropriate and helpful to include items such as samples of any formats used in conducting surveys or past training evaluations, disclosures of areas or business units surveyed for input, consideration of planned introductions of new products or services, assessments of the effectiveness of past training efforts, and other documentation of specific consideration.

58.

Q. Is there a fixed number of hours of continuing education that each "covered person" must take in the Firm Element?

A. There are no set schedules or required number of hours prescribed in the SRO rules for the Firm Element, but coverage must be sufficient to meet the criteria established by SRO rules. For example, it may or may not be necessary to include every "covered person" within each calendar year if the firm can demonstrate a reasonable allocation of resources in a well-conceived and executed plan. Firms may need to give priority for specific time periods to those areas of their business in which the identified needs are greatest.

59.

Q. Must a firm make special provisions for employees newly hired from other firms in its Firm Element training? For example, does a covered person hired in September need to receive training already delivered earlier in the year?

A. While this would usually not be necessary, the answer depends on the individual's prior experience, training, and areas of business. Firms may consider having an "orientation" period or program for registered persons hired from other firms to familiarize them with their own policies, products, and expectations—and to determine whether

the new employees would benefit from additional training, including material previously covered in the new firm's Firm Element training.

In general, firms will probably be better served by addressing their training needs in terms of products or services offered by groups or categories of employees. In fact, appropriate training may vary widely between individuals or groups. Exceptions or unique circumstances may apply to small or specialized firms or to individuals with business limited to narrowly defined areas.

60.

Q. How can firms obtain guidance on designing and implementing internal training plans and programs to meet Firm Element requirements?

A. The Council has produced and will periodically update the *Guidelines for Firm Element Training*. The *Guidelines* are not rules; they offer suggestions to help firms devise appropriate programs consistent with their own unique needs, characteristics, and businesses. The *Guidelines* also address comments and questions brought to the attention of the Council from sources throughout the industry, including the observations of the SROs on their examination findings of firms' internal training plans and programs.

The Council plans to publish its comments on the needs analyses and training plans of member firms selected to represent firms of various size and client orientation. The Council believes that this information will help firms comply with the Firm Element requirements.

The *Guidelines For Firm Element Training* and, when available, the needs analysis/training plan publication may be obtained from the SROs.

61.

Q. May firms use training materials or presentations provided by outside entities? What sources are available?

A. Training materials and presentations available through outside vendors may be used if they meet the standards of the Firm Element and are appropriate for a firm's needs as determined in the needs analysis process. Assistance and materials may also be available through SROs and industry trade and professional associations. In any event, firms which elect to use materials or presentations provided by others have the ultimate responsibility for the content and the adequacy of their overall programs and documentation.

62.

Q. Will SROs or the Council pre-approve training materials and/or programs developed by members or providers?

A. Neither the SROs nor the Council pre-approve training materials or training programs. SROs will, however, continue to communicate with members regarding the expectations for the content of training programs. Also, as the program evolves, it is expected that some curricula content standards will be defined by the SROs for products and services where heightened regulatory concern exists.

63.

Q. Is the annual compliance meeting required under Rule 3010(a)(7) of the NASD Conduct Rules (previously Article III, Section 27(a)(7) of the NASD Rules of Fair Practice) adequate to demonstrate compliance with the requirements of the Firm Element?

A. Probably not. It can certainly be used as an occasion to transmit information or conduct training. However, firms must address their own needs for sales practice and product training and carry out effective programs. In most instances, a significant expansion of material otherwise covered at the annual compliance meeting probably will be necessary. Also, it may be appropriate to conduct some training before waiting for scheduled annual compliance meetings.

64.

Q. Must each "covered person" meet personally with his or her supervisor annually to determine the training requirement for that person?

A. No. However, some firms may decide to meet to establish individual needs or to discuss training needs during regular performance reviews.

65.

Q. If a firm has internal training and education programs already in place, may they be used to meet the Firm Element requirements?

A. Probably, at least in part. For firms with comprehensive ongoing training programs in place, the requirements may be satisfied through additional recordkeeping, formalized and documented planning, and the incorporation of any minimum criteria specified by the SROs. It is likely, however, that most firms will need to increase their education and training efforts to meet the Program's requirements.

66.

Q. If a firm prescribes that a particular covered person take part in the Firm Element training, must the covered person do so?

A. Yes. The rules require firms to implement a training program and to maintain records that clearly demonstrate its content and its completion by each person or groups of persons identified in the firm's training plan. The rules also require *covered persons* to participate in training as prescribed by their firms. Failure to do so could result in disciplinary action against the registered person by his or her firm or by a regulatory authority.

67.

Q. Can a firm arrange for a person to take the Regulatory Element computer-based training on a voluntary basis or as part of an internal disciplinary action?

A. Yes. In addition to meeting the rule requirements, a firm may elect to use the Regulatory and/or Firm Elements on a voluntary basis or as a sanction in its own internal disciplinary actions as it sees fit. To request a special administration of the Regulatory Element, whether for internal disciplinary or other purposes, the firm should submit a request through FAQs using the EXAMREQ command or send page one of Form U-4 to its CRD Quality & Service Team using the "Other" line to request a session. The firm's CRD account will be charged for the training session when the appointment is requested.

SROs may also prescribe the Regulatory Element or special training under the Firm Element for individuals or firms as part of the sanctions or settlement terms in a formal disciplinary action.

The Program provides new flexibility to firms and regulatory organizations in taking both corrective and preventive compliance actions.

68.

Q. Must a firm develop supervisory procedures that address compliance with the Regulatory and Firm Elements of the Program?

A. Yes. Firms must develop written supervisory procedures designed to reasonably ensure compliance with the SRO rules governing the Program. While standardized procedures are not mandated, firms should consider, among other things:

- designating an appropriate principal to oversee compliance with the Program;
- ensuring no improper activities by persons with inactive registrations; and
- processes for developing and implementing Firm Element programs.

69.

Q. What records will be needed to document training plans, programs, and presentations for regulatory examinations?

A. Written training plans and other applicable documentation must be retained for regulatory examination during routine sales practice examinations or upon

request. Coverage in training presentations can be documented by retaining copies of any written materials used (i.e., texts, handouts, case studies, discussion points, outlines, notes, or check-off sheets for items covered) and non-written material such as audio-visual tapes. Such items may be retained with respect to a specific presentation or retained centrally and identified as material used in multiple presentations. Unique materials or presentation methods can be documented in descriptive memos. Various methods are acceptable so long as they provide readily accessible and reasonable evidence as to the material covered, with whom, by whom, and when. These records are required to be maintained under SEC Rule 17a-4, which requires every broker or dealer to preserve records related to the conduct of their business for a period of not less than three years, the first two years in an easily accessible place.

70.

Q. Are firms required to measure and document the effectiveness of their training programs? Will this be expected in regulatory examinations?

A. While evaluation of the effectiveness of training is recognized as an inexact process, firms are

required to document the particulars of who was subject to what training, and when. To the extent that it can be done, an evaluation of prior training programs and materials can be beneficial to firms in identifying appropriate modifications to improve current programs and plan future programs. Methods used can range from administering post-training tests to obtaining suggestions and feedback on programs, presentations, and materials from participants and presenters as well as from comments or findings in periodic regulatory examinations. Any good program can benefit from a feedback mechanism to evaluate its effectiveness and from efforts to learn from past experiences in order to identify needed modifications and enhancements.

71.

Q. Will firms that are members of two or more SROs be subject to redundant inspections for compliance with the continuing education requirements?

A. No. The SROs are coordinating their field inspection efforts to avoid any unnecessary regulatory overlap for joint members. The SROs have developed a consistent approach to examining and enforcing both the Regulatory Element and the Firm Element requirements.

American
Stock Exchange

 The Chicago Board
Options
Exchange

 **MSRB**
MUNICIPAL SECURITIES RULEMAKING BOARD

 **NASD**

 **NYSE**
New York
Stock Exchange

 **PHLX**
Since 1790



The Securities Industry Continuing Education Program

Content Outline For The Regulatory Element

Six self-regulatory organizations (SROs)—the American Stock Exchange, Inc.; the Chicago Board Options Exchange, Inc.; the Municipal Securities Rulemaking Board; the National Association of Securities Dealers, Inc.; the New York Stock Exchange, Inc.; and the Philadelphia Stock Exchange, Inc.—have enacted rules establishing a continuing education program for the securities industry. The rules call for a formal, two-part program, comprising a Firm Element and a Regulatory Element.

The Firm Element requires broker/dealers to keep employees up to date on job- and product-related subjects by means of a formal, ongoing training program. Each broker/dealer is required to establish a training process meeting certain minimum criteria and standards. In developing and implementing the Firm Element, each broker/dealer must take into consideration its size, structure, scope of business, and regulatory concerns.

The Regulatory Element requires all registered persons to participate in a prescribed computer-based training session within 120 days of their second, fifth, and tenth registration anniversary dates. The Regulatory Element is designed to transmit information broadly applicable to all registered persons. The content was recommended by an industry committee representing a diverse range of broker/dealers, in conjunction with the Securities Industry/Regulatory Council on Continuing Education, industry regulatory agencies, and SROs.

The Securities Industry Continuing Education Program is intended to ensure that registered securities industry personnel are informed of

issues important to performing their jobs appropriately. Any registered person who violates industry regulations is subject to disciplinary action including censure, fines, suspension, and/or permanent loss of registration and license.

The Regulatory Element

The Regulatory Element focuses on compliance, regulatory, ethical, and sales-practice standards. Its content is derived from rules and regulations, and is based on standards and practices widely accepted within the industry. Although the specific requirements of certain rules may differ slightly among the different SROs, the program is based on standards and principles applicable to all. In certain instances, particular SRO requirements may be more restrictive than those represented in the program. Additionally, many broker/dealers limit the types of activities in which their registered employees may engage and/or the investment products they may represent, or they may require specific approvals for certain functions. Registered persons are responsible for ensuring that their activities are within the scope permitted by their employing broker/dealers and conducted in accordance with the rule requirements of all of the SROs and jurisdictions regulating them.

The Regulatory Element is delivered through a computer-based training program in a series of realistic situations and interactive instruction related to those situations and is organized into the following seven modules:

- Registration and reporting issues;

- Communications with the public;
- Suitability;
- Handling customer accounts;
- Business conduct;
- Customer accounts, trade and settlement practices; and
- New and secondary offerings.

Each of these topics is covered thoroughly in its corresponding module, and some may be covered in more than one module. The content of these modules is outlined below.

A covered registered person must satisfactorily complete all seven modules contained in the program to satisfy the requirement to complete the Regulatory Element. The program is designed with the intent of providing ample time to complete all seven modules within the time allotted. Failure to complete the Regulatory Element within 120 days after the prescribed anniversary dates will result in a person's registration becoming inactive. Such person will be prohibited from performing any of the functions of a registered person until the person meets the requirement.

Content And Presentation Of The Regulatory Element

Each module is presented through a description of customer-related situations and fact patterns, combined with interactive questions, answers, and feedback. Unless otherwise specified, the topics are covered at basic levels of knowledge and understanding. In the process of interacting with the program, participants apply their existing knowledge and information presented in the modules.

