

## Special NASD Notice to Members 00-34

### INFORMATIONAL

## District Elections

### NASD Informs Members Of Upcoming District Committee And District Nominating Committee Elections

### SUGGESTED ROUTING

*The Suggested Routing function is meant to aid the reader of this document. Each NASD member firm should consider the appropriate distribution in the context of its own organizational structure.*

- Legal & Compliance
- Operations
- Registration
- Senior Management

### KEY TOPICS

- District Elections

### Executive Summary

The purpose of this *Special Notice to Members* is to inform members of the upcoming nomination and election process to fill forthcoming vacancies on the District Committees and the District Nominating Committees.

Information on District Committee and District Nominating Committee members serving through 2001, 2002, and 2003 is included in Attachment A. Information on District Election Procedures is included in Attachment B. A candidate profile sheet is included in Attachment C.

### Nomination Process

Individuals from member firms of all sizes and segments of the industry are encouraged to submit names for consideration for membership on the 11 District Committees and District Nominating Committees. Members are requested to submit candidates' names to the appropriate District Nominating Committee Chairman or to the District Director by submitting a cover letter and the candidate profile sheet (Attachment C) and returning it by **July 3, 2000**.

The completed form will be provided to all District Nominating Committee members for review. It is anticipated that the District Nominating Committees will certify their nominees to the District Committees on or about September 1, 2000.

Members are reminded to report Executive Representative information and address changes for the firm's main and branch offices. This will ensure that member mailings, such as election information, will be properly directed. Failure to keep this information accurate may jeopardize the member's ability to participate in District elections as well as other member votes. To update this information, firms should access their National Association of Securities Dealers, Inc. (NASD<sup>®</sup>) Member Firm Contact Questionnaire (NMFCQ) located on the NASD Regulation<sup>SM</sup> Web Site ([www.nasdr.com](http://www.nasdr.com)) using the existing NMFCQ Executive Representative or Designated Assistant User ID and Password provided; or, if you prefer, you may contact CRD/PD Gateway at (301) 590-6500.

### Questions/Further Information

Questions concerning this *Special Notice* may be directed to the District Director noted or to Joan Conley, Senior Vice President and Corporate Secretary, NASD, at (202) 728-8381 or via e-mail at: [joan.conley@nasd.com](mailto:joan.conley@nasd.com).

**Attachment A**

**District Committee And District Nominating Committee Members**

**District 1**

Elisabeth P. Owens, District Director  
525 Market Street, Suite 300  
San Francisco, CA 94105  
(415) 882-1200

---

**District 1 Committee**

**Members to be elected to terms expiring January 2004: 3**

**Chair:** Janet W. Campbell

**Committee Members**

**To Serve Until January 2001**

|                   |   |
|-------------------|---|
| Steven R. Aaron   | Hambrecht & Quist LLC, San Francisco, CA            |
| Janet W. Campbell | Protected Investors of America, Walnut Creek, CA    |
| Douglas C. Heske  | U.S. Bancorp Piper Jaffray, Inc., San Francisco, CA |

**To Serve Until January 2002**

|                 |   |
|-----------------|---|
| John H. Chung   | First Security VanKasper, San Francisco, CA |
| Steven D. Piper | Epoch Securities, Inc., San Francisco, CA   |

**To Serve Until January 2003**

|                 |   |
|-----------------|---|
| Sally G. Aelion | Emmett A. Larkin Co., Inc., San Francisco, CA |
| David A. Baylor | Thomas Weisel Partners LLC, San Francisco, CA |
| Henry W. Carter | E*Trade Securities, Inc., Menlo Park, CA      |

---

**District 1 Nominating Committee**

**Members to be elected to terms expiring January 2002: 5**

**Chair:** John E. Schmidt

**Committee Members**

|                     |   |
|---------------------|---|
| Nicholas C. Cochran | American Investors Company, Dublin, CA            |
| Deborah R. Gatzek   | Franklin Templeton Distributors, San Mateo, CA    |
| John F. Luikart     | Sutro & Co Incorporated, San Francisco, CA        |
| John E. Schmidt     | Credit Suisse First Boston, San Francisco, CA     |
| William A. Svoboda  | Morgan Stanley Dean Witter Reynolds, San Jose, CA |

If you are interested in nominating yourself or a colleague to the District 1 Committee or the District 1 Nominating Committee, please complete the candidate profile sheet (Attachment C) and return it to the District Nominating Committee Chairman or the District Director at the above District Office address by July 3, 2000.

## Special NASD Notice to Members 00-34

### District Committee And District Nominating Committee Members

#### District 2

Lani M. Sen Woltmann, District Director  
300 South Grand Avenue, Suite 1600  
Los Angeles, CA 90071  
(213) 627-2122

---

#### District 2 Committee

**Members to be elected to terms expiring January 2004: 4**

**Chair:** James B. Guillou, Sr.

#### Committee Members

##### *To Serve Until January 2001*

|                       |   |
|-----------------------|---|
| James B. Guillou, Sr. | Sutro & Co., Incorporated, La Jolla, CA       |
| Andrew E. Haas        | Bear Stearns & Co., Inc., Los Angeles, CA     |
| Richard E. Wiseley    | CIBC Oppenheimer & Co., Inc., Los Angeles, CA |
| Richard P. Woltman    | Spelman & Co., Inc., San Diego, CA            |

##### *To Serve Until January 2002*

|                    |  |
|--------------------|--|
| Margaret M. Black  | Morgan Stanley Dean Witter, Beverly Hills, CA          |
| Diane P. Blakeslee | Blakeslee and Blakeslee, Inc., San Luis Obispo, CA     |
| Jack R. Handy, Jr. | Financial Network Investment Corporation, Torrance, CA |
| Dean A. Holmes     | American General Financial Group, Anaheim, CA          |

##### *To Serve Until January 2003*

|                        |   |
|------------------------|---|
| Kellen M. Flanigan     | Dabney Flanigan, LLC, Los Angeles, CA               |
| William H. Howard, Jr. | Hagerty, Stewart & Associates, Irvine, CA           |
| James R. Kruger        | Dreyfus Brokerage Services, Inc., Beverly Hills, CA |

---

#### District 2 Nominating Committee

**Members to be elected to terms expiring January 2002: 5**

**Chair:** Robert L. Winston

#### Committee Members

|                   |  |
|-------------------|--|
| Jerry M. Gluck    | Jefferies and Company, Inc., Los Angeles, CA       |
| Carl E. Lindros   | Santa Barbara Securities, Inc., Santa Barbara, CA  |
| Joan B. Seidel    | Morton Seidel & Company, Inc., Beverly Hills, CA   |
| Robert L. Winston | American Funds Distributors, Inc., Los Angeles, CA |
| Kaye M. Woltman   | Girard Securities, Inc., San Diego, CA             |

If you are interested in nominating yourself or a colleague to the District 2 Committee or the District 2 Nominating Committee, please complete the candidate profile sheet (Attachment C) and return it to the District Nominating Committee Chairman or the District Director at the above District Office address by July 3, 2000.

## Special NASD Notice to Members 00-34

### District Committee And District Nominating Committee Members

#### District 3

Frank J. Birgfeld, District Director  
Republic Plaza Building  
370 17th Street, Suite 2900  
Denver, CO 80202-5629  
(303) 446-3100

James G. Dawson, District Director  
Two Union Square  
601 Union Street, Suite 1616  
Seattle, WA 98101-2327  
(206) 624-0790

---

#### District 3 Committee

Members to be elected to terms expiring January 2004: 4

Chair: Thomas R. Hislop

##### Committee Members

##### *To Serve Until January 2001*

|                    |  |
|--------------------|--|
| Thomas R. Hislop   | Peacock, Hislop, Staley & Given, Inc., Phoenix, AZ |
| Gerald Meyer       | D. A. Davidson & Co., Great Falls, MT              |
| John Morton        | Morton Clarke Fu & Metcalf, Inc., Seattle, WA      |
| Terry Lee Richards | PaineWebber, Inc., Salt Lake City, UT              |

##### *To Serve Until January 2002*

|                |  |
|----------------|--|
| James Barnyak  | Salomon Smith Barney Inc., Seattle, WA     |
| David Griswold | Frank Russell Securities, Inc., Tacoma, WA |
| James E. Stark | Charles Schwab & Co., Phoenix, AZ          |

##### *To Serve Until January 2003*

|                    |  |
|--------------------|--|
| J. Pamela Dawson   | WM Financial Services, Inc., Seattle, WA                           |
| Steven M. Fishbein | American Fronteer Financial Corporation, Denver, CO                |
| John K. Hinfey     | United Planners' Financial Services Of America, LP, Scottsdale, AZ |
| Bruce Kramer       | Prudential Securities Incorporated. Seattle, WA                    |

---

#### District 3 Nominating Committee

Members to be elected to terms expiring January 2002: 5

Chair: Anthony Petrelli

##### Committee Members

|                    |   |
|--------------------|---|
| J. Wendell Garrett | J. W. Garrett and Company, Phoenix, AZ                |
| James Kerr         | Ragen Mackenzie Incorporated, Seattle, WA             |
| Stephen Larson     | Richards, Merrill & Peterson, Inc., Spokane, WA       |
| Anthony Petrelli   | Neidiger, Tucker, Bruner, Inc., Denver, CO            |
| Douglas Strand     | Strand, Atkinson, Williams & York, Inc., Portland, OR |

If you are interested in nominating yourself or a colleague to the District 3 Committee or the District 3 Nominating Committee, please complete the candidate profile sheet (Attachment C) and return it to the District Nominating Committee Chairman or the District Director at the above District Office address by July 3, 2000.

## Special NASD Notice to Members 00-34

### District Committee And District Nominating Committee Members

#### District 4

Thomas D. Clough, District Director  
120 W. 12th Street, Suite 900  
Kansas City, MO 64105  
(816) 421-5700

---

#### District 4 Committee

Members to be elected to terms expiring January 2004: 4

Chair: Brent M. Weisenborn

#### Committee Members

##### To Serve Until January 2001

|                       |   |
|-----------------------|---|
| Antonio J. Cecin      | U.S. Bancorp Piper Jaffray, Inc., Minneapolis, MN           |
| Cheryl Cook-Schneider | Edward Jones, St. Louis, MO                                 |
| Brent M. Weisenborn   | Security Investment Company of Kansas City, Kansas City, MO |
| Vacancy               |   |

##### To Serve Until January 2002

|                    |   |
|--------------------|---|
| Robert M. Chambers | Robert W. Baird & Co. Incorporated, Des Moines, IA          |
| John R. Lepley     | Princor Financial Services Corporation, Des Moines, IA      |
| William M. Lyons   | American Century Investment Services, Inc., Kansas City, MO |

##### To Serve Until January 2003

|                       |  |
|-----------------------|--|
| E. John Moloney       | Moloney Securities Co., Inc., St. Louis, MO      |
| Rodger O. Riney       | Scottsdale Securities, Inc., St. Louis, MO       |
| Jeffrey A. Schuh      | Marquette Financial Group, Inc., Minneapolis, MN |
| Gail Werner-Robertson | GWR Investments, Inc., Omaha, NE                 |

---

#### District 4 Nominating Committee

Members to be elected to terms expiring January 2002: 5

Chair: Todd W. Miller

#### Committee Members

|                   |   |
|-------------------|---|
| John D. Cleland   | Security Distributors, Inc., Topeka, KS                   |
| Colleen Curran    | American Express Financial Advisors Inc., Minneapolis, MN |
| Albert W. Lauth   | First St. Louis Securities, Inc., St. Louis, MO           |
| Todd W. Miller    | Miller, Johnson & Kuehn, Incorporated, Minneapolis, MN    |
| Wayne H. Peterson | Washington Square Securities, Inc., Minneapolis, MN       |

If you are interested in nominating yourself or a colleague to the District 4 Committee or the District 4 Nominating Committee, please complete the candidate profile sheet (Attachment C) and return it to the District Nominating Committee Chairman or the District Director at the above District Office address by July 3, 2000.

## **Special NASD Notice to Members 00-34**

### **District Committee And District Nominating Committee Members**

#### **District 5**

Warren A. Butler, Jr., District Director  
1100 Poydras Street  
Energy Centre, Suite 850  
New Orleans, LA 70163-0802  
(504) 522-6527

---

#### **District 5 Committee**

**Members to be elected to terms expiring January 2004: 4**

**Chair:** James S. Jones

##### **Committee Members**

##### ***To Serve Until January 2001***

|                          |  |
|--------------------------|--|
| Benjamin D. Capshaw, III | Morgan Stanley Dean Witter, New Orleans, LA  |
| James S. Jones           | Crews & Associates, Inc., Little Rock, AR    |
| Dene R. Shipp            | SunTrust Equitable Securities, Nashville, TN |
| John C. West             | First Union Securities, Inc., Memphis, TN    |

##### ***To Serve Until January 2002***

|                    |   |
|--------------------|---|
| James D. Hudgins   | SouthTrust Securities, Inc., Birmingham, AL |
| LeRoy H. Paris, II | Invest Linc Securities, Inc., Jackson, MS   |
| Duncan F. Williams | Duncan-Williams, Inc., Memphis, TN          |

##### ***To Serve Until January 2003***

|                    |  |
|--------------------|--|
| David A. Daugherty | James Baker & Associates, A Limited Partnership, Oklahoma City, OK |
| James M. Rogers    | J.J.B. Hilliard, W.L. Lyons, Inc., Louisville, KY                  |
| W. Lucas Simons    | J. C. Bradford & Co., Nashville, TN                                |

---

#### **District 5 Nominating Committee**

**Members to be elected to terms expiring January 2002: 5**

**Chair:** Jerry Roberts

##### **Committee Members**

|                      |  |
|----------------------|--|
| J. French Hill       | Delta Trust Investments, Inc., Little Rock, AR |
| David S. Patrick     | First Union Securities, Inc., Montgomery, AL   |
| William T. Patterson | Morgan Keegan & Company, Inc., Jackson, MS     |
| Jerry Roberts        | Sterne, Agee & Leach, Inc., Little Rock, AR    |
| Miguel Uria          | Oro Financial, Inc., New Orleans, LA           |

If you are interested in nominating yourself or a colleague to the District 5 Committee or the District 5 Nominating Committee, please complete the candidate profile sheet (Attachment C) and return it to the District Nominating Committee Chairman or the District Director at the above District Office address by July 3, 2000.

## Special NASD Notice to Members 00-34

### District Committee And District Nominating Committee Members

#### District 6

Bernerd Young, District Director  
12801 N. Central Expressway, Suite 1050  
Dallas, TX 75243  
(972) 701-8554

---

#### District 6 Committee

**Members to be elected to terms expiring January 2004: 3**

**Chair:** Daniel C. Dooley

#### Committee Members

##### *To Serve Until January 2001*

|                  |   |
|------------------|---|
| Daniel C. Dooley | Maplewood Investment Advisors, Inc., Dallas, TX |
| Ronald J. Gard   | Salomon Smith Barney, Inc., Dallas, TX          |
| Jim G. Rhodes    | Rhodes Securities, Inc., Ft. Worth, TX          |

##### *To Serve Until January 2002*

|                       |   |
|-----------------------|---|
| Frederick W. McGinnis | PaineWebber Inc., Houston, TX                 |
| Sue H. Peden          | SWS Financial Services, Inc., Dallas, TX      |
| Joseph H. Storthz     | Transamerica Financial Resources, Houston, TX |

##### *To Serve Until January 2003*

|                   |   |
|-------------------|---|
| G. Clyde Buck     | Sanders Morris Harris, Inc., Houston, TX                |
| Bryan T. Forman   | First Financial Investment Securities, Inc., Austin, TX |
| Richard L. Sandow | Southlake Capital, L.L.C., Southlake, TX                |

---

#### District 6 Nominating Committee

**Members to be elected to terms expiring January 2002: 5**

**Chair:** William B. Madden

#### Committee Members

|                     |  |
|---------------------|--|
| Jane E. Bates       | The Variable Annuity Marketing Co., Houston, TX        |
| William D. Connally | Greenman Parker Connally Greenman, Inc., Ft. Worth, TX |
| Robert G. Gunn III  | Gunn and Company, Inc., San Antonio, TX                |
| Paul L. Larkin      | Vista Securities, Inc., Dallas, TX                     |
| William B. Madden   | Madden Securities Corporation, Dallas, TX              |

If you are interested in nominating yourself or a colleague to the District 6 Committee or the District 6 Nominating Committee, please complete the candidate profile sheet (Attachment C) and return it to the District Nominating Committee Chairman or the District Director at the above District Office address by July 3, 2000.

# Special NASD Notice to Members 00-34

## District Committee And District Nominating Committee Members

### District 7

Alan M. Wolper, District Director  
One Securities Centre, Suite 500  
3490 Piedmont Road, NE  
Atlanta, GA 30305  
(404) 239-6100

---

### District 7 Committee

Members to be elected to terms expiring January 2004: 4

Chair: M. Anthony Greene

#### Committee Members

##### *To Serve Until January 2001*

|                     |   |
|---------------------|---|
| Robert M. Balentine | Balentine & Company, Atlanta, GA                    |
| James J. Buddle     | Capital Brokerage Corporation, Richmond, VA         |
| M. Anthony Greene   | Raymond James Financial Services, Inc., Atlanta, GA |
| J. Lee Keiger, III  | Davenport & Company, LLC, Richmond, VA              |
| Raymond W. Snow     | Deutsch Banc Alex. Brown, Palm Beach, FL            |

##### *To Serve Until January 2002*

|                        |   |
|------------------------|---|
| James W. Hamilton, Jr. | Morgan Keegan & Co., Atlanta, GA          |
| Edward R. Hipp, III    | Centura Securities, Inc., Rocky Mount, NC |
| Roark A. Young         | Young, Stovall and Company, Miami, FL     |

##### *To Serve Until January 2003*

|                           |  |
|---------------------------|--|
| Michael D. Hearn, Esq.    | Wachovia Securities, Inc., Charlotte, NC       |
| Collie W. Lehn            | A. G. Edwards & Sons, Inc., Laurens, SC        |
| Charles E. Scarlett, Esq. | J. W. Genesis Securities, Inc., Boca Raton, FL |
| John W. Waechter          | William R. Hough & Co., St. Petersburg, FL     |

---

### District 7 Nominating Committee

Members to be elected to terms expiring January 2002: 5

Chair: Franklin C. Golden

#### Committee Members

|                     |   |
|---------------------|---|
| Robert J. Brietz    | Marion Bass Securities Corp., Charlotte, NC |
| Franklin C. Golden  | James M. Myers & Co., Charlotte, NC         |
| Stuart J. Knobel    | Edgar M. Norris & Co., Inc., Anderson, SC   |
| David G. Pittinos   | Dean Witter Reynolds, Inc., Tallahassee, FL |
| R. Charles Shufeldt | SunTrust Banks, Atlanta, GA                 |

If you are interested in nominating yourself or a colleague to the District 7 Committee or the District 7 Nominating Committee, please complete the candidate profile sheet (Attachment C) and return it to the District Nominating Committee Chairman or the District Director at the above District Office address by July 3, 2000.