Module 1: Registration And Reporting Issues

1.1 Registration/Licensing Requirements

Requirements of the SROs

State authority and jurisdiction, general requirements for registered representative (RR) and broker/dealer registration/licensing in states

Conditions, restrictions, and requirements for updating Form U-4

Restrictions on activities of RRs

General registration/licensing requirements for and limitations on activities of investment advisers

Restrictions on activities of non-registered persons

Consequences of violating registration/licensing requirements

1.2 Securities And Exchange Commission (SEC) And SRO Authority And Investigations

Jurisdiction of SEC, SROs, and state regulators

Obligations for response to regulatory inquiries

Definition and consequences of statutory disqualification (Section 3(a)(39) of the Securities Exchange Act of 1934)

Settlement of employer-employee disputes

1.3 Blue-Sky Laws, Registration Of Securities

Requirements for securities to be registered or exempt in states in which they are being sold

Distinction between exempt/non-exempt securities

General exemptions from registration

Module 2: Communications With The Public

2.1 Communications With The Public

Definitions, general standards, and required approvals for public communications:

Telephone solicitations, correspondence, advertisements, market letters, research reports, sales literature, educational material, electronic communications, communications in and with the press, seminars, lectures

Restrictions on telephone solicitations/cold calling

2.2 Customer Complaints And Inquiries

Requirements for reporting, investigation, and documentation

Handling of disputes with customers; arbitration procedures and awards

CRD toll-free number and type of information publicly disclosed in disciplinary records

Module 3: Suitability

3.1 Specific Elements In Evaluating Current Status Of Customer

Financial profile—Balance sheet, income statement, other financial considerations

Life profile—Non-financial investment considerations

Risk tolerance and investment experience

Investment objectives and considerations
Solicited versus unsolicited accounts and transactions
Tax considerations

3.2 Concepts And Implications Related To Risk

Diversification and risk reduction—Concepts and specific responsibilities of the RR
Definitions and examples of types of risk—Liquidity risk, interest rate risk, call risk, credit risk, legislative risk, purchasing power risk (inflation risk), reinvestment risk, principal risk
Risk characteristics of categories of investments (e.g., equity, debt, asset-backed, mutual funds)
Business cycle—Definition and effects
Effects of national and international events, interest rate fluctuations

3.3 Monitoring Customer Needs, Objectives, And Portfolio

Obligation and procedures for routine monitoring and updating of customer's financial and life profile, investment objectives, and portfolio

Module 4: Handling Customer Accounts

4.1 Prohibited/Fraudulent Practices

Definitions and examples of prohibited and improper activities such as insider trading, market manipulations, entering false orders, misappropriation of funds, stealing/conversion, forgery, unfair and excessive pricing, unauthorized trading, guarantees to customers, selling away, front running, free-riding, piggy-backing/shadowing, trading at the close/marketing the close, selling dividends, commingling funds, parking, selling to breakpoints, and churning

4.2 Third-Party Orders And Instructions

Required instructions, requirements for third-party checks, requirements for written authorization for orders

4.3 Account Transfers And Customer Records

General requirements and procedures for transferring accounts
Confidentiality issues and responsibilities related to customer accounts and records; firm ownership of records

4.4 Gifts And Gratuities

Restrictions on giving and receiving; requirements for approvals

4.5 Sharing Profits And Losses

Restrictions on and allowable circumstances

4.6 “Prudent Man” Rule

Basic principle

4.7 “Chinese Wall” Requirements

General knowledge

Module 5: Business Conduct

5.1 Private Securities Transactions (Private Offerings)

Restrictions, required authorizations, legal risks

5.2 Outside Business Activities

Permitted and prohibited activities—Dual licensing, part-time employment, conflicts of interest
Required notifications/approvals (regulatory and broker/dealer)

5.3 Compensation

Rules, regulations, and standards governing sharing commissions or part of compensation

5.4 Payment Of Referral Fees (To Non-Affiliated Persons)

Restrictions; approval and disclosure requirements

5.5 Restrictions On Loans To/From Customers

5.6 Conflicts Of Interest And Potentially Illegal Situations

RR awareness, things to watch for, recognition, prohibitions

5.7 Cash Transaction Reporting Requirements

Module 6: Customer Accounts, Trade, And Settlement Practices

6.1 Customer Accounts, Documents, Approvals, And Restrictions

Procedures for opening customer accounts, including required approvals, and recordkeeping

Definitions and requirements related to:

Accounts For Clients Of Investment Advisers—Additional trading authorization required, written evidence of power of attorney

Discretionary Accounts—Requirements for written authorization and broker/dealer approval; prohibition by many broker/dealers

Option Accounts—Requirement to provide customer with options disclosure document

Prohibited Accounts—Residents of states in which firm is not authorized (registered) to do business, margin accounts for fiduciaries

Legally Restricted Accounts—Restrictions/prohibitions on accounts for minors, persons incompetent, entities, death of customer

Custodial Accounts (UGMA/UTMA)—General requirements and characteristics

Qualified Accounts [such as 401(k)]—Tax advantages, restrictions

Joint Accounts—Characteristics and purpose of accounts as joint tenants with right of survivorship, joint tenants in common

Broker/Dealer Employee Accounts—Approval of and disclosures, procedures for opening

Obligations of and limits on fiduciaries, limits on the use of powers of attorney

6.2 Regulation T, SRO Margin, And Short-Sale Rules

Distinctions between cash and margin accounts

Appropriate use of margin accounts and associated risks—initial and maintenance concepts

Obligations for informing customers of risks and benefits

6.3 Payment And Delivery For Securities Transactions

General requirements, consequences of non-payment/non-delivery

6.4 Correction Of Errors

Procedures, approvals, and prohibitions

Module 7: New And Secondary Offerings

7.1 SEC Registration And Prospectus Requirements (Securities Act Of 1933)

General Requirements—Definition of offer; prospectus delivery requirements; limits on advertising and other written materials; prohibition of sales before effective date; use of preliminary prospectus (red herring); restrictions before, during, and after a distribution; exemptions from registration; restriction on hot issues

New Issues And Securities Trading—Registration requirements, restricted accounts, prospectus requirements, exemptions from registration

7.2 Securities Investor Protection Corporation (SIPC)

Purpose of SIPC, coverage limits and amounts, disclosures to customers

7.3 Penny-Stock Rules

General knowledge of written suitability and disclosure requirements



The Securities Industry Continuing Education Program

Guidelines For Firm Element Training

Introduction

The Securities Industry Continuing Education Program (Program) was developed by the Securities Industry/Regulatory Council on Continuing Education (Council) with support and guidance from the Securities and Exchange Commission (SEC) and the North American Securities Administrators Association (NASAA). Industry-wide implementation was subsequently mandated through adoption of uniform rules by the industry's self-regulatory organizations (SROs): the American Stock Exchange, Inc.; the Chicago Board Options Exchange, Inc.; the Municipal Securities Rulemaking Board; the National Association of Securities Dealers, Inc.; the New York Stock Exchange, Inc.; and the Philadelphia Stock Exchange, Inc.

The two-part program consists of a Firm Element and a Regulatory Element. The Firm Element reflects the unique training needs of widely differing firms. The Regulatory Element provides uniform coverage of material of general applicability to the industry. By enhancing the knowledge and professionalism of persons covered by the rule, the Program will materially contribute to public trust and confidence in the industry.

The Regulatory Element requires that all registered persons complete a computer-based training program on compliance, regulatory, ethical, and sales-practice standards within four months of their second, fifth, and tenth registration anniversary dates.

The Firm Element requires each firm to annually develop and implement a written plan for training its covered registered persons based on an assessment of its own specific training needs. The training can be carried out through a wide variety of methods or delivery mechanisms available to the firm and appropriate to its needs.

To help broker/dealers comply with the requirements of the Firm Element, the Council has developed these guidelines to assist in the planning, development, execution, and documentation of their training programs. Because the Program represents a major long-term securities industry commitment, the guidelines will be periodically updated to reflect future modifications or enhancements.

These guidelines recognize the varying size, scope, and nature of broker/dealers, and the unique and often diverse lines of business in which each may be engaged. A full-service broker, for example, may have goals or concerns that are different from those of a small, limited-product firm, an investment banking or institutional firm, or a discount broker. Recognizing these differences and the fact that the training needs of each firm are just as diverse, the Firm Element provides for each training program to be uniquely tailored to meet specific needs.

Firms engaged in diverse lines of business or with complex organizational structures may need multiple training programs. These may be separate plans coordinated to cover appropriate areas, or they may be incorporated in a single

master plan. Likewise, broker/dealers that are separate from, but affiliated with, another firm must have separate training plans, though these plans may incorporate common elements for training on common products and/or services. In the case of small firms, those with limited product lines, and sole proprietorships, the specific training needs are uniquely different from those of large or full-service firms, and may be significantly less complex and narrower in scope.

The purpose of these guidelines is not to establish a uniform program, but rather, to establish a common approach for the development and implementation of a firm-specific training program that meets the needs of all types and sizes of firms. These guidelines are not intended to have the effect of rules or regulations, but should be helpful in enabling firms to comply with SRO rules. However, firms should recognize that the suggested components or recommended approaches will not create a "safe harbor" and that each firm must determine for itself what continuing education measures should reasonably be taken.

Covered Persons And The Scope Of The Firm Element

The intent of the Program is to enhance knowledge and professionalism throughout the careers of individuals covered by the Continuing Education rule. The goal of the Firm Element is to foster high standards of ethical behavior, and just and equitable

principles of trade, by ensuring that all *covered persons* are trained regularly and in acceptable depth on investments and services in which they deal. Required training conducted under the Firm Element is typically in addition to that necessary to prepare newly hired persons for required securities industry registration examinations.

The Firm Element imposes a formal requirement on securities firms to provide training for *covered persons* who are defined as registered persons who have direct contact with customers in the conduct of securities sales, trading, or investment banking activities, and the immediate supervisors of these persons. Under the rules that mandate the Program, “registered person” means any member, allied member, registered representative, or other person registered or required to be registered under SRO rules. However, the covered person definition does not include any such person whose activities are limited solely to the transaction of business with other registered broker/dealers or on an exchange floor with members. “Customer” is defined to mean any natural person and any organization, other than another broker or dealer, executing securities transactions with, through, or receiving investment banking services from, a member.

Registered persons employed in areas such as research are *covered persons* if they personally engage in direct sales presentations to customers. For example, a research analyst whose work is limited to the preparation of written material for distribution to customers or potential customers would not be a covered person. However, if the analyst’s role included personal participation in sales presentations, the analyst would be covered. Similarly, registered marketing personnel who

prepare sales literature for mass distribution by sales personnel would not be covered if they had no personal involvement in sales presentations. Likewise, a trader dealing only with personnel at other registered broker/dealers would not be covered. However, a trader having direct contact with individual or institutional customers in a sales context would be covered. Registered investment banking employees are *covered persons* if they solicit new business (i.e., underwritings or mergers and acquisitions), contact customers or potential customers in an advisory capacity, or participate in sales presentations related to public offerings. Customer contacts or responses relating to customer inquiries on administrative, service, or operations matters, do not constitute customer contact for purposes of determining covered person status.

First-line immediate supervisors of *covered persons* are also *covered persons* under the Firm Element. Due to their supervisory responsibilities, these individuals may have unique training needs and issues which should be identified through the needs analysis process (see below) and addressed in a firm’s training plan.

Covered persons included in a firm’s training plan are required to take all appropriate and reasonable steps to participate as required by the firm.

The SROs periodically may identify issues or investment products that must be covered in the training programs of firms whose business encompasses those issues or products. In these instances, the SROs may mandate the coverage of specific areas of regulatory concern and may specify time frames by which those areas must be covered.

SRO rules do not require specific numbers of hours for Firm Element training; however, to achieve compliance, coverage must be sufficient to demonstrate good-faith efforts. For example, it may or may not be necessary to require continuing education for every covered person within each calendar year. In addition, it may or may not be necessary to conduct training annually relative to the entire range of a firm’s products and services. Firms may need to give priority, for a specific time period, to those areas of their business in which the identified needs are greatest. In short, firms should be able to demonstrate that a reasonable allocation of resources in line with the firm’s demographics and needs has been made to provide a well-conceived and executed plan.

Firms with comprehensive ongoing training programs may be able to satisfy the requirements of the Firm Element primarily through formalized and documented planning, the incorporation of any subject matter periodically specified by the SROs, and appropriate recordkeeping. Large firms engaged in diverse lines of business or with complex organizational structures may need to incorporate a variety of training approaches in their plans, delivering appropriate training to different groups of employees covering different subject areas. Specialized firms with limited product lines and small firms with only a few employees should be able to satisfy the requirements of the Firm Element with less elaborate training efforts that demonstrate a thoughtful, reasonable approach to meeting their identified training needs. Accordingly, in using these guidelines, firms should be guided by what is specifically applicable to their own identified needs, organizational structure, and the nature and scope of their business.

Identification Of Training Needs And Development Of Training Plans

Each firm should establish overall objectives for its training program in a statement of broad direction or general intent, arising from the process of defining and analyzing its specific training needs.

Analysis Of Training Needs

Each firm is required annually to conduct an analysis of its overall business to identify and target specific training needs. The results of this analysis becomes the basis upon which firms can establish priorities and develop their own specific annual written training plans. In developing these plans, priority should be given to issues or products identified as subjects of general regulatory concern, or those which have been the source of significant problems to the firm, its customers, or elsewhere in the industry, and new products and strategies that the firms may be offering. At a minimum, firms should consider the following factors in conducting a needs analysis:

- How economic and market conditions may affect investment products or services offered or to be offered by the firm;
- Existing and planned business initiatives, especially new services, investment products, and strategies;
- Specific product- and service-related information appropriate for dissemination to *covered persons*;
- Legal and regulatory developments (i.e., new rules, regulations, significant enforcement actions or litigation, or related firm policies);

- Customer complaints, arbitrations, litigations, terminations for cause, internal disciplinary action or other actions involving the firm or its associated persons;
- Feedback and, to the extent possible, evaluation of prior training programs and materials;
- Input on critical issues from areas such as compliance and legal, internal audit, trading, and operations;
- Consideration of sales and marketing strategies related to products and services, with attention to related suitability and other regulatory issues that reasonably may be anticipated;
- Regulatory review, investigations, and disciplinary actions specifically involving the firm;
- Comments or findings in periodic regulatory examinations; including any suggestions developed and disseminated by industry regulators reflecting their observations in the aggregate;
- Review of previously used training materials, course critiques, or other training-related documentation that may reveal unaddressed needs or areas for enhancement;
- Incorporation of applicable information from industry organizations;
- Input from management and registered personnel as to additional training that may be helpful;
- Use of performance reviews and business plans to identify development needs of individuals or groups of persons within a firm; and

- Aggregate quarterly performance of covered associated persons in the Regulatory Element as reported to the firm by the SROs.

Development Of Annual Training Plans

The information and conclusions derived from the needs analysis should become the primary basis for the written training plan. The training plan should include a description of the needs analysis methodology and factors considered in determining the content of the training plan. During their regulatory examinations, regulators will be reviewing the needs analysis and the written training plan, and assessing the connection between the two.

In developing the training plan, areas to consider include the firm's products or services, available training technology and delivery mechanisms, the geographic location of individuals to be trained, and whether to deliver the training through internal personnel and facilities or through the use of outside vendors, or some combination of both.

In developing a written training plan, firms should:

- Identify the person(s) responsible for ensuring that the training plan is implemented in an effective manner or in accordance with its stated scope and objectives;
- Identify the general objectives of the specific training programs to be incorporated in the plan;
- Identify the knowledge and skills to be imparted by the programs;
- Identify which specific training programs or activities should apply to specific *covered persons* or categories of persons;

- Identify the delivery mechanisms and resource requirements;
- Establish specific time schedules for delivery;
- Consider feedback on prior training programs, content, and materials from participants and presenters;
- To the extent possible, evaluate the effectiveness of prior programs and materials to identify appropriate modifications to existing programs and develop future programs;
- Consider regulatory comments or findings, both from the firm's own periodic examinations and with respect to any information disseminated reflecting overall observations on industry training programs and methods.

Firm Element training should be a continuous process. Hence, in developing the annual training plan, the preceding year's plan can serve as a starting point; however it should not simply be copied year after year. The coverage and continuity of an established training program can be enhanced through annually reviewing the original plan and needs analysis for appropriate updates and modifications. Additionally, at times developments within the firm or industry may require enhancements to the training plan during the year.

Information Standards And Delivery Of Training Programs

Minimum Standards For Training Materials

A firm's training material must be appropriate for the firm's size, scope of business, and method of

operation, and the securities products, services, and strategies it offers to customers or in which it conducts a trading or investment banking business. Training material developed by or for a firm to satisfy the requirements of the Firm Element should include coverage of the following, to the extent that they are applicable and can be reasonably identified:

- General investment features of products, services, or strategies including applicable fees and charges;
- Basic factors which determine the value of investment products, services, or strategies;
- Associated risk factors such as business risk, interest rate risk, inflation risk, market risk, and political risk;
- Features that may affect a product's liquidity, taxability, callability, convertibility, and legality for certain classes of investors;
- Suitability of the products, services, or strategies for different types of investors, considering their investment objectives and constraints, financial status, experience, and level of sophistication; and
- Applicable regulatory requirements, including standards for communications with the public.

When covering these points in training material or presentations, the importance of clearly conveying appropriate information to customers or prospective customers in recommendations or sales presentations must be emphasized.

Annual Compliance Meeting

The annual compliance meeting required under Rule 3010 (a)(7) of the NASD Conduct Rules (previously Article III, Section 27(a)(7) of the

NASD Rules of Fair Practice) may be used to transmit information or conduct training. However, the annual compliance meeting itself is generally not sufficient to meet a firm's obligation under the Firm Element and in most instances, a significant expansion of material otherwise covered at the annual compliance meeting will be necessary in order to do so. Also, it may be appropriate to transmit some material in a more timely manner than waiting for a scheduled annual compliance meeting.

Timeliness And Flexibility

A firm's training plan must include the time schedule for development and delivery. While schedules may reflect both prioritized training needs and the availability of personnel and facilities, training plans should be sufficiently flexible to accommodate unforeseen needs. Information related to significant product developments, unforeseen problems, complaint patterns, or regulatory initiatives should be communicated in a timely manner.

Delivery Vehicles And Media

Firms have great flexibility in determining the most appropriate methods for the delivery of the training plan. Activities such as the following may be used alone or in combination, provided they are appropriate to the content and participants, and are reasonably designed to achieve the firm's training objectives:

- Direct-participation sessions with instructors or discussion leaders (i.e., seminars or lectures);
- Mentor relationships;
- Supervised independent study, assigned reading, or internally generated written material;
- Computer-based training;

- Audiotapes, videotapes, or internal broadcasts; and
- Meetings, video conferences, and telephone conference calls.

When appropriate, there should be an opportunity for interactive dialogue and active participation by *covered persons* to encourage an exchange of ideas and the opportunity for questions and answers.

Regardless of whether a training presentation involves covered personnel attending a meeting or lecture, listening to an audiotape, viewing a videotape, or using a similar mechanism, the firm must create an appropriate training environment. Training to meet the requirements of the Firm Element may be accomplished in conjunction with meetings or programs with a different primary purpose, provided that the training itself is conducted in an appropriate setting and that a meaningful amount of time is devoted to it.

All materials and presentations must focus on the best interests of investors and be characterized by truthfulness, accuracy, and disclosure of material information. The information must, at a minimum, reflect regulatory and industry standards for communications with the public. Training focused exclusively on selling skills or prospecting will not meet program requirements. However, information on specific products, services, or investment strategies may be used, provided such information encompasses associated risks, suitability considerations, and applicable regulatory requirements.

Outside Programs And Vendors

A firm may produce or provide training internally, or may use external sources for some or all of its training needs, provided that programs and materials meet the firm's identified training needs and consequent plan. External sources may include institutions of higher education, professional associations and organizations, and other external vendors. If the firm chooses to use outside vendors or externally developed materials, the firm retains the overall responsibility to ensure that the content and delivery are appropriate to its identified needs and meet the requirements of the Firm Element. Likewise, the firm bears the responsibility for required planning and documentation.

The Role Of Other Continuing Education Programs And Professional Designation Programs

Training offered in conjunction with the requirements of another industry or training program may be used to meet Firm Element requirements if it is consistent with the topics identified in the firm's needs analysis and the specific job functions and training needs of the individual. Participation by a covered person in an educational program designed to meet the initial and/or ongoing requirements of a professional designation program in a field related to the securities industry may qualify as all or part of the firm's training plan for that

person. In such instances, the firm must document and be prepared to demonstrate that the content is consistent with its training plan.

Documentation And Regulatory Review

Training plans, programs, and materials used to satisfy the requirements of the Firm Element are subject to review by the Securities and Exchange Commission, securities industry SROs, and state securities regulators. The responsibility for compliance with the requirements of the Firm Element must be clearly delineated within a firm. Failure to demonstrate compliance with the Firm Element or failure to make requested items available promptly for review may subject firms, individual registered persons, or their supervisors to disciplinary action. Accordingly, documentation evidencing the conduct of reasonable needs analyses and the development and implementation of corresponding written training plans for appropriate participating personnel is extremely important.

Actual training materials and outlines, as well as detailed records reflecting how the Firm Element plan was developed, implemented, and administered, must be retained as part of the organization's books and records requirements under Rules 17a-3 and 17a-4 of the Securities Exchange Act of 1934. In addition, a firm must retain records documenting covered person participation in training programs that are part of its Firm Element plan. The nature of such records will vary depending on the delivery mechanisms used by the firm.

The following are offered only as examples of the diverse methods that may be used for documentation and are not intended to suggest that any one of them should constitute the entirety of a firm's program. In fact, a program using multiple methods of delivery might best serve the needs of many firms, depending on the extent of their products and services, the geographic locations of their personnel, and their available technology.

Some firms may disseminate information of critical importance to all employees or specific groups of employees, and require written acknowledgment that the materials have been received and read. When classroom presentations and events such as annual compliance meetings are conducted, documentation as to the nature of material covered (with outlines or scripts) and attendance records must be retained. Likewise, delivery methods such as computer-based training lend themselves to maintenance of records relative to specific material covered and who participated in the program.

Since the nature of material used and delivery methods may vary widely, the methods for documentation must vary accordingly. As indicated above, live presentations to groups can be documented through retention of copies of any scripts or outlines used along with attendance records. If an audio-visual tape is shown or a written case study presented with a subsequent discussion, copies of the tape or case study should be retained and made available for regulatory inspection along with any other written material such as pre-prepared guidelines or questions used to facilitate the discussion. Copies of such items could be retained for a specific isolated presentation or, if used in multiple presentations, could be retained in central files and identified in records related to each presentation. The point is to be able to provide readily accessible and reasonable documentation as to the material covered, with whom, by whom, and when.

If information is transmitted through broad-based distributions of internal written communications, or through vehicles such as direct broadcast to large numbers of employees, the firm must retain scripts, outlines, or recordings along with the date and extent of coverage. If this method is a component of the firm's formal Firm Element program but not the primary or majority part, the practice as described is acceptable. However, if this is the primary method of meeting the Firm Element, appropriate documentation must be obtained from employees and retained to evidence receipt and understanding of the communications.

NASD NOTICE TO MEMBERS 96-70

NASD Reminds Members Of Prohibition Against Commercial Use Of Information Filed Under The Federal Election Campaign Act

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 Federal Election Campaign Act requires federal candidates and political committees that influence federal elections to file various reports and statements with the Federal Election Commission (FEC) and state governments, including lists of individual contributors. These reports and statements may be inspected and copied by anyone, but the names and addresses of individual contributors may not be sold or used for commercial purposes, such as for cold calling by a brokerage firm. Members are reminded that such practices or other commercial use of information derived from FEC reports is illegal and also would constitute a violation of NASD® Rule 2110 (formerly Article III, Section 1 of the NASD Rules of Fair Practice).

Questions regarding this Notice should be directed to Mary Dunbar in the Office of the General Counsel, NASD Regulation, (202) 728-8252.

Background And Discussion

The Federal Election Campaign Act requires federal candidates and political committees that influence federal elections to file various reports and statements with the FEC and state governments, including lists of individual contributors. These reports and statements may be inspected and copied by anyone, but the names and addresses of individual contributors may not be sold or used for commercial purposes. *See* 2 U.S.C. §438(a)(4); 11 CFR 104.15. Furthermore, the names of individual contributors on such reports and statements may not be used to verify names on a commercial list. The purpose of the sale and use restriction is to protect the privacy of individual contributors.

FEC rules provide a method of detecting whether the names and addresses

of individual contributors are being used illegally. A political committee may sprinkle throughout or “salt” each report with up to 10 fictitious names. *See* 11 U.S.C. §438(a)(4); 11 CFR 104.3(e). The committee provides a real address, such as the address of a committee worker, for each fictitious contributor. If a solicitation or commercial mailing is made or sent to one of the fictitious names, the political committee knows that someone has illegally used the names of contributors disclosed on its report. The committee then may file a complaint with the FEC.