# Special NASD Notice to Members 00-34

## District Committee And District Nominating Committee Members

### District 8

Carlotta A. Romano, District Director  
10 South LaSalle, 20th Floor  
Chicago, IL 60603-1002  
(312) 899-4400

William H. Jackson, Jr., District Director  
Renaissance on Playhouse Square  
1350 Euclid Avenue, Suite 650  
Cleveland, OH 44115  
(216) 694-4545

---

### District 8 Committee

Members to be elected to terms expiring January 2004: 4

Chair: Alan H. Newman

#### Committee Members

##### *To Serve Until January 2001*

|                    |   |
|--------------------|---|
| William C. Alsover | Centennial Securities Company, Inc., Grand Rapids, MI |
| Wallen L. Crane    | Salomon Smith Barney, Inc., Ann Arbor, MI             |
| Alan H. Newman     | J.J.B. Hilliard, W.L. Lyons, Inc., Evansville, IN     |
| Bruce J. Young     | Mesirow Financial, Inc., Chicago, IL                  |

##### *To Serve Until January 2002*

|                     |   |
|---------------------|---|
| R. Jack Conley      | VESTAX Securities Corporation, Hudson, OH       |
| Mary D. Esser       | Cressman Esser Securities, Inc., Naperville, IL |
| Glen Hackmann       | Robert W. Baird & Co., Inc., Milwaukee, WI      |
| Robert A. Perrier   | Butler, Wick & Co., Inc., Cleveland, OH         |
| Kathleen A. Wieland | William Blair & Company, LLC, Chicago, IL       |

##### *To Serve Until January 2003*

|                     |  |
|---------------------|--|
| Carol Podesta Foley | Podesta & Company, Chicago, IL         |
| Renee M. Rombaut    | Sage, Ruddy & Co., Inc., Rochester, NY |

---

### District 8 Nominating Committee

Members to be elected to terms expiring January 2002: 5

Chair: Paul E. Murin

#### Committee Members

|                       |   |
|-----------------------|---|
| Leonard L. Anderson   | Stifel, Nicolaus & Company, Incorporated, Grand Haven, MI |
| Robert T. Clutterbuck | McDonald Investments Inc., Cleveland, OH                  |
| Paul E. Murin         | David A. Noyes & Company, Chicago, IL                     |
| William H. Richardson | Trubee, Collins & Co., Inc., Buffalo, NY                  |
| G. Donald Steel       | Planned Investment Co., Inc., Indianapolis, IN            |

If you are interested in nominating yourself or a colleague to the District 8 Committee or the District 8 Nominating Committee, please complete the candidate profile sheet (Attachment C) and return it to the District Nominating Committee Chairman or the District Director at the above District Office address by July 3, 2000.

## Special NASD Notice to Members 00-34

### District Committee And District Nominating Committee Members

#### District 9

John P. Nocella, District Director  
11 Penn Center  
1835 Market Street, Suite 1900  
Philadelphia, PA 19103  
(215) 665-1180

Gary K. Liebowitz, District Director  
581 Main Street, 7th floor  
Woodbridge, NJ 07095  
(732) 596-2000

---

#### District 9 Committee

**Members to be elected to terms expiring January 2004: 4**

**Chair:** A. Louis Denton

**Committee Members**

***To Serve Until January 2001***

|                  |  |
|------------------|--|
| Victor M. Frye   | Calvert Distributors, Inc., Bethesda, MD       |
| Jerome J. Murphy | Janney Montgomery Scott Inc., Philadelphia, PA |
| Vacancy          |  |
| Vacancy          |  |

***To Serve Until January 2002***

|                    |  |
|--------------------|--|
| A. Louis Denton    | Philadelphia Corporation for Investment Services, Philadelphia, PA |
| Thomas W. Neumann  | Sherwood Securities Corp., Jersey City, NJ                         |
| Joseph S. Rizzello | Vanguard Marketing Corporation, Valley Forge, PA                   |
| Gregory R. Zappala | RRZ Public Markets, Inc., Cranberry Township, PA                   |

***To Serve Until January 2003***

|                     |   |
|---------------------|---|
| James D. Lamke      | Spear, Leeds & Kellogg Capital Markets, Inc., Jersey City, NJ |
| John P. Meegan      | Parker/Hunter Incorporated, Pittsburgh, PA                    |
| Lance A. Reihl      | 1717 Capital Management Co., Newark, DE                       |
| Lenda P. Washington | GRW Capital Corporation, Washington, DC                       |

---

#### District 9 Nominating Committee

**Members to be elected to terms expiring January 2002: 5**

**Chair:** Mark W. Cresap

**Committee Members**

|                        |  |
|------------------------|--|
| Mark W. Cresap         | Cresap, Inc., Radnor, PA   |
| Allen S. Jacobson      | Gibraltar Securities Co., Florham Park, NJ                         |
| James J. Malespina     | Herzog, Heine, Geduld, Inc., Jersey City, NJ                       |
| William F. Rienhoff IV | Donaldson, Lufkin & Jenrette Securities Corporation, Baltimore, MD |
| Robert A. Woeber       | Arthurs, Lestrangle & Company, Incorporated, Pittsburgh, PA        |

If you are interested in nominating yourself or a colleague to the District 9 Committee or the District 9 Nominating Committee, please complete the candidate profile sheet (Attachment C) and return it to the District Nominating Committee Chairman or the District Director at the above District Office address by July 3, 2000.

## Special NASD Notice to Members 00-34

### District Committee And District Nominating Committee Members

#### District 10

David A. Leibowitz, District Director  
NASD Financial Center  
33 Whitehall Street  
New York, NY 10004  
(212) 858-4000

---

#### District 10 Committee

Members to be elected to terms expiring January 2004: 5

Chair: Mark D. Madoff

#### Committee Members

##### *To Serve Until January 2001*

|                    |   |
|--------------------|---|
| Arthur S. Ainsberg | Brahman Securities Inc., New York, NY                 |
| William P. Behrens | Investec Ernst & Co., New York, NY                    |
| Laurence H. Bertan | Sanford C. Bernstein & Co. Inc., New York, NY         |
| Mark D. Madoff     | Bernard L. Madoff Investment Securities, New York, NY |
| Stuart L. Sindell  | Datek On-Line Brokerage Services Corp., New York, NY  |

##### *To Serve Until January 2002*

|                       |  |
|-----------------------|--|
| John Iachello         | ING Baring Furman Selz, New York, NY               |
| Philip V. Oppenheimer | Oppenheimer & Close Inc., New York, NY             |
| Gary Salamone         | Schroder & Co. Inc., New York, NY                  |
| Eugene A. Schlanger   | Nomura Securities International Inc., New York, NY |
| Tom M. Wirtshafter    | Nathan & Lewis Securities Inc., New York, NY       |

##### *To Serve Until January 2003*

|                         |  |
|-------------------------|--|
| Kevin J. Browne         | Banc of America Securities, New York, NY |
| Judith R. MacDonald     | Rothschild, Inc., New York, NY           |
| Stephen C. Strombelline | Barclays Capital Inc., New York, NY      |

---

#### District 10 Nominating Committee

Members to be elected to terms expiring January 2002: 5

Chair: Joan S. Green

#### Committee Members

|                     |  |
|---------------------|--|
| Ralph J. Costanza   | Salomon Smith Barney Inc., New York, NY              |
| Frank F. DiGregorio | Credit Suisse First Boston Corporation, New York, NY |
| Joan S. Green       | BT Brokerage Corporation, New York, NY               |
| Vicki Z. Holleman   | Loeb Partners Corporation, New York, NY              |
| Harold Ognelodh     | U.S. Bancorp Investment Inc., New York, NY           |

If you are interested in nominating yourself or a colleague to the District 10 Committee or the District 10 Nominating Committee, please complete the candidate profile sheet (Attachment C) and return it to the District Nominating Committee Chairman or the District Director at the above District Office address by July 3, 2000.

## Special NASD Notice to Members 00-34

### District Committee And District Nominating Committee Members

#### District 11

Fred McDonald, District Director  
260 Franklin Street, 16th Floor  
Boston, MA 02110  
(617) 261-0800

---

#### District 11 Committee

Members to be elected to terms expiring January 2004: 4

Chair: Frank V. Knox, Jr.

##### Committee Members

##### *To Serve Until January 2001*

|                      |  |
|----------------------|--|
| Michael J. Dell'Olio | Investment Management and Research, Inc., South Portland, ME |
| Frank V. Knox, Jr.   | Fidelity Distributors Corporation, Boston, MA                |
| Laurie Lennox        | SunLife of Canada (U.S.) Distributors, Inc., Boston, MA      |
| Kenneth Unger        | Boston Capital Services, Inc., Boston, MA                    |

##### *To Serve Until January 2002*

|                      |   |
|----------------------|---|
| Stephen O. Buff      | FleetBoston Robertson Stephens Inc., Boston, MA |
| Dennis R. Surprenant | Cantella & Co., Inc., Boston, MA                |

##### *To Serve Until January 2003*

|                   |  |
|-------------------|--|
| Elena Dasaro      | H.C. Wainwright & Co., Inc., Boston, MA                    |
| John D. Lane      | Westport Resources Investment Services, Inc., Westport, CT |
| Deborah G. Ullman | American Skandia Marketing, Inc., Shelton, CT              |
| Peter T. Wheeler  | Commonwealth Financial Network, Waltham, MA                |

---

#### District 11 Nominating Committee

Members to be elected to terms expiring January 2002: 5

Chair: Edward L. Sherr

##### Committee Members

|                   |   |
|-------------------|---|
| Harry H. Branning | Advest, Inc., Hartford, CT              |
| Stephanie Brown   | Linsco/Private Ledger Corp., Boston, MA |
| Francis W. Murphy | Moors & Cabot, Boston, MA               |
| Wilson G. Saville | Barrett & Company, Providence, RI       |
| Edward L. Sherr   | Carl P. Sherr & Company, Worcester, MA  |

If you are interested in nominating yourself or a colleague to the District 11 Committee or the District 11 Nominating Committee, please complete the candidate profile sheet (Attachment C) and return it to the District Nominating Committee Chairman or the District Director at the above District Office address by July 3, 2000.

**2000 District Election Procedures For District Committees And District Nominating Committees**

**Regular Election**

1. Each NASD Regulation District shall maintain a District Nominating Committee in the manner specified in Article VIII of the By-Laws of NASD Regulation, Inc.
2. The Secretary of NASD Regulation, Inc. ("the Corporation") will notify in writing the Chairman of each District Committee and the Chairman of the District Nominating Committee of the upcoming vacancies on both the District Committee and the District Nominating Committee, and the procedures to follow to fill the vacancies. A copy of these letters will be provided to the District Directors.

The District Nominating Committee will be provided by Corporation staff with information considered relevant to the nominating process, including analytical data pertaining to the District membership.

3. The Secretary of NASD Regulation and the Membership Department will e-mail a reminder to all members of their responsibility and obligation to keep current and accurate information on their Executive Representatives and branch office addresses. The e-mail will contain a reference to the NASDR<sup>SM</sup> Web Site ([www.nasdr.com](http://www.nasdr.com)) and detail the process for changing a firm's Executive Representative. This e-mail will note that failure to keep this information accurate may jeopardize the member's ability to participate in District elections as well as other member votes.
4. The Secretary of the Corporation on behalf of the District Committee Chairman will send a *Notice to Members* announcing the forthcoming elections to the Executive Representative and each branch office of all members eligible to vote in that District. The *Notice to Members* will contain: a) the number of vacancies for each District; and b) the remaining members of each District Committee. Members interested in serving on the District Committee or District Nominating Committee will be requested to complete the candidate profile sheet and submit it to the District Nominating Committee Chairman or the District Director. The completed candidate profile sheet will be provided to all Nominating Committee members for review.
5. The District Nominating Committee will endeavor to secure fair representation of the membership within the District on the District Committee. One small firm member of each District Committee will serve a one-year term on the Small Firm Advisory Board.
6. The District Nominating Committee will review the background and qualifications of the proposed candidates and the District profile information provided by Corporation staff, and will determine its slate of candidates for the election.
7. The District Nominating Committee will certify to the District Committee each candidate nominated by the District Nominating Committee.
8. Within five (5) calendar days after this certification, a *Notice to Members* shall be sent to Executive Representatives, communicating the nominees for the vacancies on the District Committees.

## Special NASD Notice to Members 00-34

9. If an officer, director, or employee of an NASD member is interested in being considered as an additional candidate, he/she must indicate his/her interest to the District Director within fourteen (14) calendar days of the date of the *Notice to Members* referenced in #8 above. The District Director shall make a written record of the time and date of such notification and the process will continue as described in #10 - #12.

If an additional candidate does not come forward within 14 days, the election of committee members is complete.

10. Additional candidate(s) may be nominated if a petition signed by the Executive Representative of at least 10 percent of the members eligible to vote in the District is filed with the District Nominating Committee within 30 calendar days from the mailing date of the *Notice to Members* referenced in #8 on the previous page, unless the Secretary of NASD Regulation grants additional time for good cause shown.
11. If no additional candidate(s) are nominated within the 30-calendar day period, then the candidates nominated by the District Nominating Committee shall be considered duly elected, and the District Committee shall certify the election to the Board of Directors of NASD Regulation.
12. If any additional candidate(s) are nominated, the procedures outlined in the Contested Election Procedures will apply.

Additional information pertaining to the District Election Procedures can be found in Article VIII of the By-Laws of NASD Regulation.

*Special Notices to Members* are published on an accelerated basis and distributed independently of monthly *Notices to Members* newsletters. Numerical sequencing may thus appear to contain gaps during a given monthly publication cycle. Such temporary gaps reflect a priority in the production process and will disappear at the conclusion of monthly electronic posting and print distribution.

© 2000, National Association of Securities Dealers, Inc. (NASD). All rights reserved.

NASD is a registered service mark of the National Association of Securities Dealers, Inc. MediaSource is a service mark of the NASD. NASD Regulation is a service mark of NASD Regulation, Inc.

*NASD Notices to Members* is published monthly by NASD Corporate Communications, Kim D'Alessandris, Editor, NASD Regulatory Communication Services, 1735 K Street, NW, Washington, DC 20006-1500, (202) 728-8370. No portion of this publication may be copied, photocopied, or duplicated in any form or by any means, except as described below, without prior written consent of the NASD. Members of the NASD are authorized to photocopy or otherwise duplicate any part of this publication without charge only for internal use by the member and its associated persons. Nonmembers of the NASD may obtain permission to photocopy for internal use through the Copyright Clearance Center (CCC) for a \$3-per-page fee to be paid directly to CCC, 222 Rosewood Drive, Danvers, MA 01923.

Each member firm's Executive Representative is entitled to one annual subscription to *Notices to Members* at cost (\$15 per year). Additional annual subscriptions are available for \$225; single issues cost \$25. To order, send a check or money order (payable to the National Association of Securities Dealers, Inc.) to NASD MediaSource, P.O. Box 9403, Gaithersburg, MD 20898-9403; to order with a credit card (American Express, MasterCard, or Visa), call (301) 590-6142, Monday to Friday, 9 a.m. to 5 p.m., Eastern Time. Back issues may be ordered by calling MediaSource at (301) 590-6142.

*Notices to Members* (December 1996 to current) are also available on the Internet at [www.nasdr.com](http://www.nasdr.com).

**INFORMATIONAL**

## Continuing Education

NASD Regulation Reminds Firms Of CRD Continuing Education Notification Method And Informs Firms To Review Written Supervisory Procedures

**SUGGESTED ROUTING**

*The Suggested Routing function is meant to aid the reader of this document. Each NASD member firm should consider the appropriate distribution in the context of its own organizational structure.*

- Continuing Education/Testing/Qualifications
- Legal & Compliance
- Registration
- Senior Management

**KEY TOPICS**

- Continuing Education Regulatory Element Notification
- Written Supervisory Procedures

### Executive Summary

National Association of Securities Dealers, Inc. (NASD®) firms are reminded that the Web Central Registration Depository (CRD<sup>SM</sup>) system no longer sends hard-copy Continuing Education (CE) Advisory Messages, or “yellow sheets,” to advise firms of their registered representatives’ Regulatory Element requirements. Instead, firms must access and view the continuing education information in their **Firm Queues** on Web CRD.<sup>1</sup> Web CRD also makes available supplemental CE reports to assist firms in identifying and tracking their registered representatives. As a result of these changes, firms should review their written supervisory procedures

as they relate to the manner in which firm staff identifies, notifies, and tracks their registered representatives who are required to satisfy the Regulatory Element and to revise the procedures if necessary.

### Questions/Further Information

Questions concerning this *Notice* may be directed to John Linnehan, Director, Continuing Education, NASD Regulation, Inc., (NASD Regulation<sup>SM</sup>) at (301) 208-2932. Questions about **Firm Queues** should be directed to the Gateway Call Center at (301) 869-6699; or Heather Bevans, Continuing Education, NASD Regulation, at (301) 590-6011.