Recently, the FEC settled an administrative enforcement action with a brokerage firm whose employees requested from the FEC’s Public Records Office indexes containing the names, cities, and states of individual contributors, and used them to solicit business through cold calling. In accordance with a conciliation agreement resolving this matter prior to a full investigation, the firm admitted to violating the sale and use restriction and agreed to pay a \$100,000 civil penalty and to take remedial steps to prevent future violations of the sale and use restriction by its employees.

Members are reminded that such cold-calling practices or other commercial use of information derived from reports filed with the FEC is illegal and also would constitute a violation of NASD Rule 2110, which requires members to observe high standards of commercial honor and just and equitable principles of trade.

For more information on this subject, members may contact the Federal Election Commission Information Division by calling (800) 424-9530 or (202) 219-3420, or writing to 999 E Street, NW, Washington, DC 20463.

NASD NOTICE TO MEMBERS 96-71

Broker/Dealer And Agent Renewals For 1997

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 1996-97 NASD broker/dealer and agent registration renewal cycle begins in early November. This program simplifies the registration renewal process through the payment of one invoiced amount that will include fees for NASD® personnel assessments, NASD branch-office fees, and American Stock Exchange (ASE), Chicago Board Options Exchange (CBOE), New York Stock Exchange (NYSE), Pacific Stock Exchange (PSE), and Philadelphia Stock Exchange (PHLX) maintenance fees. The invoice also includes state agent renewal fees and state broker/dealer renewal fees.

Members should read this Notice and the instruction materials that will be sent with the November invoice package to ensure continued eligibility to do business in their respective states effective January 1, 1997.

Questions concerning this Notice may be directed to the firm's assigned Quality & Service Team.

- 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

Initial Renewal Invoices

In early November, initial renewal invoices will be mailed to all member firms. The invoices will include fees for NASD personnel assessments, NASD branch-office fees, ASE, CBOE, NYSE, PSE, and PHLX maintenance fees, state agent renewal fees, and state broker/dealer renewal fees. NASD Regulation must receive full payment of the

November invoice **no later than December 13, 1996.**

NASD personnel assessments for 1997 will be based on the number of registered personnel with an approved NASD license as of December 31, 1996. That personnel assessment is \$10 per person. NASD branch-office assessments are \$75 per branch based on the number of active branches as of December 31, 1994.

Agent renewal fees for ASE, CBOE, NYSE, PSE, PHLX, and state affiliations are listed in a matrix enclosed with each invoice. The matrix includes a list of broker/dealer renewal fees for states that participate in the broker/dealer renewal program. ASE, CBOE, NYSE, PSE, and PHLX maintenance fees—collected by the NASD for firms that are registered with those exchanges as well as the NASD—are based on the number of ASE-, CBOE-, NYSE-, PSE-, and PHLX-registered personnel employed by the member.

If a state does not participate in this year's broker/dealer renewal program, members registered in that state must contact the state directly to ensure compliance with renewal requirements. In addition, some participating states may require steps beyond the payment of renewal fees to complete the broker/dealer renewal process. Members should contact states directly for further information on state renewal requirements.

Payment of the initial invoice should be by check, made payable to NASD Regulation, Inc., or by bank wire transfer. The check should be drawn on the member firm's account, with the firm's Central Registration Depository (CRDSM) number included on the check. Submit the check along with the top portion of the invoice and mail them in the return

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envelope provided with the invoice. To ensure prompt processing, the renewal invoice payment should not be included with other forms or fee submissions. Members should be advised that failure to return payment to NASD Regulation by the December 13, 1996, deadline could result in an immediate ineligibility to do business in the states effective January 1, 1997.

Filing Forms U-5

Members may avoid paying unnecessary renewal fees by filing Forms U-5 for agents terminating in one or more jurisdiction affiliations. Due to the positive feedback received by NASD Regulation from member firms that used post-dated Forms U-5 for renewals, NASD Regulation will again accept post-dated agent terminations notices on Forms U-5. From November 1 to December 13, NASD Regulation will accept and process Forms U-5 (both partial and full terminations) with *post-dated dates of termination*. Under this procedure, if the Form U-5 indicates a termination date of December 31, 1996, an agent may continue doing business in a jurisdiction until the end of the calendar year without being assessed renewal fees for that jurisdiction. Please ensure that Forms U-5 are filed by the renewal deadline date of December 13, 1996. **Post-dated Forms U-5 cannot be processed if the date of termination indicated is after December 31, 1996.**

Members should exercise care when submitting post-dated Forms U-5. NASD Regulation will process these forms as they are received but cannot withdraw a post-dated termination once processed. To withdraw a post-dated termination, a member would have to file a new Form U-4 *after* the termination date indicated on the Form U-5.

NASD Regulation encourages members having access to the Firm

Access Query System (FAQS) to utilize electronic filings for the submission of all Forms U-5 and Page 1s of Forms U-4. FAQS offers several advantages to firms in this regard, including the ability to **immediately** process terminations, ensure in-house control over agent registrations, and reduce normal and express mailing costs as well as long-distance telephone charges. FAQS also allows members to quickly and efficiently handle the large filing volumes that typically occur at this time every year. Because of that, NASD Regulation will provide an additional service to FAQS users by expanding the on-line user hours for November and December 1996. The system will be operational from 7 a.m. to 11 p.m., Eastern Time (ET), Monday through Friday, and will also be available on Saturdays from 9 a.m. to 5 p.m., ET during these months.

Filing Forms BDW

The CRD Phase II program, now in its sixth year, allows firms requesting terminations (either full or state only) to file their Forms BDW with the CRD to avoid the assessment of renewal fees in those jurisdictions that are designated on the Form BDW, *provided that the jurisdiction is a CRD Phase II participant*. Currently, there are seven jurisdictions that are **not** participating in Phase II. They are:

Alabama
Michigan
Puerto Rico
American Stock Exchange
Chicago Board Options Exchange
New York Stock Exchange
Pacific Stock Exchange

Firms requesting termination in any of the above-listed jurisdictions must submit a Form BDW directly to the jurisdiction as well as to the CRD.

The deadline for receipt of Forms

BDW by the CRD for firms desiring to terminate an affiliation before year-end 1996 is **December 13, 1996**. This same date applies to the filing of Forms BDW with the jurisdictions that are not participating in Phase II. Post-dated Forms BDW filed with the CRD **will** be accepted and processed in the same manner as post-dated Forms U-5.

Removing Open Registrations

The initial invoice package will include a roster of firm agents whose NASD registration is either terminated or purged due to the existence of a deficient condition for more than 180 days, *but* who have an approved registration with a state. This roster should aid in the reconciliation of personnel registrations prior to year's end. Firms may terminate obsolete state registrations through the submission of Forms U-5 or reinstate the NASD licenses through the filing of Page 1s of Forms U-4. No roster will be included if a firm does not have agents within this category.

Final Adjusted Invoices

Beginning January 15, 1997, NASD Regulation will mail final adjusted invoices to its members. These invoices will reflect the final status of firm and agent registrations as of December 31, 1996. Any adjustments in fees owed as a result of registration terminations or approvals subsequent to the initial invoice mailing will be made in this final reconciled invoice. If a member has more agents and/or branch offices registered at year's end than it did on the November invoice date, additional fees will be assessed. If a member has fewer agents and/or branch offices registered at year's end than it did in November, a credit/refund will be issued.

Included with this adjusted invoice will be the member renewal rosters,

which will list all renewed personnel with the NASD, ASE, CBOE, NYSE, PSE, PHLX, and each state. Persons whose registrations are approved in any of these jurisdictions during November and December will automatically be included in this roster, while registrations that are pending approval or are deficient at year's end **will not** be included in the renewal process. Firms will also receive an NASD branch-office roster that lists all branches for which they have been assessed.

Firms then will have a two-month period in which to reconcile any discrepancies on the rosters. All jurisdictions should be contacted directly in writing. Specific information and instructions concerning the final adjusted invoice package will appear in the January 1997 *Notices to Members*, as well as on the inside cover of the renewal roster. Firms may also refer to the October 1996 *Membership On Your Side* for details concerning the renewal process.

This year's final invoice package will also include a breakdown of fees assessed by billing code for firms that use billing codes in the registration process. This breakdown will aid firms in their internal research and allocation of fees.

NASD NOTICE TO MEMBERS 96-72

NASD Regulation Computerized Delivery Site Transition To Sylvan Continues

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

NASD Regulation, Inc. (NASD Regulation) as previously announced, has contracted with Sylvan Learning Systems, Inc., for the management and operation of its test center network. As the transition to the Sylvan Network proceeds, a limited number of current PROCTOR® Certification and Training Centers will be replaced by authorized Sylvan Technology Centers beginning in November 1996. The goal is to make the transition to the replacement locations as seamless to the candidates as possible. To prevent misinformation, candidates wanting appointments should continue to call the current PROCTOR Certification and Training Centers to schedule appointments. Candidates will be instructed by their local center on the details of the transition as it relates to their requested appointment date.

Questions regarding locations available for computerized delivery of Qualification Examinations and the Continuing Education Program's computer-based training (CBT) should be directed to the Quality & Service Teams.

- 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

Status Of The Transition

A limited number of PROCTOR Certification and Training Centers will be replaced by at least one authorized Sylvan Technology Center in the same geographic area beginning in November 1996. As these sites become available, the PROCTOR Certification and Training Centers affected by the transition will be instructing candidates to call for details on the transition of each site. The transition schedule varies by site and has numerous dependencies making it difficult to publish a schedule for all sites that will not change. For this reason candidates should continue to contact their local PROCTOR Certification and Training Center to obtain the most current information regarding appointment scheduling.

In December 1996, additional authorized Sylvan Technology Centers in different geographic areas will be available for delivery. Scheduling appointments at any of the authorized Sylvan Technology Centers will be available through an 800 number using Sylvan's National Registration Center. Once the transition to the Sylvan Technology Centers is complete, a list of locations with addresses and phone numbers will be published. Please watch for further communications regarding additional sites in future *Notices to Members*.

NASD NOTICE TO MEMBERS 96-73

Members Reminded To Report Executive Representative And Address Changes

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 Office of the Corporate Secretary would like to remind members of the importance of keeping the names of Executive Representatives, as well as mailing addresses for branch offices, up-to-date. Making certain that the Central Registration Depository (CRD) is kept informed of changes in address and contact people, ensures that regular Notices and special mailings will be directed properly. It is especially important at this time because we are approaching the period for Fall elections.

Article III, Section 3 of the NASD[®] By-Laws requires each member to appoint and certify to the NASD one "executive representative." The Executive Representative of your firm must be a registered principal and a senior manager within the firm. The individual designated will represent, vote, and act in all NASD affairs, and will receive NASD mailings, including *Notices to Members*, *Regulatory & Compliance Alert*, and updates to the *NASD Manual*.

To change the address for mailings sent to *branch offices*, or to update the contact name, a properly executed Schedule E of Form BD must be sent to CRD. Notifications submitted on U.S. Post Office address change cards **cannot** be processed.

To change the Executive Representative of your firm, you must submit written notification to the NASD Corporate Secretary. The form to use for this purpose is included with this Notice. You may submit the original or a photocopy to:

Joan Conley
Corporate Secretary
National Association of
Securities Dealers, Inc.
c/o Membership Department
9513 Key West Avenue
Rockville, MD 20850-3389.

EXECUTIVE REPRESENTATIVE FORM

Date: _____

NASD Member Firm: _____

Firm CRD #: _____

The NASD Member Firm referenced above designates (name) _____,
Social Security # _____, CRD # _____, as
Executive Representative to the NASD as of (date) _____. This person is a member of
the firm's senior management and is a registered principal with the firm.

Name of person preparing this form: _____

Telephone number: _____

Return this form to:

Joan Conley, Corporate Secretary
Executive Representative Program
c/o Membership Department
National Association of Securities Dealers, Inc.
9513 Key West Avenue
Rockville, MD 20850-3389

NASD NOTICE TO MEMBERS 96-74

Veterans' Day And Thanksgiving 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

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

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

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

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

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

*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."

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NASD NOTICE TO MEMBERS 96-75

Fixed Income Pricing
System Additions,
Changes, And Deletions
As Of October 3, 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 October 3, 1996, the following bonds were added to the Fixed Income Pricing System (FIPS).

Symbol	Name	Coupon	Maturity
AMD.GA	Advanced Micro Devices Inc	11.000	8/1/03
WRS�.GC	Weirton Steel	10.750	6/1/05
IV.GBC	Mark IV	7.750	4/1/06
RAZR.GA	Amer Safety Razor	9.875	8/1/05
AMG.GA	AMF Group Inc	12.250	3/15/06
AMG.GB	AMF Group Inc	10.875	3/15/06
CLDR.GA	Cliffs Drilling Co	10.250	5/15/05
IMD.GC	IMO Indus Inc	11.750	5/1/06
SFXB.GB	SFX Broadcasting Inc	10.750	5/15/06
GBTV.GA	Granite Broadcasting Corp	10.375	5/15/05
GBTV.GB	Granite Broadcasting Corp	9.375	12/1/05
HOME.GA	HomeSide Inc	11.250	5/15/03
AETC.GA	Applied Extrusion Tech Inc	11.500	4/1/02
IFSI.GA	Interface Inc	9.500	11/15/05
RHC.GA	Rio Hotel & Casino Inc	10.625	7/15/05
FNRI.GB	Flores & Rucks Inc	9.750	10/1/06
IMTN.GA	Iron Mountain Inc Del	10.125	10/1/06

As of October 3, 1996, the following bonds were deleted from FIPS.

Symbol	Name	Coupon	Maturity
DTLL.GA	Dal-Tile Int'l Inc	00.000	7/15/98
AGRP.GA	Compact Video Inc	12.750	7/1/96
OSYS.GA	Outdoor Systems Inc	10.750	8/15/03
PENT.GA	Penn Traffic Company	10.250	2/15/02
FFCH.GA	First Fin'l Hldgs Inc	9.375	9/1/02
TRNR.GB	Trans-Res Inc	14.500	9/1/96
UIS.GG	Unisys Corp	9.750	9/15/96
TRNL.GA	Total Renal Care Inc	12.000	8/15/04
AMS.GA	American Shared Hospital Svcs	16.500	10/15/96

All bonds listed above are subject to trade-reporting requirements. Questions pertaining to FIPS trade-reporting rules should be directed to James C. Dolan, NASD® Market Regulation, at (301) 590-6460. Any questions regarding the FIPS master file should be directed to Cheryl Glowacki, Nasdaq® Market Operations, at (203) 385-6310.

NASD RULE FILING STATUS

Rule Filing Status As Of
September 30, 1996

NASD Rule Filing Status

Following is a list of rule filings by the NASD regarding broker/dealer regulation that are pending at the Securities and Exchange Commission (SEC) or recently approved. The information below is current as of September 30, 1996. Copies of rule filings (and any amendments thereto), the SEC release publishing the rule proposal for comment, and the SEC release approving the rule change, are available from the SEC Public Reference Room at (202) 942-8090 or Kristine Gwilliam, NASD Office of General Counsel, at (202) 728-8821 (in certain cases a fee may be required). NASD® Rule changes are not effective until the date approved by the SEC.

Rule Filings That Have Not Been Published For Comment

96-34

Amend Rule 10335 (formerly Section 47 of the Code of Arbitration Procedure) to clarify that parties are required to expedite any proceeding where a court has issued temporary injunctive relief and that failure to expedite a proceeding under the Rule will constitute a failure to arbitrate in violation of NASD Rules.

96-32

Amend Rule IM-8310-2 (formerly a resolution under Article V, Section 1 of the NASD Rules of Fair Practice) to permit the NASD to provide a copy of any disciplinary complaint or decision upon request and require that such copy be accompanied by a disclosure statement in certain circumstances.

Rule Filings That Have Been Published For Comment But Have Not Been Approved By The SEC

96-30

Implement Short Sale Rule, Rule 3350 (formerly Article III, Section 48 of the NASD Rules of Fair Practice) on a permanent basis and extend

the effectiveness of the pilot program. Partial accelerated approval granted by the SEC and published for comment in Rel. No. 34-37492 (7/29/96); 61 FR 40693 (8/5/96).

96-28

Add new Rule 2211 and amend Rule 3110 (formerly Article IV, Section 21 of the NASD Rules of Fair Practice) to impose time restriction and disclosure requirements on telemarketing calls. Published for comment by the SEC in Rel. No. 34-37475 (7/24/96); 61 FR 39686 (7/30/96).

95-63

Amend the NASD Rules to adopt a new section to regulate the conduct of a broker/dealer on the premises of a financial institution. Published for comment in Rel. No. 34-36980 (3/15/96); 61 FR 11913 (3/22/96).

95-61

Amend Rules 2830 and 2820 (formerly Article III, Sections 26 and 29 of the NASD Rules of Fair Practice) to regulate the receipt by members and their associated persons of cash and non-cash compensation for the sale of investment company and variable contract securities. Published for comment by the SEC in Rel. No. 34-37374 (6/26/96); 61 FR 35822 (7/8/96). Comment period extended by the SEC in Rel. No. 34-37528 (8/5/96); 61 FR 41816 (8/12/96).

Rule Filings Recently Approved By The SEC

96-29

Permanent approval requested for the Plan of Allocation and Delegation setting forth the purpose, function, governance, procedures, and responsibilities of the NASD, NASD Regulation, and Nasdaq. Temporary accelerated approval granted by the SEC and published for comment in Rel. No. 34-37425 (7/11/96); 61 FR 37518 (7/18/96).

96-21

Amend the NASD By-Laws for mandatory electronic filing of registration-related filings. Published for comment by the SEC in Rel. No. 34-37291 (6/7/96); 61 FR 30269 (6/14/96). Approved by the SEC in Rel. No. 34-37439 (7/15/96); 61 FR 37950 (7/22/96).

96-20

Amend the NASD By-Laws to make them consistent with the Delegation Plan. Published for comment by the SEC in Rel. No. 34-37282 (6/6/96); 61 FR 29777 (6/12/96). Temporary accelerated approval granted by the SEC in Rel. No. 34-37424 (7/11/96); 61 FR 37515 (7/18/96).

96-19

Adopt amendments to Forms U-4 and U-5. Published for comment by the SEC in Rel. No. 34-37289 (6/7/96); 61 FR 30272 (6/14/96). Accelerated approval granted by the SEC in Rel. No. 34-37407 (7/5/96); 61 FR 36595 (7/11/96).

96-17

Amend Rule 2720 of the NASD Conduct Rules (formerly Schedule E of the NASD By-Laws) to define *bona fide independent market* and *bona fide independent market maker*. Published for comment by the SEC in Rel. No. 34-37223 (5/17/96); 61 FR 26239 (5/24/96). Approved by the SEC in Rel. No. 34-37471 (7/23/96); 61 FR 40054 (7/31/96).

96-15

Amend Schedule A to the By-Laws to modify the exception for interest and dividend income from gross revenue for assessment purposes. Published for comment by the SEC in Rel. No. 34-37169 (5/6/96); 61 FR 21517 (5/10/96). Approved by the SEC in Rel. No. 34-37310 (6/13/96); 61 FR 31604 (6/20/96).

96-14

Amend Rule 8210 (formerly Article IV, Section 5 of the NASD Rules of Fair Practice) to require members to provide information in response to

requests by other regulators for regulatory information. Published for comment by the SEC in Rel. No. 34-37150 (4/29/96); 61 FR 20299 (5/6/96). Approved by the SEC in Rel. No. 34-37561 (8/13/96); 61 FR 43107 (8/20/96).

95-39

Amend the NASD Rules to apply the Rules to exempted securities (except municipal securities), including government securities, and amend Rule 2310 (formerly Article III, Section 2 of the Rules of Fair Practice) to adopt a new Interpretation of the Board of Governors—Suitability Obligations to Institutional Customers (IM-2310-3). Published for comment in Rel. No. 34-36383 (10/17/95); 60 FR 54530 (10/24/95). Republished for comment in Rel. No. 34-36973 (3/14/96); 61 FR 11655 (3/21/96). Approved by the SEC in Rel. No. 34-37588 (8/20/96); 61 FR 44100 (8/27/96).

DISCIPLINARY ACTIONS

Disciplinary Actions Reported For October

The NASD has taken disciplinary actions against the following firms and individuals for violations of NASD® Rules; 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, October 21, 1996. The information relating to matters contained in this Notice is current as of the end of September. Information received subsequent to the end of September is not reflected in this edition.

Firms Expelled, Individuals Sanctioned

Beacon Securities, Inc. (New York, New York), Gary L. Donahue (Registered Representative, New Rochelle, New York), Andrew H. Cohen (Registered Principal, Woodmere, New York), and Margaret J. Finnerty (Associated Person, South Ozone Park, New York). The firm was fined \$100,000 and expelled from NASD membership. Donahue was fined \$100,000 and barred from association with any NASD member in any capacity, and Cohen was fined \$50,000 and barred from association with any NASD member in any capacity. Finnerty 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 Donahue and Cohen, failed to observe high standards of commercial honor and just and equitable principles of trade, and failed to observe the requirements established under Section 15(g) of the Securities Exchange Act of 1934 (Act). Specifically, the firm, acting through Donahue and Cohen, effected an aggregate of 254 sales transactions to retail customers that were neither institutional accredited investors nor established customers. The firm, acting through Donahue and Cohen, also effected transactions prior to complet-

ing a written suitability statement for the purchasing customers and obtaining a manually signed and dated copy of the written suitability statement back from the purchasing customers.

Furthermore, the firm, acting through Donahue and Cohen, effected transactions prior to receiving from the purchasing customers completed, executed copies of written agreements to purchase specific quantities of the common stocks and effected the transactions prior to providing each purchasing customer with a copy of Schedule 15g under the Act and obtaining from the purchasing customers manually signed and dated written acknowledgements of receipt of the document.

The firm, acting through Donahue and Cohen, also failed to disclose to each purchasing customer the inside bid and offer quotations for the stock and the number of shares to which the bid and offer prices apply and effected transactions without disclosing to each purchasing customer the aggregate amount of compensation received by the firm and the aggregate amount of any cash compensation to be received by associated persons. The firm, acting through Donahue and Cohen, also failed to maintain a record of disclosures. The firm, acting through Donahue, failed to provide customer account statements to purchasing customers on a monthly basis and failed to provide monthly account statements during any months when there was no activity in the account.

Furthermore, the firm, acting through Donahue, distributed account statements that failed to contain a required conspicuous legend and failed to obtain written acknowledgment from purchasing customers reflecting that such customers had received a copy of Schedule 15g prior to effecting transactions in penny stocks. In addition, the firm,

acting through Donahue, Cohen, and Finnerty, prepared and provided to the NASD false records. Also, Donahue knowingly provided false information to the NASD in response to questions posed during an on-the-record interview and the firm and Donahue failed to establish, maintain, and enforce adequate written procedures that would have enabled them to supervise properly the sale of penny stocks by associated persons in compliance with applicable securities laws, rules, regulations, and statements of policy.

H. L. Camp and Company, Inc. (Shelbyville, Tennessee) and **Bernard Zelenka (Associated Person, Shelbyville, Tennessee)** submitted an Offer of Settlement pursuant to which the firm was expelled from NASD membership. Zelenka was fined \$150,000, barred from association with any NASD member in any capacity, and required to pay \$1,155,606.30 in restitution. Without admitting or denying the allegations, the respondents consented to the described sanctions and to the entry of findings that the firm, acting through Zelenka, engaged in a scheme to defraud public customers by converting to Zelenka's own use and benefit \$1,254,941.45 from customer accounts without their knowledge or consent. The findings also stated that the firm, acting through Zelenka, effected unauthorized sale transactions in customer accounts and prepared and issued false customer account statements to conceal the conversion of funds. The NASD found that the firm, acting through Zelenka, failed to prepare and maintain accurate books and records and failed to prepare and submit accurate FOCUS Part I and IIA reports. Furthermore, the NASD determined that the firm, acting through Zelenka, failed to file promptly telegraphic notice with the Securities and Exchange Commission (SEC) and the NASD of its failure to maintain

its books and records and of its net capital deficiency.