## NASD Notice to Members 00-35

### Types Of CE Firm Queues

Here is a list of CE Firm Queues that firms should view and the hard-copy "yellow sheets" replaced by the queues.

| Web CRD Continuing Education Firm Queue   | Hard-Copy Continuing Education "Yellow Sheets" Replaced By Firm Queues           |
|---|--|
| <p><b><i>Approaching CE Requirement Queue</i></b><br/>Lists individuals with CE Windows starting within 28 days.</p>  | Initial Notices <b>and</b> Notices for Significant Disciplinary Actions          |
| <p><b><i>Currently CE Required Queue</i></b><br/>Lists all individuals currently in their 120-day CE Window.</p>  | Monthly Requirement Summary Report   |
| <p><b><i>Recently CE Satisfied Queue</i></b><br/>Lists individuals who have completed the Regulatory Element within a time period specified by the user.</p>  | Individual and Summary Completion Reports  |
| <p><b><i>CE Inactive Queue</i></b><br/>Lists <i>approved</i> individuals at the firm who are currently CE Inactive.</p>   | Individual and Summary Inactive Reports  |
| <p><b><i>Current Individual Deficiencies Queue<sup>2</sup>-CE Inactive</i></b><br/>Lists <i>new hires</i> of the firm who are CE Inactive and whose registrations are not approved.<br/>(Note: Web CRD does not approve the registrations of new hires who are inactive unless and until those persons satisfy the Regulatory Element. Persons in this situation have CRD registrations with a status of DEFICIENT-CE.)</p> | Individual and Summary Inactive Reports  |
| <p><b><i>Currently Two-Year CE Termed Queue</i></b><br/>Lists all individuals who have had their registrations administratively terminated because they had been CE Inactive for two years.</p>   | CE Two Year Termination Notice <b>and</b> CE Two Year Termination Warning Notice |



## NASD Notice to Members 00-35

### Supplemental CE Reports Available From Web CRD

Web CRD will also provide firms with various reports to complement the CE Queues. Reports marked with an asterisk (\*) may be imported into a spreadsheet or database where the data may then be sorted by the user. To request any of these reports, please send an e-mail request to [crdreports@nasd.com](mailto:crdreports@nasd.com) or call the Gateway Call Center at (301) 869-6699.

### CE Download\*

This report defines the CE base date for actively registered individuals with the firm who are subject to the Regulatory Element.

### Approaching CE Queue Download\*

This report allows firms to download the list of individuals in the firm's Approaching CE Requirement Queue.

### Approaching CE Queue Report

This report will provide the firm with a "printable" list of individuals in the firm's Approaching CE Requirement Firm Queue.

### Current Inactive CE Individuals Within A Firm

This report lists all individuals currently employed with the

requesting firm who have a status of CE Inactive at the time the report is requested.

### Previously Inactive CE Individuals Within A Firm

This report lists all individuals who were employed by the requesting firm *and* who had a status of CE Inactive during the timeframe specified.

### Approaching CE Two Year Termed Report

This report lists individuals who *will be* administratively terminated within the next 10 days (if they remain CE Inactive) for failure to satisfy the Regulatory Element requirement. These individuals have had a status of CE Inactive for two years from their most recent requirement window end date.

### CE Two Year Termed Report

This report lists individuals who were employed by the requesting firm *and were* administratively terminated during the timeframe specified. Individuals on this report will need to requalify for registration by a qualification examination and must submit an Initial Form U-4 to reactivate their registrations.

### Written Supervisory Procedures

Firms are reminded to review written supervisory procedures describing how their staff is to identify, notify, and track registered representatives who are required to satisfy the Regulatory Element. To evidence the firm's understanding of its responsibilities in this area, written procedures should refer to CE Firm Queues and supplemental CRD reports, and not to written CE Advisory Messages, which are no longer sent.

### Endnotes

<sup>1</sup>Firm Queues are listed in the Individual Processing column of the Web CRD Site Map, the first page after the log-in screen.

<sup>2</sup>CE Inactive Deficiencies are found in the Registrations Queue. To access, first click on the **Registrations Queue**, then **Current Individual Deficiencies**, and then select **CE Inactive** from the deficiencies list.

© 2000, National Association of Securities Dealers, Inc. (NASD). All rights reserved. Notices to Members attempt to present information to readers in a format that is easily understandable. However, please be aware that, in case of any misunderstanding, the rule language prevails.

### INFORMATIONAL

## Disciplinary Decisions

SEC Approves Rule Change To Permit Publication Of All Final Litigated Decisions Issued By The Office Of Hearing Officers, The National Adjudicatory Council, And The NASD Board; **Effective Date: July 10, 2000**

### SUGGESTED ROUTING

*The Suggested Routing function is meant to aid the reader of this document. Each NASD member firm should consider the appropriate distribution in the context of its own organizational structure.*

- Legal & Compliance
- Senior Management

### KEY TOPICS

- Disciplinary Decisions
- Interpretive Material 8310-2

### Executive Summary

The National Association of Securities Dealers, Inc. (NASD<sup>®</sup>) publishes disciplinary decisions that meet certain criteria; these criteria are outlined in Interpretive Material 8310-2 (the Interpretation). On May 15, 2000, the Securities and Exchange Commission (SEC) approved a change to the Interpretation to permit publication of all final, litigated decisions issued by the Office of Hearing Officers (OHO), the National Adjudicatory Council (NAC), and the NASD Board. Under the approved change, a decision that does not satisfy the enumerated criteria of the Interpretation will be released, but will not identify the parties to the decision. The rule change becomes effective on July 10, 2000, but permits publication of all final, litigated decisions issued after August 7, 1997, the effective date of the current NASD Code of Procedure.<sup>1</sup> Attachment A includes the amendments to the Interpretation.

### Questions/Further Information

Questions regarding this *Notice* should be directed to Sarah Williams, Assistant General Counsel, Office of General Counsel, NASD Regulation, Inc. (NASD Regulation<sup>SM</sup>), at (202) 728-8083.

### Discussion

Some, but not all, NASD disciplinary decisions are currently released to the public. The Interpretation permits the NASD to release to the public any disciplinary decision that:

- (1) imposes a suspension, cancellation, or expulsion of a member;
- (2) imposes a suspension or revocation of the registration of any associated person;

- (3) imposes a suspension or bars a member or associated person from association with all members;
- (4) imposes monetary sanctions of \$10,000 or more on a member or associated person;
- (5) contains an alleged violation of a Designated Rule; or
- (6) involves a significant policy or enforcement determination where the release of such matter is deemed by the President of NASD Regulation to be in the public interest.

Because disciplinary decisions provide guidance in the interpretation and enforcement of NASD rules, it is in the public interest to make available all final, litigated decisions issued by the OHO, the NAC, and the NASD Board. Accordingly, the SEC approved amendments to the Interpretation to provide for the publication of these decisions. However, the names of the parties and other identifying information mentioned in decisions that do not meet the current enumerated publication criteria, as outlined in the Interpretation (and listed above), will be redacted from these decisions. These amendments do not apply to Settlements; Letters of Acceptance, Waiver, and Consent; and Minor Rule Violation Plan letters. The amendments will have no impact on the information contained in the Web Central Registration Depository (CRD<sup>SM</sup>) system, and disclosed to a requesting party pursuant to Interpretive Material 8310-2(b).

When this rule change becomes effective, all final, litigated OHO, NAC, and NASD Board decisions issued after August 7, 1997 (the effective date of the current NASD Code of Procedure) will be publicly available.

## Attachment A

### Text Of Amendments

(Note: New text is underlined.)

#### IM-8310-2. Release of Disciplinary Information

(d) (1) The Association shall release to the public information with respect to any disciplinary decision issued pursuant to the Rule 9000 Series imposing a suspension, cancellation or expulsion of a member; or suspension or revocation of the registration of a person associated with a member; or suspension or barring of a member or person associated with a member from association with all members; or imposition of monetary sanctions of \$10,000 or more upon a member or person associated with a member; or containing an allegation of a violation of a Designated Rule; and may also release such information with respect to any disciplinary decision or group of decisions that involve a significant policy or enforcement determination where the release

of information is deemed by the President of NASD Regulation, Inc. to be in the public interest. The Association also may release to the public information with respect to any disciplinary decision issued pursuant to the Rule 8220 Series imposing a suspension or cancellation of the member or a suspension of the association of a person with a member, unless the National Adjudicatory Council determines otherwise. The National Adjudicatory Council may, in its discretion, determine to waive the requirement to release information with respect to a disciplinary decision under those extraordinary circumstances where the release of such information would violate fundamental notions of fairness or work an injustice. The Association may release to the public information on any other final, litigated, disciplinary decision issued pursuant to the Rule 8220 Series or Rule 9000 Series, not specifically enumerated in this paragraph, regardless of sanctions imposed, so long as the names of the parties and other identifying information is redacted.

### Endnote

<sup>1</sup>See *Special Notice to Members 97-55*.

© 2000, National Association of Securities Dealers, Inc. (NASD). All rights reserved. Notices to Members attempt to present information to readers in a format that is easily understandable. However, please be aware that, in case of any misunderstanding, the rule language prevails.

### INFORMATIONAL

# MSRB Rule G-37 Exemptive Relief

## NAC Issues Decision On MSRB Rule G-37 Exemptive Relief

### SUGGESTED ROUTING

*The Suggested Routing function is meant to aid the reader of this document. Each NASD member firm should consider the appropriate distribution in the context of its own organizational structure.*

- Fixed Income
- Internal Audit
- Legal & Compliance
- Municipal/Government Securities
- Senior Management

### KEY TOPICS

- MSRB Rule G-37 Exemptions
- Political Contributions

### Executive Summary

NASD Regulation, Inc. (NASD Regulation<sup>SM</sup>) is publishing a National Adjudicatory Council (NAC) decision in which the NAC denied an appeal from a firm requesting exemptive relief under Municipal Securities Rulemaking Board (MSRB) Rule G-37(i). The purpose of this *Notice* is to provide members with additional guidance about the scope and the limitations of exemptive relief available under MSRB Rule G-37(i).

Attachment A is the NAC decision in redacted form.

### Questions/Further Information

Questions regarding this *Notice* may be directed to Malcolm Northam, Director, Fixed Income Securities, Department of Member Regulation, NASD Regulation, at (202) 728-8085; or Sharon Zackula, Assistant General Counsel, Office of General Counsel, NASD Regulation, at (202) 728-8985.

### Discussion

#### **Background**

The NAC recently denied an appeal from a firm requesting exemptive relief under MSRB Rule G-37(i). The broker/dealer was interested in hiring an attorney to perform certain compliance and business functions on behalf of the broker/dealer, but her hiring would trigger the two-year ban on certain municipal securities business activities, because, prior to being approached by the broker/dealer regarding joining the firm, she made political contributions to several elected officials. At the time the attorney made the contributions, the attorney was not subject to any prohibition regarding the making of the political contributions, and she was not aware that she might become subject to MSRB Rule G-37 because, as stated above, she had not yet been approached by the broker/dealer. The NAC affirmed the NASD Regulation staff's denial of exemptive relief. The NAC decision, in redacted form, is included with this *Notice* as Attachment A.

© 2000, National Association of Securities Dealers, Inc. (NASD). All rights reserved. Notices to Members attempt to present information to readers in a format that is easily understandable. However, please be aware that, in case of any misunderstanding, the rule language prevails.

## Attachment A

**Firm A**

**Address**

**Re: Firm A MSRB Rule G-37 Exemption Request**

Dear **C**:

This is in response to your letter dated **Date**, as supplemented by your letters dated **Date** and **Date**, in which you appealed the decision by NASD Regulation, Inc. ("NASD Regulation") staff dated **Date**, denying a request by **Firm A** for an exemption from the business prohibition requirement under MSRB Rule G-37. On **Date**, the National Adjudicatory Council ("NAC") affirmed the NASD Regulation staff's denial of **Firm A's** request for an exemption.

### *Factual Background*

During 1998 and 1999, a lawyer in private practice in **City N, State M, Lawyer**, made political contributions to **City N** and **County O** elected officials (*e.g.*, the mayor of **City N**, four members of **City N's** governing council, and the president of the **County O** governing board). At the time she made the contributions, **Lawyer** was not subject to MSRB Rule G-37, and she was unaware that she might become subject to MSRB Rule G-37 because she had not yet been approached by **Firm A** regarding joining the firm. If hired, **Lawyer** would be a municipal finance professional ("MFP"), and her hiring would trigger the business prohibition requirement of MSRB Rule G-37(b).

**Lawyer** was identified by **Firm A** as a highly skilled individual who is very experienced as a practicing securities and public finance lawyer. **Lawyer** currently is a partner at **Law Offices B**, where she has worked for **many years**. **Firm A** represented that it is expanding its business, particularly in **State Z**. The **State Z** business currently is concentrated in underwriting government obligations ("Gos"). "For over two years, **Firm A** has actively searched for a highly skilled individual who would assume management responsibility for **Firm A's** existing investment banking services provided to governments, school districts and nonprofit institutions . . . . The person's duties would include recruiting and managing new professionals . . . who will service **Firm A's** existing clients, and expanding **Firm A's** business in these areas."<sup>1</sup> **Lawyer**, if given the position, would "be responsible for reviewing and standardizing the documentation used in **Firm A's** financing transactions, for structuring transactions for compliance with state and federal law and for supervising the compliance by **Firm A's** municipal finance professionals with applicable regulatory requirements, including state and local ethics laws."<sup>2</sup> **Lawyer**, for example, would address all the compliance issues arising in the Go investment banking business, advice she currently provides as outside counsel.

**Firm A** began negotiations to hire **Lawyer** in 1999. **Lawyer** had not made any political contributions for some time before **Firm A** began employment discussions with her, and she had not made any political contributions since such discussions began.

Without exemptive relief, hiring **Lawyer** would bar **Firm A** from engaging in municipal securities activities until **Date**, with at least **multiple City N**-based major issuers (**City N**, and **multiple commissions and boards**) and until **Date** with at least two **County O** issuers (**County O**, and a **County O** board). **Firm A** indicated that it was most concerned about obtaining exemptive relief regarding **City N** and the other **City N**-based issuers because several current MFPs are involved in projects to underwrite bonds to finance improvements in several small tax increment financing ("TIF") districts. **Firm A** stated that its clients, the private real estate developers who identify a possible TIF-financed deal, and not **City N**, actually select the underwriter, although **City N** has required an additional underwriter to be added occasionally when approving TIF financing.

## NASD Notice to Members 00-37

---

### *NAC Decision*

In written guidance dated May 24, 1994, the MSRB addressed a similar set of facts and circumstances and concluded that political contributions made before one becomes an employee/MFP of a broker-dealer will routinely trigger the Rule G-37(b) ban on municipal securities business as of the time the contributor becomes an employee/MFP. The MSRB interprets the facts and circumstances as creating a nexus between the employee/MFP's political contributions and the firm's municipal securities business with any related issuer.<sup>3</sup> While your letters emphasize that **Firm A** has established rigorous procedures for ensuring compliance with MSRB Rule G-37 and has complied with the Rule since its adoption, these factors are not relevant in those cases where the ban is triggered by the pre-employment conduct of a contributor. For these reasons, the NAC affirmed NASD Regulation staff's denial of **Firm A's** request for exemptive relief. In reaching its decision, the NAC adhered strictly to the interpretative position previously developed by the MSRB. However, the NAC also stated its belief that the MSRB's interpretative position, which was filed with the SEC, is inappropriately inflexible and should be re-examined.

The NAC granted the request for confidential treatment regarding the record generally, except that the decision of the NAC will be published in redacted form in the NASD's Notices to Members, and otherwise provided in redacted form as requested. Key identifying information that may identify the actual parties or the issuer will be redacted (*e.g.*, the name of the MFP; the name of the member firm; the name of the recipient of the contribution; the name of the city, state or governmental entity that is the issuer; and other legal names that may allow a reader to identify the parties involved).

### Endnotes

<sup>1</sup>**Firm A** letter dated **Date**.

<sup>2</sup>*Id.*

<sup>3</sup>Questions and Answers Concerning Political Contributions and Prohibitions on Municipal Securities Business: Rule G-37, MSRB Interpretation to Rule G-37, Q & A No. 15, dated May 24, 1994, provides:

Q: Prior to becoming associated with any dealer, a person makes a contribution to an issuer official. Less than two years after making the contribution, that person becomes a municipal finance professional. Would the hiring dealer be prohibited from engaging in municipal securities business with that issuer?

A: Yes. Rule G-37 attempts to sever any connection between the making of contributions and the awarding of municipal securities business by prohibiting the dealer from engaging in municipal securities business with the issuer for two years from the date the contribution was made. As noted above, the dealer's prohibition on business would begin when the municipal finance professional becomes associated with that dealer. Thus, if the individual was hired, for example, six months after making the contribution, then the dealer's prohibition on business would extend for one and one half years.

# Audio Tape Order Form \* NASD Regulation, Inc. \* Spring Securities Conference

April 25-27, 2000 • Washington, DC

*Please Check Selected Session Numbers*

| CRD Conference<br>Recorded in New York City, April 13-14, 2000  | Spring Securities Conference   |   |
|---|--|---|
| <input type="radio"/> 40001 Opening Remarks<br><input type="radio"/> 40002 Web CRD: Recent Enhancements and Plans for 2000<br><input type="radio"/> 40003 Managing Your Core Business Needs: Form Filing, Queue Management, and Fingerprints<br><input type="radio"/> 40004 The New IARD (Investment Adviser Registration Depository)<br><input type="radio"/> 40005 The Call Center TRAC: Problem Reporting, Tracking & Resolution<br><input type="radio"/> 40006 Key NASD Regulation Programs: Continuing Education, Public Disclosure, and Reports | <input type="radio"/> 400S01 General Session Keynote Address: Mary L. Schapiro<br>General Session Panel: Open Forum with Senior Regulatory Staff<br><input type="radio"/> 400S02 Heightened Supervision Issues<br><input type="radio"/> 400S03 Arbitration And Mediation Update<br><input type="radio"/> 400S04 Market Regulation Compliance Issues<br><input type="radio"/> 400S05 Independent Contractors/ Financial Planners/ Investment Advisers<br><input type="radio"/> 400S06 Dynamics Of Customer Complaints<br><input type="radio"/> 400S07 Enforcement Open Forum<br><input type="radio"/> 400S08 Title VII Issues | <input type="radio"/> 400S09 Communications With The Public<br><input type="radio"/> 400S10 Examination Program<br><input type="radio"/> 400S11 Variable Insurance Products<br><input type="radio"/> 400S12 New & Continuing Member Application Issues<br><input type="radio"/> 400S13 Online Brokerage Issues<br><input type="radio"/> 400S14 CRD/Public Disclosure Issues<br><input type="radio"/> 400S15 Open Forum With District Directors<br><input type="radio"/> 400S16 Corporate Financing Issues<br><input type="radio"/> 400S17 Small Broker/Dealer Compliance Issues<br><input type="radio"/> 400S18 Decimalization Update<br><input type="radio"/> 400S19 Q&A With NASDR Senior Staff |
| <b>Complete to order</b>  |  |   |

**Tape Format**

Single Tape Session \_\_\_\_\_ x \$12.00 = \$ \_\_\_\_\_  
 Discount when 8 or more sessions purchased \_\_\_\_\_ x 5% = \$ \_\_\_\_\_ > = \$ \_\_\_\_\_  
 Full Set of CRD Conference \_\_\_\_\_ x \$64.80 = \$ \_\_\_\_\_  
 Full Set of Spring Securities Conference \_\_\_\_\_ x \$205.20 = \$ \_\_\_\_\_  
 Set of Spring Securities and CRD Conference \_\_\_\_\_ x \$256.50 = \$ \_\_\_\_\_

**Audio CD Format**

Single Tape Session \_\_\_\_\_ x \$21.00 = \$ \_\_\_\_\_  
 Discount when 8 or more sessions purchased \_\_\_\_\_ x 5% = \$ \_\_\_\_\_ > = \$ \_\_\_\_\_

**CRD Conference Not Available on CD Format**

Full Set of Spring Securities Conference \_\_\_\_\_ x \$359.10 = \$ \_\_\_\_\_

**Session Charges \$ \_\_\_\_\_**

**Sales Taxes:** Orders shipped to Maryland Addresses Only \$ \_\_\_\_\_ x 5% = \$ \_\_\_\_\_

**Shipping Cost:**

\$2.25 for the 1st session \$ 2.25  
 \$1.50 for each additional session (Max. \$21.00) \_\_\_\_\_ # x \$1.50 = \$ \_\_\_\_\_  
 Shipments outside of the US Postal Service an Additional \$ 18.50 \$ \_\_\_\_\_  
**Shipping Charges \$ \_\_\_\_\_**

*US Dollars Only*

**Grand Total \$ \_\_\_\_\_**

Your Name \_\_\_\_\_ Company \_\_\_\_\_

Street Address \_\_\_\_\_ MS/FL/Suite/Apt \_\_\_\_\_

City \_\_\_\_\_ State \_\_\_\_\_ Zip \_\_\_\_\_

Day Phone \_\_\_\_\_ Fax \_\_\_\_\_ E-mail \_\_\_\_\_

**For Mail or Fax Orders:** Visa MasterCard AMEX Discover Check (make payable to A.V.E.R. Associates)

Cardholder Name \_\_\_\_\_ Card Number \_\_\_\_\_

Cardholder Signature \_\_\_\_\_ Expiration Date \_\_\_\_\_

**Mail or Fax Completed Order Form and Payment to:** A.V.E.R. Associates, 6974 Ducketts Lane, Elkridge, MD 21075  
 PHONE 410-796-8940 FAX 410-796-8962

Received \_\_\_\_\_ Auth # & Date \_\_\_\_\_ Shipped \_\_\_\_\_ Update \_\_\_\_\_

**INFORMATIONAL**

**Decimalization**

**Nasdaq Releases Its Latest Decimalization Testing Schedule**

**SUGGESTED ROUTING**

The Suggested Routing function is meant to aid the reader of this document. Each NASD member firm should consider the appropriate distribution in the context of its own organizational structure.

- Legal & Compliance
- Operations
- Options
- Registered Representatives
- Senior Management
- Technology
- Trading & Market Making

**KEY TOPICS**

- Decimalization

**Executive Summary**

Nasdaq® has released its most recent decimalization testing schedule. The test schedules and necessary registration information are provided in this *Notice to Members*.

**Questions/Further Information**

Questions regarding this *Notice to Members* may be directed to the National Association of Securities Dealers, Inc. (NASD®) Decimalization Program Management Office (DPMO) toll-

free at: (888) 227-1330 or via e-mail at [decimals@nasd.com](mailto:decimals@nasd.com).

For general information regarding decimalization, members should check the NASD Web Site ([www.nasd.com](http://www.nasd.com)) and Nasdaq Trader<sup>SM</sup> Web Site ([www.nasdaqtrader.com](http://www.nasdaqtrader.com)) frequently. For information on industry preparation testing, members should check the Securities Industry Association (SIA) Web Site ([www.sia.com](http://www.sia.com)) and view the *Decimalization Testing & Implementation Guide*.

| <b>Decimalization Testing Schedule</b> |                            |   |
|--|----------------------------|---|
| <b>Date</b>                            | <b>Test</b>                | <b>Testing Information</b>  |
| 5/22/2000                              | Point-to-Point             | Nasdaq began offering Point-to-Point Testing on Customer Subscriber Test (CST) for listed decimal functionality.  |
| 6/10/2000                              | Extended Point-to-Point    | Nasdaq participated in the industry's Extended Point-to-Point test for listed issues.   |
| 7/8/2000 & 7/15/2000                   | Weekend Production Testing | Nasdaq will also offer external Weekend Production Testing opportunities. For these tests, the full complement of listed systems will be available with the possible exception of Intermarket Trading System (ITS). |
| 8/12/2000                              | Extended Point-to-Point    | Nasdaq will participate in the industry's Extended Point-to-Point test for listed issues.   |



## NASD Notice to Members 00-38

### Registration Information

#### **Point-To-Point Testing**

Firms may conduct daytime testing on Nasdaq's CST System. Full decimal testing started on May 22, 2000. Member firms interested in testing should contact Nasdaq to establish testing arrangements. Please contact a Test Coordinator at:

Telephone: (800) 288-3783 or  
E-mail: [opsqa@nasdaq.com](mailto:opsqa@nasdaq.com)

#### **Extended Point-To-Point Testing**

On June 10, 2000, Nasdaq participated in the industry Extended Point-to-Point test. Nasdaq will participate in this testing again on August 12, 2000. Participants interested in testing must register with Nasdaq at least 48 hours prior to the test by calling (800) 288-3783 or sending an e-mail to: [opsqa@nasdaq.com](mailto:opsqa@nasdaq.com).

#### **Weekend Production Testing**

On July 8, 2000 and July 15, 2000, Nasdaq will offer external Weekend Production Testing. Participants interested in testing on these dates should register with Nasdaq at least 48 hours prior to the test by calling (800) 288-3783 or sending an e-mail to: [opsqa@nasdaq.com](mailto:opsqa@nasdaq.com).

#### **Prerequisites And Requirements For Extended Point-To-Point Testing And Weekend Production Testing**

- For Nasdaq Workstation II® (NWII) or Application Programming Interface (API) Testing, tell us your Service Delivery Platform addresses which you plan to use in the test (see more information under "NWII/API Testing").

- For Computer-to-Computer Interface (CTCI) Testing, tell us the CTCI circuit number that you plan to use in the test (see more information under "CTCI Testing").

Users may use their production NWII Logons (user IDs and passwords) for these tests. If member firms plan on utilizing their production systems for these tests, please take the necessary steps to protect your production data.

Participants must register at least 48 hours in advance of the testing date. Testing will be conducted using the IDs and passwords assigned during Year 2000 (Y2K) testing. If you want to test and do not have a Y2K ID, you **must** request one from Subscriber Services in order to access CST. Call Subscriber Services at (800) 777-5606 if you do not have a Y2K ID and password.

#### **NWII/API Testing**

If you are going to use a NWII for your testing and need to load software on a new personal computer, ask Subscriber Services to have NWII software sent to you. (Be sure that your personal computer has NT4/Service Pack 4 Operating System loaded).

When you have a Telebit NetBlazer available to use, call the Customer Support Services Help Desk at (800) 243-4284 and ask for a Tier II technician. Be sure to have the following information ready before calling.

- Have your Y2K ID and password information available.

- Know if the phone line that will be used for the NetBlazer requires a prefix to dial out (e.g., if you have to dial a "9" or some other digit before dialing 1-800).
- Know the IP address that will be used for the NetBlazer.
- Know if there is a firewall router in the environment that your NetBlazer will be used. If so, know its IP address.
- Know the name you choose to use for the identifier configured for your NWII. (e.g., nqmo).
- Boot your NetBlazer with the system disk provided with your modem (available upon request.)

#### **CTCI Testing**

You will be required to fill out a registration form and provide circuit information, which will serve as a guide to the tester setting up the test. This form can be returned to Nasdaq via fax or e-mail. To access the form, go to the Nasdaq Trader Web Site at the following address: [www.nasdaqtrader.com/dynamic/technicalupdates.stm](http://www.nasdaqtrader.com/dynamic/technicalupdates.stm) (then click on the link for "Nasdaq Decimalization Guides for Listed Equities" [May 24, 2000]).

© 2000, National Association of Securities Dealers, Inc. (NASD). All rights reserved. Notices to Members attempt to present information to readers in a format that is easily understandable. However, please be aware that, in case of any misunderstanding, the rule language prevails.

## NASD Notice to Members 00-39

### INFORMATIONAL

## FIPS Changes

Fixed Income Pricing  
System Additions,  
Changes, And Deletions  
As Of May 22, 2000

### SUGGESTED ROUTING

*The Suggested Routing function is meant to aid the reader of this document. Each NASD member firm should consider the appropriate distribution in the context of its own organizational structure.*

- Corporate Finance
- Legal & Compliance
- Municipal/Government Securities
- Operations
- Senior Management
- Trading & Market Making

### KEY TOPIC

- FIPS

As of May 22, 2000, the following bonds were added to the Fixed Income Pricing System<sup>SM</sup> (FIPS<sup>®</sup>).

| Symbol  | Name                            | Coupon | Maturity |
|---------|---------------------------------|--------|----------|
| CNC.GC  | Conseco Inc.                    | 6.400  | 02/10/03 |
| CNC.GD  | Conseco Inc.                    | 7.875  | 12/15/00 |
| CNC.GE  | Conseco Inc.                    | 8.500  | 10/15/02 |
| CNC.GF  | Conseco Inc.                    | 9.000  | 10/15/06 |
| CNC.GG  | Conseco Inc.                    | 8.750  | 02/09/04 |
| DTAG.GA | Diamond Triumph Auto Glass Inc. | 9.250  | 04/01/08 |
| EGLE.GA | Eagle Food Centers Inc.         | 8.625  | 04/15/00 |
| IPX.GC  | Interpool Inc.                  | 7.350  | 08/01/07 |
| IXIC.GI | Intermedia Communications Inc.  | 13.500 | 06/01/05 |
| PNIN.GA | Psinet Inc.                     | 11.000 | 08/01/09 |
| PSIX.GC | Psinet Inc.                     | 10.500 | 12/01/06 |
| SRRN.GA | Sbarro Inc.                     | 10.500 | 09/15/09 |
| TVNC.GA | TVN Entertainment Corp.         | 14.000 | 08/01/08 |
| UGLY.GB | Ugly Duckling Corp.             | 11.000 | 04/15/07 |

As of May 22, 2000, the following bonds were deleted from FIPS.

| Symbol   | Name                           | Coupon | Maturity |
|----------|--------------------------------|--------|----------|
| ACFI.GA  | ACF Industries Inc.            | 11.600 | 05/15/00 |
| AMRD.GA  | American Radio Systems Corp.   | 9.000  | 02/01/06 |
| ANCG.GA  | Anker Coal Group Inc.          | 9.750  | 10/01/07 |
| CMZ.GD   | Cincinnati Milacron Inc.       | 7.875  | 05/15/00 |
| DUAL.GA  | Dual Drilling Co.              | 9.875  | 01/15/04 |
| EZCI.GB  | EZ Communications Inc.         | 9.750  | 12/01/05 |
| GBPI.GA  | Golden Books Publishing Inc.   | 7.650  | 09/15/02 |
| HLYT.GA  | Hollywood Theaters Inc.        | 10.625 | 08/01/07 |
| HSMR.GA  | Host Marriott Travel PI Inc.   | 9.500  | 05/15/05 |
| ICIX.GI  | Intermedia Communications Inc. | 13.500 | 06/01/05 |
| IHFH.GA  | IHF Holdings Inc.              | 15.000 | 11/15/04 |
| IMTI.GA  | Imagyn Medical Tech            | 12.500 | 04/01/04 |
| INLP.GA  | Insilco Corp.                  | 10.250 | 08/15/07 |
| KFIN.GB  | K & F Industry Inc.            | 11.875 | 12/01/03 |
| KNDC.GA  | Kindercare Learning Ctrs Inc.  | 10.375 | 06/01/01 |
| LTCH.GD  | Litchfield Fin'l Corp.         | 8.450  | 11/01/02 |
| OSI.GA   | Outdoor Systems Inc.           | 9.375  | 10/15/06 |
| OSI.GB   | Outdoor Systems Inc.           | 8.875  | 06/15/07 |
| PHL.GA   | Planet Hollywood Int'l Inc.    | 12.000 | 04/01/05 |
| PNA.A.GA | Pan Am World Airways Inc.      | 13.500 | 05/01/03 |
| RLBD.GA  | Reliant Building Product Inc.  | 10.875 | 05/01/04 |
| SLCM.GA  | Southland Corp.                | 5.000  | 12/15/03 |
| SLCM.GB  | Southland Corp.                | 4.000  | 06/15/04 |
| SLCM.GC  | Southland Corp.                | 4.500  | 06/15/04 |
| UCAR.GA  | UCA Global Enterprises Inc.    | 12.000 | 01/15/05 |

---

## NASD Notice to Members 00-39

---

As of May 22, 2000, changes were made to the symbols of the following FIPS bonds.

| New Symbol | Old Symbol | Name                  | Coupon | Maturity |
|------------|------------|-----------------------|--------|----------|
| IHF.GA     | ILHF.GA    | Int'l Home Foods Inc. | 10.375 | 11/01/06 |
| IMPT.GA    | IPSC.GA    | Impsat Corp.          | 12.125 | 07/15/03 |
| IMPT.GB    | IPSC.GB    | Impsat Corp.          | 12.375 | 06/15/08 |
| JASA.GA    | JAS.GA     | Jo-Ann Stores Inc.    | 10.375 | 05/01/07 |
| SCRB.GA    | SCR.GA     | Sea Containers Ltd.   | 12.500 | 12/01/04 |
| SCRB.GB    | SCR.GB     | Sea Containers Ltd.   | 9.500  | 07/01/03 |
| SCRB.GC    | SCR.GC     | Sea Containers Ltd.   | 12.500 | 12/01/04 |
| SCRB.GD    | SCR.GD     | Sea Containers Ltd.   | 10.500 | 07/01/03 |
| SCRB.GE    | SCR.GE     | Sea Containers Ltd.   | 7.875  | 02/15/08 |
| THWV.GA    | THAV.GA    | Therma-Wave Inc.      | 10.625 | 05/15/04 |

All bonds listed above are subject to trade-reporting requirements. Questions pertaining to FIPS trade-reporting rules should be directed to Patricia Casimates, Market Regulation, NASD Regulation<sup>SM</sup>, at (301) 590-6447.

Any questions regarding the FIPS master file should be directed to Cheryl Glowacki, Nasdaq<sup>®</sup> Market Operations, at (203) 385-6310.

*© 2000, National Association of Securities Dealers, Inc. (NASD). All rights reserved.*

**INFORMATIONAL**

**Trade Date—  
Settlement Date**

Independence Day: Trade Date—Settlement Date Schedule

**SUGGESTED ROUTING**

*The Suggested Routing function is meant to aid the reader of this document. Each NASD member firm should consider the appropriate distribution in the context of its own organizational structure.*

- Internal Audit
- Legal & Compliance
- Municipal/Government Securities
- Operations
- Trading & Market Making

**KEY TOPIC**

- Holiday Trade Date—Settlement Date Schedule

**Independence Day: Trade Date—Settlement Date Schedule**

The Nasdaq Stock Market® and the securities exchanges will be closed on Tuesday, July 4, 2000, in observance of Independence Day. “Regular way” transactions made on the business days noted below will be subject to the following schedule:

| <u>Trade Date</u> | <u>Settlement Date</u> | <u>Reg. T Date*</u> |
|-------------------|------------------------|---------------------|
| June 28           | July 3                 | July 6              |
| 29                | 5                      | 7                   |
| 30                | 6                      | 10                  |
| July 3            | 7                      | 11                  |
| 4                 | Markets Closed         | —                   |
| 5                 | 10                     | 12                  |

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

© 2000, National Association of Securities Dealers, Inc. (NASD). All rights reserved.

## INFORMATIONAL

# OTCBB Trading Halts

SEC Approves Trade Halt Rule For OTCBB;  
**Effective Date: June 26, 2000**

## SUGGESTED ROUTING

*The Suggested Routing function is meant to aid the reader of this document. Each NASD member firm should consider the appropriate distribution in the context of its own organizational structure.*

- Legal & Compliance
- Operations
- Trading & Market Making
- Training

## KEY TOPICS

- OTC Bulletin Board
- Trading Halts

## Executive Summary

On May 22, 2000, the Securities and Exchange Commission (SEC) approved a rule change that allows The Nasdaq Stock Market, Inc. (The Nasdaq Stock Market®) to impose trading and quotation halts in securities quoted in the OTC Bulletin Board® (OTCBB). Under the rule change, Nasdaq® will halt trading in OTCBB issues in the following three instances:

- the OTCBB security is dually listed on a foreign market or is registered with a foreign regulatory authority and a foreign regulatory authority or market halts trading in the security;
- the OTCBB security is a derivative or component of a Nasdaq or an exchange-listed security and Nasdaq or the exchange halts trading in the underlying security; and
- the OTCBB issuer does not timely provide the NASD with information required by SEC Rule 10b-17.