The NASD also found that the firm, acting through Zelenka, engaged in a general securities business with public customers while failing to maintain its minimum required net capital and engaged in a general securities business in violation of the restriction agreement entered into with the NASD. The findings also stated that the firm, acting through Zelenka, conducted a general securities business with public customers residing in the state of Tennessee, but failed to renew its registration with the state. The NASD also determined that Zelenka acted in the capacity of a general securities representative and a general securities principal and failed to comply with NASD qualification requirements.

Interinvest Capital Corporation (Jackson, Mississippi), Rodney H. Dudley (Registered Principal, Jackson, Mississippi), and J. Stephen Nail (Registered Principal, Jackson, Mississippi) submitted an Offer of Settlement pursuant to which they were fined \$10,000, jointly and severally. The firm was expelled from NASD membership and Dudley was suspended from association with any NASD member in any capacity for two years. Nail was suspended from association with any NASD member in any capacity for one month and suspended from association with any NASD member in any principal capacity for one year. Without admitting or denying the allegations, the respondents consented to the described sanctions and to the entry of findings that the firm, acting through Dudley and Nail, filed late FOCUS Part IIA reports and conducted a securities business while failing to maintain its minimum required net capital. The findings also stated that the firm, acting through Dudley and Nail, failed to maintain a continuing and current education program for its covered reg-

istered persons and failed to maintain an adequate blanket fidelity bond in that its fidelity bond was deficient, failed to cover certain losses, and failed to have the required cancellation rider attached. The NASD found that the firm, acting through Dudley and Nail, failed to update its Form BD to reflect that the firm was subject to a disciplinary action taken by the NASD. Furthermore, the NASD determined that Dudley failed to comply with the terms of a Letter of Acceptance, Waiver and Consent that required him to requalify as a financial and operations principal. The findings also stated that the firm, acting through Dudley, failed to prepare an accurate net capital computation and failed to respond to NASD requests for information.

M. Rimson & Co., Inc. (New York, New York), Moshe Rimson (Registered Principal, New York, New York), Joseph James Troiano (Registered Representative, Brooklyn, New York), Barry Charles Wilson (Registered Principal, Bloomfield, New Jersey), and Christopher J. Kovacevich (Registered Representative, New York, New York). The firm, Rimson, and Troiano submitted an Offer of Settlement pursuant to which the firm and Rimson were fined \$500,000, jointly and severally. In addition, the firm was expelled from NASD membership and Rimson was barred from association with any NASD member in any capacity. Troiano was fined \$150,000 and barred from association with any NASD member in any capacity. In a separate action, Wilson was fined \$15,000, suspended from association with any NASD member in any capacity for 15 months, and required to requalify by exam. Kovacevich was fined \$75,000 and barred from association with any NASD member in any capacity.

Without admitting or denying the allegations, the firm, Rimson and

Troiano consented to the described sanctions and to the entry of findings that the firm and Rimson manipulated the price of a common stock. The findings also stated that Troiano and Kovacevich solicited customers and recommended the purchase of stock by making misrepresentations and omissions of material facts and price predictions in order to induce the customers to place purchase orders for the stock and commit to investment decisions. The NASD found that the firm and Rimson allowed a statutory disqualified individual to perform functions at the firm and allowed an unregistered individual to function as a registered representative of the firm. The NASD also determined that the firm, Rimson and Wilson failed to respond timely and completely to NASD requests for information and submitted false and misleading information to the NASD. Moreover, the NASD found that the firm and Rimson failed to implement, maintain, and enforce effective supervisory procedures. Furthermore, according to the findings, Kovacevich executed the purchase and sale of stock in customer accounts without the prior knowledge and consent of the customers and failed to respond to NASD requests for information.

Firms Fined, Individuals Sanctioned

Carey, Thomas & Associates, Inc. (Wichita, Kansas), John Rigby Carey (Registered Principal, Wichita, Kansas), and Alan Brelsford Phares, Jr. (Registered Representative, Wichita, Kansas)

submitted a Letter of Acceptance, Waiver and Consent pursuant to which they were fined \$25,000, jointly and severally. Phares was also suspended from association with any NASD member in any 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 Carey, permitted Phares to conduct a securities business prior to his effective registration.

Phares' suspension began August 19, 1996 and concluded September 17, 1996.

The Glaser Capital Corporation (Cincinnati, Ohio) and Thomas G. Glaser (Registered Principal, Cincinnati, Ohio) submitted a Letter of Acceptance, Waiver and Consent pursuant to which they were fined \$15,500, jointly and severally. In addition, the firm was fined \$4,500 and Glaser was barred from association with any NASD member as a financial and operations principal. Without admitting or denying the allegations, the respondents consented to the described sanctions and to the entry of findings that the firm, acting through Glaser, engaged in a securities business while failing to maintain its minimum required net capital. The findings also stated that the firm, acting through Glaser, failed to establish a proper escrow account with a bank for a private placement and filed false and inaccurate FOCUS Part I and IIA reports. The NASD also found that the firm failed to disclose the trade reported price on confirmations; failed to properly disclose the markup and markdown amount on the confirmations; disclosed a commission in transactions where it reported the trade to the tape as principal for confirmations; failed to include order flow arrangements on confirmations; and failed to time stamp order tickets in a timely manner.

Melhado, Flynn & Associates, Inc. (New York, New York) and Pierce J. Flynn (Registered Principal, New York, New York) submitted a Letter of Acceptance, Waiver and Consent pursuant to which the firm was fined \$10,000. Flynn was fined \$10,000 and suspended from association with any NASD member in any

capacity for five 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 Flynn, failed to establish, maintain, and enforce adequate written supervisory procedures. The findings also stated that the firm, acting through Flynn, failed to exercise proper supervision over the activities of a former registered representative of a former registered representative to prevent and/or detect that registered representative's misconduct with respect to trade corrections effected for customer accounts.

TDI, Inc. (Englewood, Colorado), Jerry Manning (Registered Principal, Englewood, Colorado), and John Strine (Registered Principal, Denver, Colorado) submitted a Letter of Acceptance, Waiver and Consent pursuant to which they were fined \$12,500, jointly and severally. Manning was also suspended from association with any NASD member in any capacity for five 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 Manning and Strine, permitted a statutorily disqualified person to be associated with the firm prior to the filing of an application for approval and while the application was pending. The findings also stated that the firm, acting through Manning and Strine, permitted two individuals to conduct business as a branch office of the firm while the NASD was requesting information concerning supervision and otherwise considering whether to approve the branch pursuant to the firm's restriction agreement.

Firms And Individuals Fined

Excel Financial, Inc. (Salt Lake City, Utah), Gary R. Beynon (Registered Representative, Salt Lake City, Utah) and Robert L. Sperry

(Registered Representative, Salt Lake City, Utah) were fined \$10,000, jointly and severally and ordered to disgorge \$9,348, jointly and severally. In addition, the firm is ordered to pre-file its advertising and sales literature and obtain a "no objection" response prior to use for 270 days. The National Business Conduct Committee (NBCC) imposed the sanctions following appeal of a Denver District Business Conduct Committee (DBCC) decision. The sanctions were based on findings that the firm, acting through Sperry and Beynon, sold securities that were not registered under Section 5 of the Securities Act of 1933 and did not qualify for an exemption. The firm, acting through Beynon and Sperry, distributed literature to public customers that failed to disclose material risks, omitted material facts, and contained exaggerated and misleading statements.

This action has been appealed to the SEC and the sanctions are not in effect pending consideration of the appeal.

Global Strategies Group, Inc. (San Francisco, California), Jon Francis Williams (Registered Principal, Oakland, California) and Morton Kirschenbaum (Registered Principal, San Mateo, California) submitted an Offer of Settlement pursuant to which they were fined \$18,000, jointly and severally. Without admitting or denying the allegations, the respondents consented to the described sanctions and to the entry of findings that the firm, acting through Williams and Kirschenbaum, used the instrumentalities of interstate commerce to effect transactions in securities while failing to maintain its minimum required net capital. The findings also stated that the firm, acting through Kirschenbaum, permitted two individuals to act as representatives and principals of the firm without being registered with the

NASD. The NASD found that the firm, acting through Williams, engaged in the securities business without complying with the provisions of SEC Rule 15c3-1(a)(2)(vi) in violation of its agreement with the NASD, in that it acted as a broker/dealer in connection with purchases and sales of securities from South American and United States broker/dealers; maintained securities in its error account in connection with cancels and rebills that were not cleared on a timely basis; executed more than 10 principal trades in its inventory account; and accepted customer securities for delivery to clearing. The NASD also determined that the firm, acting through Kirschenbaum and Williams, effected sales of securities to customers at prices that were not fair and reasonable taking into consideration all relevant circumstances, including market conditions at the time of the transactions, the expense involved, and the fact the firm was entitled to a profit. Furthermore, the NASD found that the firm, acting through Kirschenbaum, failed to establish and enforce its written supervisory procedures.

Mills Financial Services, Inc. (Chicago, Illinois), Joseph E. Kurczodyna (Registered Principal, Lake Bluff, Illinois) and Ronn L. Riedel (Registered Principal, Denver, Colorado) submitted an Offer of Settlement pursuant to which they were fined \$10,000, jointly and severally. In addition, the firm was required to employ a financial and operations principal to work on site at the firm's Chicago offices for two years. Without admitting or denying the allegations, the respondents consented to the described sanctions and to the entry of findings that the firm, acting through Kurczodyna and Riedel, conducted a securities business while failing to maintain its minimum required net capital. The findings also stated that the firm, acting through Kurczodyna and Riedel,

prepared inaccurate trial balances and net capital computations and filed inaccurate FOCUS Part I and IIA reports with the NASD.

Salisbury Capital Corporation (New York, New York) and Allen J. Kone (Registered Principal, Brooklyn, New York) submitted a Letter of Acceptance, Waiver and Consent pursuant to which they were fined \$10,000, jointly and severally. Without admitting or denying the allegations, the respondents consented to the described sanctions and to the entry of findings that the firm, acting through Kone, conducted a securities business while failing to maintain its minimum required net capital.

Firm Fined

Greystone Associates Ltd. (Uniondale, New York) submitted an Offer of Settlement pursuant to which the firm was fined \$10,000. Without admitting or denying the allegations the respondent consented to the described sanctions and to the entry of findings that the firm failed to disclose its subordinated loan and capital contributions from individuals, the change in capital occasioned by withdrawals of cash, and misrepresented the nature and source of its capital in connection with its application for membership in the NASD. The NASD also found that the firm conducted a securities business while failing to maintain its minimum net capital and violated its restrictive agreement with the NASD.

Individuals Barred Or Suspended

Christopher R. Carr (Registered Representative, Fairfield, Connecticut) was fined \$20,000 and barred from association with any NASD member in any capacity. The sanctions were based on findings that Carr, while acting as an insurance agent, withheld and misappropriated

funds totaling \$2,924.30 without the knowledge or consent of his customers. Carr also failed to respond to NASD requests for information.

Daniel Lee Cheloha (Registered Representative, Omaha, Nebraska) submitted a Letter of Acceptance, Waiver and Consent pursuant to which he was fined \$5,000 and suspended from association with any NASD member in any capacity for 90 days. Without admitting or denying the allegations, Cheloha consented to the described sanctions and to the entry of findings that he signed the name of a public customer on a form that would have allowed his member firm to make monthly withdrawals from the customer's bank account for insurance premium payments without the knowledge or consent of the customer. The findings also stated that Cheloha placed a public customer's name on a money order and applied the monies to the initial insurance premium without the knowledge or consent of the customer.