**The rule change goes into effect on June 26, 2000.** The rule change is included with this *Notice* in Attachment A.

## Questions/Further Information

Questions regarding this rule change can be directed to the following:

### **For operational issues:**

Sheila Dagucon, Vice President, Nasdaq MarketWatch Department, at (301) 590-6435;

### **For general questions about the**

**OTCBB:** Liz Heese, Market Specialist, Nasdaq Trading and Market Services, at (202) 728-8191;

**For issues related to Rule 10b-17 halts:** Dorothy Kennedy, Director, Nasdaq Market Operations, at (203) 385-6243; or

**For legal issues:** John Malitzis, Assistant General Counsel, Nasdaq Office of General Counsel, at (202) 728-8245; or Mary Revell, Associate General Counsel, Nasdaq Office of General Counsel, at (202) 728-8203.

## Background

The OTCBB is a National Association of Securities Dealers, Inc. (NASD®) system which, pursuant to delegated authority, is operated by The Nasdaq Stock Market. While Nasdaq has authority to halt trading in Nasdaq-listed securities and exchange-listed securities traded over-the-counter (*i.e.*, in the third market), until now Nasdaq has not had authority to impose trading or quotation halts in OTCBB securities. Additionally, unlike the Nasdaq market, there is no listing agreement between Nasdaq and OTCBB issuers, and thus Nasdaq has not had the ability to compel such issuers to disclose information. Accordingly, it was difficult for Nasdaq to unilaterally impose halts in the OTCBB since, in most cases, information from the issuer is necessary to assess the situation and determine if a halt and/or resumption of trading is appropriate.<sup>1</sup>

## Trading Halts

In light of this, on May 22, 2000, the SEC approved NASD Rule 6545 which permits Nasdaq to halt trading and quotations in OTCBB issues in three instances:

1) **Foreign Regulatory Authority Halts.** The OTCBB security is dually listed on a foreign market or is registered with a foreign

## NASD Notice to Members 00-41

regulatory authority and a foreign regulatory authority or market halts trading in the security;

2) **OTCBB Derivative Securities Halts.** The OTCBB security is a derivative or component of a Nasdaq or an exchange-listed security and Nasdaq or the exchange halts trading in the underlying security; and

3) **Failure To Comply With SEC Rule 10b-17 Halts.** The OTCBB issuer does not timely provide the NASD with information required by SEC Rule 10b-17.

### **Foreign Regulatory Authority Halts**

Nasdaq may impose trading and quotation halts in OTCBB eligible securities when a foreign market or regulatory authority has imposed a halt in the security in its market for regulatory reasons. Under the new rule, Nasdaq may halt an OTCBB security or OTCBB American Depositary Receipt (ADR) when a foreign market on which the OTCBB issue is also traded, or a regulatory authority which has oversight authority for the OTCBB security, halts trading for "regulatory" reasons in the security or the security underlying the ADR. (Nasdaq currently has similar trading-halt authority for Nasdaq-listed securities.<sup>2</sup>)

Specifically, upon receipt of information from a foreign securities market on which the OTCBB security, or the security underlying the OTCBB ADR, is listed or registered or from a regulatory authority overseeing such issuer, exchange, or market, the Nasdaq StockWatch section will evaluate the information (generally a trade-halt order issued by the foreign market or regulatory authority) and determine whether a halt in the

OTCBB security is appropriate. Nasdaq will impose such a halt only when the foreign market or regulatory authority has imposed its halt because of potential fraudulent conduct or other public interest concerns. Nasdaq will not impose a halt if the foreign entity's halt is based on the dissemination of material news, an issuer's failure to meet regulatory filing requirements imposed by a foreign market or regulatory authority, or for operational reasons (e.g., order imbalance in the foreign market).<sup>3</sup>

### **OTCBB Derivative Securities Halts**

Under the rule change, Nasdaq will have authority to halt trading and quotations in OTCBB securities when an OTCBB security is a derivative or component of a Nasdaq or exchange-listed security and the exchange or Nasdaq imposes a trading halt in the underlying listed security. Thus, in instances where Nasdaq or an exchange halts trading in a security listed on that market, Nasdaq will halt trading in an OTCBB issue that is a derivative or component of the security. This is because the trading price of the OTCBB derivative may be dependent on the price of the underlying Nasdaq or exchange-listed security, and thus it may be difficult to accurately price the OTCBB derivative security when there is no current pricing information on the underlying Nasdaq or exchange-listed security.

### **Failure To Comply With SEC Rule 10b-17 Halts**

Finally, Nasdaq will have authority to halt quotations and trading in an OTCBB security if the issuer fails to comply with the requirements of SEC Rule 10b-17 (Rule 10b-17) regarding untimely announcements of record dates.

Rule 10b-17 generally requires issuers to timely give the NASD information relating to:

- (1) a dividend or other distribution in cash or in kind;
- (2) a stock split or reverse split; and
- (3) a rights or other subscription offering.

Under Rule 10b-17, the issuer is required to provide this information to the NASD no later than 10 days prior to the record date or, in case of a rights subscription or other offering if such 10 days advance notice is not practical, on or before the record date.

For both Nasdaq-listed and OTCBB securities, Nasdaq publishes the record date of the action and the ex-date in its "Daily List" on Nasdaq Web Sites. (The OTCBB Daily List is published on [www.otcbb.com](http://www.otcbb.com); the Nasdaq Daily List is available on [www.nasdaqtrader.com](http://www.nasdaqtrader.com).) This provides information to broker/dealers, clearing agencies, and the public regarding the record date and settlement of such trades. For Nasdaq-listed securities, if an issuer does not provide the information in a timely manner, Nasdaq may request the 10b-17 information from the issuer and halt trading pending receipt of such information.<sup>4</sup> Nasdaq may then issue a Uniform Practice Code (UPC) notice informing members of the status of the record date and underlying event in order to clarify any confusion in the marketplace regarding the pricing or settlement of these trades.

While OTCBB issuers are also required to timely give the NASD information prescribed by Rule 10b-17, until now Nasdaq has not had authority to institute trading

## NASD Notice to Members 00-41

halts in an OTCBB security when such information has not been timely provided. If an OTCBB issuer fails to provide the NASD with the information required by Rule 10b-17, such as a stock split or the payment of a cash dividend, this may cause confusion in the marketplace because the information may be disseminated unevenly. Thus, some market participants may become aware of the information (which impacts the pricing of the security) and adjust their quotes and/or trading activity accordingly, while others may be unaware of this information and not adjust their quotes and/or trading activity. This, in turn, may result in anomalous pricing. With the new rule, when these situations occur, Nasdaq will have the ability to halt trading, gather information, and issue a clarifying UPC notice to members. Nasdaq believes this will minimize the potential for disorderly markets and investor confusion.

Thus, if Nasdaq initiates a trade and quotation halt in an OTCBB issue, it would be inconsistent with NASD Rule 6545 for a member to continue to quote and/or trade that security through the NQB Pink

Sheets or an electronic communications network while the halt is still in effect.

### Dissemination Of Trade And Quote Halt Information

For all of the trade and quote halts described above, as well as for SEC imposed halts of OTCBB issuers, Nasdaq will notify market participants and the public of halts through the OTCBB Web Site, [www.otcbb.com](http://www.otcbb.com). Nasdaq will notify market data vendors of halts via an administrative message on the Level 1 Service, which is currently used to disseminate all OTCBB quotation information (see Vendor Alert No. 2000-07).

**If Nasdaq issues a trade and quotation halt for an OTCBB security, the member may not quote and/or trade the halted security through any quotation medium which includes:**

- **any system of general circulation to broker/dealers that regularly disseminates quotations of identified broker/dealers; or**

- **publication, alternative trading system, or other device that is used by broker/dealers to disseminate quotations to others.**

An OTCBB halt will be lifted if Nasdaq determines the basis of the halt no longer exists or upon the passage of five trading days, whichever occurs first.<sup>5</sup> If a stock is halted for five days and then lifted, Market Makers will then be required to fulfill their obligations under SEC Rule 15c2-11 prior to initiating a priced or unpriced quotation in the security.<sup>6</sup>

Beginning June 26, 2000, market participants can receive automated notification of OTCBB trade halts and resumptions via e-mail from the OTCBB Web Site. To subscribe to trade halt notifications, from the homepage at [www.otcbb.com](http://www.otcbb.com), click on the e-mail button and create an e-mail profile, then check the "Trade Halts" box under Subscriptions. If a market participant already has an e-mail profile, the market participant can access its profile and then update the Subscription list to receive this information.

# NASD Notice to Members 00-41

## ATTACHMENT A

### Text Of Amendments

(Note: New language is underlined.  
Deletions are bracketed.)

#### **Rule 6545. Trading and Quotation Halt in OTCBB-Eligible Securities**

##### **(a) Authority for Initiating a Trading and Quotation Halt**

In circumstances in which it is necessary to protect investors and the public interest, Nasdaq may direct members, pursuant to the procedures set forth in paragraph (b), to halt trading and quotations in the over-the-counter ("OTC") market of a security or an American Depository Receipt ("ADR") that is included in the OTC Bulletin Board ("OTCBB") if:

(1) the OTCBB security or the security underlying the OTCBB ADR is listed on or registered with a foreign securities exchange or market, and the foreign securities exchange, market, or regulatory authority overseeing such issuer, exchange, or market, halts trading in such security for regulatory reasons because of public interest concerns ("Foreign Regulatory Halt"); provided, however, that Nasdaq will not impose a trading and quotation halt if the Foreign Regulatory Halt was imposed solely for material news, a regulatory filing deficiency, or operational reasons; or

(2) the OTCBB security or the security underlying the OTCBB ADR is a derivative or component of a security listed on or registered with a national securities exchange, The Nasdaq

Stock Market, or foreign securities exchange or market ("listed security") and the national securities exchange, The Nasdaq Stock Market, or foreign securities exchange or market, imposes a trading halt in the listed security.

(3) the issuer of the OTCBB security or the security underlying the OTCBB ADR fails to comply with the requirements of SEC Rule 10b-17 regarding Untimely Announcements of Record Dates.

##### **(b) Procedure for Initiating a Trading and Quotation Halt**

(1) When a halt is initiated under subparagraph (a)(1) of this rule, upon receipt of information from a foreign securities exchange or market on which the OTCBB security or the security underlying the OTCBB ADR is listed or registered, or from a regulatory authority overseeing such issuer, exchange, or market, Nasdaq will promptly evaluate the information and determine whether a trading and quotation halt in the OTCBB security is appropriate.

(2) Should Nasdaq determine that a basis exists under this rule for initiating a trading and quotation halt, the commencement of the trading and quotation halt will be effective simultaneous with the issuance of appropriate public notice.

(3) Trading and quotations in the OTC market may resume when Nasdaq determines that the basis for the halt no longer exists, or when five business days have elapsed from the date Nasdaq initiated the trading and quotation halt in the security.

whichever occurs first. Nasdaq shall disseminate appropriate public notice that the trading and quotation halt is no longer in effect.

##### **(c) Violation of OTCBB Trading and Quotation Halt Rule**

If a security is subject to a trading and quotation halt initiated pursuant to this rule, it shall be deemed conduct inconsistent with just and equitable principles of trade and a violation of Rule 2110 for a member:

(i) to effect, directly or indirectly, a trade in such security; or

(ii) to publish a quotation, a priced bid and/or offer, an unpriced indication of interest (including "bid wanted" and "offer wanted" indications), or a bid or offer accompanied by a modifier to reflect unsolicited customer interest, in any quotation medium. For purposes of this rule, "quotation medium" shall mean any: system of general circulation to brokers or dealers that regularly disseminates quotations of identified brokers or dealers; or publication, alternative trading system or other device that is used by brokers or dealers to disseminate quotations to others.

#### **Plan Of Allocation And Delegation Of Functions By NASD To Subsidiaries**

##### **I - III. No Change**

##### **IV. Stockwatch**

The Stockwatch section handles the trading halt functions for The Nasdaq Stock Market securities [and], exchange-listed securities traded in the over-the-counter market (i.e., the Third Market), and



## NASD Notice to Members 00-41

securities quoted in the Over-the-Counter Bulletin Board. Review of all questionable market activity, possible rule infractions or any other matters that require any type of investigative or regulatory follow-up will be referred to and conducted by NASD Regulation, which will assume sole responsibility for the matter until resolution. This responsibility will include examinations, investigations, document requests, and any enforcement actions that NASD Regulation may deem necessary. NASD Regulation staff at all times will have access to all records and files of the Stockwatch function.

### Endnotes

<sup>1</sup>Under Section 12(k) of the Act, the SEC may impose trading suspensions in the U.S. securities markets. Additionally, NASD Rule 3340 prohibits members from trading any security as to which a trading halt is in effect.

<sup>2</sup>See NASD Rule 4210(a)(4).

<sup>3</sup>Nasdaq does not have authority to halt trading for material news because Nasdaq does not have a formal listing agreement with OTCBB issuers, and thus cannot compel the full disclosure and dissemination of material news. Additionally, Nasdaq does not have authority to halt trading if an OTCBB issuer fails to meet filing/disclosure requirements imposed by a foreign regulatory authority or market, because Nasdaq would, in essence, be importing filing obligations of a foreign regulatory authority on OTCBB issuers when such requirements may not currently exist in the United States for such issuers. Lastly, Nasdaq will not halt trading based on a foreign exchange's operational halt, such as an order imbalance, because Nasdaq generally does not halt for operational reasons.

<sup>4</sup>See NASD Rule 4210(a)(5).

<sup>5</sup>Of course, if an issuer failed to meet the eligibility requirements contained in NASD Rule 6530, which impose certain regulatory filing requirements for securities to be included in the OTCBB, the security would be ineligible for quotation on the OTCBB.

<sup>6</sup>That is, if Nasdaq directs all members to cease quoting a security for more than five days, pursuant to NASD Rule 6740 and SEC Rule 15c2-11, members shall be required to file a Form 211 prior to the resumption of quotations in the OTCBB. The NASD and Nasdaq note that the SEC recently issued for comment a re-proposal of amendments to SEC Rule 15c2-11. See Release 34-41110 (Feb. 25, 1999). The NASD and Nasdaq will monitor developments regarding SEC Rule 15c2-11 and plan to make any necessary changes to conform the rules proposed in this filing with any changes to SEC Rule 15c2-11.

*© 2000, National Association of Securities Dealers, Inc. (NASD). All rights reserved. Notices to Members attempt to present information to readers in a format that is easily understandable. However, please be aware that, in case of any misunderstanding, the rule language prevails.*

# Disciplinary Actions

## Disciplinary Actions Reported For June

NASD Regulation, Inc. (NASD Regulation<sup>SM</sup>) has taken disciplinary actions against the following firms and individuals for violations of National Association of Securities Dealers, Inc. (NASD<sup>®</sup>) rules; federal securities laws, rules, and regulations; and the rules of the Municipal Securities Rulemaking Board (MSRB). This information is current as of May 22, 2000.

### Firms Fined, Individuals Sanctioned

**HFC Capital Corp (CRD #30539, New York, New York) and Ephram Pollack (CRD #1231145, Registered Principal, Flushing, New York)** submitted a Letter of Acceptance, Waiver, and Consent (AWC) pursuant to which the firm and Pollack were censured and fined \$20,000, jointly and severally. Pollack was also suspended from association with any NASD member in any supervisory capacity for two years and ordered to requalify by exam as a general securities principal (Series 24) within 90 days of acceptance of the AWC. Without admitting or denying the allegations, the firm and Pollack consented to the described sanctions and to the entry of findings that the firm, acting through Pollack, failed to reasonably and properly supervise its representatives' activities so as to detect and prevent violations of NASD rules resulting from their offer and sale of stock.

Pollack's suspension began June 5, 2000, and will conclude at the close of business on June 4, 2002. (NASD Case #C1000070)

**Seaboard Securities, Inc. (CRD #755, Florham Park, New Jersey), Anthony DiGiovanni (CRD #601698, Registered Principal, Florham Park, New Jersey),**

**Joseph Zappala (CRD #475869, Registered Principal, Pilesgrove, New Jersey), David Goldblatt (CRD #1661615, Registered Principal, New York, New York) and John Joseph Plunkett (CRD #2321368, Registered Principal, Brooklyn, New York)** submitted Offers of Settlements pursuant to which the firm was censured and fined \$150,000, jointly and severally, with Zappala and DiGiovanni. In addition, Zappala was fined \$10,000, suspended from association with any NASD member in any capacity for 15 days, and suspended from association with any NASD member in any principal capacity for 30 days. Goldblatt was censured, fined \$10,000, and suspended from association with any NASD member in any principal capacity for 45 days. Plunkett was censured, fined \$7,500, and suspended from association with any NASD member in any principal capacity for 15 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 Zappala, failed to adequately establish or maintain certain aspects of a supervisory system reasonably designed to ensure compliance with the securities laws; the respondents failed to hold annual compliance meetings, failed to conduct an annual inspection of all areas of business, failed to establish procedures for the review and endorsement by a registered principal of all transactions, failed to evidence background checks of newly hired registered representatives, and failed to register three of its Offices of Supervisory Jurisdiction in that capacity. The findings also stated that the firm, acting through Zappala, failed to establish,

maintain, and enforce adequate written supervisory procedures in certain areas of its business operations, including trading and market making, retail sales, mutual funds, and options, and allowed Plunkett to act as a general securities principal of the firm without being registered as a principal. The NASD also found that the firm, acting through Zappala, failed to register an office as a branch office; failed to file customer complaints received in a timely manner; allowed a registered representative to conduct an institutional securities business at the firm while his securities registration was inactive due to a failure to complete the Regulatory Element of the NASD's Continuing Education Program in a timely manner; and failed to prioritize its training needs and implement a written training plan for its Firm Element training requirement. The NASD also determined that the firm, acting through DiGiovanni, failed to develop and implement written procedures providing for the supervision of certain options accounts and orders in such accounts; deposited common stock and warrants that traded at a premium in the secondary account in its proprietary trading account in violation of the NASD's Free-Riding and Withholding Interpretation; and failed to obtain certain required information about the offering to determine that the account did not fall within a prohibited category according to the Free-Riding and Withholding Interpretation. Furthermore, the NASD determined that the firm, acting through DiGiovanni, reported transactions to the Automated Confirmation Transaction Service<sup>SM</sup> (ACT<sup>SM</sup>) in violation of applicable securities laws and regulations regarding trade reporting and failed to indicate on order tickets whether orders were solicited or unsolicited and

whether the order was a limit order or a market order. In addition, Goldblatt allowed an individual to continue to act as a general securities representative for the firm when his registration was inactive due to a failure to timely complete the Regulatory Element of the NASD's Continuing Education Program.

Zappala's suspension in all capacities began June 5, 2000, and will conclude at the close of business June 19, 2000; his suspension in a principal capacity began June 5, 2000, and will conclude July 4, 2000. Goldblatt's suspension will begin July 3, 2000, and will conclude at the close of business August 18, 2000. Plunkett's suspension began June 5, 2000, and will conclude at the close of business June 19, 2000. (NASD Case #C9B000009)

#### **Firms And Individuals Fined**

**America First Associates Corp. (CRD #38245, New York, New York) and Joseph Ricupero (CRD #1457028, Registered Representative, Bayside, New York)** submitted a Letter of Acceptance, Waiver, and Consent pursuant to which the firm and Ricupero were censured and fined \$12,500, jointly and severally. Without admitting or denying the allegations, the firm and Ricupero consented to the described sanctions and to the entry of findings that the firm, acting through Ricupero, failed to develop a Continuing Education training needs analysis and training plan and failed to evidence that training took place within a calendar year. The findings also stated that the firm, acting through Ricupero, conducted a securities business while failing to maintain its minimum net capital requirement. In addition, the firm, acting through Ricupero,

failed to provide prompt written notice to the NASD of the departure of principals and failed to maintain the level of experience and qualifications of its principals as presented during the pre-membership application process. (NASD Case #C10000050)

**D. H. Brush & Associates, Inc. (CRD #3667, Chicago, Illinois) and Edwin McBride (CRD #1195514, Registered Principal, Chicago, Illinois)** submitted an Offer of Settlement pursuant to which the firm and McBride were fined \$10,000, jointly and severally. Without admitting or denying the allegations, the respondents consented to the described sanction and to the entry of findings that the firm, acting through McBride, failed to enforce supervisory procedures and failed to reasonably supervise an individual with a view to achieving compliance with the NASD's registration regulations. (NASD Case #C8A990074)

**Major League Securities, LLC (CRD #32211, Jericho, New York) and Steven Bart Schonfeld (CRD #1051868, Registered Principal, East Hills, New York)** submitted a Letter of Acceptance, Waiver, and Consent pursuant to which the firm and Schonfeld were censured and fined \$13,500, jointly and severally. The firm was also fined an additional \$2,000. Without admitting or denying the allegations, the firm and Schonfeld consented to the described sanctions and to the entry of findings that the firm permitted separate agency orders in excess of the maximum order size to be split and entered into the Small Order Execution System<sup>SM</sup> (SOES<sup>SM</sup>) so as not to exceed the maximum permissible order size. The findings also stated that the firm, acting through Schonfeld, failed to make and keep order

memoranda concerning separate securities transactions and failed to record the correct time of execution for other securities transactions. The firm, acting through Schonfeld, maintained discretionary accounts without the customers' prior written authorization to specifically designated individuals and without the firm's acceptance, in writing, of the discretionary authorizations. In addition, the firm, acting through Schonfeld, failed to conduct an annual needs analysis, prepare a written training plan, or provide any training to its covered registered persons as required by the Firm Element of the Continuing Education Program. Further, the firm, acting through Schonfeld, failed to prepare, maintain, and enforce adequate written supervisory procedures covering each of the above areas. **(NASD Case #C1000047)**

**Nathan & Lewis Securities, Inc. (CRD #8503, New York, New York) and Richard Berenger (CRD #1041622, Registered Principal, Bardonia, New York)** submitted a Letter of Acceptance, Waiver, and Consent pursuant to which the firm and Berenger were censured and fined \$10,000, jointly and severally. Without admitting or denying the allegations, the firm and Berenger consented to the described sanctions and to the entry of findings that the firm, acting through Berenger, failed to report statistical and summary information concerning customer complaints to the NASD. The findings also stated that the firm, acting through Berenger, failed to establish, maintain, and enforce adequate written supervisory procedures reasonably designed to achieve compliance with the NASD rule concerning customer complaint reporting procedures. **(NASD Case #C1000069)**

**Self Trading Securities, Inc. (CRD #38439, Austin, Texas) and John Beckinridge Pearson (CRD #2427579, Registered Principal, Austin, Texas)** submitted an Offer of Settlement pursuant to which the firm and Pearson were censured and fined \$27,500, jointly and severally, and the firm was fined an additional \$2,500. Without admitting or denying the allegations, the respondents consented to the described sanctions and to the entry of findings that the firm, acting through Pearson, permitted individuals to engage in the investment banking or securities business of the firm, even though such individuals had not been registered with the firm in any capacity. The findings also stated that the firm, acting through Pearson, advertised on an Internet Web Site and the advertising failed to provide a sound basis for evaluating the services provided by the firm and included exaggerated and unwarranted statements that were potentially misleading. The firm also failed to complete a training needs analysis and develop a written training plan concerning the Firm Element of the Continuing Education Program. Furthermore, the firm failed to establish, maintain, and enforce written procedures that were reasonably designed to achieve compliance with applicable securities laws, regulations, and NASD rules, in that the firm's procedures failed to adequately address NASD rules governing registration of order input personnel and continuing education. **(NASD Case #C06000005)**

**Trafalgar Financial Services, Inc. (CRD #36099, Boston, Massachusetts) and Carmen William Elio, Jr. (CRD #1861586, Registered Principal, Medford, Massachusetts)** were censured and fined \$10,000, jointly and severally. The firm was fined an

additional \$1,000, jointly and severally, with another individual. The sanctions were based on findings that the firm, acting through an individual, effected securities transactions while failing to maintain the minimum required net capital. The findings also stated that the firm, acting through Elio and another individual, permitted an inactive registered representative to engage in the securities business of the firm. In addition, the firm, acting through Elio, failed to establish, maintain, and enforce written supervisory procedures that ensured compliance with the Regulatory Element of the NASD's Continuing Education Program. **(NASD Case #C11990042)**

#### **Firms Fined**

**First Southwest Company (CRD #316, Dallas, Texas)** submitted a Letter of Acceptance, Waiver, and Consent pursuant to which the firm was censured and fined \$59,697. Without admitting or denying the allegations, the firm consented to the described sanctions and to the entry of findings that, acting as principal, it sold a portfolio of U.S. Treasury securities to a municipal issuer for a defeasance escrow without disclosing to the issuer that it would retain positive carry. The findings also stated that the firm's profit on this defeasance escrow transaction totaled 0.38 percent of the prevailing interdealer market prices of the U.S. Treasury securities. **(NASD Case #C05000020)**

**Ingalls and Snyder, LLC (CRD #2288, New York, New York)** submitted a Letter of Acceptance, Waiver, and Consent pursuant to which the firm was censured and fined \$10,000. Without admitting or denying the allegations, the firm consented to the described sanctions and to the entry of

findings that it reported transactions to the Fixed Income Pricing System<sup>SM</sup> (FIPS<sup>SM</sup>) in violation of applicable securities laws and regulations regarding the reporting of high yield corporate debt securities. The findings also stated that the firm failed to establish, maintain, and enforce supervisory procedures reasonably designed to achieve compliance with the applicable rules and regulations, and with the applicable rules of the NASD regarding the transaction reporting of high yield corporate debt securities. **(NASD Case #CMS000064)**

**On-Site Trading, Inc. (CRD #30271, Great Neck, New York)** submitted a Letter of Acceptance, Waiver, and Consent pursuant to which it was censured and fined \$13,500. Without admitting or denying the allegations, the firm consented to the described sanctions and to the entry of findings that it executed short-sale transactions in certain securities, all of which were Nasdaq National Market<sup>®</sup> (NNM) securities, at or below the inside bid when the current inside bid was below the proceeding inside bid in each of the securities. The findings also stated that the firm executed short-sale transactions in certain securities and failed to annotate an affirmative determination for each of these transactions and executed long-sale transactions and incorrectly reported each of these transactions to ACT with a short-sale indicator. Furthermore, the NASD determined that the firm failed to establish, maintain, and enforce written supervisory procedures reasonably designed to achieve compliance with applicable NASD short-sale rules. **(NASD Case #CMS000068)**

**The Advisors Group, Inc. (CRD #14035, Bethesda, Maryland)** submitted a Letter of Acceptance, Waiver, and Consent pursuant to

which the firm was censured and fined \$11,000. Without admitting or denying the allegations, the firm consented to the described sanctions and to the entry of findings that it permitted an individual to perform duties as a registered person while his registration status with the NASD was inactive due to his failure to complete the Regulatory Element of the NASD's Continuing Education Program in a timely manner. **(NASD Case #C9A000016)**

**The Thornwater Company, L.P. (CRD #36195, New York, New York)** submitted a Letter of Acceptance, Waiver, and Consent pursuant to which the firm was censured, fined \$40,000, and fined an additional \$2,500, jointly and severally with an individual. Without admitting or denying the allegations, the firm consented to the described sanctions and to the entry of findings that it failed to report customer settlements and statistical and summary information regarding customer complaints to the NASD. The findings also stated that the firm, acting through an individual, failed to develop and administer written training plans in accordance with the Firm Element of the NASD's Continuing Education Program. In addition, the firm failed to enforce written supervisory procedures pertaining to the Regulatory and Firm Elements of the Continuing Education Program, trading, and market making. Furthermore, the firm failed to ensure that each registered representative of the firm participated, no less than annually, in an interview or meeting conducted by the firm at which relevant compliance issues were discussed. Moreover, the firm conducted a securities business and failed to maintain sufficient net capital and failed to report short-sale transactions correctly. **(NASD Case #C10000061)**

**Waddell & Reed, Inc. (CRD #866, Shawnee Mission, Kansas)** submitted a Letter of Acceptance, Waiver, and Consent pursuant to which the firm was censured and fined \$75,000. Without admitting or denying the allegations, the firm consented to the described sanctions and to the entry of findings that it failed to establish, maintain, and enforce written supervisory procedures reasonably designed to achieve compliance with applicable laws, regulations, and NASD rules relating to forgery, unauthorized transactions, and misappropriation. The findings also stated that, when confronted with evidence of problems in these areas, the firm failed to respond adequately and to take appropriate action that was reasonably designed to prevent violations by its registered representatives and achieve compliance with applicable securities laws, regulations, and NASD rules. **(NASD Case #C11000007)**

### **Individuals Barred Or Suspended**

**Arthur Andrew Alonzo, III (CRD #2090475, Registered Representative, Boca Raton, Florida)** was barred from association with any NASD member in any capacity and suspended from association with any NASD member in any capacity for one year. The sanctions were based on findings that Alonzo falsified client documents, engaged in unauthorized trade transactions, and made unsuitable recommendations to public customers. Alonzo also acted in a registered capacity without being registered and failed to respond to NASD requests for information.

Alonzo's suspension will begin on June 19, 2000, and will conclude on June 18, 2001. **(NASD Case #C07990070)**

**Dmitry Aranovich (CRD #2373613, Registered Representative, New York, New York)** submitted a Letter of Acceptance, Waiver, and Consent pursuant to which he was fined \$15,000 and suspended from association with any NASD member in any capacity for 15 months. The fine shall be due and payable prior to reassociation with a member firm following the suspension or prior to any application or request for relief from any statutory disqualification. Without admitting or denying the allegations, Aranovich consented to the described sanctions and to the entry of findings that he purchased shares of stock in the account of a public customer without the prior knowledge, consent, or authorization of the customer. The findings also stated that Aranovich entered into a settlement agreement with the customer without providing his member firm with notice of the settlement.

Aranovich's suspension began June 5, 2000, and will conclude at the close of business on September 4, 2001. **(NASD Case #C10000068)**

**Roy Allen Arp (CRD #1123392, Registered Representative, Charles City, Iowa)** was barred from association with any NASD member in any capacity. The sanction was based on findings that Arp failed to respond to NASD requests for information. **(NASD Case #C04990048)**

**Robert Smith Baldwin (CRD #813373, Registered Representative, Sarasota, Florida)** submitted a Letter of Acceptance, Waiver, and Consent pursuant to which he was fined \$7,000, which includes the disgorgement of financial benefits received of \$4,500, and suspended from association with any NASD

member in any capacity for 30 days. Payment of the fine and restitution shall be a prerequisite for reentry into the securities industry. Without admitting or denying the allegations, Baldwin consented to the described sanctions and to the entry of findings that he served as a representative of another member firm, participated in outside business activities, and received compensation from the firm, without giving prompt written notice to his member firm of his association with another firm.

Baldwin's suspension began June 5, 2000, and will conclude on July 4, 2000. **(NASD Case #C07000028)**

**Donald Dwight Bostic, Sr. (CRD #2262782, Registered Representative, St. Louis, Missouri)** submitted a Letter of Acceptance, Waiver, and Consent pursuant to which he was barred from association with any NASD member in any capacity. Without admitting or denying the allegations, Bostic consented to the described sanction and to the entry of findings that he received checks totaling \$43,273.43 from public customers and, without the knowledge or consent of the customers, deposited or cashed the checks and converted the funds to his own use and benefit. **(NASD Case #C04000021)**

**John Christos Daskalis (CRD #2006603, Registered Representative, Bayside, New York)** 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 five business days. Without admitting or denying the allegations, Daskalis consented to the described sanctions and to

the entry of findings that he placed and effected orders for the purchase of fixed annuity and insurance products for clients directly with an insurance company and not through his member firm, or his firm's authorized insurance companies, and effected these transactions without providing written notice of such activity to his member firm.

Daskalis' suspension began June 5, 2000, and concluded at the close of business on June 9, 2000. **(NASD Case #C10000060)**

**Juan Ramon Diaz (CRD #2751770, Registered Representative, Orlando, Florida)** was barred from association with any NASD member in any capacity and ordered to pay \$84,439 in restitution plus pre-judgement interest to a public customer. The sanctions were based on findings that Diaz converted \$84,439 for his own use and benefit that he received from a public customer for investment purposes and made misrepresentations to the customer regarding his member firm's involvement in a private placement for a company owned by the customer. **(NASD Case #C07990055)**

**Jerome Domershick (CRD #733884, Registered Principal, Malverne, New York)** submitted a Letter of Acceptance, Waiver, and Consent pursuant to which he was fined \$5,000, which includes disgorgement of unlawful profits of \$3,000, and suspended from association with any NASD member in any capacity for five days. Without admitting or denying the allegations, Domershick consented to the described sanctions and to the entry of findings that he engaged in a scheme to circumvent the NASD's Free-Riding and Withholding Interpretation when he,

acting through his wife and one of his customers, knowingly purchased shares of common stock in a hot issue conversion offering.

Domershick's suspension began on June 5, 2000, and concluded at the close of business on June 9, 2000. **(NASD Case #C9B000010)**

**Arturo Ehrlich (CRD #2026759, Registered Representative, Key Biscayne, Florida)** 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 30 days. Without admitting or denying the allegations, Ehrlich consented to the described sanctions and to the entry of findings that he engaged in an outside business activity without providing written notice to his member firm.

Ehrlich's suspension began on June 5, 2000, and will conclude on July 4, 2000. **(NASD Case #C07000030)**

**J. Patrick Flynn (CRD #1049094, Registered Principal, Encinitas, California)** submitted a Letter of Acceptance, Waiver, and Consent pursuant to which he was censured, fined \$6,000, and suspended from association with any NASD member in any capacity for 90 days. Payment of the fine shall be a prerequisite for reentry into the securities industry. Without admitting or denying the allegations, Flynn consented to the described sanctions and to the entry of findings that he recommended and engaged in purchase and sale transactions in the account of a public customer and did not have reasonable grounds for believing that these recommendations and resultant transactions were suitable for the

customer on the basis of the customer's financial situation, investment objectives, health consideration, and needs.