Melvin W. Crooks (Registered Representative, Union, South Carolina) submitted a Letter of Acceptance, Waiver and Consent pursuant to which he was fined \$15,000 and barred from association with any NASD member in any capacity. Without admitting or denying the allegations, Crooks consented to the described sanctions and to the entry of findings that, under the guise of purchasing an insurance policy for himself from his member firm, he issued a \$100,000 check for which he knew there were no funds available, to obtain a \$3,100 commission.

Emmanuel P. Cube (Registered Representative, New York, New York) submitted a Letter of Acceptance, Waiver and Consent pursuant to which he was fined \$40,000, suspended from association with any NASD member in any capacity for 20 business days, and required to

requalify as a general securities representative. Without admitting or denying the allegations, Cube consented to the described sanctions and to the entry of findings that he solicited public customers to purchase shares of a security in the aftermarket prior to the effective date of registration and approval of the security by the SEC.

Lesha M. Cuttaia (Registered Representative, Port Clinton, Ohio) submitted an Offer of Settlement pursuant to which she was fined \$37,000, barred from association with any NASD member in any capacity, and required to pay \$3,374.85 in restitution. Without admitting or denying the allegations, Cuttaia consented to the described sanctions and to the entry of findings that she received \$3,374.85 from public customers intended for the purchase of insurance. The NASD found that, without the customers' knowledge or consent, Cuttaia failed to apply the funds as requested and used the funds for some purpose other than for the benefit of the customers. The findings also stated that Cuttaia failed to respond to NASD requests for information.

Kenneth Ray Dallafior (Registered Representative, Brighton, Michigan) submitted an Offer of Settlement pursuant to which he was fined \$60,000 and barred from association with any NASD member in any capacity. Without admitting or denying the allegations, Dallafior consented to the described sanctions and to the entry of findings that he participated in the offer and sale of securities as private securities transactions while failing to provide written notice to or obtain written authorization from his member firm prior to engaging in such activities.

Scott B. Dempsey (Registered Representative, Mishawaka, Indiana) submitted an Offer of Settlement pur-

suant to which he was fined \$5,000 and barred from association with any NASD member in any capacity. Without admitting or denying the allegations, Dempsey consented to the described sanctions and to the entry of findings that he purchased annuities for public customers without their knowledge or consent. The findings also stated that Dempsey signed the customers' names to the annuity applications and submitted them to his member firm without the customers' knowledge or consent.

Paul Jon Erdal (Registered Representative, Fairfax, Minnesota) 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, Erdal consented to the described sanction and to the entry of findings that he failed to respond timely to NASD requests for information. The findings also stated that Erdal received checks totaling \$15,000 from public customers for investment purposes and, without the customers' knowledge or consent, misused the funds.

Robert Lester Gardner (Registered Representative, Castaic, California) was fined \$50,000, suspended from association with any NASD member in any capacity for 30 days, and ordered to requalify by exam as a general securities representative. The U.S. Court of Appeals for the Ninth Circuit affirmed the sanctions following appeal of a June 1995 SEC decision. The sanctions were based on findings that Gardner effected the purchase of securities in a public customer's account without the customer's knowledge or consent.

Gardner's suspension began October 16, 1995 and concluded November 14, 1995.

Joseph M. Giannuzzi (Registered Representative, Melville, New

York) submitted a Letter of Acceptance, Waiver and Consent pursuant to which he was fined \$2,500 and suspended from association with any NASD member in any capacity for five business days. Without admitting or denying the allegations, Giannuzzi consented to the described sanctions and to the entry of findings that he telephoned a public customer and left a message on the customer's answering machine that included indecorous language.

Barry Goldberg (Registered Representative, Elizabeth, New Jersey) submitted a Letter of Acceptance, Waiver and Consent pursuant to which he was fined \$25,000 and barred from association with any NASD member in any capacity. Without admitting or denying the allegation, Goldberg consented to the described sanctions and to the entry of findings that, for the purpose of receiving commission advances, he submitted insurance applications for 38 clients without the knowledge or consent of his member firm or the clients.

Dennis P. Goselin (Registered Representative, Worcester, Massachusetts) 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, Goselin consented to the described sanctions and to the entry of findings that he engaged in private securities transactions without giving prior written notice to his member firm describing in detail the proposed transactions, his proposed role therein, and whether he received or would receive selling compensation.

Jody M. Janson (Registered Representative, Rochester, New York) submitted a Letter of Acceptance, Waiver and Consent pursuant to

which he was fined \$50,000 and barred from association with any NASD member in any capacity. Without admitting or denying the allegations, Janson consented to the described sanctions and to the entry of findings that he failed to respond to NASD requests for information and to appear for on-the-record testimony.

Michael George Kassa (Registered Representative, Saline, Michigan) submitted an Offer of Settlement pursuant to which he was fined \$7,600 and barred from association with any NASD member in any capacity. The sanctions were based on findings that Kassa participated in the offer and sale of securities to public customers as private securities transactions and failed to provide prior written notice to or receive prior written authorization from his member firm to engage in such transactions.

Michael Anthony Keller (Registered Representative, Issaquah, Washington) submitted a Letter of Acceptance, Waiver and Consent pursuant to which he was fined \$15,000, suspended from association with any NASD member in any capacity for 30 days, and required to requalify by exam. Without admitting or denying the allegations, Keller consented to the described sanctions and to the entry of findings that he failed to provide prompt written notice of his association with a member firm while registered with another member firm.

Anthony S. Lombardo (Registered Representative, Louisville, Kentucky) was fined \$150,000, barred from association with any NASD member in any capacity, and required to pay \$42,000 in restitution to a member firm. The sanctions were based on findings that Lombardo received a \$30,000 check from public customers for a mutual fund investment, failed to execute the purchase on the customers' behalf and, instead,

converted the funds to his own use and benefit without the knowledge or consent of the customers. Lombardo also failed to respond to NASD requests for information.

Robert L. McCook (Registered Representative, Houston, Texas), Mary E. Cumberland (Registered Principal, Lakeland, Tennessee), and James H. Beckemeyer (Registered Representative, Memphis, Tennessee) submitted Offers of Settlement pursuant to which McCook was fined \$15,000, suspended from association with any NASD member in any capacity for three weeks, and required to requalify as a general securities representative. Cumberland was fined \$5,000 and suspended from association with any NASD member in any capacity for two years, and Beckemeyer was fined \$30,000 and suspended from association with any NASD member in any capacity for three months. Without admitting or denying the allegations, the respondents consented to the described sanctions and to the entry of findings that a member firm, acting through Beckemeyer, engaged in a series of purchase and sale transactions involving margin trading of government securities derivatives with institutional customers and acted recklessly, in that they knew or should have known that because these transactions were speculative and excessive in size and frequency and, because they employed the use of margin, that they were unsuitable for the customers based on their investment objectives, financial situations, and needs.

The findings also stated that Beckemeyer, without the knowledge or consent of his member firm, entered into arrangements and effected transactions with other member firms involving government securities derivatives with the understanding that these securities would be repurchased by him at a later date at pre-

arranged prices. The NASD found that, in connection with these activities Beckemeyer failed to prepare or submit order tickets to his member firm for the repurchase of the securities, acted in the capacity of a trader for his firm when he was not duly authorized as such, and caused his member firm to disavow the trades when they were presented for payment, resulting in losses of \$4,168,615.81 to a member firm.

Furthermore, the NASD determined that McCook agreed to purchase securities from Beckemeyer, hold them in his firm's inventory, and later re-sell them to Beckemeyer at pre-arranged prices. The NASD also found that, in connection with these activities, McCook dealt with Beckemeyer in a trading capacity, when he knew or should have known that Beckemeyer was not duly authorized by his member firm as a trader, directly or indirectly causing his member firm to incur losses totaling \$4,168,615.81. The findings stated that Cumberland failed to properly supervise the activities of Beckemeyer over whom she exercised supervisory control. In addition, the NASD found that Beckemeyer failed to timely submit trade order tickets to his member firm.

McCook's suspension began August 19, 1996 and concluded September 6, 1996.

Patrick T. Montague (Registered Representative, Washington, DC), Charles E. Rucker, Jr. (Registered Representative, Bethesda, Maryland), and James M. Copperthite (Registered Representative, Sterling, Virginia) submitted Offers of Settlement pursuant to which Montague was fined \$7,773.56 and suspended from recommending any transactions in penny stocks for one year. Rucker was fined \$4,479.38 and suspended from recommending any transactions in penny stocks for

one year, and Copperthite was fined \$2,885 and suspended from recommending any transactions in penny stocks for one year. Without admitting or denying the allegations, the respondents consented to the described sanctions and to the entry of findings that Montague, Rucker, and Copperthite effected \$141,994 in penny stock transactions for public customers in contravention of Section 15(g) of the Securities and Exchange Act of 1934.

Frank J. Palmieri, Jr. (Registered Representative, Spokane, Washington) submitted an Offer of Settlement pursuant to which he was fined \$100,000, barred from association with any NASD member in any capacity, and required to pay \$42,561 in restitution to member firms. Without admitting or denying the allegations, Palmieri consented to the described sanctions and to the entry of findings that he received a \$30,391.23 check made payable to a public customer, caused the check to be deposited into an account under his control, and caused two cashier's checks to be issued from the account. The findings stated that Palmieri then purchased a fixed annuity in the amount of \$16,812.43 in the customer's name without the knowledge or authorization of the customer and cashed the other checks in the amount of \$13,578.80. The NASD also found that Palmieri received two checks totaling \$26,800 from a public customer for the purchase of variable appreciable life policies and, instead, he deposited the funds into his personal checking accounts.

James H. Petrantis (Registered Principal, Oceanport, New Jersey) was fined \$5,000, suspended from association with any NASD member as a general securities principal for one year, suspended from association with any NASD member as a general securities representative and a financial and operations principal for 10

business days, and ordered to requalify by exam. The NBCC imposed the sanctions following appeal of a Market Surveillance Committee decision. The sanctions were based on findings that Petrantis failed to establish, maintain, and enforce an effective supervisory system reasonably designed to ensure compliance with NASD rules with respect to fictitious trading and fictitious marking-the-close violations in securities.

Thomas D. Rezac (Registered Representative, Naperville, Illinois) submitted a Letter of Acceptance, Waiver and Consent pursuant to which he was fined \$45,000, barred from association with any NASD member in any capacity, and required to pay restitution. Without admitting or denying the allegations, Rezac consented to the described sanctions and to the entry of findings that he received \$6,262.95 from public customers for the purchase of insurance policies or to repay loans, failed to follow the customers instructions and, instead, used \$4,826.49 of the funds for some purpose other than for the benefit of the customers. The findings also stated that Rezac failed to respond to NASD requests for information.

Stanley J. Siciliano (Registered Representative, Rochester, New York) submitted a Letter of Acceptance, Waiver and Consent pursuant to which he was fined \$150,000 and barred from association with any NASD member in any capacity. Without admitting or denying the allegations, Siciliano submitted to the described sanctions and to the entry of findings that he failed to provide to the NASD requested documents and appear for on-the-record testimony.

Sinan John Talgat (Registered Representative, Astoria, New York) submitted a Letter of Acceptance, Waiver and Consent pursuant to which he was fined \$5,000, sus-

pended from association with any NASD member in any capacity for 10 business days, and required to requalify as a registered representative. Without admitting or denying the allegations, Talgat consented to the described sanctions and to the entry of findings that he engaged in private securities transactions without prior written notification to or permission from his member firm.

Jeffrey James Taxman (Registered Representative, Omaha, Nebraska) submitted an Offer of Settlement 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, Taxman consented to the described sanctions and to the entry of findings that he received a \$2,000 check from a public customer for the purchase of a mutual fund and instead, deposited the check into a corporate bank account under his control and used a portion of the customer's funds without the knowledge or consent of the customer.

Kathryn T. Troung (Registered Representative, Anaheim, California) submitted an Offer of Settlement pursuant to which she was fined \$45,000 and barred from association with any NASD member in any capacity. Without admitting or denying the allegations, Troung consented to the described sanctions and to the entry of findings that she submitted a Form U-4 to the NASD containing false responses to questions. The NASD also found that Troung failed to respond to NASD requests for information.