Flynn's suspension began on June 5, 2000, and will conclude on September 2, 2000. **(NASD Case #C02000011)**

**Vito Gili, Jr. (CRD #2670123, Registered Principal, Boca Raton, Florida)** 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, Gili consented to the described sanction and to the entry of findings that he failed to respond to NASD requests for information. **(NASD Case #C07000016)**

**Keith Dennis Grossman (CRD #2127371, Registered Representative, Huntington Station, New York)** was barred from association with any NASD member in any capacity and ordered to pay \$12,596, plus interest, in restitution to a public customer. The sanctions were based on findings that Grossman acted as part of a "boiler room" and executed unauthorized transactions in the accounts of public customers. The findings also stated that Grossman attempted to deceive one customer and to continue to execute transactions in the account of another customer after the customers had complained about the unauthorized transactions. **(NASD Case #CAF990042)**

**Arthur Vincent Gunning, Jr. (CRD #2493535, Registered Representative, Brooklyn, New York)** submitted an Offer of Settlement pursuant to which he was fined \$30,000, barred from association with any NASD member in any capacity with a right to reapply after two years, and

ordered to pay \$20,798, plus interest, in restitution to public customers. The fine and restitution shall be due and payable prior to reassociation with a member firm following the bar or prior to any application or request for relief from any statutory disqualification. Without admitting or denying the allegations, Gunning consented to the described sanctions and to the entry of findings that he executed trades in the accounts of public customers without their prior knowledge, authorization, or consent. The findings also stated that Gunning made baseless and improper price and performance predictions to public customers. In addition, Gunning guaranteed a customer against loss. **(NASD Case #C10990141)**

**Steven Gordon Jaross (CRD #1796840, Registered Representative, Forest Hills, New York)** was barred from association with any NASD member in any capacity. The sanction was based on findings that Jaross made baseless and improper price predictions, guarantees, and misrepresentations to public customers. The findings also stated that Jaross engaged in unauthorized trading in customer accounts and refused or failed to execute sell orders for customers. In addition, Jaross tied the sale of an initial public offering (IPO) to a customer's commitment to purchase in the aftermarket. **(NASD Case #CAF980031)**

**Emerson Sung Lee (CRD #2001764, Registered Representative, Arcadia, California)** was barred from association with any NASD member in any capacity. The sanction was based on findings that Lee failed to respond to NASD requests for information. **(NASD Case #C02990059)**

**James Edward Lynch, Jr. (CRD #2872529, Registered Representative, St. Peters, Missouri)** was barred from association with any NASD member in any capacity. The sanction was based on findings that Lynch falsified portfolio statements to reflect a \$10,000 variable annuity purchase for a public customer's benefit which, in fact, did not exist. Lynch also failed to respond to NASD requests for information. **(NASD Case #C04990049)**

**Joseph John Mandaro (CRD #2559154, Registered Representative, Coral Springs, Florida)** was barred from association with any NASD member in any capacity and ordered to pay \$105,852, plus interest, in restitution to public customers. The sanctions were based on findings that Mandaro made material misrepresentations and baseless price predictions to public customers and failed to disclose material facts including the risk of investing in highly speculative securities and negative information about the issuers. The findings also stated that Mandaro engaged in unauthorized trading in customer accounts for which he did not have discretionary authority and failed to execute customer sell orders. **(NASD Case #CAF990011)**

**James Scott Marxer (CRD #2816890, Registered Principal, Poughkeepsie, New York)** submitted an Offer of Settlement pursuant to which he was censured, fined \$5,000, and suspended from association with any NASD member in any capacity for 30 days. Payment of the fine shall be a prerequisite for consideration of any application for reentry into the securities industry. Without admitting or denying the allegations, Marxer consented to the described sanctions and to the

entry of findings that he failed to disclose on his Form U-4 that he was the subject of a customer complaint and that he was named as a defendant in a California civil action.

Marxer's suspension began June 5, 2000, and will conclude on July 4, 2000. **(NASD Case #C9B990030)**

**James Albert Mayer, Jr. (CRD #2305774, Registered Representative, Bay Shore, New York)** submitted an Offer of Settlement pursuant to which he was barred from association with any NASD member in any capacity and ordered to pay \$23,996.23, plus interest, in restitution to public customers. Without admitting or denying the allegations, Mayer consented to the described sanctions and to the entry of findings that he effected transactions in the accounts of public customers without the customers' knowledge or consent. The findings also stated that Mayer failed to execute sales in the accounts of public customers. **(NASD Case #C10990206)**

**Richard McConnell (CRD #866561, Registered Representative, Henderson, Nevada)** submitted a Letter of Acceptance, Waiver, and Consent pursuant to which he was barred from association with any NASD member in any capacity. Without admitting or denying the allegations, McConnell consented to the described sanctions and to the entry of findings that, without authorization from his member firms, McConnell used his firms' letterhead and purported auspices as a knowing and willing participant in a scheme to provide misleading and fraudulent "proof of funds" letters to potential third-party investors. The NASD found that through the "proof of funds" letters,

McConnell fraudulently claimed that individuals, some of whom were customers of the firms, maintained various substantial deposits with the firms, when, in fact, the individuals held either little or no funds on deposit with the firms. The purpose of the letters was to aid undisclosed third parties in an overall scheme to defraud potential investors. **(NASD Case #C02000012)**

**Frederick Earl Meyer (CRD #1088572, Registered Representative, Los Angeles, California)** submitted a Letter of Acceptance, Waiver, and Consent pursuant to which he was fined \$10,000 and suspended from association with any NASD member in any capacity for one year. The fine shall be due and payable prior to reassociation with a member firm following the suspension or prior to any application or request for relief from statutory disqualification. Without admitting or denying the allegations, Meyer consented to the described sanctions and to the entry of findings that he participated in private securities transactions but failed to provide prior written notification to his member firm.

Meyer's suspension began June 5, 2000, and will conclude at the close of business on June 4, 2001. **(NASD Case #C02000014)**

**Stacy Meyers (CRD #2080315, Registered Representative, Scotch Plains, New Jersey)** submitted an Offer of Settlement pursuant to which she was barred from association with any NASD member in any capacity. Without admitting or denying the allegations, Meyers consented to the described sanction and to the entry of findings that she failed to respond to NASD requests to appear for on-the-record testimony. **(NASD Case #CAF990046)**



**Arthur Julius Olson, Jr. (CRD #352426, Registered Principal, Hilton Head Island, South Carolina)** submitted a Letter of Acceptance, Waiver, and Consent pursuant to which he was suspended from association with any NASD member in any capacity for 90 days and required to provide proof of payment of \$15,000 in restitution. Payment of the restitution shall be a prerequisite for consideration of any application for reentry into the securities industry. In light of his financial status, the sanctions do not include a monetary fine but instead only includes the restitution referred to above. Furthermore, for one year after the date Olson reassociates with a member firm following the suspension, he must agree to refrain from accepting or maintaining employment in a sales capacity with any NASD member firm unless that firm has formulated special supervisory procedures to oversee and monitor his sales practices with customers.

Without admitting or denying the allegations, Olson consented to the described sanctions and to the entry of findings that he engaged in the purchase and sale of securities in a public customer's Revocable Living Trust account, without having reasonable grounds for believing that these transactions were suitable for the customer in light of her financial situation, investment objectives and needs, and the size and frequency of the transactions.

Olson's suspension began on June 5, 2000, and will conclude on September 2, 2000. **(NASD Case #C04000019)**

**Roman Osmanov (CRD #2467401, Registered Representative, Brooklyn, New York)** submitted a Letter of Acceptance, Waiver, and Consent pursuant to which he was fined

\$12,825, which includes the disgorgement of commissions earned of \$325, and suspended from association with any NASD member in any capacity for 15 business days. Without admitting or denying the allegations, Osmanov consented to the described sanctions and to the entry of findings that he exercised discretionary authority and effected a purchase transaction in a public customer's account without obtaining prior written authorization from the customer or having the account accepted, in writing, as a discretionary account by his member firm. The findings also stated that in an attempt to mollify the customer, Osmanov proposed settlement terms to the customer without his firm's knowledge or consent.

Osmanov's suspension began June 5, 2000, and will conclude at the close of business on June 23, 2000. **(NASD Case #C10000053)**

**Himanshu Thakorlae Parekh (CRD #1886324, Registered Representative, Chattanooga, Tennessee)** submitted a Letter of Acceptance, Waiver, and Consent pursuant to which he was fined \$7,500, which includes disgorgement of approximately \$1,000 earned on violative transactions, and suspended from association with any NASD member in any capacity for one month. Without admitting or denying the allegations, Parekh consented to the described sanctions and to the entry of findings that he engaged in the sale of mutual funds to public customers residing in states in which he was not registered in any capacity. The findings also stated that, in connection with the sale of these mutual funds, Parekh falsified address information on the mutual fund applications for the customers.

Parekh's suspension began June 5, 2000, and will conclude on July 4, 2000. **(NASD Case #C05000012)**

**William Fred Ponce (CRD #1424682, Registered Representative, Laguna Niguel, California)** submitted a Letter of Acceptance, Waiver, and Consent pursuant to which he was censured, fined \$10,000, and suspended from association with any NASD member in any capacity for one year. Payment of the fine shall be a prerequisite for consideration of any application for reentry into the securities industry. Ponce also, as a condition to reentering the securities business following the suspension, must requalify as a general securities representative. Without admitting or denying the allegations, Ponce consented to the described sanctions and to the entry of findings that he engaged in private securities transactions without providing prior written notice to, or receiving approval from, his member firms. The findings also stated that Ponce engaged in outside business activities and failed to provide his member firms with prompt written notification of his outside business activities.

Ponce's suspension began on June 5, 2000, and will conclude at the close of business on June 4, 2001. **(NASD Case #C02000015)**

**Doyle Lardell Randall, Sr. (CRD #2462237, Registered Representative, Dix Hills, New York)** was barred from association with any NASD member in any capacity. The sanction was based on findings that Randall made misrepresentations and omitted material facts to a public customer in connection with the purchase or sale of securities and engaged in activities requiring registration as a general securities representative

without being registered in that capacity. The findings also stated that Randall failed to respond to NASD requests to appear for an on-the-record interview. **(NASD Case #C10990162)**

**Bertram Howard Rosenblatt (CRD #1275489, Registered Representative, Syosset, New York)** submitted an Offer of Settlement pursuant to which he was barred from association with any NASD member in any capacity. Without admitting or denying the allegations, Rosenblatt consented to the described sanctions and to the entry of findings that he, without the knowledge, consent, or authorization of the customer, fabricated a letter of authorization purportedly signed by the customer that directed the transfer of shares of stock from the customer's account to the joint account of other customers. The findings also stated that Rosenblatt failed to respond to NASD requests for information and documentation. **(NASD Case #C10000027)**

**Ali Safavi (CRD #1958071, Registered Representative, McLean, Virginia)** was barred from association with any NASD member in any capacity. The sanction was based on findings that Safavi forged documents and converted customer funds totaling \$215,133 for his own use. The findings also stated that Safavi changed the addresses of public customers without their permission or knowledge. On at least one occasion, he changed their addresses to his own residential address. In addition, Safavi failed to respond to NASD requests for information. **(NASD Case #C07990060)**

**Lance Jay Siedman (CRD #1719376, Registered Principal, Dix Hills, New York)** submitted a

Letter of Acceptance, Waiver, and Consent pursuant to which he was fined \$45,000 and suspended from association with any NASD member in any capacity for 45 days. Without admitting or denying the allegations, Siedman consented to the described sanctions and to the entry of findings that he effected the sale of stock while his member firm was restricted from doing so because of its participation in the syndicate that was underwriting a secondary stock offering and he effected transactions in the stock on behalf of another firm which resulted in the circumvention of the other firm's trading restrictions. The findings also stated that Siedman recorded stock trades as proprietary transactions when they were actually agency transactions on behalf of another firm. Siedman failed to establish a new account for the firm that placed the order and to record the transactions in that account and not in his firm's proprietary trading account.

Siedman's suspension began May 22, 2000, and will conclude at the close of business on July 5, 2000. **(NASD Case #C10000049)**

**Jeffrey Richard Talboom, Jr. (CRD #1871309, Registered Representative, Smithtown, New York)** submitted a Letter of Acceptance, Waiver, and Consent pursuant to which he was fined \$15,000 and suspended from association with any NASD member in any capacity for 18 months. Without admitting or denying the allegations, Talboom consented to the described sanctions and to the entry of findings that, while registered with a member firm, he opened a personal securities account at another firm without notifying his member firm, in writing, of the account and failed to notify the executing firm, in writing, of his association with a

member firm. The findings also stated that Talboom received \$20,000 from a public customer for the purpose of investing in an account, failed to deposit the funds in a separate account, and, instead, deposited the funds into his personal account without the customer's prior knowledge, authorization, or consent. Talboom used the funds to purchase securities until he returned the funds and profits made trading with the funds at a later date.

Talboom's suspension began June 5, 2000, and will conclude at the close of business on December 4, 2001. **(NASD Case #C10000064)**

**Mikhail Vainshtok (CRD #2483935, Registered Representative, Brooklyn, 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, Vainshtok consented to the described sanctions and to the entry of findings that he failed to respond to NASD requests for information in a timely manner.

Vainshtok's suspension began June 5, 2000 and concluded at the close of business on June 9, 2000. **(NASD Case #C10000056)**

**Marlowe Robert Walker, III (CRD #1328130, Registered Representative, Hauppauge, New York)** was barred from association with any NASD member in any capacity. The National Adjudicatory Council (NAC) imposed the sanction following an appeal of an Office of Hearing Officers decision. The sanction was based on findings that Walker associated with a member firm while he was subject

to statutory disqualification and knowingly submitted false, misleading, and inaccurate Forms U-4 and MC-400 to the NASD in regard to his employment with a member firm. The findings also stated that Walker failed to testify truthfully during a NASD on-the-record interview. **(NASD Case #C10970141)**

**Samuel Lewis Wereb (CRD #2174774, Registered Principal, Columbus, Ohio)** was barred from association with any NASD member in any capacity. The sanction was based on findings that Wereb failed to respond to NASD requests for information. **(NASD Case #C8B990036)**

**David Randall Wright (CRD #2378371, Registered Representative, Irving, Texas)** was barred from association with any NASD member in any capacity and ordered to pay \$34,333.29, plus interest, in restitution to his former member firm. The sanctions were based on findings that Wright placed orders to purchase securities with the intent of paying for the securities out of the proceeds from subsequent sales of the same securities. **(NASD Case #C06990008)**

**Thomas Dennis Zoidis (CRD #477046, Registered Principal, Rydal, Pennsylvania)** submitted a Letter of Acceptance, Waiver, and Consent pursuant to which he was censured, fined \$50,000, and suspended from association with any NASD member in a supervisory capacity for 30 days. Without admitting or denying the allegations, Zoidis consented to the described sanctions and to the entry of findings that he failed to adequately supervise the conduct of his member firm's municipal securities business and the activities of its associated persons.

The findings also stated that Zoidis failed to adopt, maintain, and enforce written supervisory procedures to ensure compliance with MSRB rules and applicable Securities and Exchange Commission rules. **(NASD Case #CAF000011)**

#### **Individuals Fined**

**David Manning Fresne (CRD #1091992, Registered Representative, Millerton, New York)** submitted a Letter of Acceptance, Waiver, and Consent pursuant to which he was censured, fined \$15,000, which includes disgorgement of \$5,000 earned as a result of outside business activities, and ordered to requalify as a general securities representative. If Fresne fails to requalify within 180 days of the issuance of this AWC, he shall not associate with any NASD member firm in any capacity until he requalifies as a general securities representative. Without admitting or denying the allegations, Fresne consented to the described sanctions and to the entry of findings that he failed to provide a timely response to an NASD request for information. The findings also stated that he failed to provide prompt written notice to his member firm regarding business activity outside the scope of his employment with the firm and the receipt of compensation for such employment. **(NASD Case #C10000059)**

**Thomas Damian O'Rourke (CRD #1325169, Registered Principal, Englewood, New Jersey)** submitted a Letter of Acceptance, Waiver, and Consent pursuant to which he was censured and fined \$25,000. Without admitting or denying the allegations, O'Rourke consented to the described sanctions and to the entry of findings that he failed to report statistical and summary information

regarding customer complaints to the NASD. The findings also stated that O'Rourke determined that his member firm would participate in a firm commitment underwriting when he knew that the firm failed to have sufficient net capital. O'Rourke also failed to establish, maintain, and enforce written supervisory procedures pertaining to the Regulatory and Firm Elements of the Continuing Education Program, trading, and market making. In addition, O'Rourke failed to ensure that each registered representative of the firm participated, no less than annually, in an interview or meeting conducted by the firm at which relevant compliance issues were discussed. **(NASD Case #C10000062)**

#### **Decision Issued**

The following decision has been issued by the District Business Conduct Committee or the Office of Hearing Officers and has been called for review by the NAC as of May 12, 2000. The findings and sanctions imposed in the decision may be increased, decreased, modified, or reversed by the NAC. Initial decisions whose time for appeal has not yet expired will be reported in the next *Notices to Members*.

**Stephen Earl Prout (CRD #857060, Registered Principal, Clovis, California)** was fined \$10,000 and suspended from association with any NASD member in any capacity for nine months. The sanctions were based on findings that Prout falsified customers' dates of birth on variable annuity applications.

This action was called for review by the NAC and the sanctions are not in effect pending consideration of the review. **(NASD Case #C01990014)**

## Complaints Filed

The following complaints were issued by the NASD. Issuance of a disciplinary complaint represents the initiation of a formal proceeding by the NASD in which findings as to the allegations in the complaint have not been made, and does not represent a decision as to any of the allegations contained in the complaint. Because these complaints are unadjudicated, you may wish to contact the respondents before drawing any conclusions regarding the allegations in the complaint.