Hal Gene Wachholz (Registered Principal, Wichita, Kansas) submitted a Letter of Acceptance, Waiver and Consent pursuant to which he was suspended from association with any NASD member in any capacity for seven days. Without admitting or denying the allegations, Wachholz

consented to the described sanction and to the entry of findings that he signed the names of public customers to forms authorizing the transfer of their securities accounts from Walchholz's prior member firm to his current member firm.

Brian T. Walsh (Registered Representative, Cardiff, California) and **Luke D. D'Angelo (Registered Representative, Solana Beach, California)** submitted an Offer of Settlement pursuant to which they were fined \$50,000, jointly and severally, barred from association with any NASD member in any capacity, and required to pay \$53,000 in restitution. Without admitting or denying the allegations, the respondents consented to the described sanctions and to the entry of findings that Walsh and D'Angelo engaged in private securities transactions and outside business activities without prior written notice to or approval from their member firm. The findings stated that Walsh and D'Angelo recommended and participated in the solicitation of bridge loans from public customers to an entity without having reasonable grounds for believing that these recommendations and resultant loan transactions were suitable for the customers based on their financial situations, investment objectives, and needs. The NASD also found that Walsh and D'Angelo omitted certain material information or made material misrepresentations to public customers in connection with the recommendations. Furthermore, the NASD determined that Walsh and D'Angelo failed to respond fully and timely to NASD requests for information.

Cary T. Weinstein (Registered Representative, Commack, New York) submitted a Letter of Acceptance, Waiver and Consent pursuant to which he was fined \$50,000 and barred from association with any NASD member in any capacity. Without admitting or denying the

allegations, Weinstein consented to the described sanctions and to the entry of findings that he failed to respond to NASD requests for information and to appear for on-the-record testimony.

Louis Charles Wendling (Registered Representative, Eden Prairie, Minnesota) submitted a Letter of Acceptance, Waiver and Consent pursuant to which he was fined \$5,000 and suspended from association with any NASD member in any capacity for six months. Without admitting or denying the allegations, Wendling consented to the described sanctions and to the entry of findings that he misused customer funds totaling \$8,834.56 by depositing the funds into a bank account under his control without the knowledge or consent of the customer.

Douglas John Wilponen (Registered Representative, Medical Lake, Washington) submitted an Offer of Settlement 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, Wilponen consented to the described sanctions and to the entry of findings that he failed to provide prior written notice to his member firm of his outside business activities. The findings also stated that Wilponen engaged in private securities transactions without providing prior written notice to his member firm describing his proposed role therein and stating whether he would receive selling compensation. The NASD also found that Wilponen failed to respond to NASD requests for information.

Jared Martin Winkler (Registered Representative, Tigard, Oregon) was fined \$100,000, barred from association with any NASD member in any capacity, required to pay \$138,000 in restitution to a member

firm, and required to requalify by exam. The sanctions were based on findings that Winkler entered into a scheme to obtain the proceeds from two variable annuities owned by a public customer without the knowledge or consent of the customer.

Stephen S. Woodiel (Registered Representative, Mountain Home, Arkansas) submitted a Letter of Acceptance, Waiver and Consent pursuant to which he was fined \$25,000 and barred from association with any NASD member in any capacity. Without admitting or denying the allegations, Woodiel consented to the described sanctions and to the entry of findings that he received \$4,814 from a public customer for investment purposes, neglected to invest the funds on the customer's behalf, and instead, converted the funds to his own use and benefit without the customer's knowledge or consent.

John Joseph Wright (Registered Representative, Burnsville, Minnesota) submitted a Letter of Acceptance, Waiver and Consent pursuant to which he was fined \$6,875, suspended from association with any NASD member in any capacity for six months, and required to pay \$10,360 in restitution. Without admitting or denying the allegations, Wright consented to the described sanctions and to the entry of findings that he participated in private securities transactions for compensation without prior written notice to his member firms.

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 NASD Rule 8210 (formerly 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 commenced is listed after each entry. If the firm has complied with the requests for information, the listing also includes the date the suspension concluded.

Eastern Securities Corporation, New York, New York (September 20, 1996)

Hampton Capital Management, Stamford, Connecticut (September 20, 1996)

Pallas Financial Corporation, Dallas, Texas (September 20, 1996)

Trinity Group Securities, Inc., Mendham, New Jersey (August 29, 1996)

Wellington Ashford Capital, Louisville, Colorado (September 20, 1996)

NASD Regulation Fines Citicorp Securities

NASD Regulation, Inc. (NASD Regulation) announced that it has censured and fined Citicorp Securities, Inc. \$25,000 and ordered it to disgorge \$300,000 for violating NASD Regulation's Continuing Education Requirements. This disciplinary action results from an investigation conducted by NASD Regulation's New York District Office.

"The Continuing Education Requirements help to ensure that registered representatives stay current on products and markets, and, importantly, the rules that govern the industry," said NASD RegulationSM President Mary L. Schapiro. "NASD Regulation is committed to closely monitoring members' compliance with these essential rules and assisting members in achieving full compliance. We will continue to pursue disciplinary actions against those members, large

or small, who fail to comply," Schapiro said.

NASD Regulation found that for certain periods between November 1995 and May 1996, Citicorp failed to ensure that 19 employees completed the Regulatory Element of NASD Regulation's Continuing Education Requirements within the prescribed time period. As a result of their failure to comply with these requirements, the individuals' registrations were deemed inactive. Nevertheless, these individuals were permitted improperly by Citicorp to continue to function in capacities which required registration.

The settlement requires Citicorp to disgorge \$300,000 to NASD Regulation, the amount it improperly paid the 19 individuals during the periods in which their registrations were inactive.

"In light of the increased complexity of the demands made upon securities professionals who deal with the public, it is essential that brokers maintain maximum standards of competency and professionalism," Schapiro said. "This case demonstrates how important it is for the membership to ensure that its registered persons fully comply with the mandates of the Continuing Education Requirements."

NASD Regulation Bars 12 Individuals Suspected Of Having An Impostor Take A Qualification Exam On Their Behalf

NASD Regulation announced that it has censured and barred 12 individuals suspected of paying an impostor to sit for a qualification exam on their behalf. In addition, each individual was fined in amounts ranging up to \$50,000.

This disciplinary action results from a large-scale, intensive investigation

conducted by NASD Regulation's New York District Office into the qualifications of certain registered representatives. Through its investigatory efforts, NASD Regulation identified several individuals suspected of having paid an impostor to take the exam on their behalf.

"Violating the Association's registration requirements, which exist to protect the public, is a serious offense," said Mary L. Schapiro, President of NASD Regulation, "but paying someone to impersonate a candidate and take the examination for them is misconduct of the highest order."

The 12 individuals named below were identified by NASD Regulation staff and ordered to appear immediately for on-the-record testimony to answer questions regarding the qualification exams at issue. Nine of the 12 refused to appear or answer questions.

The individuals who have been barred are:

Burton Butler Brous
Stephen Douglas Carollo
Peter Michael DelSeni
David Mark Gold
Kevin Michael Kelly
Frank Michael Mancini
Yury Moroz
Joseph John Pellegrino
Brian Thomas Rice
Peter Scali
Robert James Thornton
Felix Tkachenko

NASD Regulation's investigation is continuing with respect to certain other individuals suspected of similar misconduct, and it is anticipated that additional disciplinary actions will be completed shortly. "We will take whatever steps are necessary to rid the industry of individuals who have engaged in this type of conduct," said

Schapiro. "Qualification examinations are securities professionals' first chance to prove themselves, and by cheating on the exams, these individuals have proven beyond all doubt that they are not to be trusted."

Alex. Brown & Sons Fined For Regulation S Violations

NASD Regulation announced that it fined Alex. Brown & Sons \$100,000 and one of the firm's registered representatives \$50,000 in connection with the sale of Regulation S securities in six companies by one of the firm's customers.

Without admitting or denying the findings, Alex. Brown and the registered representative, Beaumont Bianchi, agreed to disgorge a total of \$150,000 in commissions related to the sale of the Regulation S securities. Both the firm and Bianchi were also censured. In addition, Alex. Brown was cited for not having adequate supervisory procedures in place.

This sanction marks the first time NASD Regulation has taken disciplinary action in connection with the sale of Regulation S securities. Regulation S describes the circumstances in which an offering of securities is not required to be registered with the Securities and Exchange Commission (SEC) because it is deemed to occur outside the United States. To qualify for this "safe harbor," the securities of the six companies in question could not be sold, directly or indirectly, to any U.S. company or citizen prior to the expiration of a 40-day restricted period after the offshore offering.

"This settlement makes it clear that all NASD member firms are responsible for educating their staffs about the need to prevent abuses associated with Regulation S offerings," said

NASD Regulation Chief Operating Officer, Elisse B. Walter. "In order to ensure that every investor is treated fairly, all of our members must establish and follow adequate supervisory procedures."

A lengthy investigation by NASD Regulation's Market Regulation Department found that for almost a year (from July 1993 through April 1994) an Alex. Brown customer purchased shares in six Regulation S offerings and then sold them back into the U.S. markets (through accounts maintained at Alex. Brown) prior to the expiration of the 40-day restricted period.

NASD Regulation determined that 117 sales transactions were executed in the six securities through several offshore accounts maintained at Alex. Brown by the customer. Two of the securities were traded on The Nasdaq National Market, and four of them on the Nasdaq SmallCap Market.

NASD Regulation found that Bianchi (who works in Alex. Brown's Los Angeles office), or his sales assistant, executed the 117 transactions without making an "affirmative determination," or accurately marking order tickets as "long" or "short," as required by NASD Rules. In addition, NASD Regulation found that Alex. Brown failed to establish, maintain, and enforce a supervisory system designed to achieve compliance with the NASD Rules.

As part of its agreement with NASD Regulation, Alex. Brown must put in place the necessary supervisory and educational procedures to prevent similar violations in the future, and Bianchi must requalify as a general securities representative by taking the Series 7 exam again.

FOR YOUR INFORMATION

SEC Transaction Fees Begin January 1, 1997, On Nasdaq And Other Prompt Last Sale Reported Non-Debt Trades

Congress recently enacted legislation to collect a fee of 1/300 of one percent on the aggregate dollar amount of securities transactions subject to prompt last-sale reporting and executed by or through any member of the NASD other than on a national securities exchange. Covered transactions include those listed on The Nasdaq Stock Market, Inc., and other securities subject to real-time trade reporting, including non-Nasdaq[®] OTC equity securities that may be quoted on the OTC Bulletin Board[®] or in NQB's "Pink Sheets[®]." Members should prepare to pay these fees on their transactions starting January 1, 1997.

In addition, the National Securities Market Improvement Act provides that off-exchange trades of exchange-registered securities (third market trades), currently paid directly to the Securities and Exchange Commission (SEC), will be paid through the NASD beginning October 1, 1997.

The new fees are similar to the transaction fees that have been levied on exchange transactions since 1934, and are being collected to recover the costs to the government of the supervision and regulation of securities markets and professionals and the related costs of activities including enforcement, policy and rulemaking, administration, legal services, and international regulation.

The fees are initially established in the SEC's fiscal year 1997 appropriations, which are contained in the Omnibus Consolidated Appropriations Act for Fiscal Year 1997, and will be continued through fiscal year 2006 by the National Securities Markets Improvement Act of 1996. In fiscal year 2007, the fees are scheduled to decline to 1/800 of one percent.

Further details on the collection and administration of these fees by the NASD will appear in a November *Notice to Members*.

Direct questions regarding this information to T. Grant Callery, General Counsel, NASD, at (202) 728-8285; Andrew S. Margolin, Senior Attorney, The Nasdaq Stock Market, at (202) 728-8869; James Shelton, Billing Manager, NASD, at (301) 590-6757; or John Komoroske, Director of Congressional/State Liaison, NASD, at (202) 728-8475.

Reminder Of NASD Regulation's Qualification Examination Update Procedure

The NASD RegulationSM Qualifications department will **not** update examination questions affected by the Small Business Job Protection Act of 1996 until the legislation becomes effective, starting with the years after December 1996. For more information, please contact Elaine Warren, NASD Regulation Qualifications, at (301) 590-6135.