**Frederick Walter Azeltine (CRD #1969813, Registered Representative, Denver, Colorado)** was named as a respondent in an NASD complaint alleging that he made unsuitable recommendations to a public customer in light of her financial circumstances and needs and negligently predicted the future price of a security to another public customer in connection with the solicitation of transactions. (NASD Case #C3A000016)

**Mizanul Kabir (CRD #2128146, Registered Representative, New York, New York)** was named as a respondent in an NASD complaint alleging that Kabir made misrepresentations to a public customer to induce him to purchase securities including a prediction of specific and substantial performance even though he had reason to know that such representations were false, inaccurate, misleading, or baseless. The complaint also alleges that Kabir omitted material information pertaining to risk factors in his recommendation to the customer that he purchase the securities. The complaint further alleges that Kabir required the customer to purchase securities in the aftermarket in order to receive an allocation of the

securities offered in the IPO. In addition, the complaint alleges that Kabir opened a new brokerage account at his member firm under the name of a public customer and executed the purchase of stock in the account without the customer's prior knowledge, authorization, or consent. (NASD Case #C10000071)

**Edward Leccese (CRD #2847776, Registered Representative, Boca Raton, Florida)** was named as a respondent in an NASD complaint alleging that he opened an account at his member firm for a public customer and purchased shares of stock in the account without the customer's prior knowledge, authorization, or consent. The complaint also alleges that Leccese failed to respond to NASD requests to appear for an on-the-record interview. (NASD Case #C10000058)

**Samuel Colin Andrew Sampson (CRD #2881918, Registered Representative, Brooklyn, New York)** was named as a respondent in an NASD complaint alleging that he received cash payments totaling \$290 from public customers as the initial premium payment for life insurance policies issued by his member firm, failed to forward the payments to his member firm, and instead, converted the funds to his own use and benefit without the customers' knowledge or consent. The complaint further alleges that Sampson failed to respond to NASD requests for information. (NASD Case #C9B000012)

**Charles Keith Waddell (CRD #2347936, Registered Representative, Oklahoma City, Oklahoma)** was named as a respondent in an NASD complaint alleging that he made representations to a public customer that a bond was reinsured

when he knew that it was not and implied that the bond had value as collateral for the customer's investment when he knew that the bond had no demonstrable value and that his firm would not hold the bond as collateral. The complaint also alleges that Waddell transferred the bond he was holding for the customer without the prior knowledge or consent of the customer. The complaint further alleges that Waddell participated in a private securities transaction without providing prior written notice to his member firm describing, in detail, the proposed transactions and his proposed role and stating whether he had received, or would receive, selling compensation in connection with the transaction. (NASD Case #C05000021)

**Walsh Manning Securities, LLC (CRD #30826, New York, New York), Frank James Skelly (CRD #2160437, Registered Principal, Rockville Centre, New York) and Thomas Charles Hack (CRD #870520, Registered Principal, New York, New York)** were named as respondents in an NASD complaint alleging that the firm, acting through Skelly and Hack, effected transactions in a common stock as principal at prices that were not fair and reasonable taking into consideration all of the relevant factors and charged its retail customers markdowns greater than five percent above the firm's interdealer sales contemporaneous with the transactions. The complaint further alleges that the firm, acting through Skelly and Hack, charged its retail customers excessive markdowns and prices that were not reasonably related to the prevailing market price of the security. In addition, the complaint alleges that the firm failed to establish, maintain, and enforce written supervisory procedures reasonably designed to

achieve compliance with applicable securities laws, regulations, and NASD rules concerning mark-downs. The complaint also alleges that Skelly failed to respond to NASD requests to appear to give testimony. **(NASD Case #CAF000013)**

### **Firms Canceled**

The following firms were canceled 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 and Article VII, Section 2 of the NASD By-Laws. The date the cancellation commenced is listed after the entry.

**Pegasus Capital Investment, LC**, Greensboro, North Carolina (May 15, 2000)

**Sterling Capital Group Limited**, Westport, Connecticut (May 17, 2000)

### **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 and Article VII, Section 2 of the NASD By-Laws. The date the suspension commenced is listed after the entry. If the firm has complied with the requests for information, the listing also includes the date the suspension concluded.

**First American Equities, Inc.**, Ft. Lauderdale, Florida (May 10, 2000)

**Fuerst Securities Corporation**, Grand Junction, Colorado (May 10, 2000)

**Remington Securities Corp.**, New York, New York (May 9, 2000)

**Retirement Foundations, Inc.**, Great Neck, New York (May 11, 2000)

**R.P. Borgan, Inc.**, Gelnhausen, Germany (May 10, 2000)

**Salisbury Capital Corporation**, New York, New York (May 18, 2000)

### **Suspensions Lifted**

The NASD has lifted the suspensions from membership on the date shown for the following firms because they have complied with formal written requests to submit financial information.

**BSR Securities, Inc.**, Boca Raton, Florida (April 28, 2000)

**Canterbury Securities Corp.**, Chicago, Illinois (May 10, 2000)

**Chadbourn Securities, Inc.**, Jacksonville, Florida (May 3, 2000)

**Talented Tenth Investments, Inc.**, New York, New York (March 22, 2000)

**Whitestone Capital Markets, LP**, New York, New York (May 10, 2000)

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

**Murphy, Michael K.**, Spring, Texas (May 1, 2000)

**Odom, Mark D.**, Redmond, Washington (May 1, 2000)

**Pankey, Charles V.**, Morrison, Colorado (May 1, 2000)

**Sisson, Daniel W.**, San Francisco, California (May 1, 2000)

**Smith, Robert Murray**, Bryn Mawr, Pennsylvania (May 1, 2000)

**Willett, Paul D.**, Eden Prairie, Minnesota (May 1, 2000)

### **NASD Regulation Fines Kemper Distributors \$100,000 For Mutual Fund Advertisement Violations**

NASD Regulation announced a settlement in which it censured and fined Kemper Distributors, Inc., \$100,000 for running inaccurate mutual fund advertisements and for violating other NASD advertising-related rules.

NASD Regulation found that, from April through September 1997, Kemper published eight advertisements containing inaccurate graphs relating to the performance of the Kemper-Dreman High Return Equity Fund. The eight advertisements, placed in *The Wall Street Journal*, *Barron's*, *Investor's Business Daily*, and the *Chicago Sun-Times*, contained graphs depicting the performance of a hypothetical \$10,000 investment in the fund. Due to unequal distances between plot points on the graphs, many of the ads did not accurately portray increases and decreases in the value of the investment. Despite being cautioned by NASD Regulation's Advertising/Investment Companies Regulation Department not to use ads with these types of errors, the firm continued to run problematic ads.

Several of the ads showed dollar values along the vertical axis that did not correspond to actual

performance over time. For example, based on the \$10,000 hypothetical investment at the fund's inception, the return appeared to be approximately \$29,000 in the graph, when in fact it was \$22,000. In addition, when Kemper updated several of its performance ads, it continued to use the old graph lines rather than to re-draw and re-plot them.

Kemper also published an advertisement in March 1997 issues of *Barron's*, *The Wall Street Journal*, and *Investor's Business Daily*, which contained a straight line sloping upward from the lower left to the upper right of the advertisement. At the beginning of the line, the advertisement stated, "you are here," and at the top of the line, "your future is here." The advertisement's text stated, in part, "Any mutual fund company can tell you a comfortable future follows a long-term investment timeline. But precious few companies have long-term performance history to back up their promises." The advertisement violated the NASD's advertising rule because the straight upwardly sloping line did not convey the risks of fluctuating prices inherent in investing.

In addition, the firm used advertisements and sales literature without first obtaining registered principal approval and failed to properly file items with NASD Regulation's Advertising/Investment Companies Regulation Department.

In settling this matter, Kemper neither admitted nor denied NASD Regulation's findings.

In addition to a fine and a censure, Kemper will file all advertisements depicting performance information through the use of graphs, bar charts, or pie charts with NASD Regulation prior to use for a period of six months.

This case was brought by NASD Regulation's Enforcement Department with assistance from the Advertising/Investment Companies Regulation Department in Washington, D.C.

### **NASD Regulation Sanctions Steven Ehlers For Trading Ahead Of Research**

NASD Regulation announced that it suspended and fined Steven Ehlers for trading ahead of a research report. Ehlers, previously associated with former NASD member firm Quantum Group, Ltd., was suspended for 60 days and fined \$10,000 for his conduct. Ehlers is currently employed in a non-registered capacity by American Investment Services, Inc.

Ehlers consented to a finding that over a two-day period in February 1998, while employed at Quantum, he initiated trades which increased the firm's short position in the security Saf-T-Lok, Inc. (Nasdaq: LOCK). Ehlers short sold LOCK in anticipation of Quantum issuing a research report which recommended that investors sell the security. After causing the report to be distributed, Ehlers immediately bought shares of the security to cover the firm's short position, allowing his firm to profit

as the price of the security fell. In settling this charge, Ehlers neither admitted nor denied NASD Regulation's findings.

NASD rules governing just and equitable principals of trade prohibit members from trading ahead of research reports. Specifically, the rules prohibit any member from engaging in trading activity that purposefully affects the firm's inventory position in a security in anticipation of the issuance of a research report in that security. These rules are designed to protect investors and the marketplace from individuals who have advance knowledge about a research report and thus, armed with that information, place them in a better position to take advantage of security prices prior to market reaction.

During the course of its investigation, NASD Regulation's Market Regulation Department found no evidence that either Saf-T-Lok, Inc., or its officers knew that its shares were in any way involved in wrongful conduct.

Quantum was based in New York and maintained a branch office in Florida. The firm's membership with the NASD was terminated as of September 23, 1998 due to its failure to pay fees.

© 2000, National Association of Securities Dealers, Inc. (NASD). All rights reserved.

### INFORMATIONAL

## Trading Obligations

NASD Regulation, Inc. Reiterates The Obligation Of Member Firms To Comply With Trading Rules, Particularly Immediately Prior To The Close On Expiration Fridays And Index Rebalancing Days

### SUGGESTED ROUTING

*The Suggested Routing function is meant to aid the reader of this document. Each NASD member firm should consider the appropriate distribution in the context of its own organizational structure.*

- Legal & Compliance
- Senior Management
- Trading & Market Making

### KEY TOPICS

- Best Execution
- Firm Quote Compliance
- Locked/Crossed Markets

### Executive Summary

As more derivative instruments overlay securities listed on The Nasdaq Stock Market ("Nasdaq") and more Nasdaq-listed securities are included in broad-based and narrow-based stock indexes, the amount of trading activity on Nasdaq attributable to and associated with derivative trading strategies and indexation strategies has likewise increased. For example, it is not uncommon for Nasdaq market makers to experience large buy and sell imbalances in particular Nasdaq stocks at the close of trading on Expiration Fridays and index rebalancing days, such as the upcoming rebalancing of the Russell Indexes at the end of June. In addition, it is not uncommon for one market maker to experience a large buy imbalance while another market maker in the same stock simultaneously experiences a large sell imbalance. Accordingly, because these "order surges" may cause market makers to act in a manner that contributes to short-term price volatility, it is critically important that NASD members adhere to all trading rules that are designed to keep Nasdaq securities at their equilibrium price levels. Specifically, during times of heavy volume, it is essential that member firms comply with the NASD's locked and crossed market rule, respond to liability SelectNet orders in conformance with the Securities and Exchange Commission's ("SEC's") firm quote rule, and report their trades in a timely and accurate manner. In addition, while this *Notice* focuses primarily on regulatory requirements at the close of trading on Expiration Fridays and index rebalancing days, these same regulatory requirements apply equally throughout the entire trading day.

As discussed in more detail below, *failure to adhere to the locked and crossed market rule, coupled with failure to respond to SelectNet liability orders and other trading activity, could constitute manipulative conduct in violation of SEC and NASD anti-fraud provisions (SEC Rule 10b-5 and NASD Rule 2120), as well as a violation of the locked and crossed markets rule, firm quote rule, and just and equitable principles of trade. In addition to subjecting member firms to potential disciplinary action, such activity could also subject individual traders to potential disciplinary action.*

### Questions/Further Information

Questions regarding this *Notice* may be directed to the Legal Section, Market Regulation, NASD Regulation, Inc. (NASD Regulation<sup>SM</sup>), at (301) 590-6410; or the Office of General Counsel, The Nasdaq Stock Market, at (202) 728-8294.

### Discussion

#### **Locked/Crossed Markets**

NASD Rule 4613(e) provides that a market participant shall not, except as provided below, enter or maintain a quotation in Nasdaq during normal market hours if the bid (ask) quotation entered is equal to or greater (less) than the ask (bid) quotation of another market participant entering quotations in the same security. First, a market participant may lock or cross the market if, prior to entering the quotation that locks or crosses the market, the market participant first makes reasonable efforts to avoid such locked or crossed market by attempting to execute transactions with all market participants whose quotations would be locked or

## Special NASD Notice to Members 00-42

crossed. While the rule does not define what constitutes a reasonable effort to avoid a locked or crossed market, Nasdaq and NASD Regulation staff have previously stated that sending a preferenced SelectNet message for a duration of at least 30 seconds constitutes a reasonable attempt to trade.<sup>1</sup> Second, in the event that extraordinary circumstances exist, a market participant may lock or cross the market regardless of whether it has first made reasonable efforts to trade with those market participants whose quotes would be locked or crossed. While the rule does not define "extraordinary circumstances," Nasdaq and NASD Regulation believe such circumstances generally could exist when there are systemic, market-wide failures in the operation of Nasdaq quotation, execution, or trade reporting and dissemination systems that render Nasdaq quotations virtually inaccessible and/or wholly unrelated to current market activity.

Accordingly, just as is the case during the entire normal trading day, if a market participant locks the market immediately prior to the close on an Expiration Friday or index rebalancing day, that market participant is obligated to have first made a reasonable attempt to trade with all market participants whose quotes would be locked or crossed.<sup>2</sup> NASD Regulation also reiterates that member firms that are party to a locked or crossed market have an obligation to not maintain the locked or crossed market, regardless of whether the member initiated the lock or cross. These obligations to avoid a locked or crossed market exist regardless of any order imbalance that a market maker may have. In addition, given the importance of assuring accurate prices at and

around the close, NASD Regulation will closely review all locked and crossed activity during this time period. Disciplinary action will be considered with respect to even single instances of violative activity.

### ***Firm Quote Compliance***

Members also are reminded of their obligation to honor their quotes pursuant to the SEC and NASD firm quote rules throughout the trading day and particularly during times of peak volume.<sup>3</sup> Failure to honor quotes has an adverse impact on price discovery and undermines the integrity and fairness of the Nasdaq market. NASD Regulation is particularly concerned that members not back away from liability SelectNet orders in an attempt improperly to establish closing prices. Accordingly, depending on the circumstances, disciplinary action will be considered for even a single firm quote violation occurring at the close of trading on Expiration Fridays and index rebalancing days.

### ***Best Execution***

Member firms should also be aware of the best execution issues that may arise in the context of locked and crossed markets. Members are reminded that they must use reasonable diligence to ascertain the best inter-dealer market for the subject security and buy or sell in such market so that the resultant price to the customer is as favorable as possible under prevailing market conditions. A member firm's obligation to provide best execution to any customer order includes the execution of guaranteed market-on-open and market-on-close customer orders. It is important to note that the application of best execution concepts necessarily involves a "facts and circumstances" analysis. In determining whether it is

providing best execution, a member firm should consider the market impact of its trading and quotation activity prior to the open and close and the effect it may have on the ultimate execution of its customer orders. This determination is necessary in all cases, including those where the member firm exposes itself to significant risk by accepting large, guaranteed market-on-open or market-on-close orders.

Members are also reminded that under certain facts and circumstances locking and crossing the market and backing away from SelectNet liability orders can constitute manipulative conduct in violation of SEC Rule 10b-5 and NASD Conduct Rule 2120. For example, when handling a large market-on-close order to buy, it would raise serious regulatory concerns if a market maker were to lock or cross the market by raising its bid without first making an attempt to trade with those market participants whose ask quotations would be locked or crossed, fail to honor its quote on the bid side of the market, and thereafter execute an order at its bid price either internally or through SOES on a riskless principal basis pursuant to NASD Marketplace Rule 4730(b)(4). NASD Regulation could view such activity as a manipulative attempt to set the last sale price in the issue. In addition, even though a market maker does not necessarily have control over whether it receives an execution from another firm through SOES when it has locked or crossed the market, if a market maker were to exhibit a pattern of locking or crossing the market at the close in a manner that ensures SOES executions while handling a market-on-close order, NASD Regulation would closely examine whether such a pattern constituted



## Special NASD Notice to Members 00-42

manipulation. In sum, while NASD Regulation recognizes that market activity during some Expiration Fridays and index rebalancing days may increase certain risks, NASD Regulation nevertheless reiterates that assuming such additional risks for business and competitive purposes does not excuse a member from complying with NASD rules.

### Endnotes

<sup>1</sup>Nasdaq and NASD Regulation note that implementation of SuperSOES, with its expanded automatic execution capabilities, will enable market participants to trade more readily with each other to avoid locked or crossed markets.

<sup>2</sup>Members are also reminded of their obligation to comply with the NASD's new rule governing locked and crossed markets during the pre-opening that went into effect on June 5, 2000. For a detailed discussion of the new pre-opening locked and crossed

market rule, see *Notice to Members 00-29* (May 2000). NASD Regulation and Nasdaq believe that adherence to this new rule will facilitate more orderly openings on Nasdaq.

<sup>3</sup>For a more detailed discussion of members' firm quote obligations, see *Notice to Members 97-67* (October 1997).

© 2000, National Association of Securities Dealers, Inc. (NASD). All rights reserved. Notices to Members attempt to present information to readers in a format that is easily understandable. However, please be aware that, in case of any misunderstanding, the rule language prevails.

*Special Notices to Members* are published on an accelerated basis and distributed independently of monthly *Notices to Members* newsletters. Numerical sequencing may thus appear to contain gaps during a given monthly publication cycle. Such temporary gaps reflect a priority in the production process and will disappear at the conclusion of monthly electronic posting and print distribution.

© 2000, National Association of Securities Dealers, Inc. (NASD). All rights reserved.

NASD is a registered service mark of the National Association of Securities Dealers, Inc. MediaSource is a service mark of the NASD. NASD Regulation is a service mark of NASD Regulation, Inc.

*NASD Notices to Members* is published monthly by NASD Corporate Communications, Kim D'Alessandris, Editor, NASD Regulatory Communication Services, 1735 K Street, NW, Washington, DC 20006-1500, (202) 728-8370. No portion of this publication may be copied, photocopied, or duplicated in any form or by any means, except as described below, without prior written consent of the NASD. Members of the NASD are authorized to photocopy or otherwise duplicate any part of this publication without charge only for internal use by the member and its associated persons. Nonmembers of the NASD may obtain permission to photocopy for internal use through the Copyright Clearance Center (CCC) for a \$3-per-page fee to be paid directly to CCC, 222 Rosewood Drive, Danvers, MA 01923.

Each member firm's Executive Representative is entitled to one annual subscription to *Notices to Members* at cost (\$15 per year). Additional annual subscriptions are available for \$225; single issues cost \$25. To order, send a check or money order (payable to the National Association of Securities Dealers, Inc.) to NASD MediaSource, P.O. Box 9403, Gaithersburg, MD 20898-9403; to order with a credit card (American Express, MasterCard, or Visa), call (301) 590-6142, Monday to Friday, 9 a.m. to 5 p.m., Eastern Time. Back issues may be ordered by calling MediaSource at (301) 590-6142.

*Notices to Members* (December 1996 to current) are also available on the Internet at [www.nasdr.com](http://www.nasdr.com).